

Report to	Licensing sub committee 6 December 2012	Item
Report of	Head of citywide services	3
Subject	Licensing Act 2003:Application for the Grant of a Premises Licence –Claren’s Food and Wine 30 Prince of Wales Road Norwich NR1 1LG	

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 grant of a Premises Licence in respect of Claren’s Food and Wine 30 Prince of Wales Road Norwich NR1 1LG following the receipt of relevant representations.

Recommendation

That Members determine the application to grant a Premises Licence in respect of Claren’s Food and Wine 30 Prince of Wales Road Norwich NR1 1LG 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 Driver – Environment and neighbourhoods

Contact officers

Ian Streeter, licensing manager

01603 212439

Background documents

None

Report

The application

1. The applicant is Sinnathurai Sivasuthan of 72 Silver Street Norwich NR3 4TU. The premises are described as a convenience store selling usual convenience store goods and services.
2. The application seeks to allow the licensable activity of the supply of alcohol for consumption off the premises.
3. The proposed standard days and hours for the supply of alcohol is:

Supply of alcohol – (for consumption off the premises):

Monday	0000 – 0300 0700 – 2400
Tuesday	0000 – 0300 0700 – 2400
Wednesday	0000 – 0300 0700 – 2400
Thursday	0000 – 0300 0700 – 2400
Friday	0000 – 0300 0700 – 2400
Saturday	0000 – 0300 0700 – 2400
Sunday	0000 – 0300 0700 – 2400

4. The opening hours of the premises are:

Monday	0000 – 0300 0700 – 2400
Tuesday	0000 – 0300 0700 – 2400
Wednesday	0000 – 0300 0700 – 2400
Thursday	0000 – 0300 0700 – 2400
Friday	0000 – 0300 0700 – 2400
Saturday	0000 – 0300 0700 – 2400
Sunday	0000 – 0300 0700 – 2400

5. A plan of the premises together with the steps put forward by the applicant to promote the licensing objectives will be available at your meeting.

Relevant representations

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

Police – representation appended to the report.

Environmental Protection – no representations.

Fire Officer – no representations.

Planning Officer – no representations.

Area Child Protection Committee – no representations.

Trading Standards – no representations.

Primary Care Trust – no representations

7. Relevant representations and a petition have been received in respect of the application with concerns which appear to primarily relate to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. Copies of the representations and petition are appended to the report.
8. 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

9. 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)

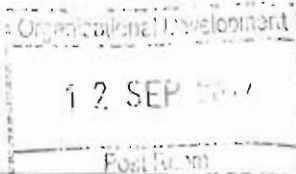
10. Attached at appendix E are the elements of the National Guidance issued by the Secretary of State that are considered to have a bearing upon the application.

Summary

11. 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.

12. 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
13. 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.
14. The representations received appear to relate to issues that primarily 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 D 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.
15. Paragraphs 10.11 – 10.13 of the national guidance (see appendix E to the report) address the issue of opening hours. Paragraph 10.13, re-produced below, specifically addresses the sale of alcohol from shops, stores and supermarkets.
- 10.13 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.*
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.

12 SEP 2012



Norwich City Council Licensing Authority Licensing Act 2003



NORWICH
City Council

Statement of [REDACTED] or objection to an application for a premises licence

Your name/organisation name/name of body you represent (see note 1)	Jenet Fernando 43, Prince of Wales Rd
Postal address	NORWICH NR1 1DB
Email address	
Contact telephone number	
Address of the premises you wish to support or object to	30 Prince of Wales Rd
Licensing objective	Please set out your support or objections below. Please use separate sheets if necessary.
To prevent crime and disorder	
Public safety	
To prevent public nuisance	
To protect children from harm	
Please suggest any conditions which would alleviate your concerns	
Signed:	Date: 10.09.12

Notes

1. In order for you to be able to support or object to an application for a premises licence you must live, work or represent a body that is in the vicinity of the premises.
2. Comments of support or objection must relate to the four licensing objectives, which are:
 - to prevent crime and disorder
 - public safety
 - to prevent public nuisance
 - to protect children from harm.
3. An application for a premises licence will be notified to residents by displaying it on the premises and in the local press. Comments in support or objections must be made within 28 days of the date given in the public notice.
4. If you have made valid comments of support or objection you will be expected to attend a meeting of the authority's licensing sub-committee and any subsequent appeal proceeding. If you do not attend, the sub-committee will still consider your comments, but they may not carry the same weight as if you had attended if, for example, the contents are disputed or challenged.
5. Your comments of support or objection will be passed to the applicant to allow them the opportunity to address your concerns in line with the Licensing Act 2003. Your comments will also be published in the report to the licensing sub-committee, which is publicly available and displayed on the city council's website.
6. Please return this form when completed to:

Norwich City Council
Licensing section
City Hall
St Peter Street
Norwich
NR2 1NH
t: 01603 212761
f: 01603 212040
e: licensing@norwich.gov.uk

To Prevent Crime & Disorder:

- The proposed site of the business is located on the main thoroughfare within the late night economy (Prince of Wales Road) and has several bars / nightclubs situated close by, many of which operate responsible businesses with sale of liquor "ON" the premises only and do not allow drinking vessels to leave the building.
- Prince of Wales Road was once dubbed the most dangerous road and continues to experience negative press and crime at many levels, especially (as acknowledged recently) during weekend evenings at key points. As the operation is intending to sell alcohol, it would be appropriate that doorstaff are present every night of the week during the permitted hours.
- It would also be appropriate that the premises license reflects suitable days / times to allow the sale of liquor for consumption off the premises, outside of the hours within the late night economy to prevent flash points.
- With the impending decision being taken regarding "Late Night Levy" or "EMRO", consideration should be given by the Council for an "EMRO" to restrict the sale of liquor.
- The potential of anti-social behaviour is far greater with the nature of such a proposed business. As an extreme, should an incident occur and a drinking vessel that has been purchased from the proposed premises be used as a weapon, could lead to a horrific outcome.
- Binge drinking can lead to anti social behaviour and the sale of heavily discounted liquor accelerates this issue. It would be appropriate that a minimum sale price be sought in line with the licensed premises in the close vicinity / City Centre.

Public Safety:

- The offering of a convenience store in this location could become a flash point, leading to greater anti social behaviour in the vicinity.
- Potential issues within this flash point, arising from the proposed operation could lead to a demand in police attendance, removing a proportion of focus from police public order duties in the immediate area.

Prevention of Public Nuisance:

- Of recent (August / September 2012) the Police have received several complaints from the public and operators of businesses relating to a substantial rise of what would appear to be homeless / dependants using the Prince of Wales Road to consume alcohol and aggressively beg. The proposed operation, could lead to an enhancement of this growing issue and lead to the requirement of police resources. This issue is being addressed and progress has already been made by the police, a business operation offering discounted liquor will lead to an enhancement of this issue, leading to the distress of the general public. This in addition reduces the reputation of the area thus affecting the existing businesses that rely heavily on the general public feeling welcome, un-intimidated and able to go about their business in a civil manor.
- The consumption of liquor in the vicinity of the premises, could lead to a rise in litter.
- It would be appropriate that a suitable solution is found to minimise the quantity of drinking vessels (especially liquor) leaving the premises, that are visible to the general public, potentially leading to a culture of acceptable behaviour.

Protect Children from Harm:

- There is a considerable sized language school located within close proximity to the business (Upper King Street). The sale of discounted liquor over an extended period of opening hours could encourage a culture of increased underage drinking due to the individuals not being able to frequent the licensed premises on the Prince of Wales Road.

Norwich City Council Licensing Authority Licensing Act 2003



NORWICH
City Council

Statement of ~~support~~ or objection to an application for a premises licence

Your name/organisation name/name of body you represent (see note 1)	OSMAN CETINKAYA
Postal address	68 Prince of Wales Rd, NR11 1LT NORWICH
Email address	
Contact telephone number	
Address of the premises you wish to support or object to	30, PRINCE OF WALES ROAD, NORWICH
Licensing objective	Please set out your support or objections below. Please use separate sheets if necessary.
To prevent crime and disorder	Granting a license would provide an increase in off sales of alcohol when this area is already heavily populated with licensed premises
Public safety	As this area is already heavily populated we we feel it would hinder the public's safety.
To prevent public nuisance	Although this area is already heavily licensed, it would encourage more homeless people to hang about on the streets, causing problems
To protect children from harm	Having another off sales premises would encourage strong language, drinking alcohol on the streets therefore leading possibly to violence & drug taking.
Please suggest any conditions which would alleviate your concerns	
Signed:	Date:

CORPORATE RESOURCES

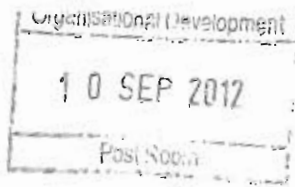
13 SEP 2012

POST ROOM

13 SEP 2012

RECEIVED

10 SEP 2012



Norwich City Council Licensing Authority Licensing Act 2003



NORWICH
City Council

Statement of ~~support~~ or objection to an application for a premises licence

Your name/organisation name/name of body you represent (see note 1)	BOOTLEGGERS
Postal address	76 PRINCE OF WALES ROAD

Email address	
Contact telephone number	
Address of the premises you wish to support or object to	30 PRINCE OF WALES ROAD NORWICH NR1 1NJ
Licensing objective	Please set out your support or objections below. Please use separate sheets if necessary.
To prevent crime and disorder	We already having Problem with street drinking and home loitering. This will increase in power
Public safety	There is enough shops in power At the moment opening another one with room distance will
To prevent public nuisance	Increase street begging and increase home loitering in power and it will cost us shop keepers future.
To protect children from harm	There is too many school kids passing through power during time. This shop could be another place for kids to buy Alcohol and cig's
Please suggest any conditions which would alleviate your concerns	Responsible and Sensible policy from Council sale of would consider
Signed:	Date: 26/09/12.

Sale of Alcohol between 7am to 11pm
would be grate full



NORFOLK
CONSTABULARY
Our Priority is You

Mr Ian Streeter
Licensing Manager
Norwich City Council
Norwich

Date: 27th September 2012

The Licensing Team

Bethel Street Police Station
Norwich
Norfolk
NR2 1NN

Tel: 01603 276020

Fax: 01603 276025

Email: licensing@norfolk.police.uk

www.norfolk.police.uk

Non-Emergency Tel: 01603 276025

Dear Mr Streeter

Application for a new Premises licence for 30 Prince of Wales Road

Please note that the Police have received a copy of the premises licence for Clarens Food and Wine, 30 Prince of Wales Road Norwich to allow for sale of alcohol for off the premises from 0700 hrs until 3am daily.

Firstly the Police wish to make representation to this application due to new information coming to light in relation to the applicant Mr Sinnathurai Sivasuthan and the fact that his involvement with this premises could potentially undermine the licensing objectives in particular to crime and disorder.

Enquiries are still ongoing at this time and Police are not in a position to disclose any further details but will do this at a later date.

In addition to the representation of the applicant, there are further concerns about the application itself. This is due to the location of the premises and the fact that Police are working with the Licensing Authority to reduce the amount of alcohol related crime in the area.

The Police request that the sale of alcohol hours are amended to:

- 10am – 0000 hrs daily

The Police acknowledge that the applicant has offered conditions in relation to staff training, CCTV and a refusal register but request that these following conditions are added to be more specific and enforceable in order to assist with promoting the licensing objectives, prevention of crime and disorder and prevention of public nuisance:

- A Burglar Alarm will be fitted to the premises
- Management will have the facility to cover the alcohol from the public when alcohol sales are not permitted
- Staff will be trained in relation to the sale of alcohol and a record of this training will be available on-site to Police and Licensing Authority on request.

- A CCTV system will be installed and in use at all times when the premises is open for business and maintained in good working order. CCTV to be recorded and stored for a minimum of 28 days and be available to Police and Licensing Authority on request.
- Challenge 25 Policy to be in use
- A refusal book to be kept on the premises to record all refused sales of alcohol. This book will be available to Police and Licensing Authority on request.
- There will be one SIA Door supervisor from 2100 hrs until close on Thursday, Friday and Saturday nights and Sunday nights before Bank Holidays.
- A record of the door supervisor's name, badge, date and shift times will be kept on the premises and be available to Police or Licensing Authority.
- Alcohol stock to be marked with the premises name in order that if alcohol related disturbances occurred. The police, residents and applicant would be able to ascertain if the alcohol in question was purchased from these premises.
- An incident book to be kept and maintained by SIA door supervisor and staff and to be provided to Police and Licensing Authority on request.
- Management to make patrons aware of the Designated Public Place Order

Please accept the points raised at the Police's objection to this application.

Yours faithfully,

Michelle Bartram
Licensing Officer.

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;

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.

SECTION E - Hours of Trading

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

APPENDIX E

National Guidance

(issued under section 182 of the Licensing Act 2003)

CRIME AND DISORDER

- 2.1 **Licensing authorities should look to the police as the main source of advice on crime and disorder.** They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 **In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible** and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. 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.
- 2.3 **Conditions should be 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.
- 2.4 **The inclusion of radio links and ring-round phone 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. These systems allow managers of licensed premises 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.
- 2.5 In the context of crime and disorder and public safety, the preservation of order on premises may give rise to genuine concerns about the ability of the management team with responsibility for the maintenance of order. This may occur, for example,

on premises where there are very large numbers of people and alcohol is supplied for consumption, or in premises where there are public order problems.

- 2.6 **Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences.** The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.
- 2.7 **It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent** and appropriately trained. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

PUBLIC NUISANCE

- 2.18 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.
- 2.19 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. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.20 **Conditions relating to noise nuisance will usually 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.

- 2.21 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation 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.
- 2.22 **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.
- 2.23 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is 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.
- 2.24 **Beyond the immediate area surrounding the premises, these are matters for the 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.

DETERMINING ACTIONS THAT ARE APPROPRIATE FOR THE PROMOTION OF THE LICENSING OBJECTIVES

- 9.38 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case by case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.39 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.40 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the

promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

CONSIDERING CASES WHERE LICENSING AND PLANNING APPLICATIONS ARE MADE SIMULTANEOUSLY

9.41 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

10. CONDITIONS ATTACHED TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by a fine of up to £20,000 or up to six months imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

PROPOSED CONDITIONS

10.4 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.

10.5 It is 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.

CONSISTENCY WITH STEPS DESCRIBED IN OPERATING SCHEDULE

- 10.6 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.
- 10.7 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

- 10.8 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.
- 10.9 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

- 10.10 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. 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.

Hours of trading

- 10.11 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

10.12 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.

10.13 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

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.