

<b>Report to</b>	Licensing sub committee 31 July 2013	<b>Item</b>
<b>Report of</b>	Head of citywide services	<b>3</b>
<b>Subject</b>	Licensing Act 2003: Application for the Grant of a Premises Licence - 2-4 St Benedicts Street Norwich NR2 4AG	

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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 grant of a Premises Licence in respect 2-4 St Benedicts Street Norwich NR2 4AG following the receipt of relevant representations.

## **Recommendation**

That members determine the application to grant a premises licence in respect of 2-4 St Benedicts Street Norwich NR2 4AG 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

## The application

1. The applicant is Flathouse Ltd of 17 Old Millers Wharf Fishergate Norwich NR3 1GS.
2. The application seeks to allow the following licensable activities:
  - Provision of live music
  - Provision of recorded music
  - supply of alcohol for consumption on the premises.
3. The proposed standard days and hours for the licensable activities are:

provision of live music (activity takes place indoors):

Monday	1800 – 0000
Tuesday	1800 – 0000
Wednesday	1800 – 0000
Thursday	1800 – 0000
Friday	1800 – 0000
Saturday	0900 – 0000
Sunday	1000 – 2300

provision of recorded music (activity takes place indoors):

Monday	0900 – 0000
Tuesday	0900 – 0000
Wednesday	0900 – 0000
Thursday	0900 – 0000
Friday	0900 – 0000
Saturday	0900 – 0000
Sunday	1000 – 2300

Non-standard timings – until 0030 on New Years Eve.

supply of alcohol (for consumption on the premises):

Monday	1100 – 2300
Tuesday	1100 – 2300
Wednesday	1100 – 2300
Thursday	1100 – 2300
Friday	1100 – 2300
Saturday	1000 – 2300
Sunday	1100 – 2300

Non-standard timings – until 0000 on New Years Eve.

4. The opening hours requested are:

Monday	0900 - 0000
Tuesday	0900 - 0000
Wednesday	0900 – 0000
Thursday	0900 - 0000
Friday	0900 - 0000
Saturday	0900 - 0000
Sunday	1000 – 2300

Non-standard timings – until 0030 on New Years Eve.

5. A plan of the premises together with steps proposed to promote the licensing objectives is attached at appendix A to the report. In addition to these the applicant has agreed with Norfolk Constabulary the following additional conditions:-

*CCTV will be in operation covering the main public areas and outside seating area. This system will record for a minimum of 28 days and footage will be available to Police or Licensing Authority on request.*

*A record of staff training in relation to the Licensing Act 2003 will be kept on the premises and be available to Police or Licensing Authority on request.*

*A refusal book to log all refused sales due to intoxication or underage will be kept on the premises and be available to Police or Licensing Authority on request.*

*An incident book will be kept on the premises to log incidents of disorderly behaviour; this book will be available to Police and Licensing Authority on request.*

Patrons will be prevented from taking open drinking vessels off the premises.

### **Relevant representations**

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

Police – no representations.

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 have been received in respect of the application with concerns which 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 at appendix B to the report. A representation supporting the application has also been received and this is attached at appendix C.**

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

**8. 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)**

**9. 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**

**10. 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.

11. The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

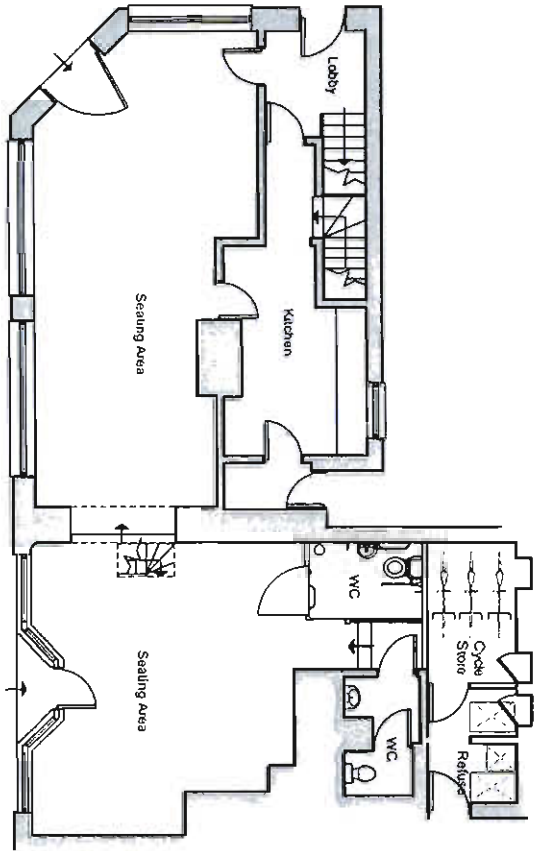
- Grant the application as asked;
- Modify the conditions of the licence by altering or omitting or adding to them;
- Reject the whole or part of the application

12. 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.

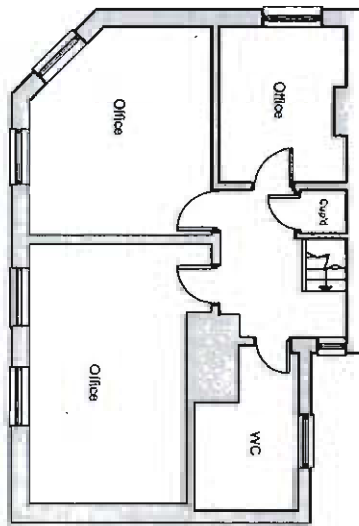
13. The representations received appear to relate to issues that fall under the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The Sub-Committee is directed to paragraphs 20 and 24 of the local licensing policy at Appendix D which contain examples 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.

14. 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.

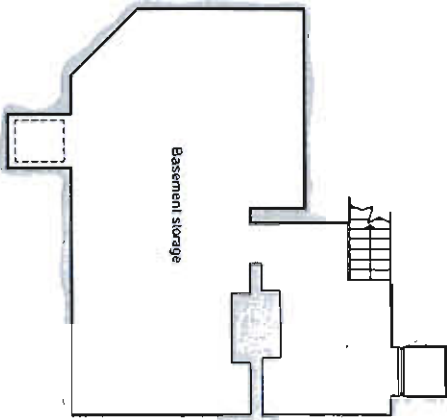
# APPENDIX A



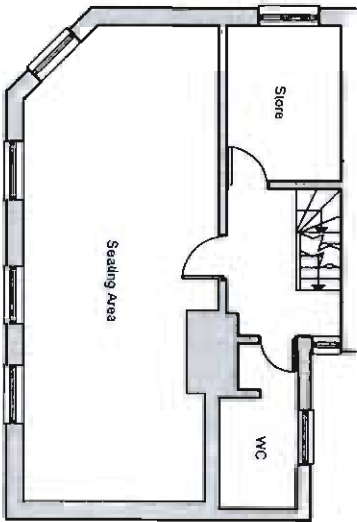
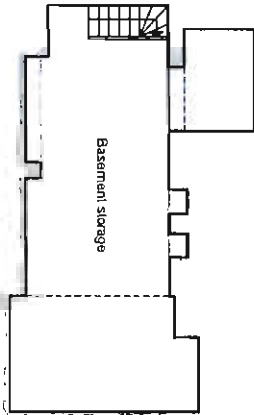
Ground Floor Plan



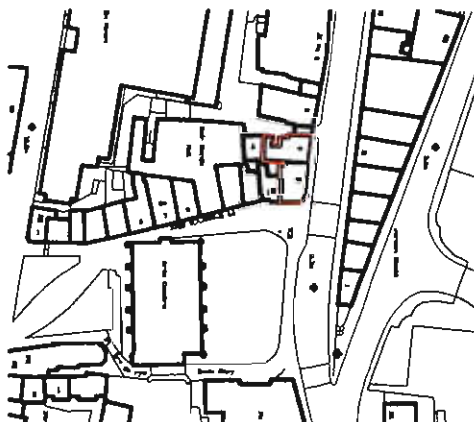
Second Floor Plan



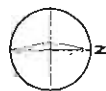
Basement Plan



First Floor Plan



Location Plan 1:1250



Revisions	
No.	Description
1	Initial design
2	Revised design
3	Final design
4	As built
5	As built
6	As built
7	As built
8	As built
9	As built
10	As built

**A SQUARED ARCHITECTS**  
 RIBA AH  
 1100/1250 @A3  
 January 2013  
 Change of use at  
 2-4 St Barnabas  
 Norwich  
 13 02 03 A

**Continued from previous page...**

List here steps you will take to promote all four licensing objectives together.

We will undertake all applicable staff training to ensure all staff are aware of the licensing objectives. We will have CCTV. Carry out a risk assessment, we will adhere to the licensing laws and the conditions of our license and operating schedule including an age verifying policy.

**b) The prevention of crime and disorder**

CCTV will be in place and we will be a member of PubWatch

**c) Public safety**

External lighting, any warning signs where applicable and CCTV

**d) The prevention of public nuisance**

Keep a noise to a minimum, not allowing customers to gather outside and ensuring they get on their way promptly after closing time.

**e) The protection of children from harm**

Monitor the admission of children, age verification policy i.e. Challenge 21, staff training in relation to age verification and the law on serving alcohol.

**Section 19 of 19**

**PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card. Premises Licence Fees are determined by the non domestic rateable value of the premises. To find out a premises non domestic rateable value go to the Valuation Office Agency site at [http://www.voa.gov.uk/business\\_rates/index.htm](http://www.voa.gov.uk/business_rates/index.htm)

Band A - No RV to £4300	£100.00
Band B - £4301 to £33000	£190.00
Band C - £33001 to £87000	£315.00
Band D - £87001 to £125000	£450.00*
Band E - £125001 and over	£635.00*

\*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £12500	£900.00
Band E - £125001 and over	£1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls,

<b>Your name/organisation name/name of body you represent (see note 1)</b>	Francesca Roberts and Michael Garry		
<b>Postal address</b>	Kirby House 5a St Benedicts Street Norwich NR2 4PE		
<b>Email address</b>			
<b>Contact telephone number</b>			
<b>Address of the premises you wish to support or object to</b>	2-4 St Benedicts Street Norwich NR2 4AG		
<b>Your support or objection must relate to one of the four licensing objectives (see note 2)</b>			
<b>Licensing objective</b>	<b>Please set out your support or objections below. Please use separate sheets if necessary.</b>		
<b>To prevent crime and disorder</b>	We are concerned that having another venue serving alcohol until late near so many others will increase the number of drunks disturbing us at night and will increase the number of alcohol related crimes.		
<b>Public safety</b>			
<b>To prevent public nuisance</b>	We are concerned that we will be unable to sleep until quite late due to the noise caused by patrons and by the proposed live and recorded music. We are also concerned about patrons loitering and being disruptive after closing time and about those who are excessively drunk vomiting and urinating in the street. Furthermore we are concerned about littering especially from cigarette butts due to patrons smoking outside the venue.		
<b>To protect children from harm</b>	We are concerned that if there is live music, minors will try to imbibe alcohol on the premises whilst watching the performers.		
<b>Please suggest any conditions which would alleviate your concerns</b>	We hope that there is sufficient soundproofing to enable us to sleep when there is live/recorded music at the premises.		
<b>Signed:</b>	F.Roberts, M. Garry	<b>Date:</b>	4/6/2013

## 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.



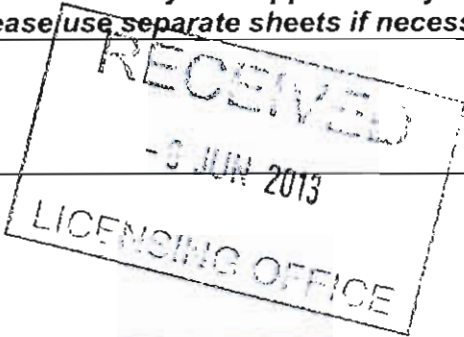
**Norwich City Council Licensing Authority**  
**Licensing Act 2003**

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

Your name/organisation name/name of body you represent (see note 1)	Daniel Bramham
Postal address	Flat 8, 4 St Benedicts Street, Norwich NR2 4AG
Email address	
Contact telephone number	

Name of the premises you wish to support or object to	
Address of the premises you wish to support or object to.	2-4 St Benedicts Street, Norwich, NR2 4AG

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

Licensing Objective	Please set out your support or objections below. Please use separate sheets if necessary
To prevent crime and disorder	<div style="text-align: center;">  </div>
Public safety	
To prevent public nuisance	
To protect children from harm	<p>The playing of live and recorded music until midnight <del>seven</del> six days a week. This would prevent me from sleeping personally and would also add huge noise pollution to the street, as well as additional noise from people drinking and exiting onto the street. There is a courtyard outside the property which seriously affects noise levels in my property &amp; bedroom and I would not want this used for anything public either.</p>

Please suggest any conditions which would alleviate your concerns.	Live and recorded music ends <del>to</del> before 23:00 nightly and no use of courtyard area or back of building.
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Signed

Date: 2.6.13

✓  
Please see notes on reverse

**Fuller, Maxine**

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**From:** Elissaios Papyrakis (DEV)  
**Sent:** 27 March 2013 11:30  
**To:** Licensing  
**Subject:** objection to license 2-4 St Benedict's street  
**Attachments:** 201303271216.pdf

Dear Sir/Madam,

please find attached my statement of objection to the application for a premises license (with reference to property 2-4 St Benedict's Street, ex MUSIC SHOP).

I own the lease for the flat above the property concerned (Flat A, 4 St Benedict's). As I explain in my letter attached to this email my main concerns relate to drunken customers entering the alley and committing nuisance (urinating against the flat entrances and breaking glasses).

I will be travelling abroad in the next couple of weeks (so I would appreciate if we could correspond via email), so I might not be able to attend a meeting (depending on the date this is arranged). I could send a representative, though, if this would help.

Many thanks in advance for your consideration of my objection,  
Best wishes  
Elissaios Papyrakis

# Norwich City Council Licensing Authority Licensing Act 2003



**NORWICH**  
City Council

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

<b>Your name/organisation name/name of body you represent (see note 1)</b>	ELISSAIOS PAPYRAKIS (OWNER OF PROPERTY- LEASE)
<b>Postal address</b>	FLAT A, 4 ST BENEDICT'S STREET, NR2 4AG
<b>Email address</b>	
<b>Contact telephone number</b>	
<b>Address of the premises you wish to support or object to</b>	2-4 St Benedicts St, City Centre, Norwich NR2 4AG (GROUND FLOOR - ex MUSIC STORE)
<b>Your support or objection must relate to one of the four licensing objectives (see note 2)</b>	
<b>Licensing objective</b>	<b>Please set out your support or objections below. Please use separate sheets if necessary.</b>
<b>To prevent crime and disorder</b>	
<b>Public safety</b>	
<b>To prevent public nuisance</b>	The entrance to the flats (4a and 4b) is inside a small alley with entrance from St Benedict's street. The flats are directly located above the property that applied for the license. There is already another pub across the street (The Lounge). Every weekend there are multiple customers who exit the pub and urinate against the flat entrance and often there are broken glasses. Customers are often very drunk and have been verbally abusive when they were asked not to urinate in the alley in front of the flats. From my earlier experience with the other pub (The Lounge), the bars are often poorly sound insulated. My main concern is about cafe/bar customers of the new premises entering the alley at night - the situation is already quite bad and it has started being a health risk. If the company applying for a license wishes to sell alcohol, I would object to such a license unless they are willing to install a

	gate that prevents their customers enter the alley. They should also insulate the property if there are plans to play loud music.
<b>To protect children from harm</b>	
<b>Please suggest any conditions which would alleviate your concerns</b>	Gate at the entrance of the alley that prevents customers to enter and commit nuisance
<b>Signed:</b>	<b>Date:</b> 27 march 2013

## 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

Norwich City Council Licensing Authority  
Licensing Act 2003

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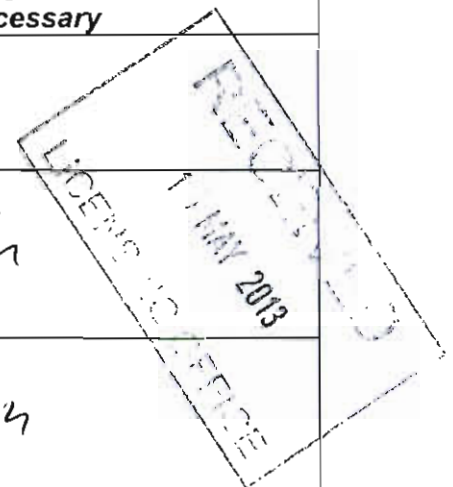
Statement of support or objection to  
an application for a premises licence

Your name/organisation name/name of body you represent (see note 1)	A.W. COOKERSON (MUSIC) LTD
Postal address	19 ST BENEDICTS
Email address	
Contact telephone number	

Name of the premises you wish to support or object to	NOT KNOWN
Address of the premises you wish to support or object to.	2-4 ST BENEDICTS

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

Licensing Objective	Please set out your support or objections below. Please use separate sheets if necessary
To prevent crime and disorder	No objection
Public safety	No objection
To prevent public nuisance	No objection
To protect children from harm	No objection



Please suggest any conditions which would alleviate your concerns.	Number 2 St Benedict's was originally the "Vine" Public House seems to have come a full circle
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Signed

Date: 14/5/2013

Please see notes on reverse

# 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 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 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.

## **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.