

NORWICH CITY COUNCIL

Report for Resolution

Report To Licensing sub-committee
29 March 2012

3

Report of Head of citywide services

Subject Licensing Act 2003:
Application for the grant of a premises licence -
Norfolk & Norwich Festival Trust St James' Place re-
development site adjacent to St James' Court and Mill
Norwich NR3 1SH

Purpose

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider the application to grant a Premises Licence in respect of the Norfolk & Norwich Festival Trust St James' Place re-development site adjacent to St James' Court and Mill Norwich NR3 1SH following the receipt of Interested Party objections.

Recommendation

That members determine the application to grant a Premises Licence in respect of Norfolk & Norwich Festival Trust St James' Place re-development site adjacent to St James' Court and Mill Norwich NR3 1SH in accordance with the:

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

Financial Consequences

The financial consequences for this report are nil.

Corporate Objective/Service Plan Priority

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

Contact Officer
Ian Streeter

Phone No 212439

Background Documents

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

1.0 The Application

- 1.1 The applicant is the Norfolk and Norwich Festival Trust.
- 1.2 The site for which the premises licence is applied for lies between Barrack Street on the North, Jarrolds car parking area on the East, the River Wensum and St James' Mill on the South and St James' Court and Norwich Puppet Theatre on the West. It is, broadly speaking, an irregular rectangular shape approximately 2500 square metres of hard standing surface enclosed on three sides by an eight foot high wooden fence and on the fourth (North) side by the remaining wall of the original building. This wall extends to approximately sixteen feet in height in places and is supported at regular intervals by steel struts. The hard standing represents the ground floor base of the original building which has been demolished as the site awaits redevelopment.
- 1.3 This grant application seeks to allow the provision of regulated entertainment for a fixed period between 19 May 2012 and 23 May 2012.
- 1.4 The details of the Operating Schedule are as follows:
- 1.4.1 The Licensable Activities are:
- Recorded Music (outdoors)
 - Performances of Dance (outdoors)
- 1.4.2 The proposed standard days and hours for the licensable activities are:
- | | | |
|-------------------------|---------------|-----------|
| • Recorded Music | 21:00 – 23:00 | Sat - Wed |
| • Performances of Dance | 21:00 – 23:00 | Sat - Wed |
- 1.4.3 The opening hours requested are:
- 20:30 – 23:30 Saturday – Wednesday
- 1.4.4 The steps proposed by the applicant to support the Licensing Objectives are attached to the report as Appendix A.

2. Relevant Representations

- 2.1 The responses from the Responsible Authorities are as follows:

Police – No representations.
Environmental Services – No representations.
Fire Officer – No representations.
Planning Officer – No representations.
Area Child Protection Committee – No representations.
Trading Standards – No representations.

- 2.2 Representations objecting to the application have been received from two Interested Parties with concerns relating mainly to the licensing objective of the Prevention of Public Nuisance. Copies of these representations are attached to the report at Appendix B. One representation in support of the application has been received and this is attached at Appendix C.
- 2.3 A site map of the area identifying the application premises and detailing the Interested Party addresses will be available at the meeting.

3.0 Norwich City Council Statement of Licensing Policy

- 3.1 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:

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

- 4.1 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.

5.0 Summary

- 5.1 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:
- the prevention of crime and disorder;
public safety;
the prevention of public nuisance;
the protection of children from harm.
- 5.2 In making its decision, the Sub-Committee is also obliged to have regard to guidance issued under Section 182 of the Licensing Act 2003 (National Guidance) and the Council's own local licensing policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.
- 5.3 The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:
- Grant the application as asked;
 - Modify the conditions of the licence by altering or omitting or adding to them;
 - Reject the whole or part of the application
- 5.4 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

- 5.5 The representations received from the Responsible Authority and the Interested Parties appear to relate to issues that fall under the licensing objective of the prevention of public nuisance. The Sub-Committee is directed to paragraph 25 of the local licensing policy at Appendix D which contains examples of factors that impact on the licensing objective of the prevention of public nuisance that the applicant could consider when addressing these issues. This paragraph also contains examples of control measures that may be taken into account in operating schedules having regard to the type of premises and/or the licensable activities.
- 5.6 Insofar as the issue of licensing hours is concerned, the Sub-Committee is directed to paragraph 13.41 of the national guidance, which states that licensing hours should not inhibit the development of evening and night-time local economies, and that providing consumers with a greater choice and flexibility is an important consideration. However, this should always be carefully balanced against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet. The Sub-Committee is also directed to paragraph 31.7 a) of the local licensing policy, authorising the restriction of licensing hours, where the licensing authority believes, on the basis of representations, that to not do so would exacerbate public nuisance.

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

- 5.7 The Sub-Committee is also reminded of the contents of appendix 4 of the local licensing policy (not re-produced in this report) which contains a pool of model conditions relating to the prevention of public nuisance.

APPENDIX A

P Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

Event organisers undertake a consultation and planning development process with the local authority, statutory bodies, a professional security company, experienced stewards and other interested parties through a series of round table meetings. An operating schedule and risk assessment are developed alongside these meetings and distributed to all agencies and personnel. These documents outline the agreed policies and procedures for all aspects of the event, including the 4 licensing objectives and form the basis of briefings and documentation given to event personnel prior to the event. A professional security company and experienced stewarding staff will be in attendance throughout to ensure the smooth running and management of the event. Security and stewarding staff will report directly to the Site Manager who will have responsibility for the management of the site delegated to them by NNF Event Producer, Mikey Martins. All systems and procedures will be defined by the NNF Management Team in consultation with an experienced Safety Advisor. An emergency contact number for 'customer complaints' will be visibly displayed at the entrance to the performance area and manned continuously so that anyone who has concerns can call.

b) The prevention of crime and disorder

Event organisers and the professional security company will work closely with Police to identify and plan for any potential threats to crime and disorder. The Police will be consulted before and during the event to minimise the impact of crime and disorder.

Stewards and security will be located prominently and be visible throughout the event to manage the audience (maximum capacity 500 per show) and report any issues to the Site Manager. SIA security will be employed as detailed in the security section of the Operating Schedule.

All Festival staff, stewards, Site Manager, along with Security Chief Steward will carry radios. Any incident-reporting and authorising of remedial action will be done via Site Manager.

c) Public safety

A risk assessment has been undertaken and is included as an appendix with the Operating Schedule. A more detailed risk assessment will be undertaken closer to the event with the company (Rosenberg and Requardt) who will also be supplying their own performance-related risk assessment. Appropriate measures will be taken to ensure the safety of all performers, staff and general public. Event equipment (motor vehicles) and structures (imitation street furniture eg lampposts and postboxes) will be stewarded or cordoned off to prevent public access where deemed appropriate. Stewards and security personnel will be located throughout the performance area. The audience will be seated throughout the performance on hired grandstand seating. Qualified first aiders will be in attendance throughout the event and in radio contact with the Site Manager. First aid will be provided in accordance with the risk assessment as defined in The Event Safety Guide. The detailed operating schedule and communication of all the contents to staff is a key part in ensuring the public safety of all. There will be no refreshments available for sale to the audience. The performance lasts for 60 minutes duration with no interval.

d) The prevention of public nuisance

The event is oriented towards an adult audience (recommended for age 12+); public nuisance is not a major anticipated threat. Event organisers and the security company will work closely with the Police to identify and plan for any potential nuisance through regular consultation. Stewards will be briefed as to how to manage potential nuisance. Noise nuisance will be kept to a minimum as there is no planned externally audible amplified sound; all sound used during the performance will be transmitted via wireless headphones to the audience members. Rosenberg & Requardt will ensure that there is no danger of hearing damage through misapplication of the sound system and headphones. Individual audience members can adjust the volume setting of their headphones to suit their requirements. A dedicated 'customer complaint' mobile number will be established which will be manned continuously. Litter and recycling are key parts of the ethos of the Festival and therefore will be a key part of the management. However, there will be no refreshments available for sale on site so it is anticipated that litter will be kept to a minimum.

e) The protection of children from harm

There will be a stipulation for audience members to be aged 12 or over on the tickets. The site is fully enclosed with toilets on site so any lost children will not be able to leave the site without encountering a steward. A clear Lost Children policy with CRB checked staff in radio contact with the Site Manager will be in place. The Lost Child point will be located at the First Aid Point. Professional security and stewarding staff will be on the premises and will be fully briefed on the lost children policy and procedure.

There will be no alcohol available for sale.

Please tick yes

- I have made or enclosed payment of the fee ☒
- I have enclosed the plan of the premises ☒
- I have sent copies of this application and the plan to responsible authorities and others where applicable ☒
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable ☐
- I understand that I must now advertise my application ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 1) **if the applicant please state in what capacity.**

| | |
|-----------|---|
| Signature | |
| Date | 31 January 2012  |
| Capacity | Secretary, Norfolk & Norwich Festival Trust |

APPENDIX B

Norwich City Council Licensing Authority
Licensing Act 2003

20 FEB 2012

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

| | |
|---|---|
| Your name/organisation name/name of body you represent (see note 1) | CLAIRE FEEK |
| Postal address | FLAT 1, 11-15 BARRACK STREET, NORWICH, NR3 1WJ |
| Email address | |
| Contact telephone number | |

| | |
|---|--|
| Name of the premises you wish to support or object to | ST. JAMES PLACE REDEVELOPMENT SITE |
| Address of the premises you wish to support or object to. | ADJACENT TO ST. JAMES COURT AND MILL, NORWICH |

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 | PLEASE SEE |
| Public safety | ENCLOSED |
| To prevent public nuisance | LETTER |
| To protect children from harm | |

| | |
|--|--|
| Please suggest any conditions which would alleviate your concerns. | |
|--|--|

Signed:

Date: 15/02/2012

Please see notes on reverse



Norwich & Mid-Norfolk Branch
Registered charity No. 206629

Norwich City Council
Licensing Section
City Hall
St Peters Street
Norwich
NR2 1NH



15th February 2012

Dear Sir/Madam

RE: 12/00300/PREM - Motorshow, St James Place redevelopment site

I am writing to express my strong opposition to the application for a temporary premises licence for 19th to 23rd May 2012 for the above proposed event. I work at Norwich & Mid-Norfolk RSPCA on Barrack Street and also live in the flat above the premises. The terrace outside my flat directly overlooks the site where the proposed event would be held, and our on-site cattery also backs on to it.

I object to the event for several reasons. One is because it would cause me considerable disturbance in my home due to noise and the likely antisocial behaviour that would be caused in the area. The proposal states in the "recorded music" section that music will be played to the audience via headphones so there will be no audible externally amplified sound. However, in the "performances of dance" section it does not specify whether or not music will be heard externally. I find it hard to believe that it will not as I cannot imagine people dancing to silence. Regardless of whether any music can be heard or not, it is proposed that there will be cars moving around and there will obviously be the general noise created by the audience who are also to be served alcohol.

The area I live and work in can be what I can only describe as "unsavoury" at times in general. Often people who have been drinking walk down Barrack Street past the building at night shouting, screaming, swearing and so on. Fights sometimes break out outside and the police have been called to the area several times in recent months. People also enter the RSPCA car park to leave litter, urinate, and worse. I am therefore extremely concerned that holding this 5-day event where alcohol is available will encourage more people to enter into behaviour of this nature and cause me even more disturbance than that which I already suffer.

Our on-site cattery at the RSPCA Centre houses almost 40 cats. Most of them are with us

Animal Care Manager
The Paws Centre, 71-75 Barrack Street, Norwich NR3 1WJ



Norwich & Mid-Norfolk Branch
Registered charity No. 206629

because they have suffered from cruelty and neglect. Many are unwell, very timid, or both. The backs of the cats' accommodation (runs) are open-air, so there would be no barrier to sounds from the event entering the cattery. I believe the event would cause considerable distress to the animals we are caring for on-site and be extremely detrimental to their welfare. Our cats already suffer a level of stress just from the very fact that they are in a cattery environment.

When Norwich & Mid Norfolk RSPCA moved to the current premises on Barrack Street around 10 years ago, the Council informed us we were unable to house dogs on-site due to the noise they would create in a residential area. I find it extremely hypocritical of the Council to now consider letting an event that will cause noise to take place right next to our site.

I look forward to hearing from you in due course.

Yours Faithfully

Claire Feek
Animal Care Manager

Animal Care Manager

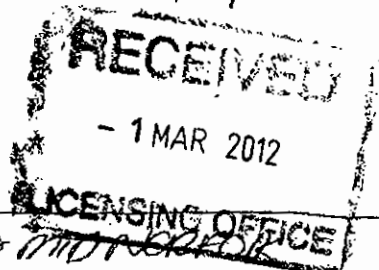
The Paws Centre, 71-75 Barrack Street, Norwich NR3 1WJ
Tel (01603) 766001 Fax (01603) 471077
www.rspcanorwich.org.uk
cfeek@rspcanorwich.org

Your local Branch is an independently funded charity – all money raised in Norfolk stays in Norfolk

Norwich City Council Licensing Authority
Licensing Act 2003

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

Page ① of ②



| | |
|---|--|
| Your name/organisation name/name of body you represent (see note 1) | RSPCA NORWICH & MIDNORFOLK BRANCH. |
| Postal address | THE PAWS CENTRE, 71-75 BARRACK ST, NORWICH, NR3 8LW. |
| Email address | |
| Contact telephone number | |

| | |
|--|---|
| Name of the premises you wish to support or object to | MOTORSHOW, ST JAMES PLACE |
| Address of the premises you wish to support or object to. | ST JAMES PLACE REDEVELOPMENT SITE, NORWICH. |

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 | WE ARE CONCERNED ABOUT LITTER + DAMAGE TO PROPERTY BY MASS CROWDS, ESPECIALLY UNDER INFLUENCE OF ALCOHOL. |
| Public safety | ✓ |
| To prevent public nuisance | MORE SO CONCERNED ABOUT DISTURBANCE CAUSED TO ANIMALS LIVING ON SITE + CAUSE UNNECESSARY STRESS. |
| To protect children from harm | ✓ |

| | |
|--|---|
| Please suggest any conditions which would alleviate your concerns. | ✓ |
|--|---|

Signed:

Date: 3/2/2012.

Please see notes on reverse

APPENDIX C

Norwich City Council Licensing Authority
Licensing Act 2003

| |
|----------------------------|
| Organisational Development |
| 13 FEB 2012 |
| Post Room |

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

| | |
|---|--|
| Your name/organisation name/name of body you represent (see note 1) | NORWICH PUPPET THEATRE |
| Postal address | ST JAMES, WHITEFRIARS NORWICH NR3 1TN |
| Email address | |
| Contact telephone number | |

| | |
|---|---|
| Name of the premises you wish to support or object to | ST JAMES PLACE REDEVELOPMENT SITE |
| Address of the premises you wish to support or object to. | Adjacent St James Court & Mill, NR3 1SH |

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 | PROVIDES ACTIVE AND CREATIVE USE OF AN OTHERWISE SEMI-DERELICT SITE. |
| Public safety | |
| To prevent public nuisance | POTENTIAL TO ENGAGE WITH LOCAL COMMUNITY THAT WOULD NOT OTHERWISE PARTICIPATE IN A CULTURAL ACTIVITY. INDIVIDUALS SO ENTHUSED MAY THEN SEEK |
| To protect children from harm | OUT OTHER CULTURAL/CREATIVE OUTLETS FOR THEIR ENERGIES. |

| | |
|--|--|
| Please suggest any conditions which would alleviate your concerns. | |
|--|--|

Signed:

Date: 8/2/12.

Please see notes on reverse

13 FEB 2012
LICENSING OFFICE

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.

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" will be asked to consider all applications and to make representations to the Council, if they relate to the promotion of the four licensing objectives and particularly in respect of applications which, might be regarded as contentious. Representations must be evidentially based and the

organisation should attend any hearing when the application is being considered.

4.2 The Council will consider all representations from any “Interested Party” (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’, in that it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representations, which are regarded as being frivolous or vexatious, will not be considered, and in the case of a review of a licence, any representation which is regarded as repetitious, will also not be considered. A decision as to whether a representation is frivolous, vexatious or repetitive will be made by an officer of the Council.

5.0 Conditions attaching to Licences

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

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

8.0 The Impact of Licensed Premises

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

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

- the level of likely car parking demand on principal roads and surrounding residential streets and its effect on local residents, in comparison with the existing situation, and the effect on residential parking and emergency access;
- 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 A Premises Supervisor must be specified in the Operating Schedule for a premises, in which alcohol will be sold ('Designated Premises Supervisor' DPS). The DPS will have responsibility for running the premises on a daily basis. They should normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, they should either undergo additional training, or to be able to demonstrate they have the experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.

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

LICENSING OBJECTIVES

25.0 Objective - Prevention of Public Nuisance

25.3 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.

25.7 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 23.00 and 07.00
- 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

25.8 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, e.g. 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 (e.g. garden areas) of premises, including such matters as deliveries i.e not too early in the morning
 - Adoption of best practice guidance (e.g. 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 2-3 hours before licensable activities finish.
- where the supply of alcohol for consumption on the premises is

the exclusive or primary purpose of the services provided at the premises.

SECTION E - Hours of Trading

31.7 The policy options which will be applied to applications for premises licences where the sale or supply of alcohol for consumption on the premises is proposed, are as follows:

- a) **The Council will consider restricting the hours if it believes, on the basis of representations made, that not doing so would lead to or exacerbate problems of crime, disorder or public nuisance.**
- b) Where no relevant representations are received from either a responsible body or an interested party, the application will be granted in accordance with the terms of the operating schedule.
- c) Where relevant representations are received from either a responsible body or an interested party, and those representations relate to the hours of trading then subject to (a) above, the Council will consider restricting the hours in relation to any of the licensable activities for which a licence is being sought, provided it is considered necessary to do so in order to promote one or more of the licensing objectives which may not be achieved without such restrictions. The Council may impose different restrictions on hours for different licensable activities and for different days of the week.

APPENDIX E

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

PUBLIC NUISANCE

2.32 The 2003 Act requires licensing authorities (following receipt of relevant representations) and responsible authorities, through representations, to make judgements about what constitutes public nuisance and what is necessary 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 impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.33 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 interested parties (as defined in the 2003 Act) in the vicinity of licensed premises.

2.34 Conditions relating to noise nuisance will normally concern steps necessary 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 in the evening to more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions necessary to promote the prevention of public nuisance should be tailored to the style and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid unnecessary 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.

2.35 As with all conditions, it will be clear that conditions relating to noise nuisance may not be necessary 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 vicinity 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 necessary.

2.36 Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from midevening 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 in the immediate vicinity of the premises may also prove necessary to address any disturbance anticipated as customers enter and leave.

2.37 Measures to control light pollution will also require careful thought. Bright lighting outside premises considered necessary 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.

2.38 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.

2.39 Beyond the vicinity of 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

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

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

Imposed Conditions

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

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

Proportionality

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

Fundamental principles

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

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

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

Standardised Conditions

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

Licensing Hours

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