

# **NORWICH CITY COUNCIL**

## **Report for Resolution**

**Report To** Licensing Sub-Committee

17 July 2009

**Report of** Head of Legal & Democratic Services

**Subject** Licensing Act 2003:  
Application for Review of a Premises Licence -  
Rehab 25 Prince of Wales Road Norwich

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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 an Interested Party application to review the Premises Licence in respect of Rehab 25 Prince of Wales Road Norwich.

### **Recommendation**

That Members determine the review application respect of Rehab 25 Prince of Wales Road Norwich 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 Officers**

**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 Licensing Act 2003 (The Act): Review Applications**

1.1 The Act provides a mechanism by which, following the grant of a Premises Licence, a Responsible Authority (e.g. Police or Fire Authority) or Interested Party (e.g. a resident living in the vicinity of the premises) may ask the Licensing Authority to 'review' the licence because of a matter(s) arising at the premises in connection with any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm).

1.2. Where the request for review originates with an Interested Party, the Licensing Authority must first consider whether the complaint made is either: not relevant; vexatious; frivolous; or repetitious. The Guidance issued by the Secretary of State under Section 182 of The Act explains this terminology in more detail and the relevant paragraphs of the Guidance (5.73–5.77 & 5.104) are reproduced in Appendix H to the report.

1.3 If an application is accepted the Licensing Authority must advertise the review by displaying a notice at, on or near the site of the premises to which the application relates and at the main offices of the Licensing Authority. Notification of an application is also sent to properties within the vicinity of the application premises, in accordance with the policy previously agreed by the City Council's Licensing Committee.

1.4 The Act provides the Licensing Authority with a range of powers that it may exercise on determining a review, where it considers them necessary for the promotion of the licensing objectives. However, the Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives.

1.5 Where a Licensing Authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- To modify the conditions of the Premises Licence (which includes adding new conditions or any alteration or omission of an existing condition);
- To exclude a licensable activity from the scope of the licence;
- To remove the Designated Premises Supervisor (for example, because they consider that the problems are the result of poor management);
- To suspend the licence for a period not exceeding three months; and
- To revoke the licence.

1.6 It should be noted that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.

1.7 Section 177 of The Act allows, in certain circumstances, for the suspension of any conditions relating to the provision of music entertainment imposed by a Licensing Authority, meaning for example that a condition as to the closure of doors and windows or provision of a noise limiter may not be enforceable. However, Section 177 can be disapplied if, following a review of the licence, it is amended to say that this exemption does not apply. This matter is addressed in paragraphs 5.4 –

5.7 of The Guidance issued by the Secretary of State under Section 182 of The Act reproduced in Appendix H to the report.

1.8 The following parties have a right of appeal to the Magistrates Court if they are aggrieved by the licensing authorities decision:

- The applicant for the review;
- The holder of the Premises Licence; and
- Any other person who made relevant representations in relation to the application.

## **2.0 Application for Review**

2.1 An application to review the Premises Licence in respect of the Rehab 25 Prince of Wales Road Norwich has been received from P. F. Pun. Of 23 Prince of Wales Road Norwich. A copy of the application is attached at Appendix A to the report.

2.2 The application has been accepted by the Licensing Authority and the grounds for review fall under the licensing objective of the prevention of public nuisance. No previous application for review has been received in respect of these premises.

2.3 The current premises licence in place allows for the following licensable activities:

|                                 |               |           |
|---------------------------------|---------------|-----------|
| • Late Night Refreshment        | 23:00 - 03:30 | Every Day |
| • Live Music                    | 20:00 - 03:00 | Every Day |
| • Performances of Dance         | 19:00 - 03:00 | Every Day |
| • Provision of Dance Facilities | 20:00 - 03:00 | Every Day |
| • Provision of Music Facilities | 20:00 - 03:00 | Every Day |
| • Sale by Retail of Alcohol     | 10:00 - 03:00 | Every Day |
| • Recorded Music                | 20:00 - 03:00 | Every Day |

### **Non standard / seasonal timings:**

Late Night Refreshment and Sale by Retail of alcohol – from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

2.4 The opening hours of the premises are:

|           |               |
|-----------|---------------|
| Monday    | 10:00 - 03:30 |
| Tuesday   | 10:00 - 03:30 |
| Wednesday | 10:00 - 03:30 |
| Thursday  | 10:00 - 03:30 |
| Friday    | 10:00 - 03:30 |
| Saturday  | 10:00 - 03:30 |
| Sunday    | 10:00 - 03:30 |

### **Non standard / seasonal timings:**

From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

2.5 The current Premises Licence holder is Mr Aaron Dickinson of 71 Cere Road Sprowston Norwich. Mr Dickinson is also the Designated Premises Supervisor.

2.6 The conditions attached to the Premises Licence for Rehab and a plan of the premises are attached at Appendix B to the report.

### **3. Relevant Representations**

3.1 The responses from the Responsible Authorities are as follows:

- Police – No representations.
- Environmental Services – Representation received (attached at Appendix C).
- Fire Officer – No representations.
- Planning Officer – No representations.
- Area Child Protection Committee – No representations.
- Trading Standards – No representations.

3.2 There have been two Interested Party representations supporting the review application. These are attached to the report at Appendix D.

3.3 An Interested Party representation objecting to the review application has been received and is attached at Appendix E.

3.4 A site map of the area identifying the premises to which the application relates is attached as Appendix F. A more detailed map of the area detailing the Interested Parties' residences will be available at your meeting.

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

4.1 Attached at Appendix G are the elements of the City Council's local Licensing Policy which are considered to have a bearing upon the application:

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

5.1 Attached at Appendix H 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 If, after considering the application and relevant evidence, action is considered necessary, the Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- To modify the conditions of the Premises Licence (which includes adding new conditions or any alteration or omission of an existing condition);
- To exclude a licensable activity from the scope of the licence;
- To remove the Designated Premises Supervisor (for example, because they consider that the problems are the result of poor management);
- To suspend the licence for a period not exceeding three months; and
- To revoke the licence.

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 application for review, and the representations in support of the review relate to issues that fall under the licensing objective of the prevention of public nuisance. The Sub-Committee is directed to paragraphs 25.1 – 25.8 of the local licensing policy at Appendix G that contains examples of factors which can impact on the licensing objective of the prevention of public nuisance. These paragraphs also contain examples of control measures that may be taken into account having regard to the type of premises and/or the licensable activities.



**NORWICH**  
City Council

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NR2 1NH  
licensing@norwich.gov.uk



|                            |
|----------------------------|
| Organisational Development |
| 28 MAY 2009                |
| Post Room                  |

## Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.  
You may wish to keep a copy of the completed form for your records.

I P. F. Pun ..... apply for the review of a  
(Insert name of applicant)  
premises licence under section 51 / apply for the review of a club premises  
certificate under section 87 of the Licensing Act 2003 for the premises described  
in Part 1 below (delete as applicable)

### Part 1 – Premises or club premises details

|   |                                     |
|---|-------------------------------------|
| Postal address of premises or club premises, or if none, ordnance survey map reference or description<br><u>25 Prince of Wales Road</u><br><u>Norwich</u> |                                     |
| Post town   | Post code (if known) <u>NR1 1BG</u> |

|  |
|--|
| Name of premises licence holder or club holding club premises certificate (if known) |
|--|

|  |
|--|
| Number of premises licence or club premises certificate (if known) |
|--|

### Part 2 - Applicant details

I am

Please tick ✓ yes

- |   |                                       |
|---|---------------------------------------|
| 1) an interested party (please complete (A) or (B) below)                           | <input type="checkbox"/>              |
| a) a person living in the vicinity of the premises                                  | <input checked="" type="checkbox"/> ✓ |
| b) a body representing persons living in the vicinity of the premises               | <input checked="" type="checkbox"/> ✓ |
| c) a person involved in business in the vicinity of the premises                    | <input type="checkbox"/>              |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/>              |

2) a responsible authority (please complete (C) below) ☐

3) a member of the club to which this application relates  
(please complete (A) below) ☐

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr ☒ Mrs ☐ Miss ☐ Ms ☐ Other title (for example, Rev) ☐

Surname  First names

Please tick ☒ yes

I am 18 years old or over ☒

Current address

Post Town  Postcode

Daytime contact telephone number (This is my sister's telephone)

E-mail address (optional)

Due to I can't speak English a lot, so  
pls speak to my sister.

(B) DETAILS OF OTHER APPLICANT

|                           |
|---------------------------|
| Name and address          |
|                           |
| Telephone number (if any) |
| E-mail (optional)         |

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

|                           |
|---------------------------|
| Name and address          |
|                           |
| Telephone number (if any) |
| E-mail (optional)         |

This application to review relates to the following licensing objective(s)

Please tick one or more boxes Y

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

|                                     |
|-------------------------------------|
| <input type="checkbox"/>            |
| <input type="checkbox"/>            |
| <input checked="" type="checkbox"/> |
| <input type="checkbox"/>            |

Please state the ground(s) for review (please read guidance note 1)

Prevention of Public Nuisance

A review of the License is requested because of the severe degradation of normal living standards. The noise levels, severe building vibration from loud music and constant loud speaking to the rear area of No. 25 Prince of Wales road is making it impossible to live any semblance of a normal life.

Representations made to the occupants have been ignored and indeed treated with contempt.

A log of times and causes of this disruption has been made and indeed many phone calls make to the Council.

Please provide as much information as possible to support the application (please read guidance note 2)

As a businessman and being a diabetes patient is not easy. In fact, according to my diabetes nurse, due to lack of proper rest my diabetes is getting more serious. You can't predict when the noise is going to stop. There is no particular time when the loud music will stop. The smoking area at the rear of their building is just near my window. On top of that there are a couple of air conditioning/heating units just beside my window also. Loud music, people laughing and yelling on top of this I still have to put up with the engine noise. When asked to stop they just laugh at me and become louder. All this is causing a great deal of stress. I don't know how long I am able to control my anger over this.

Even though their main entrance door is shut there are still a lot of people drinking at the rear of the building until four to five am. I went to knock their main entrance door and the owner came to open the door and even shouted at me.

Now when we see each other we do not speak. Due to my nature of working time, I do come home late a lot of time and my car is parked at the rear of my

Premises. I feel intimidated by the persons at the rear of their building.

Have you made an application for review relating to this premises before Please tick Y  
yes

☐

If yes please state the date of that application

Day      Month      Year

|  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|
|  |  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|--|

**If you have made representations before relating to this premises please state what they were and when you made them**

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☐
- 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 3 – Signatures** (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

Date

Capacity

22/5/09  
owner

|   |           |
|---|-----------|
| Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 5) |           |
| Post town   | Post code |
| Telephone number (if any)   |           |
| If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)                                    |           |

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

# APPENDIX B

## **Annex 1 – Mandatory conditions**

1 No supply of alcohol may be made under a premises licence -

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

3 To operate an effective proof of age verification by use of the Portman Prove It scheme, or approved alternative, passport or photographic driving licence only.

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

### **1 General - all four licensing objectives**

2 All bar staff will be trained in the basic law relating to the sale/supply of alcohol and a record of who has received this training will be kept at the premises.

3 There will be a thirty minute "chill out"/wind down period after all licensable activities (except for late night refreshment) have ended.

### **4 The Prevention of Crime and Disorder**

5 The Licensee shall ensure that at all times when the premises are open for any licensable activity, there are sufficient and competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the Licence and for preventing crime and disorder.

6 The Licensee and designated premises supervisor shall ensure that there are effective management arrangements in place to enable them to know how many persons there are in the premises at all times when the premises are open for a licensable activity.

7 A suitably worded sign of sufficient size and clarity must be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.

8 No patrons shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle whether empty or containing any beverage.

9 The Licensee shall not advertise, promote, sell or supply alcoholic drinks in such a way that is intended or likely to encourage persons to consume alcohol to an excessive extent.

10 A burglar alarm will be present on the premises.

### **11 Public Safety**

12 When obviously physically disabled people are present, adequate arrangements must exist to enable their safe evacuation in the event of an emergency.

13 All escape routes and exits must be kept unobstructed, in good order, free of trip hazards and clearly identified.

14 All exit doors whenever the premises are occupied must be able to be easily opened in the case of an emergency without the use of a key, card, code or similar means.

15 All exit doors must be regularly checked to ensure that they function satisfactorily.

16 Any removable security fastenings must be removed whenever the premises are open to the public or occupied by staff.

17 All fire doors must be maintained effectively self closing and must not be held open other than by approved devices.

18 Fire resisting doors to ducts, service shafts, and cupboards must be kept locked shut to prevent unauthorised access and integrity.

19 Fire fighting equipment must be provided in the licensing premises in accordance with the risk assessment with staff suitably trained as necessary.

20 Adequate and appropriate equipment and materials must be provided for enabling first aid to be rendered to members of the public if they are injured or become ill whilst at the licensed premises.

21 In the absence of adequate daylight, the lighting in any area accessible to the public, members of guests, must be in operation when they are present.

22 The premises must have means of giving warning to persons in the event of an outbreak of fire or other emergency. Where determined by the risk assessment that a mains electrical fire alarm is required, this must be designed to and installed in accordance with British Standard 5838 Current Edition.

23 Fire safety signs must be adequately illuminated.

24 Emergency lighting must be provided in accordance with BS5266 (current edition) or an equivalent standard approved by the Licensing Authority.

25 Emergency Lighting must not be substantively altered without prior consent of the Licensing Authority.

26 The emergency lighting system must be checked to ensure it is operating correctly before the admission of the public.

27 In the interest of public safety the management policy is to close the doors to restrict further entry when this is necessary to prevent overcrowding. This does not compromise the means of escape in case of fire.

### **28 The Prevention of Public Nuisance**

29 Internal and external lighting provided for the purpose of customer and staff safety and for the security of the premises must be so positioned to not cause nuisance to neighbouring or adjoining properties.

30 Suitable ventilation and extraction systems must be provided to eliminate noxious odours. Such systems must be maintained on a regular basis.

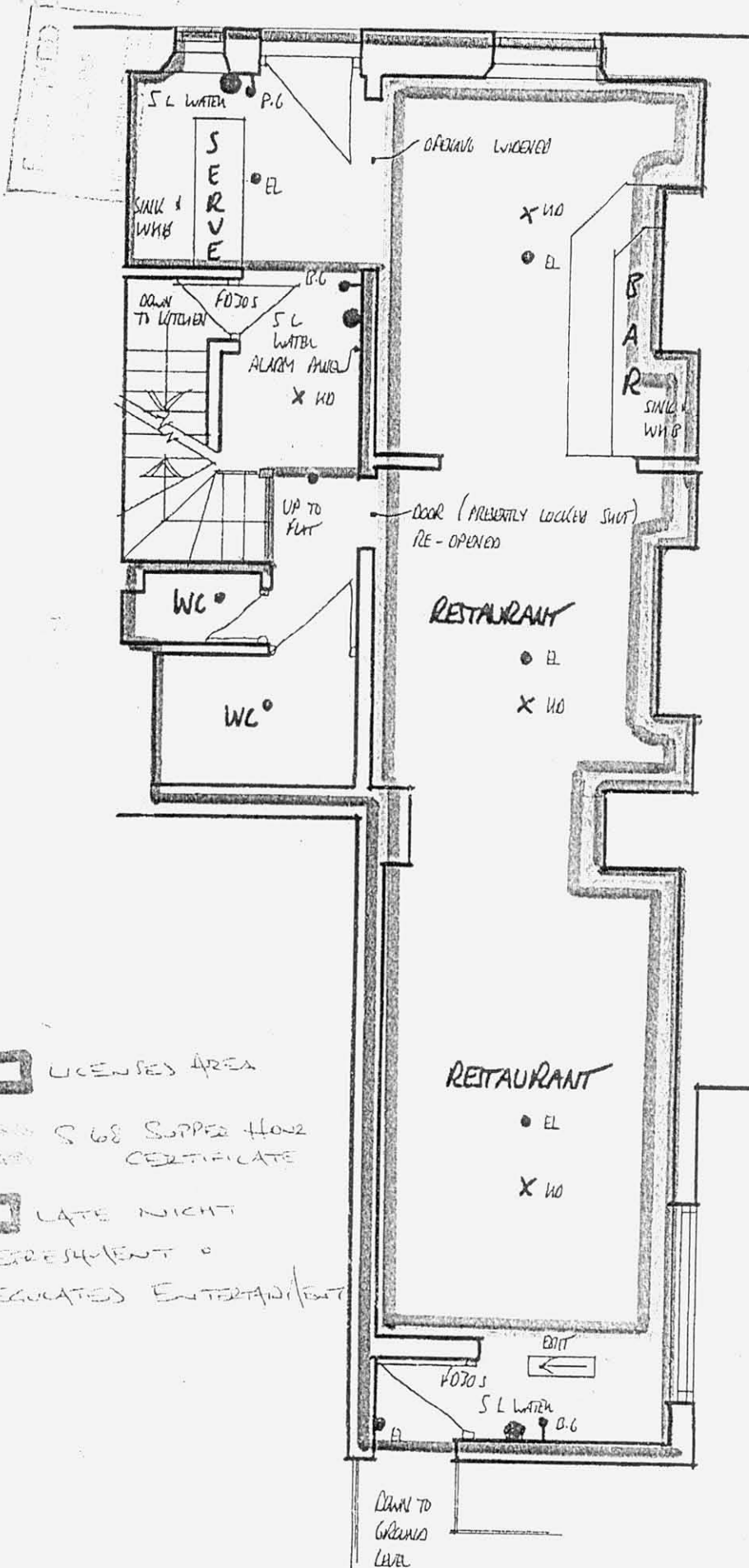
31 The premises must remove their waste in a timely manner to a licensed waste disposal facility.

32 **The Protection of Children From Harm**

33 A suitably worded sign of sufficient size and clarity must be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.

34 No children under the age of 18 years must be allowed access to that part of the premises during any time where and when an activity or entertainment of a sexual nature is being provided. For the purposes of this condition, entertainment of a sexual nature includes but is not limited to striptease (sometimes referred to as exotic dancing), lap dancing, pole dancing or any other entertainment of a similar nature.

# PRINCE OF WALET ROAD



## KEY:-

SEE EXISTING BAR LAYOUT FOR DETAIL.

EXISTING BAR TO BE RETAINED FOR SERVING OF NON-ALCOHOLIC BEVERAGES & FOOD.

LICENSED BAR RELOCATED TO RESTAURANT AREA.

FIRE ALARM SYSTEM, EMERGENCY LIGHTING & SIGNAGE, ALL COMPLIANT WITH CURRENT BUILDING REGULATIONS - TO REMAIN UNCHANGED.

MEDINA RESTAURANT  
25 PRINCE OF WALET ROAD  
NORWICH

MR H SKALLI

PROPOSED BAR LAYOUT

1/50

PC



## NORWICH City Council

### memorandum

|       |                                     |           |
|-------|-------------------------------------|-----------|
| To:   | Ian Streeter, Licensing             | Your ref: |
| From: | Tony Shearman,<br>Pollution Control | Our ref:  |
| Date: | 15 <sup>th</sup> June 2009          | cc:       |

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#### **Subject: Review Application – Rehab, 25 Prince of Wales Road**

Rehab has operated as a bar/club since late 2007, the previous use was as a restaurant.

The applicant and subject's premises are situated next to each other in a terraced row on the south side of Prince of Wales Road. The front parts of the buildings are joined, but the rear extension at Rehab is narrower than the front, leaving a gap between the buildings at the rear. This is demonstrated in the photographs below.

Since May 2008 complaints have been received from the occupier of no. 23 regarding music noise, noise from customers in the smoking area at the rear and also to a lesser extent, noise from air conditioning units. The complaints received are listed below.

Unfortunately due to problems with language, the applicant, has found it difficult to contact NCC at the time that the noise is occurring, so the majority of the incidents of nuisance have been passed to NCC via log sheets, received after the nuisance has passed. As a result of this it has not been possible to make an assessment as to whether a statutory nuisance exists.

On the 11<sup>th</sup> October 2008 a complaint was phoned through in the early hours and passed to the officer on duty to attend. The officer attended, but the music finished very shortly after arrival, and a full assessment could not be made. It is however the officers opinion, that if there had been enough time for a proper assessment, it is likely that a statutory nuisance would have been established.

#### **Music Noise**

As the buildings are attached it is likely that any noise generated in one part, would be transmitted through the structure of the building, and is likely to affect any number of rooms in the adjoining premises. The exact effects are difficult to predict and an acoustic insulation solution would require extensive and costly investigation.

In order to realistically control any nuisance associated with music, the use of a sound limiter set by NCC is likely to be the simplest and most cost effective remedy. The advantage of this method of control is that the device can be easily reset at a later stage, should the licensee make insulation enhancements.

Use of the following conditions could be considered:-

- *The volume of any amplified sound must be controlled by a noise-limiting device set at a level determined by the Local Authority Environmental Health Service, such level being confirmed in writing to the Licensee.*
- *Noise limiting devices, once set, cannot be reset or adjusted without consultation with the Local Authority Environmental Health Service.*

### **People Noise**

The smoking area is at the rear of Rehab and is partially covered by the ground floor above (the land slopes away to the rear leaving an open basement area). This area is directly below some of the windows of the residential parts of no. 23. and also overlooked by some of the Maidstone Road flats.

This is the only outside area available to smokers, other than the street to the front, and is somewhat removed from the licensed premises, as it is downstairs from the other parts of the premises.

Due to the proximity to no. 23 and also the requirement for any smoking area to be open, there are no acoustic treatments that are likely to significantly reduce the noise exposure to the surrounding residential properties. If the area is to remain in use, then noise control may be achieved with the use of management controls. Such conditions that could be considered might be:-

- *A member of staff will be assigned to supervise any outside area between 2200 hours and close of business in order to minimise noise from patrons.*
- *Consumption of drinks, alcoholic and non-alcoholic, will not be permitted in any outside area between 2200 hours and close of business.*
- *The number of persons using the outside area will be restricted to xx (insert appropriate no.) at any one time, between 2200 hours and close of business.*

### **Plant Noise**

An air handling unit is mounted on the rear wall of Rehab very close to one of the windows of no.23. The unit can just be seen in the centre of second picture below but is obscured by the spiral staircase. It is likely that noise from this unit could be intrusive in the nearby rooms, especially if background noise levels drop and when windows are open in the warmer weather. In order to minimise the noise, use of the following condition might be considered:-

- *The installation of any plant or machinery, new or existing, on the premises shall be in accordance with a scheme approved by the Council for the reduction, where necessary, of the level of noise and vibration emanating from the premises.*

The above suggestions are not intended to be exhaustive, and suggested wordings/times etc may be altered to suit as appropriate.

# Log of complaints regarding Rehab, 25 Prince of Wales Road

| Date     | Time      | Details                                    | Recd. by phone or log |
|----------|-----------|--|-----------------------|
| 20/05/08 |           | Amplified music                            | P                     |
| 22/05/08 | 0100-0415 | People talking and music playing           | L                     |
| 23/05/08 | 0030-0430 | People talking and music sounds            | L                     |
| 24/05/08 | 0100-0430 | People talking and music sounds            | L                     |
| 29/05/08 | 0100-0410 | People talking and music sounds            | L                     |
| 30/05/08 | 0110-0420 | People talking and music noise             | L                     |
| 31/05/08 | 0045-0500 | People talking and music noise             | L                     |
| 06/06/08 | 0030-0440 | People talking and music noise             | L                     |
| 07/06/08 | 0030-0430 | Noise still after 0300 can't sleep         | L                     |
| 12/06/08 | 0040-0400 | People talking from downstairs/music noise | L                     |
| 13/06/08 | 0000-0400 | Noise still hear talking and music         | L                     |
| 14/06/08 | 0000-0410 | Noise still hear at the back yard          | L                     |
| 06/07/08 | 0435      | Loud music and talking                     | P                     |
| 11/08/08 |           | Amp. music, smashing sound smoking area    | P *                   |
| 25/08/08 |           | Loud music                                 | P                     |
| 31/08/08 | 0000 -    | Loud music                                 | P                     |
| 05/09/08 | 0230-0330 | People talking at back yard car park       | L                     |
| 06/09/08 | 0230-0345 | Music sound                                | L                     |
| 12/09/08 | 0230-0330 | Music noise                                | L                     |
| 13/09/08 | 0245-0340 | People talking and music noise             | L                     |
| 18/09/08 | 0000-0300 | Noise from back yard                       | L                     |
| 19/09/08 | 0000-0305 | People talking from back yard              | L                     |
| 20/09/08 | 0000-0255 | People smoking and talking from back yard  | L                     |
| 25/09/08 | 0000-0300 | People talking from back yard              | L                     |
| 26/09/08 | 0000-0300 | People talking from back yard              | L                     |
| 27/09/08 | 0000-0310 | People talking from back yard              | L                     |
| 02/10/08 | 0000-0400 | People talking loud from back yard         | L                     |
| 03/10/08 | 0000-0300 | People talking noise at back yard car park | L                     |
| 03/10/08 | 0255      | Loud music                                 | P                     |
| 04/10/08 | 2345-0210 | People talking noise at back yard car park | L                     |
| 09/10/08 | 0030-0215 | People talking noise at back yard car park | L                     |
| 11/10/08 | 2345-0250 | People talking noise at back yard car park | L                     |
| 11/10/08 |           | Loud music/talking                         | P                     |
| 16/10/08 | 2350-0230 | People talking noise at back yard car park | L                     |
| 17/10/08 | 2355-0215 | People talking noise at back yard car park | L                     |
| 18/10/08 | 2330-0230 | People noise at back yard car park         | L                     |
| 23/10/08 | 2340-0240 | People noise at back yard car park         | L                     |
| 25/10/08 | 2330-0250 | People noise at back yard car park         | L                     |
| 31/10/08 | 2340-0230 | People noise at back yard car park         | L                     |
| 01/11/08 | 2330-0250 | People noise at back yard car park         | L                     |
| 06/11/08 | 2350-0235 | People noise at back yard car park         | L                     |
| 07/11/08 | 2330-0210 | People noise at back yard car park         | L                     |
| 08/11/08 | 2345-0240 | People noise at back yard car park         | L                     |
| 15/11/08 | 0222      | Loud music and shouting                    | P                     |
| 23/11/08 | 0210-0230 | People noise talking at back yard car park | L                     |
| 28/11/08 | 0145-0205 | People noise at back yard car park         | L                     |
| 29/11/08 | 0200-0210 | People noise at back yard car park         | L                     |
| 30/11/08 | 0130-0215 | People noise at back yard car park         | L                     |
| 07/12/08 | 0145-0305 | People noise at back yard car park         | L                     |
| 12/12/08 | 0030-0050 | People noise back yard car park            | L                     |

|          |           |   |   |
|----------|-----------|---|---|
| 13/12/08 | 0050-0130 | People noise back yard car park               | L |
| 14/12/08 | 0110-0130 | People talking at back yard car park          | L |
| 19/12/08 | 0110-0140 | People talking at back yard car park          | L |
| 20/12/08 | 0030-0150 | People talking at back yard car park          | L |
| 21/12/08 | 2350-0130 | People talking at back yard car park          | L |
| 24/12/08 | 0015-0245 | People talking/shouting at back yard car park | L |
| 25/01/09 | 0250      | Loud music, shouting and singing              | P |
| 28/02/09 | 0000 ---> | Loud music since midnight                     | P |
| 02/04/09 | 0000-0300 | Music sound                                   | L |
| 03/04/09 | 0000-0300 | Music sound                                   | L |
| 04/04/09 | 0000-0340 | Music then people behind, chatted             | L |
| 10/04/09 | 0000-0300 | Music sound                                   | L |
| 11/04/09 | 0000-0330 | Music, people make noise in smoking area      | L |
| 18/04/09 | 0000-0400 | Music, then people shouting (drunk)           | L |
| 01/05/09 | 0000-0230 | Music sound                                   | L |
| 02/05/09 | 0000-0330 | Music, people shouting                        | L |
| 06/05/09 | 0000-0300 | Music sound                                   | L |
| 08/05/09 | 0000-0300 | Music, people shouting                        | L |
| 09/05/09 | 0000-0300 | Music, people shouting                        | L |
| 15/05/09 | 0000-0300 | Music (loud)                                  | L |
| 16/05/09 | 0000-0300 | Music, people shouting, talking               | L |
| 23/05/09 | 0250      | Very loud music and people shouting outside   | P |

\* Complaint received from someone other than applicant



Picture showing the front of both premises. No. 23, the applicant's residence, is the 'Curry to Go' building.



Picture showing rear of both premises. Rehab is the rendered building to the right, no. 23 is the brick building to the left. The smoking area is behind the fence at the bottom, partly obscured by the black vehicle.



Area to the rear of both properties, showing proximity of other residential flats.

# APPENDIX D



Norwich City Council Licensing Authority  
Licensing Act 2003

|                            |
|----------------------------|
| Organisational Development |
| 23 JUN 2009                |
| Post Room                  |

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

|   |                                    |
|---|------------------------------------|
| Your name/organisation name/name of body you represent (see note 1) | GRAEME CROSSLAND                   |
| Postal address  | 48 MIDSTONE ROAD, NORWICH, NR1 1EA |
| Email address   |                                    |
| Contact telephone number  |                                    |

|                         |                         |
|-------------------------|-------------------------|
| Name of the premises    | Rehub                   |
| Address of the premises | 25 Prince of Wales Road |

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.<br>Please use separate sheets if necessary                  |
|-------------------------------|--|
| To prevent crime and disorder |  |
| Public safety                 |  |
| To prevent public nuisance    | X Extremely loud music, mainly the subwoofer /bass which must keep everyone in our block awake until 3.30am. |
| To protect children from harm | I will not be renewing my tenancy because of the noise.  |

|  |   |
|--|---|
| Please suggest any conditions which would alleviate your concerns. | Soundproof the premises<br>/ turn down the bass<br>/ close the premises<br>earlier in the evening |
|--|---|

Signed:

Date: 17/6/09

Please see notes on reverse

Norwich City Council Licensing Authority  
Licensing Act 2003

RECEIVED

22 JUN 2009

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

22 JUN 2009

Post Room

|   |   |
|---|---|
| Your name/organisation name/name of body you represent (see note 1) | SIUBHAN FENNY                           |
| Postal address  | 53 MAIDSTONE ROAD<br>NORWICH<br>NR1 1EA |
| Email address   |   |
| Contact telephone number  |   |

|                         |                                    |
|-------------------------|------------------------------------|
| Name of the premises    | LEHAB                              |
| Address of the premises | 25 PRINCE OF WALES ROAD<br>NR1 1BB |

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.<br>Please use separate sheets if necessary |
|-------------------------------|---|
| To prevent crime and disorder |   |
| Public safety                 |   |
| To prevent public nuisance    | See separate sheet  |
| To protect children from harm |   |

|  |   |
|--|---|
| Please suggest any conditions which would alleviate your concerns. | <ul style="list-style-type: none"> <li>- SOUND PROOFING OF VENUE</li> <li>- NOT ALLOWING PEOPLE TO SMOKE AT REAR OF PREMISES</li> </ul> |
|--|---|

Signed:

Date: 17/6/09

Please see notes on reverse

## **STATEMENT OF SUPPORT FOR THE REVIEW OF THE REHAB PREMISES LICENCE**

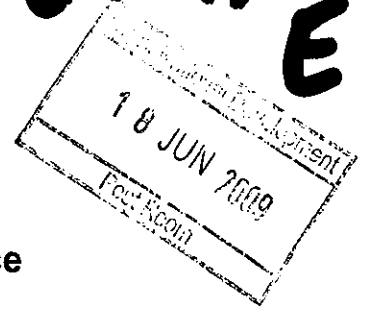
I support the request to review the licence of the above establishment on the grounds of public nuisance.

I live behind the venue and since I moved into the flat have found the noise and disturbance from Rehab to be excessive. I don't know whether it's the bar itself, or a function room, but the disturbance is experienced every weekend and very occasionally during the week. I thought at least the disturbance would be confined to the weekend so I am concerned to see that in terms of their licence this activity could take place until 3am in the morning every night of the week.

The main noise comes from the music – it starts off at a reasonable level at the start of the evening but by 1-2 am until 3am it is incredibly loud, even with the windows in the flat closed. The area out the back appears to be used as a smoking area and it too can get noisy.

# APPENDIX E

Norwich City Council Licensing Authority  
Licensing Act 2003



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

|   |  |
|---|--|
| Your name/organisation name/name of body you represent (see note 1) | STEVEN LITTLE                                |
| Postal address  | 25 PRINCE OF WALES ROAD,<br>NORWICH, NR1 1RG |
| Email address   | <del>steven.little@norwich.gov.uk</del>      |
| Contact telephone number  |  |

|                         |   |
|-------------------------|---|
| Name of the premises    | REHAB                                       |
| Address of the premises | 25 PRINCE OF WALES ROAD<br>NORWICH, NR1 1RG |

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.<br>Please use separate sheets if necessary |
|-------------------------------|---|
| To prevent crime and disorder |   |
| Public safety                 |   |
| To prevent public nuisance    | Please see attached   |
| To protect children from harm |   |

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

Signed:

Date: 16/06/2009

Please see notes on reverse

## Objection to License Review -

Rehab. 25 Prince of Wales Road, Norwich

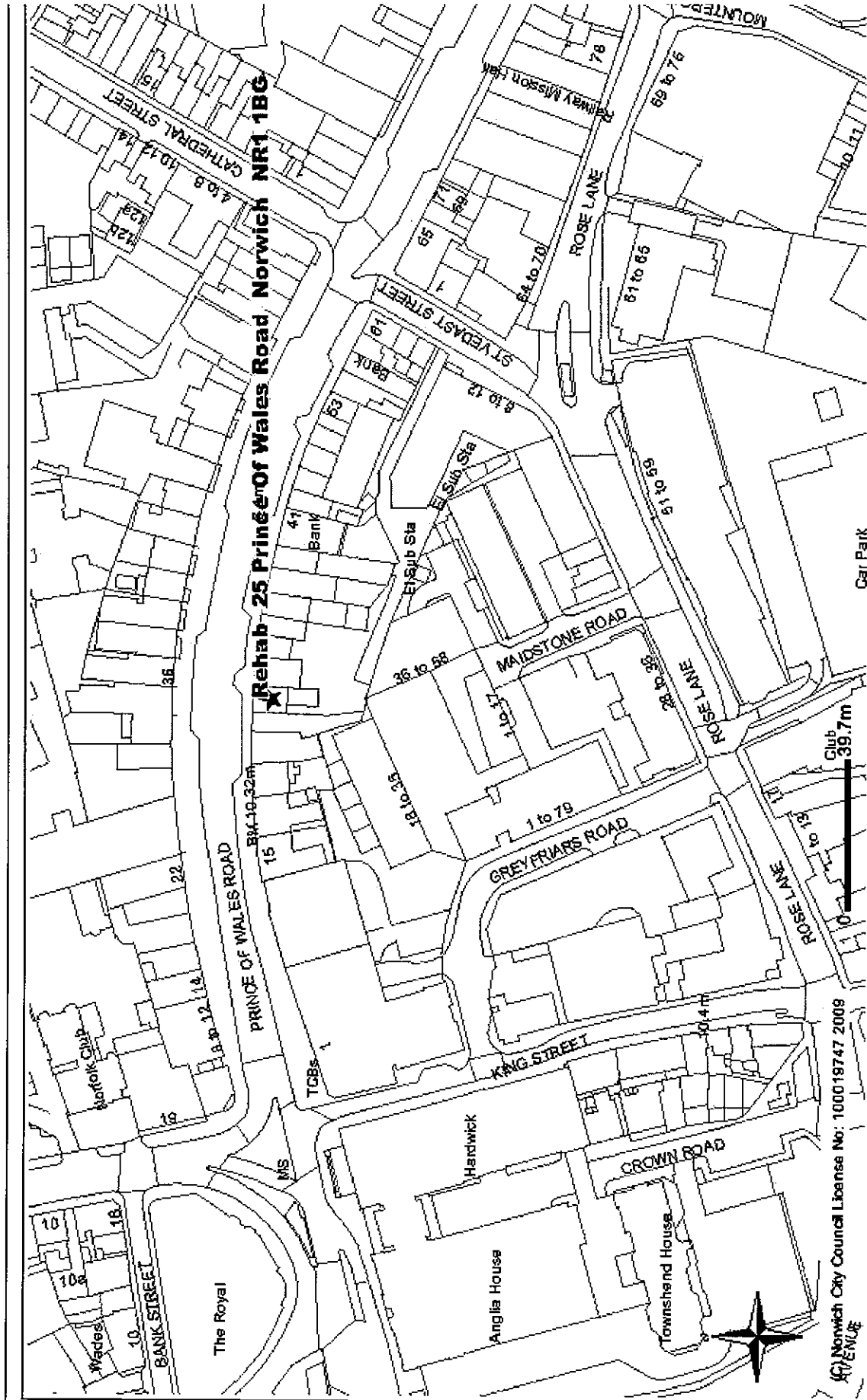
I am a private tenant at the flat above Rehab. With my lounge / Bedroom directly above main bar area to the rear of the building.

I myself work normal office hours, I do not find the Volume / Noise to be excessive or a nuisance. This is Prince of Wales Road the main night life area of Norwich. I know for myself that before and since of become a tenant here that the owner has made/taken significant measures to improve the sound proofing of the building and has also stopped drinking in the smoking area to reduce the time spent down there. on occasions I have heard people talking after 3am downstairs but these appear to be staff during the cleaning of the bar, But it has never been loud or at a nuisance level.

I park my car at the rear of the premises and have not come into ~~close~~ contact with rude/intimidating people when leaving my car late at night. This even includes entering through the smoking area to access the apartment. My bedroom is to the rear of the property on the 1st floor and outside my window are the air conditioners. These cannot be heard and I sleep with my window open every night -

If we require any further information or would like to speak to me please do not hesitate to do so

# APPENDIX F



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Rehab 25 Prince of Wales Road

Norwich City Council  
City Hall

**NORWICH**  
City Council

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# APPENDIX G

## 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.

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. Representation's, 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.

## 11.0 Reviews of Licences and Certificates

- 11.1 A Licence or Certificate will be reviewed if, valid representations are received by the Council. Where practicable, the Council will mediate between applicants, relevant statutory agencies and occupiers of nearby premises, local residents groups, community or interested groups where significant issues have arisen relating to a premises licence. Where possible, the Council will mediate by:

- Identifying potential issues for other relevant statutory agencies particularly regarding the safety and amenity of local residents.
- Negotiating, if possible, potential conditions to reflect resolutions of this mediation.

This process will not override the right of any interested party to ask that the Council consider their valid objections, or for any licence holder to decline to participate in a mediation meeting.

Where mediation is not practicable or fails, the Council will advise the parties of the provisions of the Act concerning a formal review of the licence.

- 11.2 Should Responsible Authorities and Interested Parties give early notice to licence holders of any concerns about problems identified at premises and of the need for improvement, requests for a review of any licence will only be sought if such notice has failed to resolve the matter or problem.
- 11.3 The Council expects that any Responsible Authority or Interested Party will provide an evidentiary basis to support their application for a review of a premises licence.

## 25.0 Objective - Prevention of Public Nuisance

- 25.1 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.
- 25.2 "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.

- 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.
- 25.4 The council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales takes 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.
- 25.5 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 doing so, has given full consideration to the Secretary of State's Guidance on "Hours of Trading".
- 25.6 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 character of their premises and events.
- 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.

## Section E - Hours of trading

31.1 This section primarily relates to premises where alcohol is sold/supplied, with or without any other licensable activity (e.g. provision of regulated entertainment). That is not to say that hours of trading at other types of licensed premises is of lesser importance, and all applicants for all types of licensed premises should consider "hours of trading", as an important issue, when preparing their operating schedules.

31.2 In determining its policy on the hours of trading, the council has given full consideration to those parts of the Secretary of State's Guidance to the Act which relate to hours of trading.

(i) "With regard to licensing hours, consideration which will be given to the individual merits of an application. The Government recommends that statements of policy should recognise that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance (para 13.40)".

(ii) "Terminal hours dictated by the Licensing Act 1964 were abolished to avoid the serious problems that arise when customers exit licensed premises simultaneously. Attempting to fix a terminal hour in any area would therefore directly undermine a key purpose of the 2003 Act (para 13.37)".

(iii) "Concentrations of young drinkers can result in queues at fast food outlets and for public transport, which may in turn lead to conflict, disorder and anti-social behaviour. In some circumstances, flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises (para 10.19)".

(iv) "There is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested. (para 10.20)".

(v) "Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours (para 10.21)".

(vi) "The Government strongly believes that, prior to the introduction of the Licensing Act 2003, fixed and artificially early closing times (established under the Licensing Act 1964) were one of the key causes of rapid binge drinking prior to closing times; and one of the causes of disorder and disturbance when large numbers of customers were required to leave the premises simultaneously (para 1.17)".

(vii) "The aim through the promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times. Arbitrary restrictions that would undermine the principle of flexibility should therefore be avoided (para 1.18)".

31.3 While consideration will be given to the individual merits of each application in respect of hours of trading it may be necessary to consider limiting hours of trading where it would assist in promoting the objectives of the Licensing Act.

31.4 Applicants should give particular consideration to the hours when it is proposed to provide licensable activities, especially the provision of entertainment and the sale

and supply of alcohol, in the preparation of their operating schedules. Applicants will also be expected to address and give due consideration to the impact their patrons may have after leaving their premises, in conjunction with patrons likely to be leaving other licensed premises in the vicinity.

31.5 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.

31.6 Applicants should consider having "winding down" periods at the end of the night. By gradually "winding down" entertainment such as loud music before ending the sale of alcohol and the end of trading hours, and then allowing patrons to leave of their own volition, those patrons may behave less boisterously after they have left licensed premises.

31.7 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 H

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

### **Small venues providing dancing and amplified or unamplified music**

5.4 In addition, subsections (1) and (2) of section 177 of the 2003 Act provide that where

- a premises licence or club premises certificate authorises the supply of alcohol for consumption on the premises and the provision of “music entertainment” (live music or dancing or facilities enabling people to take part in those activities),
- the relevant premises are used primarily for the supply of alcohol for consumption on the premises, and
- the premises have a permitted capacity limit of not more than 200 persons any conditions relating to the provision of the music entertainment imposed on the premises licence or club premises certificate by the licensing authority, other than those set out by the licence or certificate which are consistent with the operating schedule, will be suspended except where they were imposed as being necessary for public safety or the prevention of crime and disorder or both.

5.5 In addition, subsection (4) of section 177 provides that where

- a premises licence or club premises certificate authorises the provision of music entertainment (live music and dancing), and
- the premises have a capacity limit of not more than 200 persons

then, during the hours of 8am and midnight, if the premises are being used for the provision of unamplified live music or the facilities enabling people to take part in such entertainment, but no other description of regulated entertainment, any conditions imposed on the licence by the licensing authority, again other than those which are consistent with the operating schedule, which relate to the provision of that music entertainment will be suspended.

5.6 Section 177 can be disapplied in relation to any condition of a premises licence or club premises certificate following a review of the licence or certificate. This means that conditions attached to the existing premises licence relating to the provision of music entertainment can be given effect at the relevant times or that new conditions may also be imposed as an outcome of the review process.

5.7 Accordingly, those seeking to take advantage of the exemption relating to both amplified and unamplified music entertainment need to be aware that they must hold a premises licence or club premises certificate covering the supply of alcohol for consumption on the premises and the type of regulated music entertainment involved. Examples of premises used “primarily” for the supply of alcohol for consumption on the premises would include public houses and some qualifying club premises, but would not normally include, for example, a restaurant. For the “unamplified” music exemption, any premises appropriately licensed are included,

including restaurants. The area to which the 200 “capacity limit” applies concerns the area covered by the premises licence or club premises certificate and not just to part of those premises unless separately licensed.

### **Relevant, vexatious and frivolous representations**

5.73 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. A representation that fails to do this is not “relevant” for the purposes of the 2003 Act. It is not intended, for example, that the consideration of the application should be a re-run of the planning application which would have considered a wider range of matters. Premises licences authorise the activities within the scope of the 2003 Act that it is proposed should take place on the premises. For example, a representation from a local businessman which argued that his business would be commercially damaged by the new business for which an application is being made under Part 3 of the 2003 Act would not be relevant. On the other hand, a representation to the effect that nuisance caused by the new business would deter customers from entering the local area and the steps proposed by the applicant to control that nuisance are inadequate would amount to relevant representations and must be considered provided the other conditions necessary to be a relevant representation were fulfilled. There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations, and in fact this would not be possible for new premises.

5.74 After a premises licence has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre would generally not be regarded as relevant if it cannot be positively tied or linked by a causal connection to particular premises which would allow for a proper review of its licence. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house. In this context, it should be noted that the “cumulative impact” on the licensing objectives of a concentration of multiple licensed premises may only give rise to a relevant representation when an application for the grant or variation of a premises licence is being considered: it cannot give rise to a relevant representation after a licence has been granted or varied when a review of a licence may be sought. A review must relate specifically to a particular premises licence relating to an individual premises, and by its nature “cumulative impact” relates to the indirect effect of a concentration of many premises. Identifying one for a review by reason of cumulative impact on the licensing objectives would inevitably be arbitrary.

5.75 It is for the licensing authority to determine on its merits whether any representation by an interested party is frivolous or vexatious. The interested party making representations may not consider the matter to be frivolous or vexatious, but the test is whether the licensing authority is of the opinion they are frivolous or vexatious. The licensing authority must determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness. A trivial complaint may not always be frivolous, but it would have to be pertinent in order to be relevant. An

interested party aggrieved by a rejection of his representations on these grounds may challenge the authority's decision by way of judicial review.

5.76 Decisions as to whether representations are relevant should not be made on the basis of any political judgement which would undermine a natural approach to the issue. This may be difficult for ward councillors receiving complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing; i.e. the decision would be that the representations are relevant. Any ward councillor who considers that his own interests are such that he is unable to consider the matter independently should disqualify himself.

5.77 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. If it then emerged, for example, that the representation should not be supported, the licensing authority could decide not to take any action in respect of the application for the grant or variation of a premises licence.

## **Reviews**

5.99 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. It is the existence of these procedures which should, in general, allow licensing authorities to apply a light touch bureaucracy to the grant and variation of premises licences by providing a review mechanism when concerns relating to the licensing objectives arise later in respect of individual premises.

5.100 At any stage, following the grant of a premises licence, a responsible authority, such as the police or the fire authority, or an interested party, such as a resident living in the vicinity of the premises, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority. Licensing authorities may not initiate their own reviews of premises licences. Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may however request reviews on any matter which relates to the promotion of one or more of the licensing objectives.

5.101 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.

5.102 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. Representations must be in writing and may be amplified at the

subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

5.103 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of cooperation. It would therefore be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.

5.104 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is not relevant, vexatious, frivolous or repetitious. Relevance, vexation and frivolousness were dealt with in paragraphs 5.73 – 5.77 above. A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in respect of the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted;
- or representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and
- in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.

5.105 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order. The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within the 12 month period or other reasonable interval agreed by the licensing authority.

5.106 Following receipt of a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, the licensing authority must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully

aware of the representations made in respect of the premises, any evidence supporting the representations and that he or his legal representatives has therefore been able to prepare a response.

### **Powers of a licensing authority on the determination of a review**

5.107 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

5.108 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

5.109 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

5.110 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response. For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual. Equally, it may emerge that poor management is a direct reflection of poor company

practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

5.111 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Accordingly temporary changes or suspension of the licence for up to three months may be imposed. This could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. Accordingly, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for a review.