NORWICH City Council

Licensing sub committee

Date: **Friday, 20 March 2015**
Time: **10:15**
Venue: **Westwick room**

City Hall, St Peters Street, Norwich, NR2 1NH

Pre-meeting briefing for members of the committee only
15 minutes before the start of the meeting

Committee members:

Councillors:
Button (chair)
Gayton
Maxwell

For further information please contact:

Committee officer: Lucy Green
t: (01603) 212416
e: lucygreen@norwich.gov.uk

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Norwich
NR2 1NH

www.norwich.gov.uk

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IN TRAN communication for all

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Agenda

1 Apologies

To receive apologies for absence

2 Declarations of interest

(Please note that it is the responsibility of individual members to declare an interest prior to the item if they arrive late for the meeting)

3 1 Cathedral Street Norwich NR1 3LU **3 - 30**

Purpose - Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider the application for the grant of a Premises Licence in respect of 1 Cathedral Street Norwich NR1 1LU following the receipt of relevant representations.

Date of publication**: Thursday, 12 March 2015**

Report to	Licensing sub committee 20 March 2015	**Item**
Report of	Head of citywide services	3
Subject	Licensing Act 2003: Application for the Grant of a Premises Licence – 1 Cathedral Street Norwich NR1 1LU	

Purpose

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider the application for the grant of a Premises Licence in respect of 1 Cathedral Street Norwich NR1 1LU following the receipt of relevant representations.

Recommendation

That members determine the application to grant a Premises Licence in respect of 1 Cathedral Street Norwich NR1 1LU in accordance with the:

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

Corporate and service priorities

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

None.

Ward/s: All wards

Cabinet member: Councillor Harris – Customer services

Contact officers

Ian Streeter, licensing manager 01603 212761

Background documents

None

Report

The application

1. The applicants are Magdalena Pawlec 5 St Johns Close Norwich NR1 2AD and Dorota Pawlec 1 Cathedral Street Norwich NR1 1LU.

2. The application seeks to allow the licensable activities of the provision of recorded music, late night refreshment and the sale by retail of alcohol.

3. The proposed standard days and hours for the licensable activities are:

   The provision of recorded music

Monday	10:00 – 03:00
Tuesday	10:00 – 03:00
Wednesday	10:00 – 03:00
Thursday	10:00 – 03:00
Friday	10:00 – 03:00
Saturday	10:00 – 03:00
Sunday	10:00 – 03:00

   Seasonal variation: New Years Eve 10:00 – 05:00

   Late Night Refreshment

Monday	23:00 – 03:00
Tuesday	23:00 – 03:00
Wednesday	23:00 – 03:00
Thursday	23:00 – 03:00
Friday	23:00 – 03:00
Saturday	23:00 – 03:00
Sunday	23:00 – 03:00

   Seasonal variation: New Years Eve 23:00 – 05:00

the sale by retail of alcohol (for consumption on the premises)

Monday	10:00 – 02:30
Tuesday	10:00 – 02:30
Wednesday	10:00 – 02:30
Thursday	10:00 – 02:30
Friday	10:00 – 02:30
Saturday	10:00 – 02:30
Sunday	10:00 – 02:30

Seasonal variation: New Years Eve 10:00 – 05:00

4. The opening hours requested are:

Monday	10:00 – 03:00
Tuesday	10:00 – 03:00
Wednesday	10:00 – 03:00
Thursday	10:00 – 03:00
Friday	10:00 – 03:00
Saturday	10:00 – 03:00
Sunday	10:00 – 03:00

Seasonal variation: New Years Eve 10:00 – 05:00

5. The steps proposed to promote the licensing objectives together with a plan of the premises are attached at appendix A to the report.

6. Further to a meeting between the applicant and the council's Environmental Protection officer, the applicant has agreed to amend the wording of two conditions proposed in the operating schedule attached at appendix A.

Original operating schedule wording (the prevention of public nuisance)	**Revised operating schedule wording (the prevention of public nuisance)**
Doors and windows will be not left open	Except for access and egress all windows and doors will be kept closed whenever regulated entertainment is provided

The movement of bins and rubbish outside premises will be done before 10.00pm, this will help to reduce the levels of noise produced by the premises	Waste bins shall not be emptied externally from the premises between 2100-0800 on any day

Relevant representations

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

   Police – representations received (see appendix B).

   Environmental Protection – no representations.

   Fire Officer – no representations.

   Planning Officer – no representations.

   Area Child Protection Committee – no representations.

   Trading Standards – no representations.

   Primary Care Trust – no representations

8. One representation has been received in respect of the application from a local resident with concerns which appear primarily to relate to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. A copy of the representation is attached at appendix C to the report.

Norwich City Council Statement of Licensing Policy

9. Attached at appendix D are the elements of the city council's local licensing policy which are considered to have a bearing upon the application:

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

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

Summary

11. In determining the application with a view to promoting the licensing objectives the sub-committee must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives (i.e. the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm);
- the representations (including supporting information) presented by all the parties;
- the guidance issued under Section 182 of the Licensing Act 2003 (national guidance); and
- the council's own statement of licensing policy.

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

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

13. The sub-committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

14. The representations received appear to relate to issues that fall under the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The sub-committee is directed to paragraphs 20 and 24 of the local licensing policy at appendix C which contain examples of factors that impact on the licensing objectives that the applicant could consider when addressing these issues. These paragraphs also contains examples of control measures that may be taken into account in operating schedules having regard to the type of premises and/or the licensable activities.

15. The sub-committee is also reminded of the contents of appendices 2, 3, 4 and 5 of the local licensing policy (not re-produced in this report) which contain pools of model conditions relating to the four licensing objectives.

APPENDIX A

Continued from previous page...

NEW YEAR EVE FROM 10.00 TILL 5.00

Section 18 of 19

LICENSING OBJECTIVES

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

a) General – all four licensing objectives (b,c,d,e)

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

Strong management controls and effective training of all staff so that they aware of the premises licence and the requirements to meet the four licensing objectives with particular attention to:
no selling of alcohol to underage people
no drunk and disorderly behavior on the premises area
no violent and anti social behavior
no any harm to children
Doorman
CCTV camera system
Minimum entry age of 18 - excluded party children accompanied by parents

b) The prevention of crime and disorder

Not selling of alcohol to drunk or intoxicated customers
Staff will be well trained in asking customers to use premises in an orderly and respectful manner
Refusal/incident book to be kept on the premises
NO for any irresponsible promotions of alcohol
Minimal unit price on special offers

c) Public safety

Well trained staff adherence to environmental health requirements
Training and implementation of underage ID checks
Inform police of violent/ threetening behavior
Emergency numbers for staff
Maximum occupancy controlled by doorman
Fire risk

d) The prevention of public nuisance

Not sell of alcohol after 2:30 am
Not allowing customers to leave premises with drinks
Regular collection off empty glasses and bottles
Waste glass deposited in covered bin
Waste stored in private/ staff only location
The movement of bins and rubbish outside premises will be done before 10.00pm, this will help to reduce the levels of noise produced by the premises
Customers will be asked not to stand around loudly talking in the street outside premises
Volume level from licensable music will be monitored by responsible person
Door and windows will be not left open

e) The protection of children from harm

"Chalange 25"sign witch is retailing strategy that encourages anyone who is over 18 but looks under 25 to carry acceptable ID if they wish to buy alcohol
Well trained staff about requirement for person's identification, age establishment etc.

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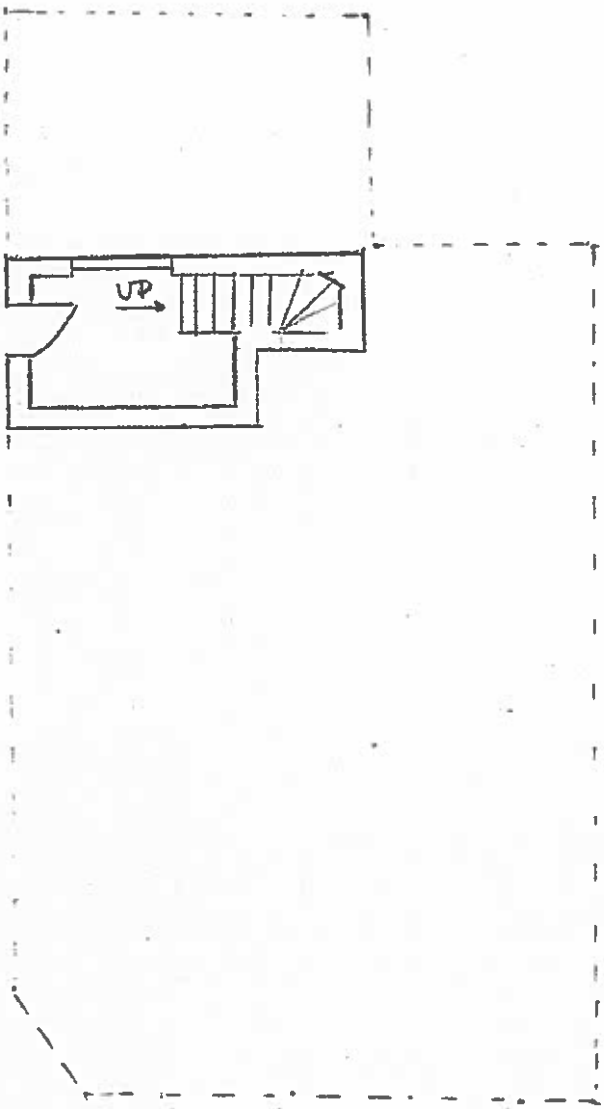

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23 JAN 2015
LICENSING OFFICE

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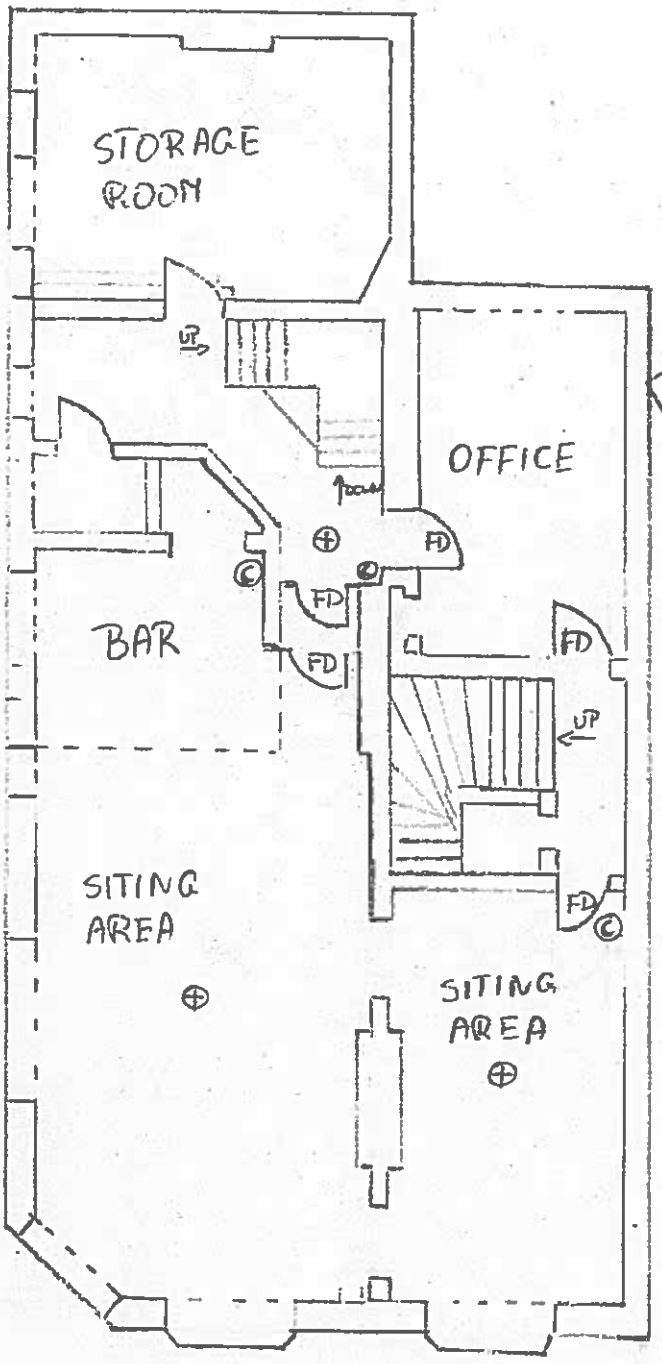

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⊕ - smoke detector
FD - fire door
Ⓒ - cctv cameva

PROPOSED

2-ND FLOOR

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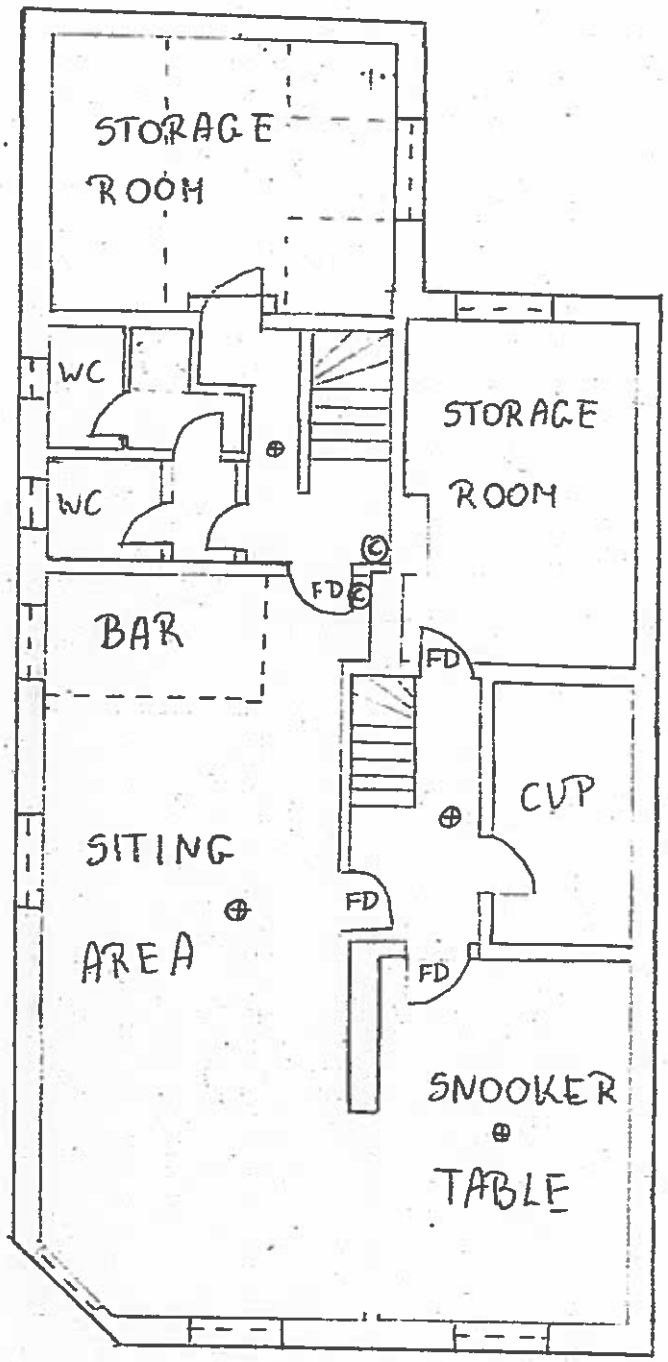

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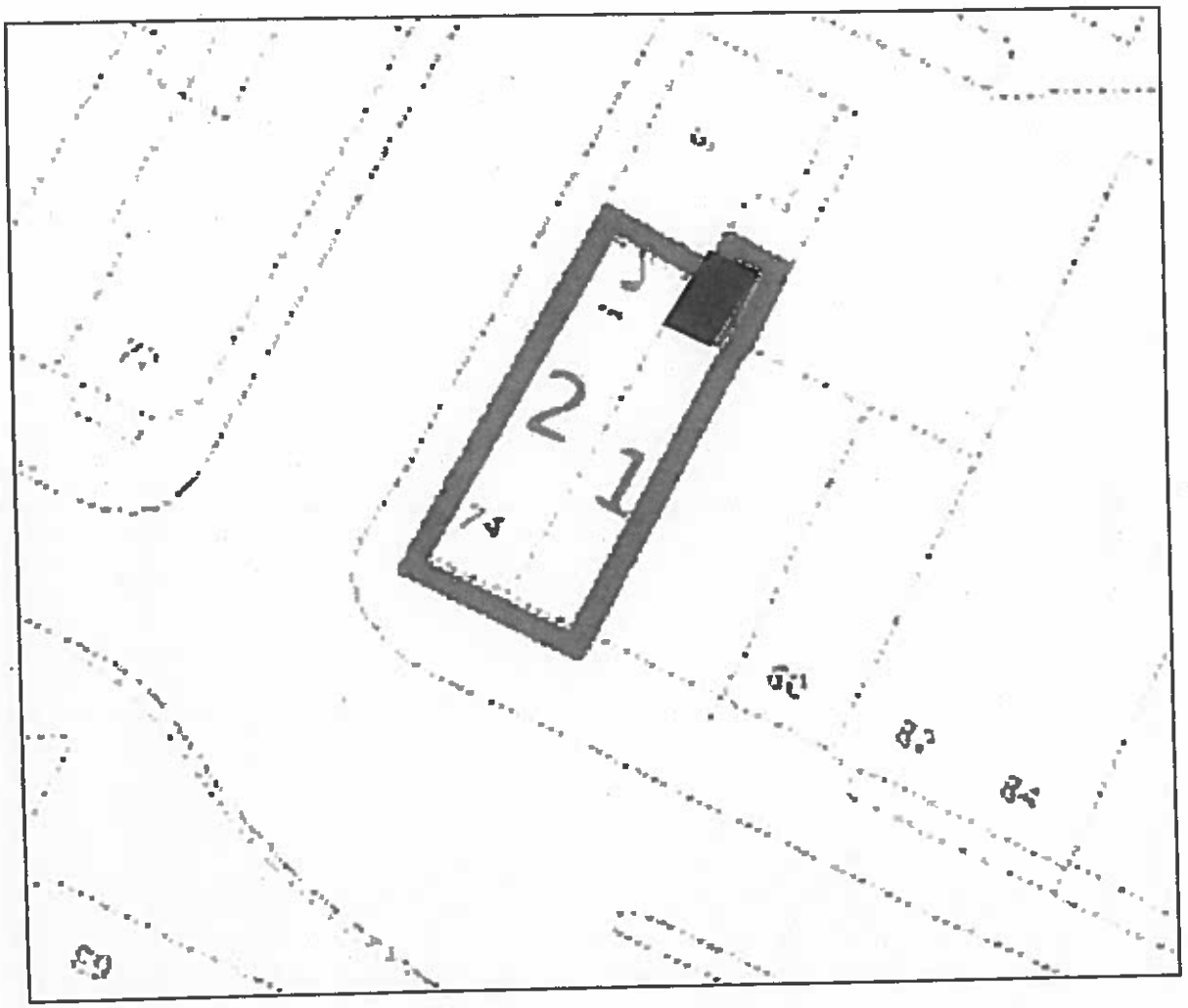
smoke detector

D - five door

V- camera

SITE PLAN

1 CATHEDRAL STREET



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APPENDIX B

NORFOLK CONSTABULARY

Our Priority is You

Mr Ian Streeter
Licensing Manager
Norwich City Council
St Peters Street
Norwich

Date: 13th February 2015

The Licensing Team
Bethel Street Police Station
Norwich
Norfolk
NR2 1NN
Tel: 01603 276020
Fax: 01603 276025
Email: licensingteam@norfolk.pnn.police.uk
www.norfolk.police.uk
Non-Emergency Tel: 0845 456 4567

Dear Mr. Streeter

Objection to the application for a premises licence -1 Cathedral Street, Norwich

I can confirm that Police have received a copy of the application for a new premises licence for 1 Cathedral Street, Norwich.

The application is requesting licensing activities including recorded music and late night refreshment until 0300 hrs and the sale of alcohol until 02.30 hrs daily.

The applicant is intending to operate as a social club over 2 floors within a 3 storey building.

This site is located above takeaway premises within the heart of the night-time economy. However the entrance of this premise is on Cathedral Street and involves patrons accessing a steep flight of stairs prior to entering the public area.

The Police wish to make representation regarding this application on the basis that it will undermine the licensing objectives, specifically the prevention of crime of disorder but in addition, it also undermines public safety.

The first issue which needs to be addressed is the unsuitability of the premises. The premise is up a steep set of stairs and in our view not suitable to facilitate club members either entering or leaving the venue and in particular should any disorder occur. In addition, the Police would have no way of knowing due to the lack of visibility of the premises unless notified. Should the police be requested to attend any disorder, they will not be able to gain access to the property as it is intended entry will be made via a buzzer system.

The Police were first aware of this premise back in April 2014 when Police Officers witnessed a fight immediately outside the premises in Cathedral Street. Officers were informed that the incident had escalated from the 1 Cathedral Street address and as they visited the site. Our investigations revealed that the premise was set up as a bar with unlicensable activity taking place including regulated entertainment.

Consequently, three Males were separately investigated in relation to this unlicensable activity at this address. It is important to highlight that one of the males investigated is the

The applicant has completed the Operating Schedule but has included proposals however most of the points offered are unenforceable. The application does not reflect the planning permission for a social club. A social club gives the impression that patrons will be members and sign in however if this licence application were to be granted, this could allow any member of the public to enter.

Police Licensing Officer Michelle Bartram and Norwich City Enforcement Officer Tony Shearman met with the applicant during the consultation period to restrict the licence to ensure those who were members and their Bona Fide guests would only be allowed to use the club. Despite this, Police believe that the management would not comply with these restrictions and that this would not be sufficient in ensuring that the venue patrons would be controlled. This means that the venue would result in an increase of incidents of crime and disorder and licensing offences.

Despite the premises being granted planning permission to be a social club, the Police still have concerns that the site is unsuitable from a public safety perspective. Firstly the general advice from fire safety advice is that if a site has more than 60 or more occupants, then the fire exit door should open in the direction of the escape meaning outwards. The current door only enters inwards meaning that this could potentially impact the safety of patrons inside.

There is also the concern that if an incident occurs at the bottom of the stairs such as disorder or a fire, there is no other form of escape for patrons resulting in patrons becoming trapped inside.

There is reason to believe that some of the rooms within this address are being used as residential properties. This is against the current planning permission and causes concern that there is no separation between the private areas of the site and the public areas for the licensable activity. There areas to be no form of separation which shows a lack of control.

In summary, there are a number of issues with the premise holding a licence to allow licensable activity. The Police strongly believe that the granting of this licence would undermine the licensing objectives and its current business model is flawed. We would therefore respectfully ask the Licensing Sub-Committee to consider refusal of this application.

Yours faithfully,

Michelle Bartram
Licensing Officer

NORFOLK CONSTABULARY

Our Priority is You

Mr Ian Streeter
Licensing Manager
Norwich City Council
St Peters Street
Norwich

Date: 19th February 2015

The Licensing Team
Bethel Street Police Station
Norwich
Norfolk
NR2 1NN
Tel: 01603 276020
Fax: 01603 276025
Email: licensingteam@norfolk.pnn.police.uk
www.norfolk.police.uk
Non-Emergency Tel: 0845 456 4567

Dear Mr. Streeter

Objection to the application for a premises licence -1 Cathedral Street, Norwich

I am writing to you in addition to the previous representation made by Police for 1 Cathedral Street, Norwich to object to the premises licence being granted.

In addition to the previous concerns highlighted, it has come to our attention that the rooms of this property are being rented out and that this premises is a house with multi occupancy.

It appears that despite the property being unsuitable for accommodation due to not being able to comply with fire regulations and planning permission being refused for this, the owners has continued to rent rooms out within this property. This shows a blatant disregard to the law and to the safety of those staying there.

This gives Police more concern about the nature of this business set up and evidences that the owners/management have no ability to comply with legislation.

If further information can be provided to the committee in relation to this prior to the hearing, it will be.

Yours faithfully,

Michelle Bartram
Licensing Officer

We will answer letters within 10 working days, where information is available. Where this is not possible, an explanation will be given for any delay.

APPENDIX C

Norwich City Council Licensing Authority Licensing Act 2003

NORWICH City Council

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- 2 FEB 2015
LICENSING OFFICE

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

Your name/organisation name/name of body you represent (see note 1)	Barry Goodacre Resident in this area, house sides onto Cathedral Street
Postal address	42 St Faiths Lane Norwich NR1 1NN
Email address	
Contact telephone number	
Address of the premises you wish to support or object to	Paraiso 1 Cathedral Street Norwich NR1 1LU

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	Cathedral Street is a residential street and already has problems with clubbers from Prince of Wales Road shouting fighting and urinating in streets and gardens.Since the road has been closed at weekends after 11pm things have greatly improved
Public safety	Police would be under even more strain to keep order in this area.
To prevent public nuisance	We have already had problems of music being too loud from clubs in Prince of Wales Road. A club in Cathedral Street would make it even worse. It is bad enough that we have to put up with things as they are. When we bought our house the clubs closed at 2am this was then extended with no warning to 4am !! Please don't heap any more misery on us.
To protect children from harm	As previously stated,this is a residential street and some properties have children living in them,being woken by loud music and drunken revellers is not ideal.
Please suggest any conditions which would alleviate your concerns	I would hope that this application will be refused as there is nothing that could alleviate my concerns.

Signed:	B M Goodacre	**Date:**	31/01/2015

APPENDIX D

Local Policy considerations

1.0 Introduction

1.4 The 2003 Act requires the council to carry out its various licensing functions so as to promote the four licensing objectives. These are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

1.5 The 2003 Act also requires that the Council publishes a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

2.0 Consultation and Links to other Policies and Strategies

2.7 So far as possible, the council will avoid duplication with other regulatory regimes, and will not to use its powers under the Licensing Act 2003 to achieve outcomes that can be achieved by other legislation and other enforcement agencies. As an example, the council will not seek to impose fire safety conditions that may duplicate any requirements or prohibitions that could be imposed under the Regulatory Reform (Fire Safety) Order 2005.

3.0 Applications for Licences

3.2 Applicants must address the four licensing objectives in their operational plan. The operating plan must have regard to the nature of the area where the premises are situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. The operating schedule must demonstrate how the premises will be "good neighbours" both to residents and to other venues and businesses.

3.3 Applicants must provide evidence that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style, location and characteristics of their premises and activities. They must also also indicate if additional measures will be taken on an occasional or specific basis, such as when a special event or promotion is planned, which is, for example, likely to attract larger audiences.

4.0 Representations

4.1 "Responsible Authorities" (see Appendix 7) will be asked to consider all applications and to make representations to the council, if they relate to the promotion of the four licensing objectives and particularly in respect of applications which, might be regarded as contentious. Representations must be

evidentially based and the organisation should attend any hearing when the application is being considered. Representations can be made in opposition to, or in support of, an application.

4.2 The council will consider all representations from any “Interested Party” (see Appendix 7), or their representative, which should preferably be evidentially based and supported by attendance at any hearing at which the application is being considered.

4.3 A representation will only be accepted by the council if it is ‘relevant’, i.e. 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, that are regarded as being frivolous or vexatious, will not be considered, and in the case of a review of a licence, any representation which is regarded as repetitious, will also not be considered. A decision as to whether a representation is frivolous, vexatious or repetitive will be made by an officer of the council.

5.0 Conditions attaching to Licences

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

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

8.0 The Impact of Licensed Premises

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

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

With any adverse impact it may be possible to take steps to mitigate or prevent the impact and if such measures are reliable an activity may be licensed.

13.0 Management of Licensed Premises

13.1 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a premises supervisor must be designated (designated premises supervisor) and such person must be in possession of a current personal licence. The licensing authority will normally expect the designated premises supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the licensing authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

13.2 The act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times and have a duty to comply with the terms of the licensing act and any conditions, including the matters set out in the premises' operating schedule, in order to promote the licensing objectives. To that end, the licensing authority will be mindful of the guidance issued by the secretary of state, which recommends that a personal licence holder/DPS gives specific written authorisations to those individuals they are authorising to retail alcohol. Although written authorisation is not a requirement of the act and the designated premises supervisor/personal licence holder remain ultimately responsible for ensuring compliance with the act and licensing conditions, this action could assist in demonstrating due diligence should any issues arise with regard to enforcement.

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

LICENSING OBJECTIVES

20.0 Objective - Prevention of Crime and Disorder

20.1 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the City Council, and others, to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

20.2 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of

their premises, relevant to the individual style and characteristics of their premises and the licensable activities at those premises.

20.3 When addressing the issue of crime and disorder, the applicant should demonstrate that all those factors that impact on crime and disorder have been considered. These include:

Underage drinking

Drunkenness on premises

Public drunkenness

Keeping Illegal activity like drug taking and dealing, offensive weapons and sales of contraband or stolen goods away from the premises.

Preventing disorderly and potentially violent behaviour on and outside the premises.

Reducing Anti-social behaviour and Disorder inside and outside the premises

Litter

Unauthorised advertising

Protecting people and property from theft, vandalism and assault

Guard against glasses and bottles being used as weapons or causing accidents.

20.4 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or licensable activities:

Effective and responsible management of premises;

Training and supervision of staff;

Employ sufficient numbers of staff to keep numbers down of people awaiting service;

Provide sufficient seating for customers;

Patrols of staff around the premises;

Ensure sufficient lighting and visibility, removing obstructions if necessary, to discourage illegal activity;

Introduce an entry policy – making people aware of it – and apply it consistently and fairly;

Implement a search policy to prevent drugs, offensive weapons etc being brought onto the premises;

Implement effective management of entrance queues – incorporating barriers if necessary;

Adoption of best practice guidance e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, Minor Sales Major Consequences, Clubbing against Racism and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by the British Beer and Pub Association (BBPA), Security in Design published by BBPA and Drugs and Pubs, published by BBPA;
Acceptance of accredited 'proof of age' cards e.g. Portman proof of age cards, Citizencard, Connexions Card and/or 'new type' driving licences with photographs, or passports;
Provision of effective CCTV in and around premises;
Employment of Security Industry Authority licensed door staff to manage the door and minimize disorder;
Ensure glasses are collected on an on going basis, make regular inspections for broken glass and clear up;
Provision of toughened or plastic drinking vessels and bottles;
Provision of 'bottle bins' inside the premises and near exits;
Provision of secure, deposit boxes for confiscated items i.e. Operation Enterprise Drug and Weapon Amnesty Safe's;
Information displayed for staff and customers on Drug Awareness including the 'spiking' of drinks with drugs;
Provision of litterbins and other security measures, such as lighting, outside premises;
Membership of local 'Pubwatch' schemes or similar accreditation schemes or organizations ie Operation Enterprise;
Responsible advertising;
Distribution of promotional leaflets, posters etc;
Drug Seizure Kits (available from Norfolk Police Operation Enterprise);

Member of the 'NiteLink' radio scheme;

Working in partnership with the SOS Bus scheme;

Ban known offenders and share information with other licensed premises in the area;

Implement a dispersal policy;

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

24.0 Objective - prevention of public nuisance

24.1 Licensed premises can potentially have a significantly adverse impact on communities through public nuisances that arise from their operation. The amenity of residents and occupiers of other businesses should be maintained and protected from the potential consequence of the operation of licensed premises, whilst recognising the valuable cultural, social and business importance that such premises provide.

24.2 Public nuisance will be interpreted in its widest sense, and will take it to include such issues as noise, light, odour, litter and antisocial behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

24.3 Applicants should be aware that stricter conditions, including controls on licensing hours for all or some licensable activities will be applied, where licensed premises

are in residential areas or where their activities may impact on residents or other business premises, and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures to prevent public nuisance, may be suitable for longer opening hours.

24.4 The council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons such as disturbance or disorder attributable to the location and/or the premises, and relevant representations have been made.

24.5 The council believe that the impact a licensed premises can have on a neighbourhood is significantly influenced by the times when those licensed premises are open, and the times when licensable activities are taking place. Consequently, the council has adopted a policy on hours of trading, (section E) and in so doing, has given full consideration to the secretary of state's guidance on hours of trading.

24.6 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events. For example, the increasing business requirement for licence holders to provide live or recorded music in premises where this has not previously been the case is especially pertinent, and should be fully assessed on the application.**

24.7 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship
- the hours of opening, particularly between 11pm and 7am
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport
- wind down period between the end of the licensable activities and closure of the premises
- last admission time
- preventing litter and refuse becoming an eyesore
- consideration of local residents that they are not upset by loud or persistent noise or by excessive light
- preventing cars attending an event or premises from causing a noise nuisance and congestion, and from taking up local people's parking spaces
- avoid early morning or late night refuse collections
- avoiding emptying bins into skips, especially if they contain glass, either late at night or early in the morning

- customers eating, drinking or smoking in open air areas (for example beer gardens/forecourts and other open areas adjacent to the premises).

24.8 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, eg to ensure customers leave quietly.
- Fit prominent signs requesting that customers respect local residents and leave quietly.
- Control of operating hours for all or parts (eg garden areas) of premises, including such matters as deliveries ie not too early in the morning.
- Adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
- Liaison with public transport providers.
- Siting of external lighting, including security lighting.
- Management arrangements for collection and disposal of waste, empty bottles etc.
- Effective ventilation systems to prevent the emission of unwanted odours.
- Take away packaging to include the name and address of the premises on it.
- Capacity levels for fast food outlets.
- Introduce a chill out area with coffee and mellow music where customers can settle before leaving.
- Introduce a closed door policy, with attendance prohibited for new customers 2 to 3 hours before licensable activities finish.

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

SECTION E - Hours of Trading

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

APPENDIX E

National Guidance

(issued under section 182 of the Licensing Act 2003)

Licence conditions – general principles

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

Each application on its own merits

1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

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

2.6 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.7 It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

Public nuisance

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

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

persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

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

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

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

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

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

Determining actions that are appropriate for the promotion of the licensing objectives

9.41 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or

other persons, and representations made by the applicant or premises user as the case may be.

9.42 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.43 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Conditions attached to premises licence

General

10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).

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

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

Proposed conditions

10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps

recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Consistency with steps described in operating schedule

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

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

Imposed conditions

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

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

Proportionality

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Hours of trading

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

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

The need for licensed premises

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