NORWICH City Council

Licensing sub committee

Date: **Friday, 11 September 2020**
Time: **14:15**
Venue: **Remote**

[Venue Address]

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

Committee members:

Councillors:
Stutely (chair)
Ackroyd
Maxwell

For further information please contact:

Committee officer: Alex Hand
t: (01603) 989398
e: alexhand@norwich.gov.uk

Democratic services
City Hall
Norwich
NR2 1NH

www.norwich.gov.uk

Information for members of the public

Members of the public and the media have the right to attend meetings of full council, the cabinet and committees except where confidential information or exempt information is likely to be disclosed, and the meeting is therefore held in private.

For information about attending or speaking at meetings, please contact the committee officer above or refer to the council's website.

IN TRAN communication for all

If you would like this agenda in an alternative format, such as a larger or smaller font, audio or Braille, or in a different language, please contact the committee officer above.

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 Application for the Grant of a Premises Licence – 8 Redwell Street Norwich NR2 4SN **3 - 58**

Purpose - To consider the application for a grant of a premises licence.

Date of publication**: Friday, 04 September 2020**

Report to	Licensing sub committee 11 September 2020	**Item**
Report of	Environmental Health & Public Protection Manager	3
Subject	Application for the Grant of a Premises Licence – 8 Redwell Street, Norwich, NR2 4SN	

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 8 Redwell Street Norwich NR2 4SN, following the receipt of relevant representations.

Recommendation

That Members determine the application to vary the premises licence 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 great neighbourhoods, housing and environment and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

None.

Ward/s: Thorpe Hamlet

Cabinet member: Councillor Maguire – Safe and Sustainable City Environment

Contact officers

Rachel Bennett – Public Protection Licensing Advisor 01603 989229

Background documents

None

Report

The application

1. The applicant is Pilson Group Limited

2. The application seeks to allow the licensable activities, times and opening hours as set out in the application form, which is attached at appendix A. This also includes the steps proposed to promote the licensing objectives (operating schedule).

Relevant representations

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

    Police – no representations

    Environmental Protection – no representations.

    Fire Officer – no representations.

    Planning Officer – no representations.

    Area Child Protection Committee – no representations.

    Trading Standards – no representations.

    Primary Care Trust – no representations

    A representation objecting to the application has been received from 1 local resident. Copy of the representation is attached at appendix B to the report.

Norwich City Council Statement of Licensing Policy

4. Attached at appendix C 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)

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

Summary

6. 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.

7. 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

8. 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.

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

10. 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.

NORWICH City Council

Norwich
Application for a premises licence
Licensing Act 2003

For help contact
licensingapplications@norwich.gov.uk
Telephone: 0344 980 3333

* required information

Section 1 of 21

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference: Not Currently In Use — This is the unique reference for this application generated by the system.

Your reference: — You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

( ) Yes (•) No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

RECEIVED
11 JUN 2020
LICENSING OFFICE

Applicant Details

* First name: Pilson Group
* Family name: Limited
* E-mail: [redacted]
Main telephone number: — Include country code.
Other telephone number:

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

(•) Applying as a business or organisation, including as a sole trader
( ) Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? (•) Yes ( ) No

Note: completing the Applicant Business section is optional in this form.

Registration number:
Business name: — If your business is registered, use its registered name.
VAT number: - — Put "none" if you are not registered for VAT.
Legal status: Please select...

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

Your position in the business		
Home country	United Kingdom	The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

Building number or name	
Street	
District	
City or town	
County or administrative area	
Postcode	
Country	United Kingdom

Section 2 of 21

PREMISES DETAILS

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

Premises Address

Are you able to provide a postal address, OS map reference or description of the premises?

(•) Address ( ) OS map reference ( ) Description

Postal Address Of Premises

Building number or name	8
Street	Redwell Street
District	
City or town	Norwich
County or administrative area	
Postcode	NR2 4SN
Country	United Kingdom

Further Details

Telephone number	
Non-domestic rateable value of premises (£)	

© Queen's Printer and Controller of HMSO 2009

Section 3 of 21

APPLICATION DETAILS

In what capacity are you applying for the premises licence?

- ☐ An individual or individuals
- ☒ A limited company / limited liability partnership
- ☐ A partnership (other than limited liability)
- ☐ An unincorporated association
- ☐ Other (for example a statutory corporation)
- ☐ A recognised club
- ☐ A charity
- ☐ The proprietor of an educational establishment
- ☐ A health service body
- ☐ A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- ☐ A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- ☐ The chief officer of police of a police force in England and Wales

Confirm The Following

- ☒ I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- ☐ I am making the application pursuant to a statutory function
- ☐ I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

Section 4 of 21

NON INDIVIDUAL APPLICANTS

Provide name and registered address of applicant in full. Where appropriate give any registered number. In the case of a partnership or other joint venture (other than a body corporate), give the name and address of each party concerned.

Non Individual Applicant's Name

Name: Pilson Group Limited

Details

Registered number (where applicable): 03833970

Description of applicant (for example partnership, company, unincorporated association etc)

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

Company

Address

Building number or name	2 BROAD LANE
Street	OAKFIELD DRIVE
District	SOUTH WALSHAM
City or town	NORWICH
County or administrative area	
Postcode	NR13 6EH
Country	United Kingdom

Contact Details

E-mail	
Telephone number	
Other telephone number	
* Date of birth	/ / (dd mm yyyy)
* Nationality	Documents that demonstrate entitlement to work in the UK

Add another applicant

Section 5 of 21

OPERATING SCHEDULE

When do you want the premises licence to start? / / (dd mm yyyy)

If you wish the licence to be valid only for a limited period, when do you want it to end / / (dd mm yyyy)

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off- supplies you must include a description of where the place will be and its proximity to the premises.

City centre bar

Queen's Printer and Controller of HMSO 2009

Continued from previous page...

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

Section 6 of 21

PROVISION OF PLAYS

See guidance on regulated entertainment

Will you be providing plays?

○ Yes ◉ No

Section 7 of 21

PROVISION OF FILMS

See guidance on regulated entertainment

Will you be providing films?

○ Yes ◉ No

Section 8 of 21

PROVISION OF INDOOR SPORTING EVENTS

See guidance on regulated entertainment

Will you be providing indoor sporting events?

○ Yes ◉ No

Section 9 of 21

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will you be providing boxing or wrestling entertainments?

○ Yes ◉ No

Section 10 of 21

PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

Will you be providing live music?

○ Yes ◉ No

Section 11 of 21

PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment

Will you be providing recorded music?

○ Yes ◉ No

Section 12 of 21

PROVISION OF PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will you be providing performances of dance?

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

Section 13 of 21

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will you be providing anything similar to live music, recorded music or performances of dance?

○ Yes ◉ No

Section 14 of 21

LATE NIGHT REFRESHMENT

Will you be providing late night refreshment?

○ Yes ◉ No

Section 15 of 21

SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

◉ Yes ○ No

Standard Days And Timings

MONDAY				Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
	Start 11:00	End 23:45		
	Start	End		
TUESDAY				
	Start 11:00	End 23:45		
	Start	End		
WEDNESDAY				
	Start 11:00	End 23:45		
	Start	End		
THURSDAY				
	Start 11:00	End 23:45		
	Start	End		
FRIDAY				
	Start 11:00	End 23:45		
	Start	End		
SATURDAY				
	Start 11:00	End 23:45		
	Start	End		

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

SUNDAY

Start	11:00	End	23:45
Start		End	

Will the sale of alcohol be for consumption:

○ On the premises ○ Off the premises ◉ Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

New Years Day - from the end of permitted hours on New years Eve to the start of permitted hours on New Years Day

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

New Years Day - from the end of permitted hours on New years Eve to the start of permitted hours on New Years Day

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name

First name	Samantha
Family name	Elliott
Date of birth	

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

Enter the contact's addres

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country: United Kingdom

Personal Licence number (if known)

Issuing licensing authority (if known)

PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- ○ Electronically, by the proposed designated premises supervisor
- ◉ As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

Section 16 of 21

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

Give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

None

Section 17 of 21

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start 08:00 End 00:00

Start End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

TUESDAY

Start 08:00 End 00:00

Start End

WEDNESDAY

Start 08:00 End 00:00

Start End

THURSDAY

Start 08:00 End 00:00

Start End

FRIDAY

Start 08:00 End 00:00

Start End

SATURDAY

Start 08:00 End 00:00

Start End

SUNDAY

Start 08:00 End 00:00

Start End

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

New Years Day - from the end of permitted hours on New years Eve to the start of permitted hours on New Years Day

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

New Years Day - from the end of permitted hours on New years Eve to the start of permitted hours on New Years Day

Section 18 of 21

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)

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

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

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

b) The prevention of crime and disorder

The Licensee that is the person in whose name the Premises Licence is issued shall ensure that at all times when the premises are open for a new Licensable activity there are sufficient 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.

A conspicuous notice must be displayed on or immediately outside the Premises or which is immediately adjacent to the Premises which gives details of any restrictions relating to the admission of children to the Premises.

The Licensee will ensure that there are sufficient staff on the premises to monitor the behavior of customers whilst in the Premises and take action to alert the Police and prevent problems escalating.

CCTV will be installed covering entrances and bar areas and maintained in good order.

The CCTV system will be capable of recording footage for a minimum of 31 days. The footage will be available to Police and Licensing Authorities on reasonable request.

Door supervisors will be employed during the evening proportionate to the perceived risk.

A minimum of one SIA Door Supervisor will be on duty from 22:00 hours until the Premises close on Friday and Saturday evenings.

The Door Supervisor will sign on and off duty in a signing in book and this will be available for inspection by Police or Licensing Authorities on request.

An incident book will be provided and available for inspection by the Police and reasonable authorised authorities.

Patrons will be monitored leaving the Premises especially during the terminal hour to assist in the quiet and orderly dispersal of patrons.

All members of staff at the Premises shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 21 years ad who is seeking to purchase or consume alcohol on the Premises. Such credible evidence shall include a photo of the customer and will be a current Passport, a current photographic Driving Licence, Portman proof of age card, citizen card, connexions card or Pass Card Scheme.

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

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.

A conspicuous notice must be displayed on or immediately outside the Premises adjacent to the entrance of the Premises which gives details of times when the Premises are permitted to be open for any licensable activity.

The training record of staff will be available to Police and Licensing Authorities on request.

A challenge 21 policy will be in use.

No patron will be allowed to lease the Premises whilst in the possession of any open drinking vessel whether empty or

Queen's Printer and Controller of HMSO 2009

Continued from previous page...

containing any beverage.

c) Public safety

The provisions of the Regular Free Form (Fire Safety) Order 2005 apply to these Premises and accordingly all fire and health and safety risk assessments will be fully implements.

d) The prevention of public nuisance

Deliveries and collections shall be restricted to a period between 9:00 a.m. to 5:00 p.m. on any day of the week.

Clear signage must be erected to ask patrons to leave the events quietly.

All doors and windows (except for access and ingress) are to be closed whenever necessary to prevent nuisance to neighbouring Premises.

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 premises.

The Premises must remove their waste and refuse in a timely fashion to a licensed waste disposal facility.

An adequate number of staff must monitor the activity of persons leaving the Premises and remind them of their responsibilities where necessary.

There must be clear and legible notes displayed at exits and other circulatory areas requesting patrons to leave the Premises having regard to the needs of local residents.

e) The protection of children from harm

This issue is covered by the photo ID requirement and proof of age scheme.

All members of staff on the Premises shall seek "creditable photographic proof of age evidence" from any person who appears to be under the age of 21 years and who is seeking to purchase and consume alcohol on the Premises.

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

No children under the age of 18 years to be allowed access to that part of the Premises during any time when any activity or entertainment of a sexual nature is being provided.

Section 19 of 21

NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is A British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination** with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    (i) working e.g. employment contract, wage slips, letter from the employer,
    (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
    (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

Original documents must not be sent to licensing authorities. If the document copied is a passport, a copy of the following pages should be provided:-

(i) any page containing the holder's personal details including nationality;
(ii) any page containing the holder's photograph;
(iii) any page containing the holder's signature;
(iv) any page containing the date of expiry; and
(v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

Home Office online right to work checking service

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at https://www.gov.uk/prove-right-to-work) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

Section 20 of 21

NOTES ON REGULATED ENTERTAINMENT

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
  - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 21 of 21

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Premises Licence Fees are determined by the non domestic rateable value of the premises.
To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm
Band A - No RV to £4300 £100.00
Band B - £4301 to £33000 £190.00
Band C - £33001 to £87000 £315.00
Band D - £87001 to £125000 £450.00*
Band E - £125001 and over £635.00*
*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then your are required to pay a higher fee
Band D - £87001 to £12500 £900.00
Band E - £125001 and over £1,905.00
There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.
Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college.
If you operate a large event you are subject to ADDITIONAL fees based upon the number in attendance at any one time
Capacity 5000-9999 £1,000.00
Capacity 10000 -14999 £2,000.00
Capacity 15000-19999 £4,000.00
Capacity 20000-29999 £8,000.00
Capacity 30000-39999 £16,000.00
Capacity 40000-49999 £24,000.00
Capacity 50000-59999 £32,000.00
Capacity 60000-69999 £40,000.00
Capacity 70000-79999 £48,000.00
Capacity 80000-89999 £56,000.00
Capacity 90000 and over £64,000.00

* Fee amount (£) 190.00

DECLARATION

© Queen's Printer and Controller of HMSO 2009

Continued from previous page...

* I/we understand 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.

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name	Bruce Faulkner
* Capacity	Applicant's solicitor
* Date	11 / 06 / 2020 (dd / mm / yyyy)

Add another signatory

Once you're finished you need to do the following:
1. Save this form to your computer by clicking file/save as...
2. Go back to https://www.gov.uk/apply-for-a-licence/premises-licence/norwich/apply-1 to upload this file and continue with your application.
Don't forget to make sure you have all your supporting documentation to hand.

IT IS AN OFFENCE LIABLE TO SUMMARY CONVICTION TO A FINE OF ANY AMOUNT UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED

© Queen's Printer and Controller of HMSO 2009

OFFICE USE ONLY

Applicant reference number	
Fee paid	
Payment provider reference	
ELMS Payment Reference	
Payment status	
Payment authorisation code	
Payment authorisation date	
Date and time submitted	
Approval deadline	
Error message	
Is Digitally signed	☐

© Queen's Printer and Controller of HMSO 2009

APPENDIX B

Mr L Bennett

12 July 2020

Dear Sirs,

Re: Application for a Premises Licence in respect of 8 Redwell Street, Norwich NR2 4SN

I should be grateful if the Licensing Authority ("LA") would accept this letter as my written representations in respect of the application for a Premises Licence in relation to premises at 8 Redwell Street, Norwich NR2 4SN ("the Premises").

The application is made by the Pilson Group Limited ("Applicant").

The Application Form ("Form") is dated 11 June 2020.

For ease of reference my representations follow in numbered paragraphs.

Introduction and summary

1. My property is situated a short distance from the Premises. It forms part of the timber framed rusticated building which sits at the top of Elm Hill at the junction with Princes Street and Redwell Street. I have been there since 2009, which I believe predates the first grant by the LA of any licence in respect of the Premises.

2. My position is as follows:

3. I object to the granting of a Premises Licence in respect of the Premises. I invite the LA to reject the application.

4. It appears that the Premises fall within the Cumulative Impact Policy ("CIP") area, as defined in the Norwich City Council Licensing Policy ("NCC Licensing Policy")[1]. If that is correct, I ask the LA to consider this a relevant representation for the purpose of applying the CIP and the associated presumption against the granting of the licence sought.

5. In my view, the Applicant does not demonstrate in its Form, or otherwise, "that there will be no negative cumulative impact on one or more of the licensing objectives"[2]. I therefore invite the LA to give effect to the presumption contained in its CIP.

6. If, contrary to my principal objection, the LA is minded to grant a Premises Licence, I object to the terms sought in the Form.

7. This is the first time I have submitted an objection. I did not do so in relation to any previous application in respect of the Premises.

8. Unfortunately, this application and my experience since the LA first granted a licence in respect of the Premises renders it necessary for me to do so now.

9. Before making this objection:

10. I asked the LA whether any further material was submitted in support of the application, save for that which was provided on the LA's website. It was confirmed that there was none.

11. My objection is therefore addressed to the application as set out in the Form.

12. I asked whether the LA had a facility to view any prior Premises Licence pertaining to the Premises. I was told that it did not.

[1] NCC Licensing Policy §29.6.
[2] NCC Licensing Policy §29.7.

13. To the extent that the Applicant, or the LA in its decision making, relies on any material fact relating to the terms of any previous grant in respect of the Premises, I would expect the relevant material to be made available for comment.

14. I am aware that my representations must be framed in relation to the Licensing Act 2003 ("LA 2003") and the licensing objectives.

15. I have considered the Revised Guidance issued under s.182 of the Licensing Act 2003 ("s.182 Guidance").

16. I have considered the NCC Licensing Policy, dated August 2015, which remains extant.

The Application Form

17. If it is correct that the CIP applies to this application, the LA specifically says in its Licensing Policy that applicants "are encouraged to submit a full and thoroughly considered application" and that "the onus is on the applicant to demonstrate to the responsible authorities the suitability and detail for their site" [3]. It seems to me that the Form in this case falls well short of that which the LA quite properly requests and is entitled to receive.

18. For example, in Section 18, Licensing Objectives, c) Public Safety, the Applicant says:

    "The provisions of the Regular Free Form (Fire Safety) Order 2005 apply to these Premises and accordingly all fire and health and safety risk assessment will be fully implements."

19. The English is incorrect. The Applicant fails to identify the correct law. The law cited does not exist.

20. The provisions of the Regulatory Reform (Fire Safety) Order 2005 are central to ensuring public safety in the Premises and are of acute importance.

[3] NCC Licensing Policy, §29.9.

21. In the circumstances, it is difficult to have confidence in the Applicant in relation to fire safety and the public safety licensing objective if this is the care and attention afforded to the completion of the Form itself.

22. As set out more fully below, I struggle to see this as a "thoroughly considered application". In important areas it is characterised by generic statements which fail to address "the suitability and detail for their site".

23. I proceed on the basis that the Applicant has read and approved the Form, even though it is signed by Mr Faulkner, Solicitor. If the Applicant did not read the Form, it should give rise to some concern.

Cumulative Impact Policy

24. By §5 of the Operating Schedule, you have before you an application for a "City centre bar"[4] open until 00:00 every day of the week across every floor. The information is as bare and unhelpful as that. This seems precisely the kind of application that the CIP is intended to meet head on.

25. Queen Street is now a busy bar area. There are also a number of licensed premises on St Andrews and St Georges Streets.

26. It is self-evident that a licensed premise in this location thereby runs the real risk of it becoming an extension of Queen Street or at least a link destination between there and licensed premises beyond, including the St Andrews Brew House.

27. The plain truth of the matter is that licensed premises in this location draws patrons to a street and a vicinity to which they would not otherwise be drawn and would certainly have no reason to linger.

[4] §5 Operating Schedule, where the Applicant is asked to describe "the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives".

28. I invite the LA to consider §29.7 of the NCC Licensing Policy, which says:

> "29.7 The cumulative impact policy creates a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates in respect of premises that fall within the designated cumulative impact area will normally be refused if relevant representations are received, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives."

29. In my view, the Applicant does not demonstrate in its Form, or otherwise, "that there will be no negative cumulative impact on one or more of the licensing objectives". I therefore invite the LA to give effect to the presumption contained in its CIP.

30. I note that the CIP should not be considered absolute and that the LA "will consider whether it would be justified in departing from its CIP in the light of the individual circumstances of the case"[5].

31. On the information provided, there would appear to be no reasonable grounds to justify departing from the CIP.

32. For the avoidance of doubt, it seems to me that under the NCC Licensing Policy this application has to be considered at the time it is made, on its own merits and by reference to that which is submitted by the Applicant. Consideration of the CIP is not answered by simple reference to the fact of past trading at this location.

33. In any event, even if considered relevant, the past trading history of the Premises would, I suggest, merely support the application of the presumption in rejecting the application.

Representations in respect of the Operating Schedule and the Licensing Objectives

34. I now turn to the Operating Schedule and my representations under the licensing objectives.

Operating Schedule, §15 of 21, Supply of alcohol

[5] NCC Licensing Policy §29.11.

Operating Schedule, §17 of 21, Hours Premises are open to the public

35. I strongly object to the hours sought in relation to the supply of alcohol (11:00 to 23:45 hrs on every day of the week, Monday through Sunday), the hours the premises are open to the public (11:00 to 00:00 hrs on every day of the week, Monday through Sunday), and the days of the week when it is proposed to trade (Monday through Sunday, without exception).

36. I also note that alcohol will be sold for consumption on and off the Premises. Selling alcohol for consumption off the premises in this location is a serious concern to me; it runs the risk of encouraging yet more people to drink in the vicinity.

37. I explain below how I consider the licensing objectives are engaged in relation to these aspects of the application and the application in general.

38. **In my view, these matters will lead to or exacerbate problems of public nuisance, crime and disorder if the application is granted as sought.**

39. Trading beyond 23:00[6] is particularly damaging to me as a resident in this vicinity. The effect is amplified with the absence of any respite. Section E of the NCC Licensing Policy[7] explains the circumstances under which restrictions may be applied to the hours of trading. In the event that the LA does not reject this application, I urge it to do so.

Specific representations in respect of the licensing objectives

Prevention of Public Nuisance

40. My main concern in relation to this licencing objective is noise nuisance.

41. The immediate vicinity of the Premises includes residential premises. The LA is specifically invited to acknowledge that fact and give sufficient weight to this important characteristic of the vicinity.

[6] NCC Licensing Policy, §24.7 identifies this as a material factor.
[7] NCC Licensing Policy, Section E – hours of trading, §§30.2(iv), 30.3, 30.5 and 30.7 are relied upon.

42. I stress this fact because it doesn't appear to be acknowledged by the Applicant and was distinctly missing from the most recent sale particulars pertaining to the Premises, which simply said this:

"The immediate area is a mix of retail and offices, with a number of other licensed premises, including a number of coffee shops and restaurants as well as the St Andrews St Brew house and a Premier Inn budget hotel."[8]

43. Most of the residential premises in the vicinity are listed buildings. Some, like my own, are timber framed Grade 2 listed. They are subject to constraints in terms of what we can do to insulate them from noise emanating from outside our own premises.

44. The Premises themselves are likewise listed. They were not constructed with a view to operating as licensed premises.

45. I suspect that they are not constructed to attenuate the kind of noise most likely to be derived from the intended use, as set out in the Form.

46. For the avoidance of doubt, you are invited to specifically note the hours sought and the full capacity use of the Premises, which, according to the plan appended to the Form, now extends to all floors of the Premises.

47. In this latter regard, I also refer you again to the most recent sales particulars, which said this:

"The Opportunity
Good opportunity to re open the property as a bar /cocktail bar/ real ale bar/restaurant (subject to the addition of a trade kitchen) in a good city centre position with scope to utilise the unused upper floors." [Emphasis added]

48. Redwell Street is a narrow street with equally narrow pavements on either side. Please refer to **Appendix 1**. These images were captured by Google in April 2019. They look

[8] https://www.rightmove.co.uk/commercial-property-for-sale/property-88445924.html

towards the Premises. The building containing my property is across from the steps that are shown, which are the entrance to Boardman House, NUA School of Architecture.

49. By the way it is configured Redwell Street is acoustically challenging. Noise travels down the street towards the building containing my property.

50. Please also note that access and egress to and from the Premises, as currently constituted and as set out in the plan appended to the Form, is proposed to be in Redwell Street only. This means patrons must use Redwell Street when attending and leaving the Premises. Moreover, it is in Redwell Street and the vicinity that patrons will congregate.

51. **In sum, the Premises by their individual type, location, characteristics and configuration pose a significant risk in relation to the licensing objective of the prevention of public nuisance.**

52. **Further, the terms of operation requested in the Form merely exacerbate the risk by the expanded use of the floor space and the hours of operation which are asked for.**

53. The risk to which I speak is real. This is supported by my experience as a resident.

54. If reported correctly, these former retail premises were first given a grant for wine tasting during restricted hours until 20:00. As is the unfortunate pattern, this quickly morphed into the Norwich Tap House[9]. Then Panda Bar[10], a prosecco, wine and cheese bar. All failed. However, the pattern is clear: more alcohol, sold for more hours to an ever-greater intended capacity.

55. The result of these past decisions was that patrons visited a street and its vicinity when they would not otherwise do so. You had a noise source in the street that would otherwise not exist to the same extent or degree. People congregated in Redwell Street and on the

[9] https://www.edp24.co.uk/news/norwich-set-to-get-a-new-real-ale-pub-1-1537456
[10] https://www.edp24.co.uk/news/panda-norwich-prosecco-wine-bar-1-5696298

steps of Boardman House to talk, smoke and drink etc.. You also got to experience the noise and behaviour of some patrons as they came to and left the Premises.

56. I make plain that the noise and behaviour experienced was not always at a level that would constitute a public nuisance, but it was disproportionate and unreasonable at times.

57. I am conscious that objections of this nature are sometimes not given weight because they are seen as exaggerated. As I have explained, in my view these are challenging premises in a challenging location, such that even low-level noise and behaviour issues can have a material impact on working and living amenity in and of themselves.

58. In any event, given the type, location, characteristics and configuration of the Premises, noise and the behaviour of some patrons is inevitably going to present as an issue; it will result in a negative cumulative impact on one or more of the licensing objectives.

59. I think it fair to confirm that I have not raised a complaint with the Local Authority in respect of the Premises before.

60. I appreciate that this is sometimes used to undermine the veracity of resident complaints and indeed sometimes the number of complaints is used by responsible authorities when considering applications such as this. You will form your own view, but in my case, the absence of formal complaint is more a reflection of my lack of confidence that local authorities are able to deal with these issues effectively; the demands on local government are great and the resources sadly wanting.

61. **The Form contains no substantive information in relation to the Premises so far as relates to measures taken or proposed in order to ensure noise attenuation vis-à-vis the proposed use. There is no expert assessment, or any material evidence seemingly put forward by the Applicant on this key aspect.**

62. **The Form contains no substantive information to address the risks that I have identified in relation to patrons.**

63. For the avoidance of doubt, given the particular location of the Premises, it seems to me that the immediate area surrounding the premises includes Redwell Street and therefore

the conduct of persons in that area falls properly to be considered by the Applicant and and cannot be dismissed as the personal responsibility of individuals under the law[11].

64. I am also concerned about litter under this licensing objective. The problem relates to smoking litter, glasses and other waste.

65. When the Premises operated previously there was an accumulation of smoking litter on the street. It was disappointing that this was allowed to happen.

66. I cannot say that the increase in broken glass, receptacles and other litter left on the street was attributable to the Premises only.

67. However, patrons have come from the Premises with drinks; this was very difficult for the operators to control given the constraints of the building and how the serving areas were configured.

68. As shown in Appendix 1, there is no space to manage waste effectively in relation to the Premises.

Operating Schedule, §18 of 21, Licensing objectives, d) the prevention of public nuisance

69. Turning to the detail of what is said by the Applicant in its Form:

70. This section seems particularly thin.

71. Signage is an inadequate control measure in relation to noise from patrons leaving the Premises.

72. The step of keeping windows and doors closed "whenever necessary" to prevent nuisance is vague and unenforceable. It does not deal with the acoustic challenges of the Premises in this location and with the intended use sought in the Form.

[11] NCC Licensing Policy, §1.8 applied.

73. "Patrons will be monitored leaving the Premises especially during the terminal hour to assist in the quiet and orderly dispersal of patrons": this is a vague and generic statement, it is unenforceable. What does this actually mean in practice? Who will do it, when and how? What specific areas in the vicinity of the Premises is it intended that this step applies to?

74. I note that, as a start, the NCC Licensing Policy endeavours to assist applicants by identifying examples of control measures[12] and model conditions[13]. However, many of these are not addressed or seemingly considered. Where they are put forward, they are not adequate to address the risks.

75. As to the approach to your decision making under this licensing objective, I respectfully add two final comments:

76. In relation to this licensing objective, I note that the duty of the LA in this respect is purposive. The objective is to *prevent* public nuisance arising in the first place. Consequently, I respectfully suggest that it is no answer to proceed on the basis that a risk can be taken and if a problem were to arise it can be addressed by other means. That would run contrary to the obligation on the LA to *promote* the objectives as a paramount consideration at all times[14].

77. In relation to the CIP, I note the presumption in favour of rejecting the application and the burden on the Applicant if that presumption is to be rebutted. I should be grateful if the LA would bear that test firmly in mind when it comes to consider this particular licensing objective.

Prevention of crime and disorder

78. Since the Premises were first used for licensable activities there has been a deterioration in Redwell Street in relation to crime and disorder.

---

[12] §24.8
[13] Appendix 4, section A, §5.
[14] s.182 Guidance, §1.2-1.4

79. Unfortunately, the adjacent property became vacant and is tagged with graffiti. My own property was likewise tagged with graffiti.

80. No doubt the LA is aware of the incidence of anti-social behaviour in Norwich East[15]. Unfortunately, this appears to remain a persistent issue in this area of the city.

81. The connection between anti-social behaviour and the concentration of licensed premises in the exact same area in which the Premises is situated is beyond doubt; that much is manifest by the terms and effect of your own CIP.

82. **As I noted above, the plain truth of the matter is that licensed premises in this location draws patrons to a street and a vicinity to which they would not otherwise be drawn and would certainly have no reason to linger. With that comes the associated risk of the low level, but still impactful, crime and disorder[16] which the licensing objective seeks to prevent.**

83. Again, the risk to which I speak is real. Urinating in the street is an issue. Glasses and bottles are broken on the pavement or left on your doorstep. You witness drunkenness. It is always difficult to attribute the behaviour of individuals to specific premises. It would not be fair to fix past operators with responsibility for all of these issues. However, it is my perception that since Redwell Street was the venue for a licensed premise the incidence of low-level crime and disorder has increased.

84. It is very much a privilege to live here and I am prepared to spend the time, money and effort to ensure that the area remains clean and respectable, but some support in that regard from those making decisions likely to impact those efforts would be appreciated.

Operating Schedule, §18 of 21, Licensing objectives, b) the prevention of crime and disorder

85. In relation to that which is set out in the Form, I would say as follows:

[15] https://www.police.uk/pu/your-area/norfolk-constabulary/norwich-east/?tab=Statistics
[16] Drunkenness, disputes in the street, urination, drug use, damage to vehicles and property.

86. "Door supervisors will be employed during the evening proportionate to the perceived risk": This is a generic statement. It means nothing in practice. It is unenforceable.

87. The commitment to SIA Door Supervisors available from 22:00 hours on Friday and Saturday only is a negligible and inadequate commitment.

88. "Patrons will be monitored leaving the Premises especially during the terminal hour to assist in the quiet and orderly dispersal of patrons": Again, this is a generic statement. What does this actually mean in practice? Who will do it, when and how? What specific areas in the vicinity of the Premises is it intended that this step applies to?

89. "No patron will be allowed to lease [sic] the Premises whilst in the possession of any open drinking vessel whether empty or containing any beverage": Leaving aside another spelling error, there is no information as to how this is going to be delivered in the Premises. Looking at the plan and the proposed location of the bars, this is something that will be difficult to achieve. In practice, it was not achieved when the Premises traded.

90. The NCC Licensing Policy at §20.4 provides the Applicant with a list of example control measures which it was encouraged to consider before completing the Operating Schedule and submitting the Application Form. It is telling how many of those do not feature at all in the application with regard to this important licensing objective.

Public safety

91. I appreciate that the LA will be assisted by the appropriate responsible authority, but I repeat the concern which I expressed at the outset in §§18-21 above.

92. **It is difficult to have confidence in the Applicant in relation to fire safety and the public safety licensing objective if this is the care and attention afforded to the completion of the Form itself.**

Operating Schedule, §18 of 21, Licensing objectives, c) public safety

93. I note the helpful list of matters that Applicants "must demonstrate" they have addressed on the issue of public safety as set out in the NCC Licensing Policy at §22.3, together with the example control measures at §22.4. None of these are addressed by the Applicant in the Operating Schedule. In particular, I note the paucity of information in respect of the intended use of the Premises and customer profile.

94. I am further concerned by the Plan which is attached to the Form. It is a poor copy and it is difficult to be sure that it meets the requirements set out in the LA 2003 and the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005, SI 2005/42[17]. It is also old, dating back to November 2010. Consequently, it troubles me as to whether it can be relied upon as a sufficiently comprehensive and current plan of intended operations.

Other representations in relation to the Operating Schedule

Operating Schedule, §15 of 21, Premises Supervisor

95. It seems that the proposed Premises Supervisor is the same person who was previously associated with the Premises when run as the Panda Bar.

96. Ms Elliot indicates she was "Co-owner" of that business. Ms Elliot remains an active Director of Panda Bar Norwich Limited [10889356][18]. An Active company, with accounts overdue and a company in which the Applicant was a shareholder and person with significant control until 6 June 2019.

97. I do not know what qualifications, accredited or otherwise, Ms Elliot has in relation to the running of Licensed Premises. Her experience appears limited. In September 2018 when asked about the opening of the Panda Bar, Ms Elliot summed up the position thus:

[17] See §2.9 at https://www.gov.uk/government/publications/premises-licence-application-forms/premises-licence-guidance#completing-the-form

[18] https://beta.companieshouse.gov.uk/company/10889356

"I am really excited about opening and although my background is in finance I've always enjoyed design and am keen to run the deli side. I'd started to do accounting for pubs and hospitality venues and am someone who loves to socialise"[19].

98. If this is a fair summary of Ms Elliot's experience, I do not consider that the Applicant has given proper consideration to the issues and the risks involved in relation to the Premises and the application it has made.

99. The LA strongly encourages 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[20]. I have no confidence that the Applicant has had any or any proper regard to that advice.

100. **The licensing objectives cannot be achieved and promoted if the proposed management of Premises is ill-conceived and not commensurate with the nature of the Premises[21].**

Operating Schedule, §18 of 21, Licensing objectives, general

101. "All bar staff will be trained in the basic law relating to the sale/supply of alcohol": The BIIAB (and others) offer a raft of accredited courses which the Applicant could have set out and made a commitment to, commensurate with the Premises and the risks involved. It has chosen not to do so, preferring instead a basic sentence of intent.

Conclusion

102. For the reasons set out above, I repeat the position I set out at the outset, namely:

[19] https://www.edp24.co.uk/news/panda-norwich-prosecco-wine-bar-1-5696298
[20] NCC Licensing Policy §13.1.
[21] This is a relevant matter for the LA to take into account. It is relied upon in my inviting the LA to reject the application. My representation does not relate to the attachment of any condition; §2.5 of the s.182 Guidance is not therefore relevant.

103. I object to the granting of a Premises Licence in respect of the Premises. I invite the LA to reject the application.

104. It appears that the Premises fall within the Cumulative Impact Policy ("CIP") area, as defined in the Norwich City Council Licensing Policy[22]. If that is correct, I ask the LA to consider this a relevant representation for the purpose of applying the CIP and the associated presumption against the granting of the licence sought.

105. In my view, the Applicant does not demonstrate in its Form, or otherwise, "that there will be no negative cumulative impact on one or more of the licensing objectives"[23]. I therefore invite the LA to give effect to the presumption contained in its CIP.

106. If, contrary to my principal objection, the LA is minded to grant a Premises Licence, I object to the terms sought in the Form.

I apologise in advance if I have made any mistakes in the representations I have made, particularly as to the reading of the NCC Licensing Policy.

I reserve the right to amend or supplement these representations if necessary.

Finally, I should like to stress that I fully appreciate the difficulties that are related to the making of decisions under the LA 2003. For a number of years now residential use of property in city centres has grown exponentially in the UK. This has been positively encouraged by planning policy. Norwich is no exception. The principal residential use in the vicinity of these Premises predates the grant of any licence relating to them, but nonetheless there has also been an increase in residential use in Princes Street in recent years. This change will continue with yet further expected relaxation of planning conditions. Consequently, applications for "city centre bars" are ever more challenging and call for robust assessment, because the city centre is now a home and a community to many more people than might previously have been the case. The LA 2003 and your own policies provide the tools to properly protect the interests of

[22] NCC Licensing Policy §29.6.
[23] NCC Licensing Policy §29.7.

residents in these changing circumstances, and in relation to this application I respectfully invite you to apply them to that end.

Your faithfully,

L Bennett

Appendix 1: Redwell Street, showing location of the Premises

APPENDIX C

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 D – cumulative impact special policy

29.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area e.g. the potential impact on crime and disorder or public nuisance.

29.2 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that the licensing authority can take into account. This should not, however, be confused with ‘need’ which concerns the commercial demand for a particular type of premises e.g., a pub, restaurant or hotel. The issue of ‘need’ is

therefore primarily a matter for the market to decide and does not form part of this licensing policy statement. (see paragraph 7 of Section A)

29.3 Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. However, there are other mechanisms, both within and outside the licensing regime, that are available for addressing such issues. For example:

- planning controls;
- positive measures to create a safe and clean environment in partnership with local businesses, transport operators and others;
- the provision of CCTV;
- powers to designate parts of the city as places where alcohol may not be consumed publicly;
- confiscation of alcohol from adults and children in designated areas;
- police enforcement of the law with regard to disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- enforcement action against those selling alcohol to people who are drunk;
- police powers to close some premises for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise; and
- the power of police, local businesses or residents to seek a review of the licence or certificate.

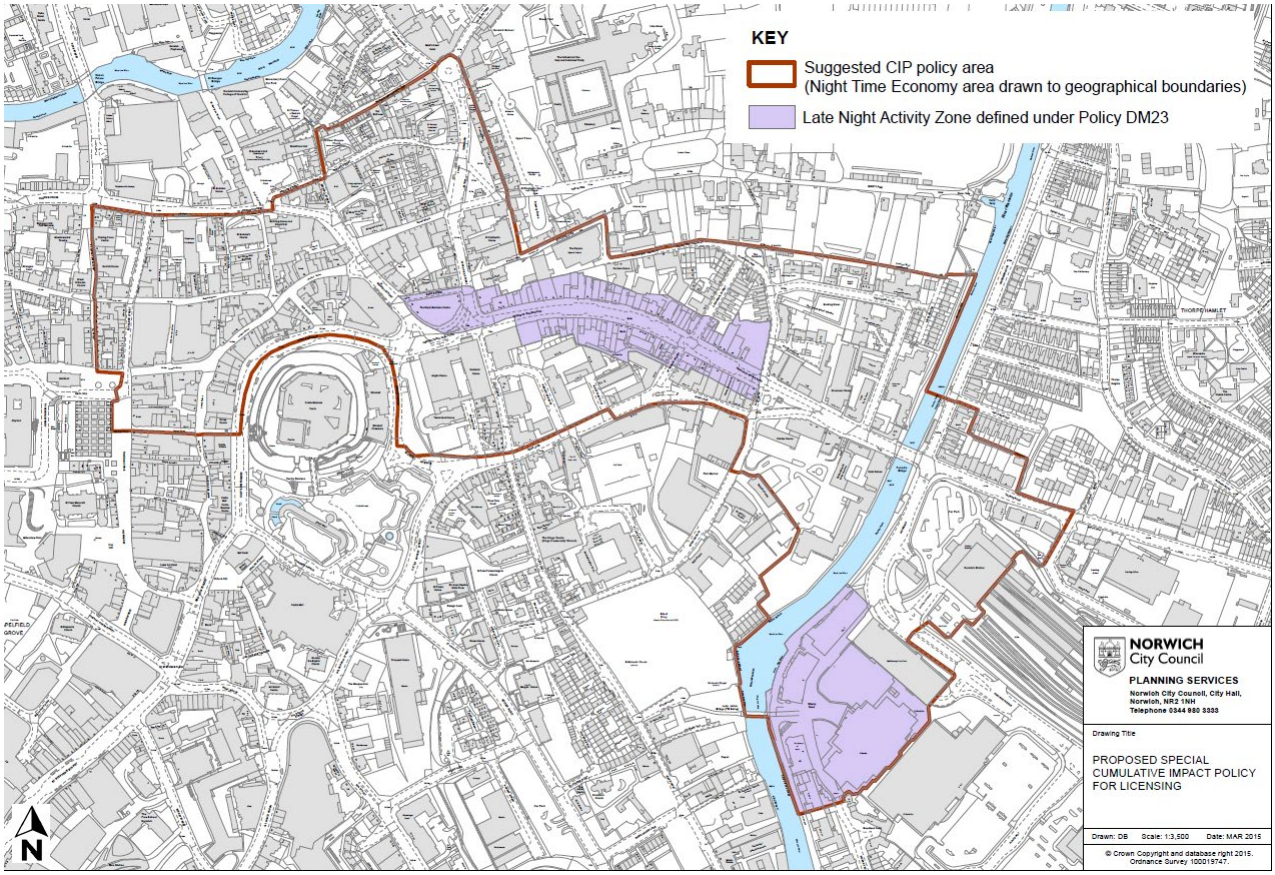
Adopted special policy on cumulative impact

29.4 The licensing authority should only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area are causing a cumulative impact on one or more of the licensing objectives.

29.5 The licensing authority received representations from Norfolk Constabulary that the high concentration of premises licensed to sell alcohol and/or provide late night refreshment between the hours of 2100 and 0600 within the police's late night economy public order policing zone produced a detrimental impact upon the licensing objectives.

29.6 The special cumulative impact policy applies to those premises applying for the grant or variation of a licence seeking any of the following licensable activities, between the hours of 2100 and 0600 and within the area indicated on the map shown below:

- the sale by retail sale of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- the provision of late night refreshment.



Applications

29.7 The cumulative impact policy creates a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates in respect of premises that fall within the designated cumulative impact area will normally be refused if relevant representations are received, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

29.8 An applicant wishing to obtain a new or varied licence for premises falling within the cumulative impact area must identify, through the risk assessment process (if used) and operating schedule, the steps that he or she intends to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.

29.9 To assist this process applicants are encouraged to submit a full and thoroughly considered application at the earliest opportunity. The onus is on the applicant to demonstrate to the responsible authorities the suitability and detail for their site. The applicant is encouraged to make early contact with the responsible authorities to discuss their plans, and suggested control measures. Applicants should also have particular regard to the guidance issued by the Home Office under section 182 of the Act.

29.10 Despite the presumption against grant or variation, responsible authorities and other persons will still need to make a relevant representation before the council may lawfully consider giving effect to its cumulative impact policy.

29.11 The council recognises that a cumulative impact policy should not be absolute. The circumstances of each application will be considered properly and application for

licences that are unlikely to add to the cumulative impact on the licensing objectives may be granted. After receiving representations in relation to a new application or for a variation of a licence, the licensing authority will consider whether it would be justified in departing from its cumulative impact policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. If the council decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.

29.12 This special policy will not be used:

- as a ground for revoking an existing licence or certificate when representations are received about problems with those premises;
- to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (for example, an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives;
- to impose quotas - based on either the number of premises or the capacity of those premises - that restrict the consideration of any application on its individual merits. Quotas have no regard to individual characteristics of the premises concerned. Proper regard will be given to those differences and the differing impact they will have on the promotion of the licensing objectives

29.13 This special policy will be reviewed regularly to assess whether it is still needed or should be expanded.

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 D

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.