



**Notice of a meeting of
Licensing Sub Committee-Alcohol and Gambling**

**Tuesday, 22 June 2021
2.00 pm
Council Chamber - Municipal Offices**

Membership	
Councillors:	Angie Boyes, Tim Harman and David Willingham
Officers:	Vikki Fennell and Jason Kirkwood

Agenda

1.		ELECTION OF CHAIR	
2.		DECLARATIONS OF INTEREST	
3.		APPLICATION FOR A PREMISES LICENCE FOR 87 SALISBURY AVENUE, CHELTENHAM GL51 3DA Senior Licensing Officers report	(Pages 3 - 104)
4.		ANY OTHER ITEMS THE CHAIRMAN DETERMINES TO BE URGENT AND WHICH REQUIRES A DECISION	

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Cheltenham Borough Council

Licensing Sub Committee – 22nd June 2021

Licensing Act 2003: Determination of Application for a Premises Licence

For 87 Salisbury Avenue, Cheltenham. GL51 3DA

Case Officer: Jason Kirkwood - Senior Licensing Officer

Introduction

1. The Licensing Act 2003 (the 2003 Act) introduced a unified system of regulation through four types of authorisation to permit licensable activity:-
 - The premises licence,
 - The club premises certificates for qualifying clubs,
 - Temporary Event Notices and
 - The personal licence.
2. Licensable activity is defined under the 2003 Act as the following:-
 - The sale by retail or the supply of alcohol,
 - Regulated entertainment (recorded and live music, performance of a play, exhibition of a film, etc)
 - Late night refreshment (food or drink supplied above ambient temperature between the hours of 23:00 and 05:00).
3. Since the implementation of the 2003 Act, Central Government has issued Statutory Guidance (the Guidance) to provide more comprehensive and detailed advice on this legislation. It was last updated on 6 April 2018. The licensing authority must have regard to the Guidance when determining this application.
4. The Guidance is binding on Cheltenham Borough Council acting in its capacity as a licensing authority under the 2003 Act. However, the licensing authority may depart from it, if it has good reason to do so. Departure from this Guidance could give rise to an appeal or judicial review, and so clear reasons must be referenced in such instances.
5. The 2003 Act requires that a council must formulate and publish a statement of its licensing policy. This will explain the manner in which the licensing authority will carry out its responsibilities under the 2003 Act. The licensing authority may depart from the Statement of Licensing Policy (the Policy), but must give good reason(s) where it chooses to do so.
6. The Guidance and Policy are both referenced: through elements of this report, through a summary of the most relevant extracts from each attached as appendices and by way of weblinks to both documents.

7. The Borough Council, as the licensing authority, is responsible for authorising all venues/ events in the borough where licensable activities take place.
8. The legislation provides a clear focus on the promotion of four statutory objectives which must be considered when licensing functions are undertaken.
9. The system is built upon four **licensing objectives**:-
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and,
 - The protection of children from harm.
10. The licensing authority must promote these objectives in carrying out its functions.
11. Each objective is of equal importance. There are no other statutory licensing aims or objectives, although other aims and objectives may be pursued through local policy.
12. Where an application is made to the licensing authority, the default position is that the application will be granted, as applied for, unless relevant representations (objections) are received. If relevant representations are received, a hearing must be held to consider the application, in light of the objections and/ or any support for it.
13. An objection against an application must refer to the promotion of one or more of the licensing objectives to be considered as a relevant representation, and must be made by a Responsible Authority or an 'Other Person'.
14. Responsible Authorities: - The 2003 Act identifies 10 responsible authorities that act as statutory consultees for applications for premises licences. All of these consultees are served with a copy of the application and have the opportunity to object or make comment:-
 - The relevant Licensing Authority,
 - The Chief Officer of Police
 - The local Fire and Rescue Authority
 - The relevant health and safety enforcing authority
 - The local authority with responsibility for environmental health
 - The local Planning Authority
 - The relevant body with responsibility for the protection of children
 - The relevant Public Health Authority
 - Trading Standards
 - Home Office Immigration Enforcement (on behalf of the Secretary of State).
15. Other Persons - The 2003 Act allows any individual, body or business to make representations to the licensing authority regarding an application for a premises licence, where their comments relate to the promotion of the licensing objectives.
16. Mediation - In some cases, mediation by the licensing authority has the potential to find a satisfactory conclusion for all parties, and a hearing may be dispensed with, if all parties agree. *This work is seen as very unlikely to be successful and so has not been undertaken for this case.*

17. Core Hours for Licensable Activities - As set down in the Policy the council will avoid arbitrary restrictions on licensing hours that undermine the principles of flexibility and consideration of each application is on its own merit.
18. However, the council believes that licensable activities carried on within the core hours set out below will generally not have a harmful impact on the licensing objectives, address the concerns raised by local residents and businesses and are usually less likely to attract representations.
19. Furthermore, earlier closing will result in less alcohol consumption and drunkenness and would also be consistent with the ability to get crowds dispersed from the town centre.

Table 1: Core Hours for Licensable Activities

Type of premises	Commencement hour no earlier than	Terminal hour no later than
Off licence	09:00	23:00
Restaurant	10:00	01:00
Theatres, cinemas and other performance venues	10:00	00:00
Pubs/ bars/ nightclubs	Town centre 10:00	03:00
	Local neighbourhood areas 10:00	00:00
Takeaways	N/a	N/a

20. As set down in Appendix D of the Policy, **the location for the venue** is defined as a 'local neighbourhood area' location. It should be noted that the opening time is in conflict with this part of the policy but the closing time is in accord with it.
21. Where relevant representations have been made, the sub - committee will take the following matters into consideration when making a decision, as per the Policy. These are not a definitive list and other matters may be considered:-
- a) Operating schedules - demonstration of compliance with management standards to support each of the licensing objectives.
 - b) Proximity to residential accommodation - the likelihood of the operation to have an adverse impact on the peace and quiet of local residents.
 - c) Potential noise and nuisance from people leaving and entering the premises.
 - d) Ability to demonstrate that systems in place to ensure timely dispersal of customers away from residential areas.
 - e) Use of external areas for carrying out the licensable activities and potential noise impact on local residents.

f) Proposed hours of the licensing act **Page 6** general opening times for the public – The use of winding down periods to enable more efficient dispersal.

g) Type of use – alcohol led premises such as pubs, bars and nightclubs, off licenses and hot food take away premises are more likely to be associated with crime and disorder and public nuisance than other premises such as seated restaurants, theatres, cinemas and other cultural activities.

h) Availability of public transport to assist in the timely dispersal of customers from the vicinity and to ensure safe travel home.

i) The potential for contamination of the street environment through increased litter and other pollution of the streets by customers

The Determination of an Application

22. Where relevant representations have been received and mediation is unsuccessful or not viable, then the licensing authority's discretion will be engaged. It will convene a hearing by a sub – committee of the Licensing Committee to consider the application and representations.

23. Responsible authorities and/or other persons in relation to an application may attend the hearing, with adequate notice, to amplify and clarify their relevant comments. They may not add to their original representation once the objection period has closed.

24. The applicant may also attend the hearing to assist the authority in considering the application.

25. The hearing should focus on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise the representations and not stray into undisputed areas.

26. The sub – committee should determine the application with a view to promoting the licensing objectives in the overall interests of the local community. The licensing authority must give appropriate weight to:-

- The Statutory Guidance - the current version is available to view [here](#) (the most relevant extracts to this case are attached at **Appendix 5** of this report).
- The Cheltenham Borough Council Statement of Licensing Policy – the current version is available to view [here](#) (the most relevant extracts are attached at **Appendix 6** of this report).
- The representations (including supporting information) presented by the parties. (Attached at **Appendix 3**).
- The steps that are appropriate to promote the licensing objectives.

The Application for Festival House

Case number: 21/00363/PRMA

Applicant: Mr Dinesh Palinda Weerasinghe Mudiyansele

Licence type – premises licence

Name of business: Previously Snips and Curls was located at the premises

Address: 87 Salisbury Avenue, Cheltenham. GL51 3DA

87 Salisbury Avenue		
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27. A sub-committee is required to discharge its duty and determine this application with a view to promoting the licensing objectives. This is because relevant representations have been made against the application.
28. The relevant details of the application are attached at **Appendix 1**, including the hours sought for licensable activity to take place. It includes the steps the applicant would take to promote the licensing objectives at Section M if the application is granted.
29. The application was set out for consultation on 4th May 2021 and was deemed as duly made at that point. However, the close of the objection period was specified as 2nd June 2021 on the public notices. The application was sent electronically to all responsible authorities, available to view online on the council's website and public notice of the application was given by way of site notice.
30. The application was accompanied by a plan of the premises, which is attached at **Appendix 2**. The location of the proposed venue is shown by way of area maps highlighting the premises at **Appendix 4**.

Relevant Representations

31. During the objection period there was one relevant representation received from a responsible authority, namely the Police.
32. However, the concerns of the Police have been fully satisfied by the applicant agreeing to amend their Operating Schedule as provided below:-

Prevention of crime and disorder

a) A CCTV system will be in operation at the premises and recorded images shall be retained for a minimum period of 14 days. The CCTV system shall be maintained in good working order, shall record at all times the premises are open. CCTV images will be provided to the police and other responsible authorities as soon as practicable.

b) Spirits shall only be displayed behind the staff counter.

Public safety

a) A register of refusals of alcohol will be maintained at the premises. The register will be made available for inspection by the Police and other responsible authority.

b) A decision will be made by licensee to review safety of staff over weekend evening shifts.

The prevention of public nuisance

a) An incident register will be maintained at the premises and staff will log all challenges and refusals under the "challenge 25" policy. This log will be made available to the authorities on request.

The protection of children from harm

87 Salisbury Avenue		
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a) *The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older. Posters will be on display advising customers of the 'Challenge 25' policy. The only forms of identification that will be accepted at the premises are a passport, UK photo-card driving licences, military ID & cards bearing the 'PASS' hologram.*

33. If Members are minded to grant the application these amendments to the Operating Schedule should be reflected as conditions of licence.
34. However, **30** relevant representations were received from local residents and Ward/ Parish councillors that is to say 'Other Persons'. Their objections are attached at **Appendix 3**.
35. For completeness, relevant communications with each objector has been included, where appropriate.

Hearing

36. It is clear that Government has a clear priority for the justice system, council meetings generally and regulatory functions to continue to be maintained, as far as practicable, notwithstanding the challenges faced by society through the measures introduced to tackle COVID – 19.
37. The council has been delivering council meetings 'virtually', whereby the applicants/ public/ councillors can view and/ or take part in meetings through online conference facilities. **However, the government now requires all such meetings to return to 'in person meetings'**. Therefore this meeting will take place at the council offices, but any person can still view the proceedings on the Council's YouTube channel through a live stream of the meeting.
38. In any event, the council appreciates that not all parties will want to 'attend' the meeting, but it understands that they will want their views to be considered. If a party is not able to attend the hearing, this will not undermine the consideration of their written submission relating to an application.
39. *It is worth bearing in mind that normal practice at hearings involves parties not repeating the points that have already been made to the sub – committee on the day. Furthermore, the sub – committee will consider all written representations in any event, and the hearing itself is the opportunity for parties to only 'amplify and clarify' the points they have already made in writing.*
40. The hearing is supposed to take place within 20 working days of the close of the objection period. For a number of reasons, that deadline has been missed, namely Licensing team workload, appointment of the new Licensing Committee being confirmed following the recent elections and due to the number of objections received for this case. However, it is not felt that any party is prejudiced by the giving of less notice in this case, although the Chair of the sub – committee can confirm this on the day of the hearing.

Case Officer Comments

41. Members are asked to consider the application and the following points, which seem pertinent to the case:-

1. Members are asked to ensure that they focus their deliberations around the promotion of the licensing objectives and consider the reasoning and evidence put forward - solely with relevance to the promotion of the four licensing objectives.
2. A number of representation have raised the 'needs' of the area (in terms of not needing such a service i.e. alcohol by way of off sale) and the fact that a premises in the vicinity already supplies alcohol – Members must not take these factors into account in making their decision as they are not relevant under the 2003 Act. If they were to do so, they would be acting ultra vires (that is to say beyond their legal powers and open to legal challenge).
3. They should consider whether the steps laid out in the Operating Schedule (as amended following the Police representation) are sufficient to mitigate any justified concerns about the application, with reference to this specific proposal.
4. All licensed premises have the capacity to cause an adverse impact on a locality. Ultimately, the question for Members will turn on whether the proposed venture can operate without an adverse and disproportionate impact on the local community, given the location and nature of the business. The sub – committee may decide to restrict the application to ensure that is the case, through the use of conditions, but they must ensure that they relate to the evidence/ reasoning that they consider relevant and to which they have attached weight.
5. Members must balance the substance and relevance of the statutory guidance and local licensing policy, in respect of the competing arguments for and against the application.

42. Furthermore, all parties must recognize the following important considerations:-

- The decision making exercise is considered as an 'administrative' process in legal terms. However, there is potential for legal challenge against a decision, and where a party appeals, the decision making process is scrutinized. The licensing authority is bound by legislation and case law in how it carries out this function, and so must act accordingly.
- Members can only consider evidence/ reasoning presented, which is clearly related to the promotion of the licensing objectives and this specific proposal.

43. Finally, the case *R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court [2011] EWCA Civ 31* is considered an important licensing case that was considered by the Court of Appeal in 2011. An extract from the conclusion provides some assistance for the sub – committee:-

41. As Mr Matthias rightly submitted, the licensing function of a licensing authority is an administrative function. By contrast, the function of the district judge is a judicial function. The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of a power delegated by the people as a whole to decide what the public interest requires. (See the judgment of Lord Hoffmann in Alconbury at para 74.)

42. Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit

to the proprietor and to the loPage 10rawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense questions of fact, they are not questions of the "heads or tails" variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact.

43. The statutory duty of the licensing authority to give reasons for its decision serves a number of purposes. It informs the public, who can make their views known to their elected representatives if they do not like the licensing sub-committee's approach. It enables a party aggrieved by the decision to know why it has lost and to consider the prospects of a successful appeal. If an appeal is brought, it enables the magistrates' court to know the reasons which led to the decision. The fuller and clearer the reasons, the more force they are likely to carry.

44. The last paragraph highlights in particular the statutory duty of the sub – committee to give clear written reasons for its decision. This allows all parties to an application to understand the eventual outcome in a meaningful way.

DECISION MAKING

45. The sub – committee will consider thoroughly and diligently the representations and their relevance to the determination of this application. Members must limit their considerations of the objections to where they are specifically relevant to the application before them.

46. The licensing authority must determine the application and decide whether to:-

- **Grant the application with mandatory conditions and those offered in the application only (as subsequently amended), or**
- **Grant the application with mandatory conditions, those conditions offered in the application (amended or otherwise) and attach specific conditions to promote the licensing objectives - where it considers it appropriate. (This may include restricting the hours applied for in the application), or**
- **Refuse the application, as it considers it appropriate to promote the licensing objectives.**

47. Each application must be considered on its own merits and in accordance with the 2003 Act, the Guidance and the licensing authority's Statement of Licensing Policy.

48. If conditions are attached to the grant of a licence they must be tailored to the individual type, location and characteristics of the premises/ 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.

49. If any party to a hearing is aggrieved **Page 11** sion of the licensing authority (this means the applicant or any person/ organisation/ business that made a relevant representation), they may appeal to the Magistrates' Court. They must do so within 21 days of being notified of the decision in writing.

Licence conditions – general principles

50. Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The use of wording such as 'must', 'shall' and to a lesser extent 'will' is encouraged.

51. 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.

Background Papers

Various appendices

Report Author

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Tel no. 01684 272015

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Details of the application

PREMISES ADDRESS: 87 Salisbury Avenue Cheltenham Gloucestershire GL51 3DA

APPLICANT DETAILS: applying as an individual

Mr Dinesh Palinda Weerasinghe Mudiyansele

General description of the premises: The premises is a self-contained ground floor retail unit with a front retail area benefiting from good window frontage suitable for a convenience store. Also a small kitchen, WC, and two storage areas to the rear of the unit resting under a single pitched roof. Only using this premises as an off-licence and convenience store.

LICENSABLE ACTIVITIES APPLIED FOR AND TIMES:-

Sale by retail of alcohol for consumption off the premises

EVERY DAY 06:00 UNTIL 23:00 HOURS

Opening hours

EVERY DAY 06:00 UNTIL 23:00 HOURS

OPERATING SCHEDULE

General

We ensure to stick with licensable activities and staff will be fully trained for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.

The prevention of crime and disorder

A CCTV camera system will be installed inside and outside of the premises to monitor misconducting activities. Staff will be fully trained to act accordingly.

Public Safety

Extra staff will be used on busy days. Maintain good health and safety ethics.

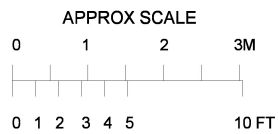
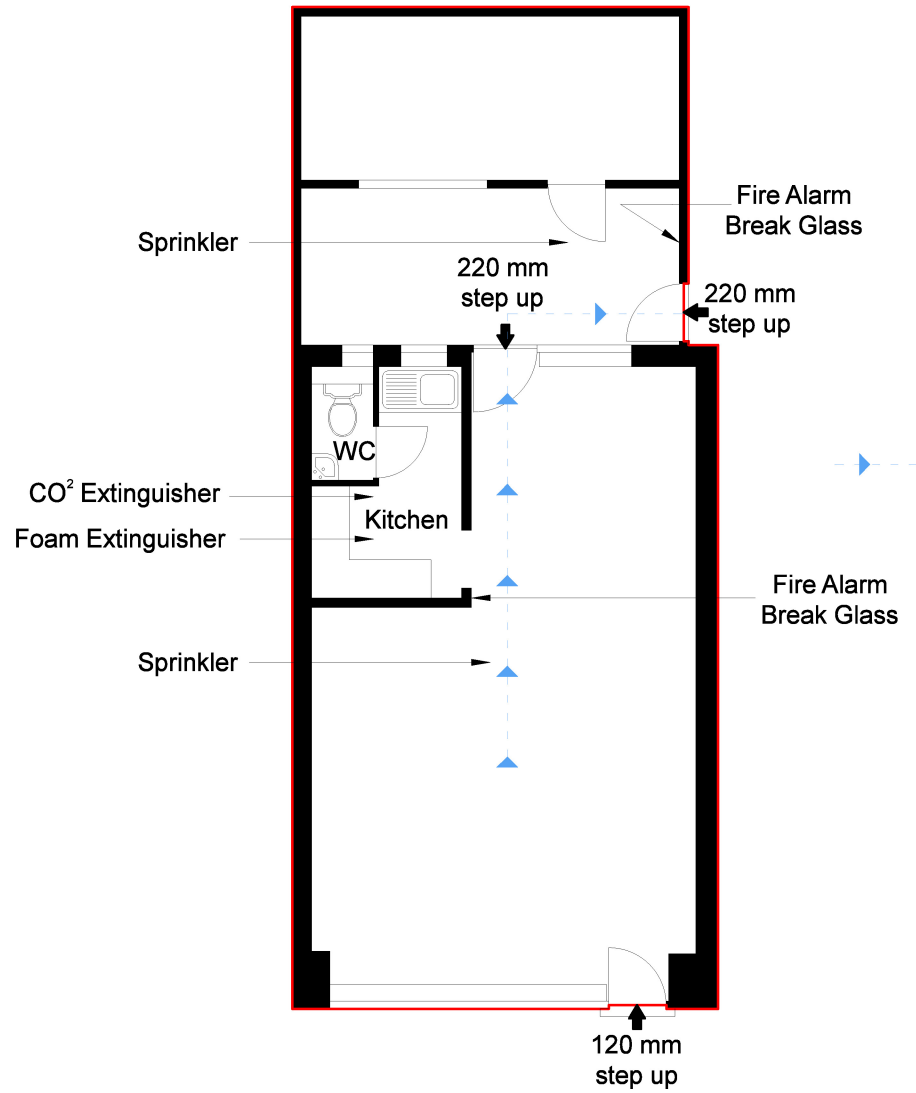
The Prevention of Public Nuisance

Noise- We ensure noise is not audible at sensitive locations and do not cause any disturbance to the public. Odour and Litter Control- Take all necessary actions to prevent unpleasant odours and maintain a good wastage disposal system. Light pollution control- Use LED lighting system and use natural light as much as possible to save energy and light.

The Protection of Children from Harm

We ensure all staff follows challenge 25 policies and will be given full training. The sales refusal book will be maintained on daily basis.

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APPENDIX 3

RELEVANT REPRESENTATIONS FROM OTHER PERSONS

1

Address: 72 Salisbury Avenue, Cheltenham, Gloucestershire GL51 3BU

Comment Details Commenter Type: Neighbour Stance: Customer objects to the Licensing Application

Comment Reasons: Comment:15/05/2021 11:57 AM I work at the Co-Op store opposite the shop in which a proposal to sell alcohol has been submitted. Personally, I stand very strongly against the idea for several reasons. Firstly, a new convenience store would significantly harm Salisbury Avenue Co-Op's trade, particularly as a significant proportion of that trade consists of alcohol. This could harm both the profitability of the shop and the sense of community we try to foster. With the Morrisons store nearby, there is clearly no need for more food and drink provision. Secondly, there is already a serious problem with shoplifting in the area, and another shop would certainly make the area even more appealing to petty criminals. Finally, as an 18 year old woman, I would feel significantly less safe walking home from work or leaving the house at night should there be another premises selling alcohol, particularly if this should be past 10pm, when the Co-Op closes and I often finish my shift. I am extremely concerned by this proposal and would greatly appreciate any efforts to oppose it. Thank you.

2

I wish to object strongly to this application. It is totally unnecessary and most definitely in the wrong place.

1:- There are Residential flats above these premises, some with elderly people who MUST not be subjected to disturbance which would almost certainly be caused by 'customers' buying and consuming alcohol on the paving area below, leaving litter there as happens in the Play area across the road.

(Not your problem but not to be added to)

2:- There is an adequate facility in the Co-Op store across the road to supply this need.

3:- The area has children passing on their way to and from the Infant & Junior

Schools in Durham Close and a Pre- school Play Group at St Christopher's halls, many of whom use the shops on their journeys.

4:- There is a Public Play area diagonally across Salisbury Ave which is very much used by families and young people of all ages, who make purchases at the other shops.

They don't need any more encouragement to purchase alcohol.

45 St Michaels Rd. The Woodlands, Cheltenham. GL51 3RP

3

81 Salisbury Avenue Warden Hill Cheltenham GL51 3DA

With reference to the application dated 05/05/21 submitted by Weerasinghe Mudiyanseelage Dinesh Palinda for premises licence/variation of a premises licence at Ground Floor, 87

Salisbury Avenue, Cheltenham GL51 3DA for selling alcohol during the opening hours of Monday to Sunday between 6 am and 11 pm, we wish to object to the granting of this licence on the grounds that adequate facilities for the sale of alcohol in this neighbourhood are already available from the Midcounties Co-operative Food Store, 94 Salisbury Avenue, Cheltenham GL51 3BY. This is located exactly opposite the premises described at 87 Salisbury Avenue. It is open from 7 am to 10 pm and has a large dedicated car park area for the use of its customers.

In contrast, there are very limited on-street parking facilities available for 87 Salisbury Avenue. Salisbury Avenue is a moderately busy main road through Warden Hill and any parking other than in the small shared area set aside for parking for use by all the shops can be a hazard to the pedestrian crossing located between the line of shops where 87 Salisbury Avenue is situated and the Midcounties Co-operative Food Store. Careless parking can also interrupt the

flow of traffic along Salisbury Avenue. The parking area at the rear of the shops is strictly for the use of residents of the flats over the line of shops and is not available for customers of the

shops.

Our other concern from our longstanding knowledge of the area is the danger of alcohol being consumed by young people in the MUGA (Multi-Use Games Area) which is located very close to the shops. This is an additional reason to limit the premises at which alcohol is sold in this small Neighbourhood Shopping Area which is predominantly residential housing.

In conclusion, we believe there is no need for further premises to be licensed for the selling of alcohol in this small Neighbourhood Shopping Area and we request that this application is not granted.

With kind regards

cc Councillor Anne Regan, Warden Hill Ward, Leckhampton with Warden Hill Parish Council

Please indicate which part of the licence/certificate application you are making a representation about
(eg crime, disorder, noise, disturbance etc)

CRIME AND DISORDER
PROTECTION OF CHILDREN FROM HARM
PUBLIC NUISANCE

Please provide full details of your concerns regarding the application and include or enclose with the form any evidence you may have in support of it.
(Please continue on a separate sheet if necessary)

I HAVE CONCERNS THAT THERE IS A CHILDRENS PLAY AREA OPPOSITE. IT IS HIGHLY LIKELY UNDERAGE CHILDREN MAY TRY TO PURCHASE ALCOHOL. THIS IS A QUIET RESIDENTIAL AREA AND DOES NOT NEED THE SALE OF ALCOHOL FROM 600-2300. THERE IS ALREADY ALCOHOL AVAILABLE AT THE COOP OPPOSITE. THIS COULD ENCOURAGE LOITERING, AND LITTERING AROUND THIS AREA FREQUENTED BY CHILDREN + FAMILIES. NOISE POLLUTION BY THE LATE NIGHT SALE OF ALCOHOL WILL AFFECT RESIDENTS.

Please use the box below to suggest any suitable conditions that if agreed in advance of a hearing by the applicant would allow you to withdraw your representation or that the committee could add to the licence (if granted) that would remedy your concern. You may also use this box to enter details of any other matters not commented on elsewhere relating to your representation that you would like the committee to take into account.
(Please continue on a separate sheet if necessary)

I DO NOT BELIEVE THIS LICENCE SHOULD BE GRANTED. THERE ARE NO CONDITIONS WHICH CHANGE THAT.

I ALSO DO NOT BELIEVE THAT THE NAME OF THE PREMISES AS GIVEN IN THE LICENCE (SNIPS & CURLS) IS ACCURATE TO ITS BUSINESS AND IS MISLEADING TO RESIDENTS WHO MAY NOT REALISE ITS BUSINESS IS ALCOHOL SALE.

5

Address: 80 Salisbury Avenue, Cheltenham, Gloucestershire GL51 3BU

Stance: Customer objects to the Licensing Application

Comment Reasons:

Comment:15/05/2021 7:04 PM There are currently two stores in the local area, the Co-Op and Morrison's, where alcohol can be purchased.

There is no need for another outlet, particularly with the extended opening hours associated with this application.

Nobody needs to be able to purchase alcohol at 6am!

6

Address: 119 Salisbury Avenue, CHELTENHAM GL51 3BZ

Stance: Customer objects to the Licensing Application

Comment Reasons:

Comment:15/05/2021 12:46 PM With both the larger Co-op opposite the proposed site and Morrisons less than a mile away I feel there is already plenty of places to access alcohol.

Increasing the places selling in such a small area could result in an increase in problem drinkers using the area and rough sleepers, especially coupled with the extended daily hours 7 days a week.

7

Dear Licensing Committee Members,

I wish to object to the granting of the above license. My grounds are:

- the length of opening, with the added footfall which will be below residential accommodation, and alongside nearby housing
- there is a children's/young people's play area almost opposite - and there is a possibility of increased littering and broken glass and cans which could cause injury
- the school and playgroup are nearby, and many of the children and their parents/carers pass the shops on the way to/from school and the play area
- there is the likelihood of increased car parking (already an issue in the area, especially at the beginning and ending of the school/playgroup day)
- in 'normal' times the two local church complexes are used 7 days a week (daytime and evening): there is the possibility of anti-social activity
- the Co-op store opposite already sells a wide range of alcohol

I hope you will consider the above, and take the points into consideration when discussing the application. I moved into "Silverdene" over 45 years ago, and would suggest that what we need

in Warden Hill are businesses that benefit the local community - such as a pharmacy.

Thank you.

Yours sincerely,

"Silverdene", 3 St. Alban's Close, Warden Hill, Cheltenham,
GL51 3DW.

8

23 WELLS CLOSE, WARDEN HILL, CHELTENHAM, GL51 3BX

Wednesday, 26th May

Cheltenham Borough Council Licensing Team

With regard to the proposed off-licence at 87 Salisbury Avenue, Warden Hill
I am assuming this will be a cut-price (budget style) shop for the sale of alcohol.

As a resident of Warden Hill for around 50 years, I have, over the years visited the Double Barrel (now the Co-op) and the 'Greatfield' pubs on numerous occasions, so I am familiar with many of the local drinkers. The proposed new off-licence will not survive on the trade from them. We will have the serious drinkers from across the town visiting the peaceful and pleasant atmosphere of Warden Hill late into the evening.

Our area is relatively crime-free, if this place opens will we have increased police presence? I doubt it very much.

The needs of the local drinkers are met quite adequately by Morrisons, the Co-op which is open till 10pm seven days a week and the 'Greatfield'.

I appreciate that having an empty shop boarded up for months (or years) on end is not an ideal situation, but this proposal will be of no benefit to most of our friends and residents, I can only foresee problems.

9

Address: 96 Farmfield Road, Cheltenham, Gloucestershire GL51 3RA

Stance: Customer objects to the Licensing Application

Comment Reasons:

Comment:27/05/2021 9:30 AM I wish to object to the opening of this Off Licence. My Wife and I are concerned about additional Anti social behaviour, rubbish in our front and rear gardens and the alleyway that runs beside our property which connects Farmfield Road to Salisbury Avenue via wells Close and Lincoln Avenue.

As the Co-op Store opposite and the nearby Morrisons already sells alcohol there is no need for this shop.

10, 11

Customer Details

Name: Mr Tony Oliver

Address: 44 Everest Road, Cheltenham, Gloucestershire GL53 9LG

Stance: Customer objects to the Licensing Application

Comment Reasons:

Comment:24/05/2021 5:30 PM I have just submitted a further objection from 112 Salisbury Avenue. In addition I was asked by 52 Salisbury Avenue to object to the proposal. She fears that the availability of purchasing alcohol over extended hours will lead to increased anti-social behaviour in an area where there are a large number of elderly and more vulnerable residents.

12,13,14,15,16,17,18

Customer Details

Name: Mr Tony Oliver

Address: 44 Everest Road, Cheltenham, Gloucestershire GL53 9LG

Stance: Customer objects to the Licensing Application

Comment Reasons:

Comment:18/05/2021 5:04 PM 'As Borough Councillors for the ward cllr Iain Dobie and I would like to object to the application in it's current form.

Our main concern is the length of hours that the premises is applying to sell alcohol for.

Salisbury Avenue shopping centre needs good local businesses to maintain a vibrant atmosphere in the area. Currently, these premises is vacant and we are very keen for them to become occupied by a

business which will enhance the variety of offerings available at this centre.

Opposite to these premises is a very good local co-op, which sells alcohol. Residents are also within easy reach of the Morrisons Supermarket at Caernarvon Road, which also sells alcohol.

We are concerned that the extended opening hours that alcohol can be obtained during, may act as a magnet for problem drinkers and rough sleepers. Currently, we do not experience problems on Salisbury Avenue, however the layout of the shopping centre offers opportunities for rough sleepers to take shelter in the recessed entrance to the Break charity shop, or on the stairs to the side and rear of the centre. The top floor of the centre itself contains a number of residential flats and any resulting increase in anti-social behaviour would have a detrimental affect on these residents quality of life. It is also fair to say that small retail centres are struggling to survive and it is vital to ensure that they are allowed to operate, free from the spectre of anti-social behaviour.'

We have been asked to submit this objection on behalf of the following residents: **93 Salisbury Avenue, 94 Salisbury Avenue, 96 Salisbury Avenue, 108 Salisbury Avenue, 59 Salisbury Avenue.** From discussions with local shop keepers we anticipate that you will receive a number of objections directly from them.

19

Name: Mr Tony Oliver

Address: 44 Everest Road, Cheltenham, Gloucestershire GL53 9LG

Comment Details

Commenter Type: Other

Stance: Customer objects to the Licensing Application

Comment Reasons:

Comment:19/05/2021 3:41 PM **Please see below objection from 76 Salisbury Avenue.**

'Please could you take this email as an objection to the application for a Licence to sell Alcohol re 87 Salisbury Avenue

The application proposes that alcohol will be sold for consumption off the premises between 6:00am and 11.00pm probably for seven days a week. Granting a licence would provide a further source of alcohol within an area already populated with licensed premises being Coop directly opposite and Morrisons within walking distance. Both these stores are open for long periods during the day and provide sufficient opportunity to buy general produce and alcohol

I feel that if this was passed then crime, disorder and public nuisance would increase as well as traffic to a road that is already very busy and which has issues with parking, adding additional

problem levels for the local police As a property very close to the shopping centre we already have large amounts of litter blown into our garden and this would only increase the problem'

20

Dear team,

I have been asked to forward this to you to add as a comment in objection to on the above licencing application.

Thank you.

Tony

Tony Oliver

Borough Councillor for Warden Hill

Dear Tony,

I can't find a way to enter my comments on the Borough Council website, so I must please ask you to lodge my comments.

I live at **59 Salisbury Ave.**, and consider this to be a VERY BAD proposal which should be vigorously opposed. Since the Pub in Salisbury Avenue closed some years ago, we have had very little late night bad behaviour in the area, and I think that the late night availability of alcohol would be extremely detrimental to the peace of the neighbourhood. Alcohol and convenience foods are available at the Co-op directly opposite until 10pm and I see no point whatever in having another source of alcohol in so close a proximity.

Yours sincerely

21

Customer Details

Address: 8 Oxford Way, Cheltenham, Gloucestershire GL51 3HJ

Stance: Customer objects to the Licensing Application

Comment Reasons:

Comment:15/05/2021 11:56 AM We object to this application on the grounds of selling alcohol will pose a potential threat to the residence around the Salisbury Ave shops & local businesses, from

homeless sleeping rough beggars sat outside and potentially attracting problem drinkers.

Also opening hrs 6am to 11pm would potentially cause a noise issue and a waste issue.

With the business premises that are already in place I feel all needs are already taken care of for this area.

22

Customer Details

Address: 65 Salisbury Avenue, Cheltenham, Gloucestershire GL51 3DA

Stance: Customer objects to the Licensing Application

Comment Reasons:

Comment: 15/05/2021 12:21 PM As a close neighbour to this business I object because.

- 1 Creation of unwanted waste
- 2 Opening hrs extreme
- 3 Potential late night noise pollution
- 4 increasing of already severe parking issues

With a Co op directly opposite that already fills the need & a store at the one end of the parade of shops filling any gap in this market.

I cannot see any benefit that this would bring to the area and could potentially cause major issues to existing businesses and residence of the locality.

23

I wish to object to the liquor application for the premises at 87 Salisbury Avenue, Warden Hill, Cheltenham.

Reasons: 1) Overlong opening hours for the sale of liquor

2) Premises opposite a children's & young peoples play area - with additional dangers of liquor being taken into playground area

3) Increasing litter problems created by young people 16 - 25 years of age (already happening)

4) School children could be affected by vagrants/others loitering outside premises

5) Churchgoers (elderly) subject to possible harassment at Sunday morning service times/ Christmas period service times

6) Increased car parking issues in and around Salisbury Avenue area

Yours,

15 Woodlands Road, Cheltenham, GL51 3RS

24

Please note my concerns below regarding this application for a premises licence to sell alcohol at 87 Salisbury Avenue, GL51 3DA between the hours of 6.00 am and 11.00 pm.

This property is opposite a Multi-Use Games Area (MUGA) and a toddler play area. We already see a lot of litter from young people using the MUGA as well as occasional signs of drug use and other anti-social behaviours.

The teenagers currently buy alcohol from the Co-op next door to the MUGA which is open from 7.00 am until 10.00 pm. There is often excessive litter left - empty drink cans, beer bottles etc despite a "no glass and no alcohol" warning sign on site.

This new licence will effectively add another 2 hours when alcohol is available and there is a real concern that this will encourage youths to gather in this area, particularly late into the evening around 10.30 - 11.00 pm, resulting in noise and litter nuisance.

I therefore request that this application be decided by the Licensing Committee who could consider reducing the hours to 7.00 am - 10.00 pm and recommending that the "Challenge 21" initiative be applied at these premises.

Kind regards,

Emma

Cllr Emma Nelson

Leckhampton and Warden Hill Division

Dear Emma

I inherited the case from a colleague and the case record itself refers to 01/06/21 as the end date, but in light of the site notice stating 02/06/21 as the end date, then of course I will be able to accept your objection.

Apologies for any confusion.

Best regards

Jason

25

6 Salisbury Avenue
warden Hill
Cheltenham
Glos.
GL51 3BS
01242 517177

29th May 2021

Dear Sirs,

I wish to object strenuously to the above proposal to install an 'Off Licence', in the vacant premises in Salisbury Avenue, Warden Hill.

Such an establishment will cause great inconvenience to the occupiers of the flats above, will be in direct competition to the wonderful Cooperative Shop opposite, which already has such a licence, and will offer great temptation to the evening, teenage population, using the superb football play area, on the other side of the road.

The proposed hours of opening - 6am to 11pm are ludicrous, disruptive, and quite unnecessary. What we do need in Salisbury Avenue is a Chemist's shop, which would bring a service to the whole of our community and something which we actually require.

Thank you for reading this,

26

Dear Sirs/ Madam

Please would you note my concerns and reservations made by local residents to the application for a Liquor License at 87 Salisbury Avenue Warden Hill Cheltenham.

As the local Parish Cllr for Warden Hill I have been approached with concerns regarding the above application on the grounds of an unnecessary need for further alcohol sales in this vicinity.

The local Co Op store immediately opposite has a large alcohol sales area, the store is immediately adjoining a Young People and Toddlers play area. It is not in the best interest of our young people to be tempted to the sale of alcohol in this vicinity. The extra availability of alcohol purchases will only extend this problem. The added distribution of litter in this stretch of shopping area

has caused much consternation in the past and we have had to ask CBC to instal more and larger rubbish bins to deal with this issue. I would ask that you arrange for this to be decided upon by the Licensing Committee.

Thank you for your attention to this matter.

Anne Regan

Parish Councillor for Leckhampton with Warden Hill

Trustee of the Brizen Young People's Centre

Hon Alderman CBC

27

I went to your office and the intercom did not rouse anyone (Tuesday 1st June) so I telephoned your main number, as this is so important, and spoke to a very helpful person who furnished me with the email address and direct number for your department (it went to answerphone).

My reasons to oppose the application are:

1 There is a Co-op opposite, open for very good hours, so there is no need for another shop selling alcohol, opposite, with slightly longer opening hours.

2 There is a primary school a couple of roads away from the shop, and I would worry about any offers the shopkeeper could advertise to possibly encourage youngsters to try a single can or bottle of beer, cider or lager.

3 There is a children's playarea almost opposite, refurbished recently by yourselves, with a muga - during the daytime and immediately after school the playarea is busy with young children and their families - it would almost certainly become hazardous if adults were using that area to drink alcohol in the evenings, possibly resulting in broken glass and other litter.

4 During the recent pandemic, people struggling with their alcohol intake have contacted support groups for help, AA in particular - surely we ought not to be making it any easier to buy alcohol while we are in such a precarious position.

- - - - -

I was surprised and disappointed that the application was apparently unavailable on your website - I could see previous applications for the same address, but not this current one.

I was also surprised that this application has got as far as this, over the years I have lived in the area I remember some licensing applications for takeaway food from this parade of shops, and locals raised all sorts of reasons why that would be a bad idea.

Warden Hill resident for 25 years)

12 St Alban's Close, GL51 3DW

28

Dear Sir/Madam,

I've been dismayed to see that in the empty shop window of 87 Salisbury Avenue, which is nearby or next to Sardars cafe, Grandvilles and opposite is the Co-op in Salisbury Avenue, Warden hill, is a poster for either a general shop or off licence to sell alcohol. This is a very bad idea and unnecessary when we already have the shops which can provide general food items or alcohol from the selection i have mentioned. There is also a playschool, 2 churches, and a playground and a Primary school very near to the row of shops already here. Some of the businesses are small individual businesses which between them sell all of the essential items including alcohol. There are a lot of children in the area and elderly people, and the risks of antisocial behavior, smashed glass, excess rubbish in the playground and flower beds and surrounding nearby areas and loud noise. Having this type of shop will also attract undesirables along with the possibility of criminal damage. This objection should be taken notice of on these grounds and refused.

This affects me directly as i live very close by and also have young children.

Many thanks

29

Dear Sir/Madam,

I note with despair that a licensing application has been made by Weerasinghe Mudiyanse Dinesh Palinda to sell alcohol at 87, Salisbury Ave, Cheltenham, GL51 3DA between 6am - 11pm.

I and many other residents in Warden Hill object to this application in the strongest possible terms, we already suffer a great deal of anti social behaviour in the area, the last thing we need is to suffer further disruption.

To encourage the sale of alcohol 17 hours per day would be totally irresponsible, I have personal experience of the devastation that excess alcohol can do and believe me it's not pretty. I sincerely hope common sense prevails and this application is rejected with immediate effect.

24, Chelmsford Ave
Warden Hill
Cheltenham

30

**8 Lincoln Avenue,
Warden Hill,
Cheltenham,
GL51 3DB**

Dear Sir,

I was alarmed to see that a recently vacated shop on the ground floor of 87 Salisbury Avenue parade of shops is being suggested as an off licence shop and with proposed hours of 6 am to 11 pm every day from Monday to Sunday inclusive!

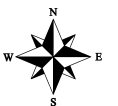
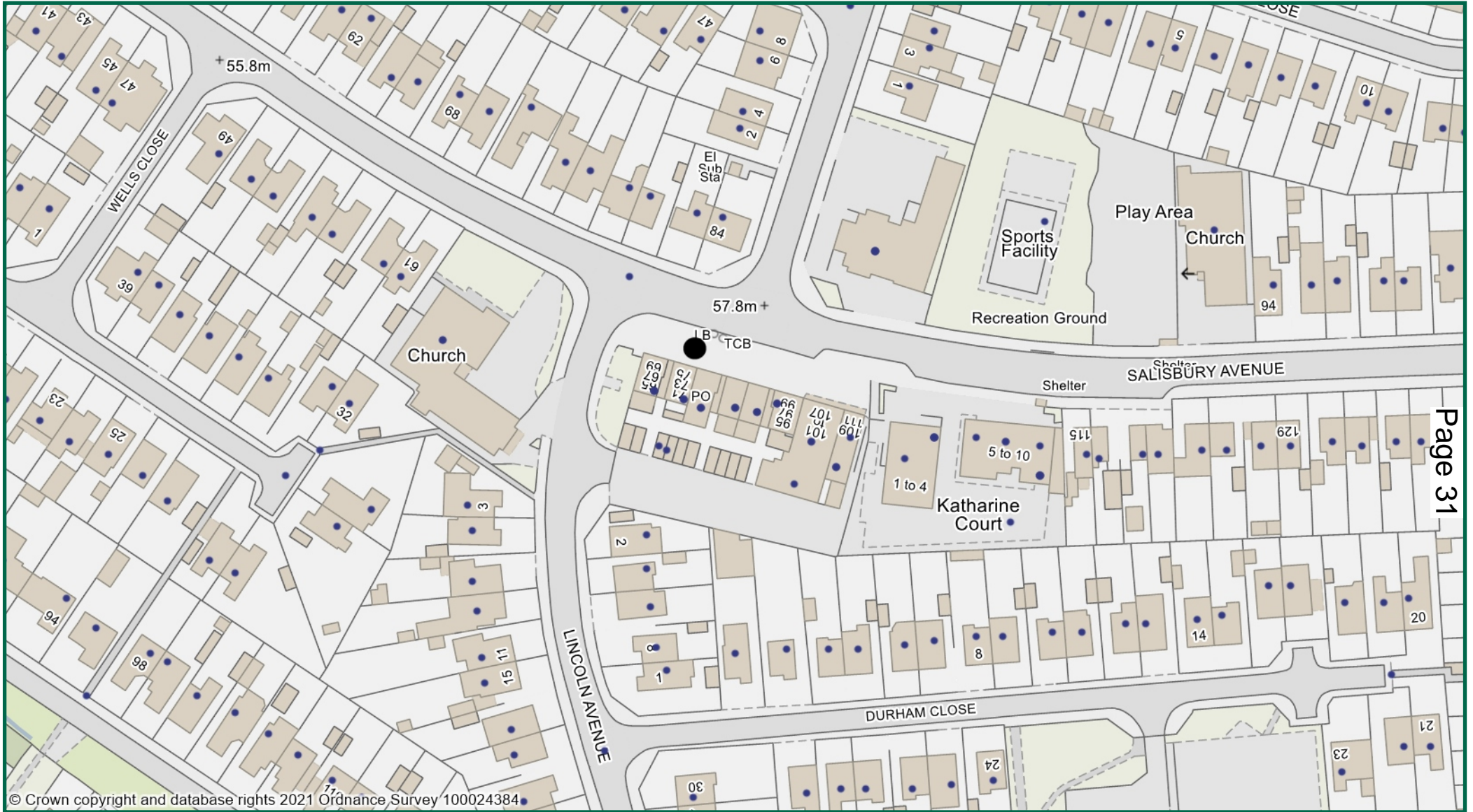
This proposal would be in direct competition to the Co-op superstore just across the road, which stocks all the alcohol which this neighbourhood needs and is a popular family store where we all feel welcome and safe.

You may be aware of the busy children's playground just across the road and the fact that young families constantly pass up and down on their way to and from the school round the corner to Durham Close and frequent the Salisbury Avenue area from before 8 am until at least 7.30 pm as extracurricular activities for young people occur daily at school. There are also many young people attending groups such as Beavers, Cubs and Scouts in the halls adjacent to St. Christopher's Church just a few yards away.

From this proposed shop. You will admit that the use of this property for promoting alcohol would be a very bad influence on our young people.

As a member of this community for 24 years I object strongly to an off licence establishment which can only lower the tone and spoil the family atmosphere of the area, attracting an unsavoury element into our happy mix. I am sure that these factors will be detrimental to the friendly ambience of Warden Hill.

It is not worthy of Cheltenham Borough Council to entertain such an idea and I strongly suggest that the Council should refuse the planning permission.



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Revised Guidance issued under section 182 of the Licensing Act 2003 - April 2018

Contents

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1. Introduction

The Licensing Act 2003

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

- **The prevention of crime and disorder;**
- **Public safety;**
- **The prevention of public nuisance; and**
- **The protection of children from harm.**

1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- **protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;**
- **giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;**
- **recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;**
- **providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and**
- **encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.**

The guidance

1.6 Section 182 of the 2003 Act provides that the Secretary of State must issue and, from time to time, may revise guidance to licensing authorities on the discharge of their functions under the 2003 Act.

Purpose

1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

...

Legal status

1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

Licensing policies

1.11 Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.

1.12 However, determining and publishing a statement of its policy is a licensing function and as such the authority must have regard to this Guidance when taking this step. A licensing authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. But once again, it is important that it should be able to give full reasons for departing from its published statement of licensing policy. Where revisions to this Guidance are issued by the Secretary of State, there may be a period of time when the licensing policy statement is inconsistent with the Guidance (for example, during any consultation by the licensing authority). In these circumstances, the licensing authority should have regard, and give appropriate weight, to this Guidance and its own existing licensing policy statement.

...

General principles

1.15 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that licence applicants contact responsible authorities when preparing their operating schedules.

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;
- 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.

...

Other relevant legislation

1.19 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes:

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work etc. Act 1974
- The Equality Act 2010
- The Immigration Act 2016
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

2. The licensing objectives

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 including the prevention of illegal working in licensed premises (see paragraph 10.10). 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.

2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed

premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. 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. 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.

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

Public safety

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38- 8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public nuisance

2.15 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.

2.16 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 may 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.

2.17 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 persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.18 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.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 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.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial 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.

Protection of children from harm

2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

2.25 Applicants must be clear in their operating schedules about the activities and times at

which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.

2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;

- restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
- restrictions on the parts of the premises to which children may have access;
- age restrictions (below 18);
- restrictions or exclusions when certain activities are taking place;
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

2.30 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

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3. Licensable activities

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8. Applications for premises licences

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8.2 Section 13 of the 2003 Act defines the parties holding important roles in the context of applications, inspection, monitoring and reviews of premises licences.

Authorised persons

8.3 The first group –“authorised persons”– are bodies empowered by the 2003 Act to carry out inspection and enforcement roles. The police and immigration officers are not included because they are separately empowered by the 2003 Act to carry out their duties.

8.4 For all premises, the authorised persons include:

- officers of the licensing authority;
 - fire inspectors;
 - inspectors with responsibility in the licensing authority’s area for the enforcement of the Health and Safety at Work etc Act 1974;
 - officers of the local authority exercising environmental health functions
- 8.5 Local authority officers will most commonly have responsibility for the enforcement of health and safety legislation, but the Health and Safety Executive is responsible for certain premises. In relation to vessels, authorised persons also include an inspector or a surveyor of ships appointed under section 256 of the Merchant Shipping Act 1995. These would normally be officers acting on behalf of the Maritime and Coastguard Agency. The Secretary of State may prescribe other authorised persons by means of regulations, but has not currently prescribed any additional bodies. If any are prescribed, details will be made available on the GOV.UK website.

8.6 Where an immigration officer has reason to believe that any premises are being used for a licensable activity, the officer may enter the premises with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the licensable activity.

Responsible authorities

8.7 The second group –“responsible authorities”– are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must still be considered ‘relevant’ by the licensing authority and relate to one or more of the licensing objectives. For all premises, responsible authorities include:

- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated;
- the chief officer of police;
- the local fire and rescue authority;
- the relevant enforcing authority under the Health and Safety at Work etc Act 1974;
- the local authority with responsibility for environmental health;
- the local planning authority;
- a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- each local authority’s Director of Public Health (DPH) in England and Local Health Boards (in Wales);
- the local weights and measures authority (trading standards); and
- Home Office Immigration Enforcement (on behalf of the Secretary of State).

8.8 The licensing authority should indicate in its statement of licensing policy which body it recognises to be competent to advise it on the protection of children from harm. This may be the local authority social services department, the Local Safeguarding Children Board or another competent body. This is important as applications for premises licences have to be copied to the responsible authorities in order for them to make any representations they think are relevant.

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Other persons

8.13 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous and vexatious representations.

8.14 While any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity.

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Steps to promote the licensing objectives

8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants' proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are

also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.

8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:

- the Crime Mapping website;
- Neighbourhood Statistics websites;
- websites or publications by local responsible authorities;
- websites or publications by local voluntary schemes and initiatives; and
- on-line mapping tools.

8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.

8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

9. Determining applications

General

9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and

92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

Where no representations are made

9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority's officials who should replicate the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions. Licensing authorities should not hold hearings for uncontested applications, for example in situations where representations have been made and conditions have subsequently been agreed.

Where representations are made

9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

Relevant, vexatious and frivolous representations

9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.

9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

The role of responsible authorities

9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

Licensing authorities acting as responsible authorities

9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

9.14 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.

9.15 It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder.

Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.

9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.

9.18 In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome.

9.19 Smaller licensing authorities, where such a separation of responsibilities is more difficult, may wish to involve officials from outside the licensing department to ensure a separation of responsibilities. However, these officials should still be officials employed by the authority.

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Hearings

9.31 The Licensing Act 2003 (Hearings) Regulations 2005 governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, where the applicant and all of the persons who made relevant representations have given notice to the authority that they consider a hearing to be unnecessary. Where this is the case and the authority agrees that a hearing is unnecessary, it must forthwith give notice to the parties that the hearing has been dispensed with. Notwithstanding those regulatory provisions, in cases where the licensing authority believes that a hearing is still necessary, it is recommended that the authority should, as soon as possible, provide the parties with reasons in writing for the need to hold the hearing. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to

notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. The 2005 Hearings Regulations permit licensing authorities to extend a time limit provided for by those Regulations for a specified period where it considers this to be necessary in the public interest. For example, if the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences. Where the authority has extended a time limit it must forthwith give a notice to the parties involved stating the period of the extension and the reasons for it.

9.33 The 2005 Hearings Regulations require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

9.34 Applicants should be encouraged to contact responsible authorities and others, such as local residents, who may be affected by the application before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.

9.35 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.

9.36 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.

9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;

- **its own statement of licensing policy.**

9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

9.41 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

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

9.42 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.

9.43 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.

9.44 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. While 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.

Considering cases where licensing and planning applications are made simultaneously

9.45 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

10. Conditions attached to premises licences and club premises certificates

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 an unlimited fine 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 exercised 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. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.

10.9 It is possible that in some cases no additional conditions will be 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. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. 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 about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. 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.

Mandatory conditions in relation to the supply of alcohol

10.25 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

Arrangements for the mandatory licence conditions

10.36 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a DPS and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.

Irresponsible promotions

10.39 Under this condition, the “responsible person” (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have ensured that staff do not carry out, arrange or participate

in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives.

Free potable water

10.45 The responsible person (see paragraph 10.39) must ensure that free potable water is provided on request to customers where it is reasonably available on the premises. What is meant by reasonably available is a question of fact; for example, it would not be reasonable to expect free tap water to be available in premises for which the water supply had temporarily been lost because of a broken mains water supply. However, it may be reasonable to expect bottled water to be provided in such circumstances.

Age verification

10.46 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.39) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram as their preferred proof of age, while acknowledging that many other forms of identification meet the requirements of the mandatory condition.

10.47 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies by the premises.

10.48 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.

10.49 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.

10.50 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

11. Reviews

The review process

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.

11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct

incidents of crime and disorder around a particular public house.

11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.

11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this cooperation.

11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

11.12 A repetitious ground is one that is identical or substantially similar to:

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

11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure

orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

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

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- **modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;**
- **exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;**
- **remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;**
- **suspend the licence for a period not exceeding three months;**
- **revoke the licence.**

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely

to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

..

13. Appeals

General

13.3 An appeal has to be commenced by the appellant giving a notice of appeal to the designated officer for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.

13.4 The licensing authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant, licence holder, club or premises user against the representations of a responsible authority or any other person, or the objections of the chief officer of police, the Home Office (Immigration Enforcement), or local authority exercising environmental health functions, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal, and the person who made the relevant representation or gave the objection will be the appellants.

13.5 Where an appeal has been made against a decision of the licensing authority, the licensing authority will in all cases be the respondent to the appeal and may call as a witness a responsible authority or any other person who made representations against the application, if it chooses to do so. For this reason, the licensing authority should consider keeping responsible authorities and others informed of developments in relation to appeals to allow them to consider their position. Provided the court considers it appropriate, the licensing authority may also call as witnesses any individual or body that they feel might assist their response to an appeal.

13.6 The court, on hearing any appeal, may review the merits of the decision on the facts and consider points of law or address both.

13.7 On determining an appeal, the court may:

- **dismiss the appeal;**
- **substitute for the decision appealed against any other decision which could have been made by the licensing authority; or**
- **remit the case to the licensing authority to dispose of it in accordance with the direction of the court and make such order as to costs as it thinks fit.**

All parties should be aware that the court may make an order for one party to pay another party's costs.

Licensing policy statements and Section 182 guidance

13.8 In hearing an appeal against any decision made by a licensing authority, the magistrates' court will have regard to that licensing authority's statement of licensing policy and this Guidance. However, the court would be entitled to depart from either the statement of licensing policy or this Guidance if it considered it was justified to do so because of the individual circumstances of any case. In other words, while the court will normally consider the matter as if it were "standing in the shoes" of the licensing authority, it would be entitled to find that the licensing authority should have departed from its own policy or the Guidance because the particular circumstances would have justified such a decision.

13.9 In addition, the court is entitled to disregard any part of a licensing policy statement or this Guidance that it holds to be ultra vires the 2003 Act and therefore unlawful. The normal course for challenging a statement of licensing policy or this Guidance should be by way of judicial review, but where it is submitted to an appellate court that a statement of policy is itself ultra vires the 2003 Act and this has a direct bearing on the case before it, it would be inappropriate for the court, on accepting such a submission, to compound the original error by relying on that part of the statement of licensing policy affected.

Giving reasons for decisions

13.10 It is important that a licensing authority gives comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.

14. Statements of licensing policy

General

14.2 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act. During the five-year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met. If the licensing authority determines and publishes its policy in this way, a new five-year period commences on the date it is published. Previously, licensing authorities were required to determine their licensing policies for each three-year period. Licensing policies published in respect of the three-year period that began on 7 January 2011 are to be treated as though they apply to a period of five years beginning at that date.

....

Fundamental principles

14.9 All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote. In determining its policy, a licensing authority must have regard to this Guidance and give appropriate weight to the views of consultees.

14.10 While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.

14.11 Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.

14.12 Statements of policies should make clear that:

- **licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act; and**
- **conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.**

14.13 A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

Licence conditions

14.14 Statements of licensing policy should reflect the general principles regarding licence conditions set out in Chapter 1 of this guidance.

14.15 Statements of licensing policy should include a firm commitment to avoid attaching conditions that duplicate other regulatory regimes as far as possible. Chapter 10 provides further detail on this issue.

....

Entertainment provision

14.18 Statements of licensing policy should set out the extent to which the licensing authority intends to facilitate a broad range of entertainment provision for enjoyment by a wide cross-section of the public. Statements of licensing policy should address what balance is to be struck between promoting the provision of entertainment and addressing concerns relevant to the licensing objectives. Licensing authorities should be conscious that licensing policy may inadvertently deter live music by imposing indirect costs of a disproportionate nature, for example a blanket policy that any pub providing live music entertainment must have door supervisors.

The need for licensed premises

14.19 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.

The cumulative impact of a concentration of licensed premises

What is cumulative impact?

14.20 The concept of “Cumulative impact” has been described within this guidance and used by licensing authorities within their statements of licensing policy since the commencement of the 2003 Act. ‘Cumulative impact assessments’ were introduced in the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018. Cumulative impact is the potential impact on the promotion of the licensing objectives of

a number of licensed premises concentrated in one area.

14.21 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.

14.22 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.

14.23 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.

Cumulative impact assessments

14.24 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.

....

Licensing hours

14.51 With regard to licensing hours, the Government acknowledges that different licensing approaches 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 such decisions based on their local knowledge and in consultation with other 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.

14.52 Statements of licensing policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The statement of licensing policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities, and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.

Planning and building control

14.64 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by

decisions made by a planning committee, and vice versa. However, as set out in chapter 9, licensing committees and officers should consider discussions with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

14.65 There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

Administration, exercise and delegation of functions

14.68 The 2003 Act provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by its licensing committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The licensing committee may delegate these functions to sub-committees consisting of three members of the committee, or in appropriate cases to officials supporting the licensing authority. Where licensing functions are not automatically transferred to licensing committees, the functions must be carried out by the licensing authority as a whole and not by its executive. Statements of licensing policy should indicate how the licensing authority intends to approach its various functions. Many of the decisions and functions will be purely administrative in nature and statements of licensing policy should underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness.

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Licensing Act 2003

Licensing Policy Statement



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Policy Vision Statement

We want Cheltenham to be a safe and clean town that offers a greater diversity in the night time economy that is less focused on alcohol and protects the quality of life for residents.

1. Introduction

- 1.1 This Licensing Policy Statement (“policy”) has been produced in accordance with the requirements of the Licensing Act 2003 (“the Act”) and is in line with guidance issued under Section 182 of the Act. Section 5 (as amended) of the Act requires Cheltenham Borough Council (“the council”), acting in its capacity as the Licensing Authority to prepare and publish a statement of its licensing policy at least every five years.
- 1.2 ..
- 1.3 The main purpose of this policy is to provide clarity to applicants, responsible authorities, elected Members and other persons on how the council will determine applications for the sale/supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and also to provide a basis for all licensing decisions taken by the council over the next five years. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 1.4 An effective licensing policy, alongside other initiatives, will work towards promoting the positive aspects of deregulation under the Act, such as promoting tourism, increasing leisure provision and encouraging the regeneration of the town centre as well as controlling the negative impacts such as increase in noise, nuisance, anti-social behaviour and crime and disorder.
- 1.5 Other matters also taken into account in formulating this policy:
 - a) Cheltenham Borough Council’s corporate strategy and outcomes.
 - b) Local planning policy in particular the Joint Core Strategy and the Cheltenham Plan.
 - c) Gloucestershire’s Police and Crime Plan.
 - d) Section 182 statutory guidance.
- 1.6 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the direct control of the individual licensees. There are a range of mechanisms including:
 - a) Planning controls;
 - b) Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority, including the provision of Closed Circuit Television (CCTV);
 - c) Police enforcement of the general law concerning disorder and anti social behaviour, including the issuing of fixed penalty notices;
 - d) The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
 - e) The confiscation of alcohol from adults and children in designated areas;
 - f) Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of

- disorder or noise emanating from the premises causing a nuisance;
and
g) The power to seek a review of the licence or certificate in question.

- 1.7 It should be understood that this policy and the statutory guidance cannot anticipate every scenario or set of circumstances that may arise and as such there may be circumstances where the policy or guidance may be departed from in the interests of the promotion of the licensing objectives and where it is deemed appropriate to do so. In such cases the council will give full reasons for departing from this policy.

Licensing Principles and Process

- 1.8 This policy sets out the process the council will adopt in dealing with licence applications with particular regard to the various types of premises and permissions and the various conditions that can be attached to licences if relevant representations are made. It also highlights the council's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other enforcement agencies.
- 1.9 The council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, personal licences and administering temporary events notices in the borough.
- 1.9 **The objective of this policy is to:**
- a) **promote the four licensing objectives;**
 - b) **ensure that the premises are appropriate for their proposed use;**
 - c) **ensure the premises layout and condition is acceptable for the proposed use;**
 - d) **ensure that the premises are being managed responsibly; and**
 - e) **promote the policy vision statement.**
- 1.10 **This policy also seeks to promote the council's wider priorities, in particular that:**
- **Cheltenham has a clean and well-maintained environment;**
 - **Cheltenham has a strong and sustainable economy;**
 - **Communities feel safe and are safe;**
 - **People are able to lead healthy lifestyles; and**
 - **Our residents enjoy a strong sense of community and are involved in resolving local issues.**
- 1.11 The council's powers and duties as the licensing authority are delegated by the council to its licensing committee, sub-committees and officers. The council approaches these delegations in accordance with the table of delegation set out below or otherwise in accordance with the council's adopted constitution.
- 1.12 The policy will be used as a basis in coming to consistent and transparent decisions in respect of licence applications.

1.13 The policy does not:

- a) Undermine the right of any individual to apply for a variety of permissions and to have each application considered on its individual merits; or
- b) Override the right of any person to make representations on an application, or seek a review of a licence or certificate, where the Act allows.

Scope

1.14 ..

Licensing Objectives

1.14 The council will carry out its licensing functions under the Act with a view to promoting the four licensing objectives, which are:

- a) The prevention of crime and disorder;
- b) Public safety;
- c) The prevention of public nuisance; and
- d) The protection of children from harm.

1.15 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives.

1.16 **In determining a licensing application, the overriding principle adopted by the council will be that each application is determined on its merits. Licence conditions will be tailored to the individual application and only those necessary to promote the licensing objectives will be imposed.**

1.17 The council will also have regard to wider considerations affecting the residential population and the amenity of the area. These include littering, noise, street crime and the capacity of the infrastructure.

1.18 Each of the four objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity.

Consultation

1.19 .

Duration and Review

1.20 The policy takes effect on 1 February 2016 and will remain in force for a period of no more than five years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation.

2. The Borough of Cheltenham

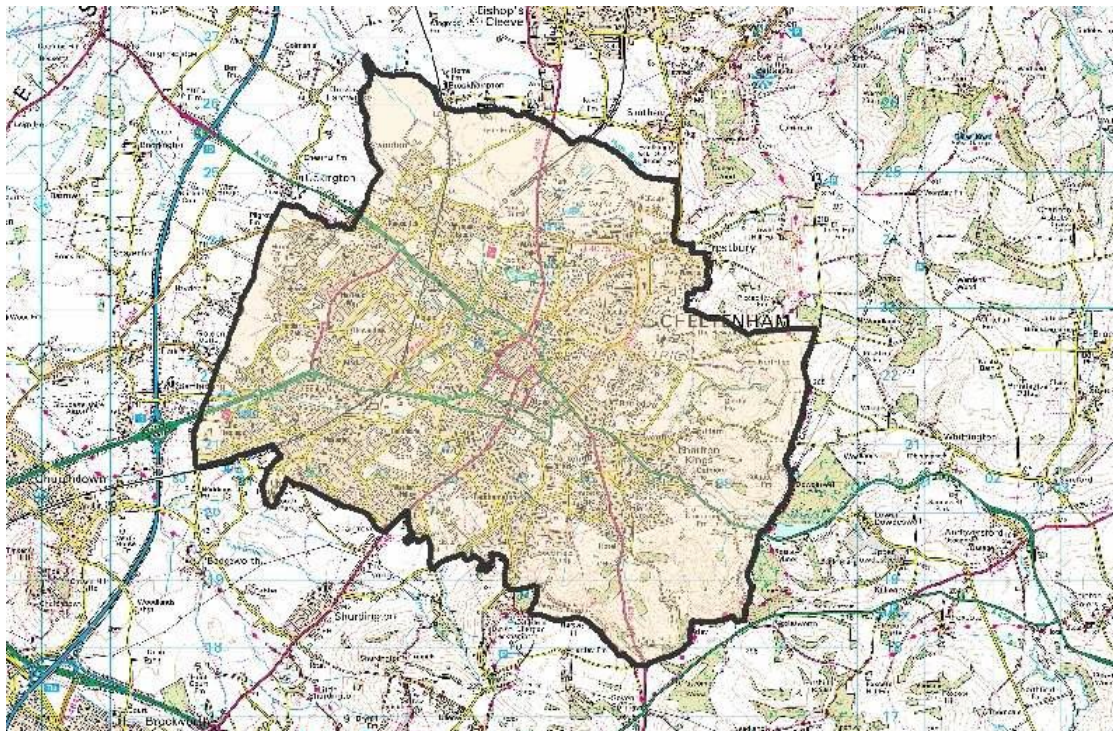
The Area

Until the late 1700s, Cheltenham was a small market town that became a fashionable resort after spa waters were discovered. Over the years it has attracted major employers and has gained a reputation for being an international festival town. This, together with its architectural heritage, educational facilities and quality environment, makes Cheltenham an attractive place to live, work and play.

The borough, which includes 5 parishes, has a population of approximately 114,000 who live in 20 wards. The borough is mainly urban with some areas of surrounding countryside. It covers an area of approximately 4,680 hectares of which 17 % is designated as green belt and 22 % as an area of outstanding natural beauty.

Demography

The population is approximately 114,000, and these figures will continue to rise over the next 20 years.



3. Licensing Process - Making an Application

Premises Licences & Club Premises Certificates

3.1 ..

3.2 ..

The Operating Schedule

- 3.3 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. The council expects an operating schedule to indicate the steps that the applicant proposes to take to promote the licensing objectives.**
- 3.4 All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application.
- 3.5 Applicants are strongly recommended to discuss their operating schedules with the responsible authorities prior to submitting them.
- 3.6 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises. For premises such as a public house where public entertainment is not provided, only a relatively simple document will be required. For a major public entertainment venue it will be expected that issues such as public safety and crime and disorder will be addressed in detail.**
- 3.7 Applicants will also be expected to propose practical measures to prevent disturbance to local residents and to indicate what action will be taken to prevent or reduce noise emanating from the premises.**
- 3.8 The operating schedule must be on the prescribed form and include a statement of the following:**
- a) Full details of the licensable activities to be carried on at and the intended use of the premises;**
 - b) The times during which the licensable activities will take place;**
 - c) Any other times when the premises are to be open to the public;**
 - d) Where the licence is only required for a limited period, that period;**
 - e) Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;**
 - f) Whether alcohol will be supplied for consumption on or off the premises or both; and**
 - g) The steps which the applicant proposes to promote the licensing objectives.**

Guidance on Operating Schedule

- 3.9 The following guidance is intended to assist applicants by setting out criteria and considerations that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review.

a) Crime and Disorder

- 3.10 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in promoting this objective.
- 3.11 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 events.

Considerations

- 3.12 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered. These factors may include:
- a) Underage drinking;
 - b) Drunkenness on premises;
 - c) Public drunkenness;
 - d) Drugs;
 - e) Violent behaviour; and/or
 - f) Anti-social behaviour.
- 3.13 In making their decision, regard should be given to the levels of crime and disorder in and around the venue, the level of compliance with conditions on existing licences and any available evidence on crime and disorder issues.
- 3.14 Applicants are recommended to consult the Reducing Alcohol Related Violence Codes of Practice when considering their operating schedule.
- 3.15 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for the prevention of crime and disorder.

b) Public Safety

- 3.16 The council in its role as licensing authority must try to ensure the safety of people visiting and working in licensed premises. The council will need to be satisfied that measures to promote public safety including risk assessments,

setting safe capacities and adequate means of escape are put in place and maintained, if not adequately provided for by other regulatory regimes.

3.17 Consideration should be given to whether:

- a) appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant responsible authority and to the council, that demonstrate that the public will be safe within and in the vicinity of the premises;
- b) the premises already has a licence or a fire certificate that specifies the maximum number of people that can attend it or be present and, if not, whether a risk assessment has been undertaken to assess the maximum number of people in terms of capacity in various parts of the premises, so that they can be operated safely and can be evacuated safely in the event of an emergency;
- c) there are procedures proposed to record and limit the number of people on the premises with opportunities for going outside and readmission;
- d) patrons can arrive at and depart from the premises safely;
- e) music, dance and performance venues will use equipment or special effects that may affect public safety (i.e. moving equipment, pyrotechnics, strobe lights, smoke machines);
- f) there are defined responsibilities and procedures for medical and other emergencies and for calling the emergency services; and/or
- g) the levels of compliance with conditions on existing licences relating to public safety.

3.18 The council seeks to encourage the use of toughened glassware and polycarbonate where appropriate in licensed premises. Where a relevant representation is received the council will consider imposing a condition prohibiting the sale of alcohol in annealed glass containers and require the use of polycarbonate or other safer alternatives in order to promote public safety in licensed venues.

3.19 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for public safety.

c) Public Nuisance

Measures to limit nuisance

3.20 The council will expect applicants to set out in their operating schedules the steps taken, or proposed to be taken, to deal with the potential for public nuisance arising from the operation of the premises.

- 3.21 Applicants should identify and describe through a risk assessment how these risks will be managed. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.
- 3.22 Applicants will be expected to have included measures in their operating schedules that make adequate provision to:
- a) restrict the generation of noise within the premises and from activities associated with the premises in the vicinity, or from an open air site;
 - b) limit the escape of noise from the premises or open air site;
 - c) restrict noise emissions to below levels that could affect people in the vicinity going about their business, at work and when at home both while relaxing and while sleeping;
 - d) minimise and control noise from customers arriving at the premises, or open air site outside it and departing from it;
 - e) minimise and control noise from staff, contractors and suppliers and their activities;
 - f) minimise and control noise from vehicles associated with and providing services to the premises or open air site and their customers;
 - g) determine whether people standing or sitting outside premises are likely to cause obstruction or other nuisance;
 - h) whether the premises are under or near to residential accommodation;
 - i) the hours of the sale of alcohol in open containers or food for consumption outside the premises;
 - j) measures to make sure that customers move away from outside premises when such sales cease;
 - k) measures to collect drinking vessels and crockery, cutlery and litter;
 - l) the extent and location of areas proposed to be set aside for the consumption of food and alcoholic drink and for smoking;
 - m) whether there is a need for door supervisors to prevent or to control customers congregating in outdoor areas to smoke, consume food or drink (whether supplied from the premises or not).
 - n) adequate measures to prevent the following arising from the proposed licensable activity that may cause disturbance to people in the vicinity:
 - a. litter, smells, fumes, dust, smoke, or other emissions;
 - b. street fouling;

c. light pollution.

- 3.23 The role of the council is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of residents and other users of the town including businesses, workers, shoppers and visitors.
- 3.24 Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. Other major sources of noise nuisance are vehicles collecting customers, the slamming of car doors and the sounding of horns. These noises can be particularly intrusive at night when ambient noise levels are lower.
- 3.25 Where relevant representations are received, the council may attach appropriate conditions to licences, necessary to support the prevention of undue noise disturbance from licensed premises. Where premises remain open after 23:00, the licence holder will be expected to provide facilities which are relevant to controlling noise and the patrons of those premises late at night. The council also expects that premises which produce noise generating licensable activities are acoustically controlled and engineered to a degree where the noise from the premises when compared to the ambient noise level will not cause undue disturbance.
- 3.26 The provision of tables and chairs outside the premises, either on the highway or on private land, and the provision of beer gardens, can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture and family friendly venues. However, late at night, tables and chairs and beer gardens can cause significant public nuisance to residents whose homes overlook these areas.
- 3.27 The 'smoke free public places' legislation in July 2007 has led to an increase in the number of people outside licensed venues. Where outside facilities are provided the council expects applicants to provide details in their application of:
- a) the location of open air areas; and
 - b) how the outside areas will be managed to prevent noise, smell, or obstruction and nuisance to neighbours and the public.
- 3.28 Licensees and their staff are expected to have sufficient measures in place to prevent such problems arising including a suitable litter and waste management program to ensure that the area outside the premises is kept free of litter at all times.
- 3.29 Where the council receives relevant representations, or where a responsible authority or an interested party seeks a review, the council may consider imposing conditions to improve the management of the outside area or prohibiting or restricting the use of these areas in order to promote the public nuisance objective.

- 3.30 Conditions may include maximum noise levels over particular time periods, the installation of acoustic lobbies, provision of signs, publicity and dispersal policies.
- 3.31 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for the prevention of public nuisance.

d) Protection of Children from Harm

- 3.32 The council needs to satisfy itself that there are appropriate measures in place to protect children from harm.
- 3.33 To this extent it will expect applicants, where necessary, to consider the measures necessary to promote the licensing objective of protecting children from harm when on the premises.
- 3.34 These measures may include staff training on how to control the entry of children and young people under 18 and the vetting of staff who will supervise them. Applicants will have to give particular regard to these measures in applications for licences involving:
 - a) the sale of alcohol;
 - b) children's performances; and
 - c) attractions or performances likely to attract children.
- 3.35 It is an offence to sell alcohol to children. In this context, children are defined as individuals under 18. The provisions of the Act are that unaccompanied children under 16 should not be on "premises being used exclusively or primarily for the supply of alcohol" (eg "alcohol led" premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00.
- 3.36 Issues for consideration include:
 - a) installing effective measures to check the age of those young people who appear under 21 to ensure that alcohol is not sold to those under 18 and those under 16 are accompanied in alcohol led premises;
 - b) exclusive or primary purpose of the services provided at the premises;
 - c) accompanied children under 16 on the premises of which the primary purpose is supply of alcohol for consumption on the premises are taking a table meal or are being entertained by a live performance;
 - d) the hour to which accompanied children under 16 are proposed to be on the premises where the exclusive or primary purpose of the services

provided at the premises is the supply of alcohol for consumption on the premises;

- e) due regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks;
- f) are there adequate procedures for identifying unaccompanied or lost children and ensuring that they are kept safe and adequately supervised until they can be handed over to a responsible adult;
- g) the likelihood of children being attracted to the premises by the nature of activities or facilities provided whether or not these are licensed;
- h) is there evidence of heavy, binge or underage drinking on the premises;
- i) if the premises commonly provides entertainment or services of an adult or sexual nature;
- j) is there a strong element of gambling on the premises;
- k) age restricted films are to be shown classified in accordance with the recommendations of the British Board of Film Classification;
- l) the number of adults required for the supervision of children and the suitability and vetting of those adults to ensure they pose no risk to children.

3.37 A pool of model conditions has been prepared and individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives. Please see Appendix C for the pool of model conditions for the protection of children of harm.

Plans

3.38 A plan must also be attached to an application for a premises licence or a club premises certificate. The plan should be at a scale of 1:100. ..

. Determination of Applications

Decision Making Process

4.1 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation below:

Matters to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	

Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/ club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/ club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

Unopposed Applications

- 4.2 If no relevant representations are received the licence will be issued automatically with, in the case of a premises licence or club premises certificate, such conditions attached as are mandatory or are consistent with

the operating schedule accompanying the application. The council will have no discretion to refuse the application or to alter or add to the conditions offered through the operating schedule.

Opposed Applications

- 4.3 **Where relevant representations are made, the council must hold a hearing before a licensing sub-committee who will take such of the following steps as it considers necessary for the promotion of the licensing objectives.**
- 4.4 **The steps are:**
- a) **to grant the licence subject to the operating schedule modified to such extent as the sub-committee considers necessary for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;**
 - b) **to exclude from the scope of the licence any of the licensable activities to which the application relates;**
 - c) **to refuse to specify a person in the licence as the premises supervisor;**
 - d) **to reject the application.**

Representations

- 4.5 The council has discretion on whether to grant applications for licences and to impose conditions on granting and reviewing licences, only when relevant representations are made.
- 4.6 In brief "relevant representations" is the expression used in the Act for comments including objections on applications.
- 4.7 For a representation to be relevant it must:
- a) relate to the effect of the grant of the licence on the promotion of the licensing objectives;
 - b) be made by a responsible authority or other persons;
 - c) not be 'frivolous or vexatious' or, in the case of a review, 'repetitious' if made by other persons; or
 - d) if it concerns the designated premises supervisor be made by a chief officer of police and include a statement explaining the reasons for the objection.
- 4.8 Representations can also be made in support of an application.

Appeals

- 4.9 Anyone aggrieved by a decision of the council has a right of appeal. This is set out in schedule 5 of the Act.
- 4.10 The council will inform the appropriate parties of their right of appeal in accordance with the Act, when confirming a decision of the licensing sub-committee.
- 4.11 Aggrieved parties should lodge any appeal with the Magistrates' Court within 21 days of the notification of the decision.

5. Temporary Event Notices (TENs)

- 5.1 ...
- 5.2 ...
- ...
 -
- 5.3 ..
- 5.4 ..
- 5.5 .
- 5.6 ...

6. Integrating Strategies & Specific Policies

- 6.1 **The council has established a good track record of partnership work and will continue to work in partnership with the police, local residents, businesses, licensees, communities and regulatory agencies towards safeguarding the quality of life for residents, and the creation of a safer and more pleasant environment for all.**
- 6.2 **In particular, Cheltenham has a vibrant night-time economy that far exceeds other towns of similar sizes. The town offers a rich choice of entertainment and facilities making it a destination attracting usually high numbers of visitors some travelling considerable distances to enjoy what the late night economy has to offer.**
- 6.3 **Although the vast majority of people visiting the town do so safely and responsibly, an active night-time economy nonetheless demands additional resource and cost for the council, police and other partners to deal with associated crime, disorder and other anti-social behaviour.**

- 6.4 Although the challenges associated with the supply of alcohol are more prevalent during the night-time economy, there are nonetheless also challenges during other times of the days.
- 6.5 In addressing these challenges, the council will continue to work with partners in particular the licensed trade, licensing enforcement, the police, the noise pollution team, community safety partnerships, Gloucestershire fire service and planning enforcement.

Late Night Levy

- 6.6 ..
 - a) ..

Encouraging diversity in the night-time economy that is less focused on alcohol

- 6.7 Cheltenham has a vibrant night-time economy that far exceeds other towns of similar sizes. It is recognised that the night-time economy plays an important part in creating a vibrant and sustainable economy but this must be balanced with the ambition to expand the offer for leisure, tourism and business by providing an attractive offer for all age and religious groups.
- 6.8 To this end, the council will explore and support opportunities to increase events, activities and businesses which are not necessarily alcohol led which are more socially-inclusive and drive the economy.

Designated area of concern

- 6.9 There are areas of the borough where the evidence does not suggest that they should be designated as Cumulative Impact Areas but which will require regular review to establish whether the concentration of licensed premises are considered to have begun to cause cumulative impact on one or more of the licensing objectives.
- 6.10 The council has identified the town centre (Appendix D) as being an area of concern in that it is susceptible to alcohol related crime, alcohol hospital admissions and nuisance arising from or caused by the customers of licensed premises.
- 6.11 The council will monitor the number of licensed premises in the designated area and any risk factors that may indicate that the area is reaching a point when a cumulative impact is likely or imminent.
- 6.12 The designated area of concern will also provide the council and its partners an opportunity to put measures in place to address the concerns highlighted.

Joint Core Strategy and other planning policies

- 6.13 There are a number of key planning policies that sets out a shared vision and proposes where future development in the borough.

Designated Public Places Order

- 6.14 The council supports the use of DPPOs as a tool to prevent crime and disorder by tackling anti-social behaviour associated with consumption of alcohol in the street. The council would expect premises that operate in areas where DPPOs have been implemented to have measures in place to ensure their customers do not contribute to problems of anti-social drinking.
- 6.15 The DPPO was implemented on 1 March 2005 in the borough and requires any person who is consuming alcohol within a designated place to surrender or cease to consume intoxicating liquor when requested to do so by a police constable. A full list of designated street is available from the Licensing Section.

Management of Licensed Premises

- 6.16 **A critical element of the proper control of licensable activity and a premises where such activity is provided is good management of those activities and the premises generally.**
- 6.17 **The council will encourage everybody involved in providing or are involved in licensable activities, to consider what skills and competencies are appropriate in the safe delivery of regulated activities and secure these. This applies to managers, musicians, door staff, bar staff, performers and contractors as well as everyone associated with the activities.**
- 6.18 **Good management also extends to the appropriate advertising of events and premises users and licensees are expected to control advertising content as part of their role.**
- 6.19 **The council undertakes proactive risk based inspections of all licensed premises to ensure that they are managed properly. Premises that consistently fail inspections may be subject to a licence review or other enforcement action.**

Designated Premises Supervisor

- 6.20 Any premises where alcohol is sold under a premises licence must have a designated premises supervisor (DPS). The DPS will be named in the premises licence, a summary of which must be displayed on the premises. A DPS must be a personal licence holder. Every sale of alcohol must be made or authorised by a person who holds a personal licence (or must be made or authorised by the management committee in the case of community premises).

- 6.21 ...
- 6.22 ...
- 6.23 The premises licence holder will be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.
- 6.24 Within all licensed premises, whether or not alcohol is to be sold, the council will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises' licence.

Night safe

- 6.25 The borough-wide Nightsafe network encourage its members to work together to promote the licensing objectives in their premises by providing a forum for sharing information, disseminating best practice and meeting with representatives of the council, the police and other responsible authorities. The council actively supports the scheme and is keen to support the development of more schemes where there is a demand.
- 6.26 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in the town. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

Best Bar None

- 6.27 ...
- 6.28 ...

Reducing Alcohol Related Harm (RARV)

- 6.29 In 2006 when the Reducing Alcohol Related Violence project, supported by funding from Government Office South West, was launched in Cheltenham a great deal of effort has gone into reducing alcohol related harm and disorder in the town.
- 6.30 The Codes of Practice launched in 2007 laying down common sense principles for all sectors of the night-time economy were the first such set of codes produced in the UK and were acknowledged as best practice by the Home Office.
- 6.31 The RARV Codes of Practice was revised in 2014 and republished in 2015.

Sexual Entertainment

- 6.32 The council has adopted the amended provisions of schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by section 27 of the Policing and Crime Act 2009 ('the 2009 Act') with respect to "relevant entertainment", that is:

- a) any live performance; or
- b) any live display of nudity.

which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).

- 6.33 The adopted provisions came into effect on the 1st of December 2010 in Cheltenham.
- 6.34 Any premises that want to offer relevant entertainment on a regular basis, that is more frequent than 24 hours once a month on no more 11 occasions a year, can no longer offer this under the provisions of the Act as a result of the abovementioned adoption. These premises must apply for a Sexual Entertainment Venue (SEV) licence.
- 6.35 Premises that want to offer relevant entertainment on an irregular basis can still do so under the provisions of the Act. These premises must be authorised for the performance of dance and the performance of recorded music.
- 6.36 The Government has seen it fit to exempt infrequent sexual entertainment from requiring a licence. Whilst the council recognises and accepts this, it is also acutely aware that unless it is properly managed there are risks to public protection and safety, an increased likelihood of associated crime & disorder and an inability of regulatory bodies to respond accordingly.
- 6.37 Whilst the council cannot legitimately impose restrictions on infrequent sexual entertainment, it has formulated an exempt sexual entertainment code of practice outlined in its adopted SEV policy. The intention of the code of practice is to promote responsible and properly managed exempt sexual entertainment. The council expects any premises wishing to offer infrequent sexual entertainment to adhere to the code of practice.

Core Hours for Licensable Activities

- 6.38 The council will avoid arbitrary restrictions on licensing hours that undermine the principles of flexibility and consideration of each application is on its own merit.
- 6.39 The council believes that licensable activities carried on within the core hours set out below will generally not have a harmful impact on the licensing

objectives, address the concerns raised by local residents and businesses and are less likely to attract representations.

- 6.40 Furthermore, earlier closing will result in less alcohol consumption and drunkenness and would also be consistent with the ability to get crowds dispersed from the town centre.

Table 1: Core Hours for Licensable Activities

Type of premises	Commencement Hour No earlier than	Terminal hour No later than
Off licence	09:00	23:00
Restaurants	10:00	01:00
Theatres, cinemas and other performance venues	10:00	00:00
Pubs/Bars/Nightclubs	<u>Town centre¹</u> 10:00	03:00
	<u>Local Neighbourhood Areas</u> 10:00	00:00
Takeaways	n/a	04:00

- 6.41 Where relevant representations have been made, it will take the following matters into consideration when making a decision. These are not a definitive list and other matters may be considered:

- a) Operating schedules - demonstration of compliance with management standards to support each of the licensing objectives.
- b) Proximity to residential accommodation - the likelihood of the operation to have an adverse impact on the peace and quiet of local residents.
- c) Potential noise and nuisance from people leaving and entering the premises.
- d) Ability to demonstrate that systems in place to ensure timely dispersal of customers away from residential areas.
- e) Use of external areas for carrying out the licensable activities and potential noise impact on local residents.
- f) Proposed hours of the licensing activities and general opening times for the public – The use of winding down periods to enable more efficient dispersal.

¹ As defined in Appendix D.

- g) Type of use – alcohol led premises such as pubs, bars and nightclubs, off licenses and hot food take away premises are more likely to be associated with crime and disorder and public nuisance than other premises such as seated restaurants, theatres, cinemas and other cultural activities.
 - h) Availability of public transport to assist in the timely dispersal of customers from the vicinity and to ensure safe travel home.
 - i) The potential for contamination of the street environment through increased litter and other pollution of the streets by customers.
- 6.42 The hours of existing licensed premises will remain unchanged unless there are good reasons, based on the licensing objectives, for restricting these hours, and then they can be changed by a licensing sub-committee following a review of the premises licence.

Latest admission times

- 6.43 The council considers it undesirable that persons should seek to 'top up' their alcohol intake by seeking out those premises that are admitting customers at the latest times because persons moving between venues late at night can lead to crime, disorder and public nuisance.
- 6.44 Establishing last entry times can reduce the tendency of customers to concentrate at those premises which remain open the latest, without restricting the hours of trading. This will encourage dispersal and reduce the pressure on late-night refreshment outlets and transport facilities which will assist with objectives to prevent public nuisance and crime and disorder in certain circumstances.
- 6.45 It is therefore this council's policy that the latest admission time, for licences premises open past midnight, to be no less than:
- a) one hour for nightclubs & late night bars; and
 - b) half an hour for pubs and other licensed premises
- before the terminal hour for licensable activities.

Takeaway food premises

- 6.46
- 6.47 ...
- 6.48 ..
- 6.49 ...
- 6.50 ..

- 6.51 Where the council considers it appropriate, it may impose conditions on a premises licence to require the operators of premises serving customers with hot food or drink to provide litter bins in the vicinity of the premises in order to prevent the accumulation of litter from its customers.

Pavement Cafes and External Areas

- 6.52 ...
- 6.53 ..
- 6.54 ...
- 6.55 ...

Promoting safe drinking limits

Irresponsible Drinks Promotions and Drunkenness on Premises

- 6.56 Low cost alcohol sold in on and off trade premises increases alcohol consumption which can lead to crime and disorder issues. Through this policy the council would like to encourage the responsible consumption of alcohol and where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the council will consider imposing controls on drinks promotions to deal with localised problems.
- 6.57 However, the council would prefer an approach whereby it, along with the licensed trade and other partners, are able to promote responsible retailing of alcohol instead of having to dealing with the effects of irresponsible drinks promotions and drunkenness.

Code of Good Practice for Drinks Promotions

- 6.58 It is a known fact that the price of alcohol does have an effect on the amount people consume. It is also the case that people are more attracted to premises that offer low cost alcohol and low cost alcohol is likely to cause people to consume more alcohol than they would normally have done. Both of these situations can lead to crime, disorder and public nuisance issues.
- 6.59 The council does not wish to unnecessarily impose operational restrictions and freedoms on licensed premises. It would therefore like to encourage a voluntary code of good practice in relation to drinks promotions and to encourage licence holders and others working at the premises to familiarise themselves with the mandatory conditions relating to drinks promotions.
- 6.60 To this end, the council will encourage all licence holders to apply the following principles in relation to any drinks promotions:

Principle
Align pricing with Alcohol by Volume (ABV).

Start the sale of alcohol later in the day and not align it purely with opening hours.
Refrain from all inclusive offers.
<p>Promotional information should clearly display:</p> <ul style="list-style-type: none"> - Factual information on the alcoholic strength of a drink(s); - That no-one under the age of 18 years may take part in the promotion; - display Drink Aware logo/information.
<p>Promotions should not:</p> <ul style="list-style-type: none"> - focus on the strength of any alcohol product as the principle theme; - condone or encourage illegal, excessive or irresponsible drinking (such as binge-drinking, drunkenness or drink-driving); - refer in any favourable manner to the effects of intoxication or consumption; - suggest that alcohol consumption enhances sexual attractiveness or include promotion material that is linked to sexual imagery implying sexual success or prowess.
Restrict multi buy promotions.
No advertisements for alcohol in the shop window.
Alcohol should not be given away for free as part of a promotion or as an incentive.
Actively promote designated driver schemes where a driver is offered discounted or free non-alcoholic drinks.
Make food and hot drinks available in late venues.

Shops Selling Alcohol (Off Licences)

6.61 ...

6.62 ..

6.63 ...

Hours of Operation

6.64 See Table 1: Core Hours for Licensable Activities on page 27.

Layout and Operation of Premises

6.65 In most cases a licence holder will be able to address the potential problems and detriment to the licensing objectives, through the layout and the operation of the premises.

6.66 The council will encourage all licence holders licensed for off sales to:

- a) Store high strength alcohol behind the shop counter;
- b) Not store or display any alcohol at the entrance/exit points of the premises;
- c) Not advertise alcohol in a shop window;
- d) Not sell single cans of beer or bottles of beer under 1 litre;
- e) Not sell beer or cider over 5.5% ABV;
- f) Not store or display any alcohol at or near check-outs; and
- g) Refuse to sell alcohol to persons known to be persistent offenders (where the offence(s) relates/associated with alcohol) or street drinkers.

Licence Conditions & Reviews

6.67 **Where there is evidence that the licensing objectives are being compromised or are likely to be compromised, the council will consider imposing appropriate restrictions on a licence. This may include, although not limited to, restricting the hours for licensable activities, restricting the sale of alcoholic beverages over a specified limit of alcohol by volume and/or of specified quantities.**

7. Film Classifications

7.1 ...

7.2 ...

7.3 ...

8. Events on Council Land

8.1 ...

8.2 ...

8.3 ...

8.4 ...

8.5 ...

9. Enforcement

- 9.1 In terms of regulation, our aim is to target those premises which are causing problems within our communities whilst supporting well managed premises and community activities, which provide worthwhile opportunities for the enjoyment of leisure time without having a negative impact. Premises associated with disorder, threaten public safety, generate public nuisance, or threaten the well being of our children will be targeted for enforcement action.
- 9.2 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act.
- 9.3 The council will monitor compliance with the licensing objectives through a programme of inspection visits. The proactive inspection visits are risk based so that those premises that are at a higher risk of adversely affecting the licensing objectives are more frequently inspected.
- 9.4 The council will also establish enforcement protocols with the police and other enforcement agencies to ensure efficient and targeted joint enforcement is undertaken on a regular basis.
- 9.5 This does not prevent action being taken by any individual authority at any time should offences become apparent.
- 9.6 The council will take in to account its adopted corporate enforcement policy when deciding what appropriate action to take.

Reviews

- 9.7 At any stage, following the grant of a premises licence, a responsible authority, or other person, may ask the council to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 9.8 In every case, the application for review must relate to particular premises for which a licence is in existence and must be relevant to the promotion of the licensing objectives.
- 9.9 The necessary forms and documents is available from the Council's website at <http://www.cheltenham.gov.uk/licensing> or from the licensing section during normal office hours.

Appendix A –Consultees

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Appendix B – Responsible Authorities

Gloucestershire Constabulary

Licensing Unit,
No 1 Waterwells, Waterwells Drive,
Quedgeley
Gloucester
GL2 2AN

Direct line: 01452 754482 Switchboard: 101

Fax: 01452 754797

Email: licensing@gloucestershire.police.uk

Gloucestershire Fire and Rescue Service

Service Delivery Support
Waterwells Drive
Quedgeley
Gloucester
GL2 2AX

Tel: 01452 753333

Fax: 01452 753304

Email: fire.safety@glosfire.gov.uk

Pollution Prevention

Environmental Protection
Public Protection
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 1PP

Tel: 01242 264135

Fax: 01242 264210

Email: ehbusinesssupport@cheltenham.gov.uk

Health and Safety Enforcement

Where the local authority is the enforcing authority

Cheltenham Borough Council
Health and Safety – Environmental Health
Public Protection Division
Municipal Offices
Promenade
Cheltenham
GL50 9SA

Tel: 01242 775178

Fax: 01242 264210

Email: ehbusinesssupport@cheltenham.gov.uk

Where the HSE is the enforcing authority

Health and Safety Executive
4th Floor, The Pithay
All Saints Street
BRISTOL
BS1 1ND

Telephone: 0117 988 6000

Fax: 0117 926 2998

Email: (i) For service employment e.g. Central and Local Government, NHS etc. the contact is paula.Johnson@hse.gsi.gov.uk

(ii) For other employment e.g. manufacture and repair, agriculture, transport, the contact is nigel.chambers@hse.gsi.gov.uk

Local Planning Authority

Planning Enforcement
Built Environment Division
Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 1PP

Tel 01242 264138

Fax 01242 227323

Email: planning@cheltenham.gov.uk

Child Protection

Gloucestershire Safeguarding Children Board
Block 4, 1st Floor, Room 133B,
Shire Hall,
Westgate Street,
Gloucester,
GL1 2TH

Tel: 01452 583629

Email: gscb@gloucestershire.gov.uk

Trading Standards

Gloucestershire County Council, Trading Standards,
Hillfield House
Denmark Road
Gloucester
GL1 3LD

Tel: 01452 426201

Fax: 01452 426274

Email: tradstds@gloucestershire.gov.uk

Responsible Authority for Health

Public Health Department
Block 4, 2nd Floor
Gloucestershire County Council
Shire Hall, Westgate Street, Gloucester GL1 2TG

Tel: 01452 328699

Email publichealth@gloucestershire.gov.uk

Appendix C – Pool of Model Conditions

Introduction

The conditions shall not be regarded as “standard conditions” which are to be automatically imposed on premises licences and certificates in all cases. The following are designed to provide a range of possible conditions which may need to be attached to premises licences or club premises certificates, depending upon differing situations.

All conditions attached to a premises licence and club premises certificate must be appropriate and proportionate to the application received.

The wording of the conditions may need to be modified to suit a particular premise and/or situation.

This is not an exhaustive or exclusive list of conditions.

Additional conditions may be drafted and attached to such licences and certificates to meet individual circumstances, both by the applicant in question, any responsible authority, or the Licensing Authority as deemed appropriate.

The majority of conditions refer to the ‘premises licence holder’ however, in some circumstances, it may be more appropriate for the designated premises supervisor to be responsible for complying with the condition. In these circumstances, the conditions can be amended to read ‘the designated premises supervisor or a competent person nominated by the designated premises supervisor’.

C&D – The Prevention of Crime & Disorder | **PN** – The Prevention of Public Nuisance | **CP** – Protection of Children from Harm | **PS** – Public Safety

Reference	Model Condition	Primary Licensing Objective*
Sale of Alcohol		
	There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.	C&D CP
	No super-strength beer, lagers or ciders of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.	C&D CP
	No single cans or bottles of beer or cider shall be sold at the premises.	C&D CP
	No more than x% of the sales area to be used at any one time for the sale, exposure for sale, or display of alcohol.	C&D CP

	Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to, a take-away meal.	C&D CP
	Alcohol shall only be sold to a person sitting down eating a meal and for consumption with that meal.	C&D
	Alcohol may only be sold to persons having a table meal or those waiting to be seated prior to having a table meal.	C&D
	Alcohol shall be sold to customers by waiter/waitress service only.	C&D
	There shall be no sales of alcohol for consumption off the premises.	C&D CP
	Alcohol consumed outside the premises shall only be consumed by patrons seated at tables.	C&D PN
	Any alcohol supplied for consumption off the premises must be in a sealed container.	C&D
	Substantial food and non-intoxicating beverages, including drinking water, shall be available in all parts of the premises where alcohol is sold or supplied for consumption on the premises during the periods when alcohol is authorised for sale.	C&D
Management of the Premises		
	A 'Winding-down and Dispersal' policy shall be adopted that includes measures to achieve a gradual and orderly dispersal of customers at the end of the trading session. These measures shall commence at least 15 minutes before the bar closes, and shall include slowing down the tempo of music, a significant reduction in the volume of music and announcements requesting customers to leave the premises quietly and respect the peace and quiet of the local residents.	C&D PN
	A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents in the vicinity.	C&D PN
	The Designated Premises Supervisor or premises license holder shall bring the contents of the licence and licence conditions to the attention of all door supervisors and other staff employed at the premises.	C&D PN CP PS
CCTV		

	A CCTV system consisting of a minimum of x cameras shall be installed at the premises. The CCTV system shall be maintained in good working order, shall record at all times the premises are open, and recordings shall be kept for a minimum of 14 days and be provided on DVD to officers of the council, Trading Standards or Police on request.	C&D
	A staff member from the premises, who is conversant with the operation of the CCTV system, shall be on the premises at all times when the premises are open to the public. This staff member must be able to show the Police or Licensing Officer recent data or footage with the absolute minimum of delay when requested to do so.	C&D
	No alcohol shall be sold if the CCTV equipment is inoperative for any reason.	C&D CP
Radios		
	<p>The premises licence holder shall join the Night Safe radio scheme or any similar scheme operating in the town and ensure that:</p> <ul style="list-style-type: none"> • The communication equipment is kept in working order at all times. If the communication equipment breaks then the Police shall be notified and the equipment shall be repaired within a reasonable time period; • The communication equipment shall be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public; • Any police instructions/directions are complied with whenever given; and • All instances of crime and disorder are reported via the communication equipment by the designated premises supervisor or a responsible member of staff to an agreed police contact point. 	C&D
Best Practice Scheme		
	The Designated Premises Supervisor shall maintain an active membership of the Night Safe (or successor 'pubwatch') including operation of the Nightsafe radio link.	C&D

Door Supervisors		
	A minimum of x SIA licensed door supervisor shall be on duty at the premises at all times whilst it is open to the public [or after xx.xx / until the last admission time for the public] .	C&D
	If door supervisors are required to undertake body searches then at least one female supervisor shall be available to undertake the body searches of female customers.	C&D
	A written search policy that aims to prevent customers or staff bringing illegal drugs, weapons or other illegal items onto the premises at any time shall be in place and operate at the premises.	C&D
	Where door supervisors are required the premises licence holder [or Designated Premises Supervisor] shall keep records showing the names of the supervisor, their SIA badge number & expiry date, and the date/time that they were employed. A copy should be available immediately upon request to an authorised officer of Gloucestershire Constabulary or the council.	C&D CP
	All staff engaged outside the entrance to the premises, or supervising or controlling queues, shall wear high visibility jackets or vests.	C&D
	For a period of 30 minutes following the closure of the Bar, or until all customers have dispersed from the immediate vicinity if longer, there shall be a minimum of x door supervisors on the street outside the premises wearing high-visibility clothing to ensure the safe, orderly and quiet dispersal of customers in the immediate vicinity.	C&D PN
Hours		
	Consumption of alcohol shall cease x minutes after the time authorised for its sale or supply/provision of licensable activities .	C&D PN
Entry to Premises		
	No public access to the premises shall occur through the [specify doors/area] . This condition shall not restrict the use of the doors in the event of an emergency.	C&D CP PS
	There shall be no entry or re-entry, other than staff members,	C&D

	to the premises after xx.xx save for customers using the agreed smoking area at the premises.	PN
	On occasions where licensable activities are carried on past xx.xx hours, admission of customers will be restricted to [enter restriction e.g. a particular entrance, a particular area of the licensed premises etc].	C&D
	In relation to the specified function room there shall be no admission after x other than to: (1) residents of the hotel and their bona fide guests; or (2) persons attending the pre-booked function	C&D
	All functions in the <i>specified function room</i> shall be pre-booked or ticketed events.	C&D PN
	No events solely for those under 18 will be permitted on the premises.	C&D CP
	The rules of admission to the premises shall be clearly and prominently displayed at each entrance to the Premises.	C&D CP
Alcoholic Containers		
	No glass bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff serving away from the bar.	C&D PS
	No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.	C&D
	The premises licence holder/designated premises supervisor shall ensure that no customers shall take glasses or open bottles from the premises other than into the outside area shown and edged [red] on the plan forming part of the premises licence.	C&D PN
	The premises licence holder shall ensure that only plastic or toughened glass containers will be used for the supply of beverages.	C&D
	There shall be no sale of alcohol in unsealed containers for consumption off the premises.	C&D
Notices/Signage		
	The premises licence holder shall ensure that a sign,	C&D

	indicating the hours during which licensable activities are permitted to take place, is displayed in, on or immediately outside the premises in a position where the notice can be conveniently read by members of the public.	PN
	The premises licence holder shall ensure that a sign, detailing any restrictions on the admission of children, is displayed on or immediately outside the premises in a position where the notice can be conveniently read by members of the public.	CP
Drugs		
	The Designated Premises Supervisor shall complete/attend a recognised 'drug awareness' training course [within **** weeks/by **** date, or the DPS shall have completed/attended such training].	C&D
	Staff shall be provided with 'drug awareness training', and be briefed on the drugs policy applicable to the premises.	C&D
	Any person found with illegal drugs must be reported to a Police officer immediately.	C&D
	Whilst licensable activities are taking place, the toilets at the Premises must be checked at least hourly for illegal drug use or supply. A written log of all checks must be kept at the Premises for at 31 days and made available for immediate inspection on the request of an authorised officer of Gloucestershire Constabulary or the Licensing Authority.	C&D
Promotions		
	There shall be no promotional sales of alcohol at the premises where alcohol is sold at a price lower than that at which the same or similar alcoholic drinks are sold, or usually sold, on the premises.	C&D
	There shall be no payment made by or on behalf of the licence holder to any person for bringing customers to the premises.	C&D
	28 days' notice shall be given to Gloucestershire Constabulary and the licensing authority of any events held which are organised by an outside promoter, including full details of the nature of the event and of the promoter.	C&D
Records		

	<p>An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the council. The log will record the following:</p> <ul style="list-style-type: none"> • all crimes reported to the venue • all ejections of customers • any incidents of disorder (disturbance caused either by one person or a group of people) [There is no requirement to record the above incidents (a), (b) or (c) where they do not relate to a licensable activity] • seizures of drugs or offensive weapons • any faults in the CCTV system or searching equipment or scanning equipment • any refusal of the sale of alcohol during the hours the premises is licensed to sell it 	C&D
Premises Layout		
	<p>The following alcoholic beverages shall be placed behind a staffed counter:</p> <ul style="list-style-type: none"> • mixed alcoholic beverages under 10% a.b.v. • beers or ciders over 5.5% a.b.v.; and • all spirits in bottles less than 70cl. 	C&D CP
	At least x members of staff shall be on duty on the shop floor between **** hours until closing time.	C&D
	The physical location of alcohol displays shall be in an area within sight of staff as identified on the plan of the premises annexed to the licence.	C&D CP
	The XX area shall be designated as a “chill-out” area whilst music and dancing are permitted on the premises which shall include adequate ventilation or fresh air; ready access to free drinking water; suitable seating accommodation; and access to First Aid facilities	C&D
	Seating for no less than [specify number] persons shall be provided in the premises at all times the premises are [specify “open” or “are providing any licensable activity”].	C&D
Use of Outdoor Area		
	The designated premises supervisor shall ensure that tables are cleared of all bottles and glasses on a regular basis during trading hours to avoid an accumulation of glassware.	C&D PN
	Customers will not be permitted to drink outside the premises	C&D

	save for in any seated area authorised under a pavement licence.	PN
Disabled People		
	The premises licence holder shall ensure that, when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency and that disabled people on the premises are made aware of those arrangements.	PS
First Aid		
	The premises licence holder shall ensure that an adequate and appropriate supply of first aid equipment and materials is available on the premises and at least one suitably trained first aider shall be on duty when the public are present and if more than one suitably trained first aider that their respective duties are clearly defined.	PS
	The Licensee shall ensure that at all times when the public is present there is at least one competent person able to administer First Aid, that an adequate and appropriate supply of First Aid equipment and materials is available on the Premises and that adequate records are maintained in relation to the supply of any First Aid treatment.	PS
Lighting		
	The premises licence holder shall ensure that, in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully operational when the public, members or guests are present.	C&D PS
Special Effects		
	Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, performers and staff.	PS
	The following special effects will only be used on 10 days prior notice being given to the Licensing Authority and Environmental Health where consent has not been previously been given: <ul style="list-style-type: none"> • dry ice machines and cryogenic fog • smoke machines and fog generators 	PS

	<ul style="list-style-type: none"> • pyrotechnics including fireworks • real flame • fire arms • motor vehicles • strobe lighting • lasers • explosives and highly flammable substances 	
	These special effects must only be used on the provision of a suitable and sufficient risk assessment and prior notification to the Licensing Authority and Environmental Health.	PS
	All escape routes and exits shall be kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified.	PS
	All exit doors shall be regularly checked to ensure that they function satisfactorily and a record of the checks shall be kept on the premises.	PS
Noise Nuisance (regulated entertainment)		
	The lobby doors at the premises shall be kept closed except for access and egress during the provision of regulated entertainment. Door staff, where employed, shall ensure that the doors are maintained closed as far as possible when regulated entertainment is taking place.	PN
	A noise limiting device shall be installed, fitted and maintained in such a manner so as to control all sources of amplified music at the premises during the provision of regulated entertainment. The noise limiting device shall be set at a limit determined by the Local Authority's Authorised Officer, such level being confirmed in writing to the premises licence holder.	PN
	Whenever any regulated entertainment occurs past 22:00 indoors all windows and doors shall be kept shut during these activities.	PN
	Loudspeakers shall not be located in the entrance lobby, [or specify another location if appropriate] or outside the premises.	PN
	Live music shall be provided by no more than two (2) performers on any day.	PN
	After 23:00 hours all windows shall be closed and remain closed.	C&D PN

	Unless otherwise specified on this licence no regulated entertainment shall take place at the premises with the exception of pre-booked private events limited to the provision of music and dancing for pre-invited guests.	C&D PN
	Where any regulated entertainment occurs at the premises, the Designated Premises Supervisor, or a person nominated by them, will ensure that noise from such activities is effectively inaudible inside the nearest noise sensitive premises.	PN
Noise Nuisance (people)		
	Prominent, clear notices shall be displayed at [all exits / in the beer garden] requesting customers to respect the needs of local residents and leave the premises and the area quietly.	PN
	The premises licence holder shall monitor the activity of persons leaving the premises [after xx:xx/are closed to the public] and remind them of their public responsibilities where necessary.	PN
	Customers permitted to temporarily leave and then re-enter the premises e.g. to smoke, shall not be permitted to take drinks or glass containers with them.	C&D PN
	Deliveries to the premises shall only be made between **.**. hours and **.**. hours on Mondays to Saturdays only.	PN
	The pavement from the building line to the kerb edge immediately outside the premises, including gutter/channel at its junction with the kerb edge, shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements.	PN
Lighting		
	Internal and external lighting provided for the purpose of customer and staff safety and for the security of the premises shall be positioned so as not to cause nuisance to neighbouring or adjoining properties.	PN
	Lighting associated with regulated entertainment shall be positioned so as not to cause nuisance to neighbouring or adjoining properties.	PN
	Lighting provided externally to promote advertising of the premises or activities associated with the premises shall be	PN

	of an intensity such as not to cause nuisance to neighbouring or adjoining properties.	
Open Spaces		
	The area within which alcohol is served or consumed shall be clearly and effectively delineated using barriers, ropes, or similar so that the extent of the Designated Place where the licensable activity is temporarily permitted shall be clearly defined and notices shall be conspicuously placed in the area.	C&D PN
	Music noise levels from outdoor regulated entertainment must not exceed those defined in the Code of Practice on Environmental Noise Control at Concerts' (The Noise Council 1995 ISBN 0 900103 51	PN
	Use of the outdoor area will cease at 23:00 everyday.	PN
Other Nuisance		
	A public refuse bin shall be installed outside the premises subject to any necessary planning permission or listed building permission.	PN
	The premises licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.	C&D PN
Litter		
	At the termination of business on each day the outside area immediately to the front of and adjacent to the premises shall be cleared of debris and litter.	PN
Other		
	In cases of an event involving a significant number of unaccompanied children, the premises licence holder shall have a child protection policy in place to carry out suitable checks on staff before they take up employment.	CP
	A Challenge [21/25/or any other suitable age] policy shall be operated at the premises at all times. All staff shall require identification of all customers who appear to be less than [21/25/ or any other suitable age] years old and wish to	CP

	purchase alcohol. Acceptable proof of age will be a PASS approved proof of age card, UK passport or a UK photographic driving licence.	
	Challenge [21/25/ or any other suitable age] materials shall be displayed at the premises, including at the point of sale of alcohol, to inform customers of the operation of the scheme.	CP
	A log shall be kept at the premises and record all refused sales of alcohol for reasons that the person(s) is, or appears to be, under x years of age. The log shall record the date and time of the refusal and the name of the member of staff who refused the sale. The log will be made available on request by the Police or an authorised officer of the council.	CP
	Children under the age of x years shall not be allowed on the premises after **:.* hours unless accompanied by an adult.	CP
	Children under the age of x years shall not be allowed on the premises.	CP
	No single cans or bottles of beer or cider shall be sold at the premises.	C&D CP
	Clearly visible signage is to be displayed at the entrances and at points of sale indicating it is illegal to sell alcohol to people under the age of 18.	CP
	The licence holder or the licence holders, servants, or agents, shall ensure that no flyposting is undertaken by the licence holder or on behalf of the licence holder in respect of any performance or event taking place at the premises.	PN C&D
Queuing		
	Any designated queuing area shall be enclosed within appropriate barriers to ensure that the highway is kept clear.	C&D
Dispersal		
	A minimum 30 minute 'drinking-up' time shall be provided to allow appropriate dispersal, use of lavatories etc.	C&D PN
	A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.	C&D CP

	Freephones or payphones shall be made available to all customers and have displayed contact telephone numbers for selection of hackney carriages and private hire services.	PN
Boxing & Wrestling		
	At least 28 days' notice of any event involving boxing or wrestling entertainment events shall be provided to the licensing authority and the health and safety enforcing authority.	C&D

Appendix D – Designated Area of Concern

