

Cheltenham Borough Council

Licensing Sub Committee – 3 January 2014

Licensing Act 2003: Determination of Application for a Premises Licence

Cheltenham Cricket Club, Princes Street, Cheltenham

Report of the Licensing Officer

1. Introduction

- 1.1 The Licensing Act 2003 (the Act) allows applicants to apply for a premises licence at any time. In this case, an application for a new premises licence was received on 7 November 2013 from Cheltenham Cricket Club, Princes Street, Cheltenham. A copy of the application is included at **Appendix A**. (See pages 17)
- 1.2 Cheltenham Cricket Club currently benefits from a Club Premises Certificate which was granted in 2005. The Club Premises Certificate authorises the Club to supply alcohol and provide certain forms of regulated entertainment *to Members of the Club and their guests, but not to the wider public*. A copy of the existing Club Premises Certificate is at **Appendix B**. (See pages 35)
- 1.3 If this application for a Premises Licence is granted it would enable the following licensable activities to be provided to the general public as well as Members of the Club and their guests.

Licensable activities	Dates and times
Sale/Supply of Alcohol	Sunday 14:00 - 23:00
	Monday to Thursday 18:00 - 23:00
	Friday to Saturday 12:00 - 00:00
Performance of Live Music (Indoors)	Sunday 14:00 - 23:00
	Monday to Thursday 18:00 - 23:00
	Friday to Saturday 12:00 - 00:00
Performance of Recorded Music (Indoors)	Sunday 14:00 - 23:00
	Monday to Thursday 18:00 - 23:00
	Friday to Saturday 12:00 - 00:00
Other/Similar Entertainment (Indoors)	Sunday 14:00 - 23:00
	Monday to Thursday 18:00 - 23:00
	Friday to Saturday 12:00 - 00:00

Late Night Refreshment	Friday to Saturday	23:00 - 00:00
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1.4 Representations have been received from 6 local residents. The objections are summarised below and are attached at **Appendix C**. (See pages 39)

1.5 For purposes of comparison, **Appendix D** shows the activities and times authorised by the existing Club Premises Certificate alongside those applied for by way of this Premises Licence application. (See page 57)

1.6 Implications

1.6.1 Financial

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1.6.2 Legal

A sub committee is required to discharge its duty and determine an application with a view to promoting the licensing objectives. These objectives, which are set out in section 4(2) of the Licensing Act 2003, 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.

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2. Application (Ref. 13/01937/PRMV)

2.1 Applicant: Cheltenham Cricket Club

2.2 Agent: Russell Manning

2.3 Premises: Cheltenham Cricket Club, Princes Street, Cheltenham, Gloucestershire, GL52 6BE

2.4 The applicant has volunteered to take various steps to promote the four licensing objectives which are as follows and will become conditions on the licence if it is granted.

(a) Suitable notices shall be posted to request members, guests and customers to leave the premises quietly and behave in ways that respect the interests of residential neighbours.

(b) Use of the outdoor areas will cease at 23:00 every day.

(c) Openings such as doors and windows to be closed when the premises is open (other than for normal access and exit or emergency use) - ventilation within the premises should be sufficient to cope with maximum activity / occupation on a warm summer evening without leaving doors and windows open.

(d) Whenever any regulated entertainment occurs past 22:00 indoors all windows and doors shall be kept shut during these activities.

(e) A 'Challenge 21' scheme (or equivalent) shall be adopted so that any customer attempting to purchase alcohol who appears to be under the age of 21 shall be asked for an accredited photographic proof of their age (e.g. passport, driving licence or PASS-approved card) and that a sale shall not be made unless this evidence is produced.

3. Responsible Authorities

3.1 No objections were received from responsible authorities.

3.2 **Police:** Members are to note however that the following condition proposed by Gloucestershire Constabulary has been agreed by the applicant:

“The need for door supervisors shall be assessed by the Licence Holder or Designated Premises Supervisor on a regular basis and door supervisors shall be employed when and where the risk assessment deems it to be appropriate.”

3.3 If the licence is granted it will be subject to the above condition.

3.4 **Environmental Health:** The Senior Environmental Health Officer did not object to the application or ask for additional conditions to be added, but made the following comments.

“In relation to the application for Cheltenham Cricket Club there are no objections or adverse comments to make from environmental protection.

The last noise related complaint received was September 2009 and since then the premises has used a number of TEN's and there have been no noise complaints made as a result of these.

I have contacted the applicant and the following is a summary of our discussion:

- the club will be open the same hours as it is now, Russ applied for the full premises license so that club members can have more than one guest in and non-member residents can come in too e.g. when the beer festival is on or fireworks, the residents etc. can come in too

- Russ wants to make it more of a community facility as other pubs in the area are now closed

- advised if there is any music nights on or similar to alert local residents about it with end times as well as a contact number should there be a problem at the time they can phone in and speak to someone on site

- also advised to keep good management of any outside smoking areas and noise levels which he agreed to do”

4. **Other People**

4.1 6 relevant representations have been received from local residents.

4.2 **Rachel and Daniel McCauley (18 Princes Street)** have objected to the application on the grounds of potential noise nuisance. They have expressed concern that having a Premises Licence rather than a Club Premises Certificate could increase the number of events at the premises which could in turn increase noise and other nuisance

4.3 **Sarah Mustoe (17 Princes Street)** has objected to the application on the grounds of potential noise nuisance caused by live music at the premises, the potential for crime and disorder caused by customers leaving the premises, and the potential adverse effect on children in the area.

4.4 **Marilyn Brien (22a Princes Street)** has objected to the application on the grounds of potential noise disturbance and potential crime and disorder resulting from the change of operation at the premises.

4.5 **Jonathon Beddoes (15 Princes Street)** has objected to the application on the grounds of all four licensing objectives: public safety, the prevention of public nuisance, the prevention of crime and disorder and the protection of children from harm.

4.6 **Sharon Bateman (20 Princes Street)** has objected to the application on the grounds of potential public nuisance, crime and disorder and public safety.

4.7 **Rod Brien (address not given)** has objected to the application on the grounds of the potential for public nuisance.

5. Local Policy Considerations

- 5.1 The 2003 Act introduces a unified system of regulation through two new types of licences: the premises licence (club premises certificates for qualifying clubs) and the personal licence. The Borough Council, as the licensing authority, is responsible for licensing all outlets in the borough that sell or supply alcohol or carry out any other 'licensable activities': public entertainment, theatre, cinema, or late night refreshment.
- 5.2 The new system is underpinned by four objectives: i) the prevention of crime and disorder; ii) public safety; iii) the prevention of public nuisance; and, iv) the protection of children from harm. The licensing authority must promote these objectives in carrying out its functions.
- 5.3 The Council's adopted licensing policy statement (Council 10th Feb 2012) includes the following:
- 5.4 The main purpose of this policy is to provide clarity to applicants, interested parties and responsible authorities 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 three years. It will also inform elected Members of the parameters within which licensing decisions can be made. (Paragraph1.3)
- 5.5 Through this policy the Council hopes that residents of and visitors to Cheltenham will be able to enjoy their leisure time safely and without fear of violence, intimidation or disorder while at licensed premises. (Paragraph1.4)
- 5.6 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. (Paragraph1.5)
- 5.7 It should be understood that this policy and the section 182 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. (Paragraph1.6)
- 5.8 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. (Paragraph 4.1)
- 5.9 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. (Paragraph 4.2)
- 5.10 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 appropriate to promote the licensing objectives will be imposed. (Paragraph 4.3)

- 5.11 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. (Paragraph 4.5)
- 5.12 Through their operating schedule, applicants will be expected, where necessary, to demonstrate the positive steps taken to promote the licensing objectives. (Paragraph 5.3)
- 5.13 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. (Paragraph 5.4)
- 5.14 Applicants will 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. (Paragraph 5.6)
- 5.15 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. (Paragraph 5.7)
- 5.16 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. (Paragraph 5.12)

Crime and disorder

- 5.17 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. (Paragraph 5.11)
- 5.18 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. (Paragraph 5.12)

Public Safety

- 5.19 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. (Paragraph 5.17)
- 5.20 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 Licensing Authority, 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. (Paragraph 5.18)

- 5.21 The Borough-wide Nightsafe network encourages 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. (Paragraph 5.20)
- 5.20 Best Bar None (BBN) is a national award scheme supported by the Home Office and aimed at promoting responsible management and operation of alcohol licensed premises. It was piloted in Manchester in 2003 and found to improve standards in the night time economy, with premises now competing to participate. The aim of BBN is to reduce alcohol related crime and disorder in a town centre by building a positive relationship between the licensed trade, police and local authorities. The Council will actively encourage licensed premises to sign up to the BBN scheme. (Paragraph 5.21)

Public Nuisance

- 5.21 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. (Paragraph 5.22)
- 5.22 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. (Paragraph 5.23)
- 5.23 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. (Paragraph 5.24)
- 5.24 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. (Paragraph 5.25)
- 5.25 Where relevant representations are received, the Council may attach appropriate conditions to licences, appropriate to support the prevention of undue noise disturbance from licensed premises. Where premises remain open after midnight 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. (Paragraph 5.26)

- 5.26 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. (Paragraph 5.29)
- 5.27 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. (Paragraph 5.30)
- 5.28 Conditions may include maximum noise levels over particular time periods, the installation of acoustic lobbies; provision of signs, publicity and dispersal policies. (Paragraph 5.31)

Protection of children from harm

- 5.29 The Council needs to satisfy itself that there are appropriate measures in place to protect children from harm. (Paragraph 5.32)
- 5.30 The Council will expect applicants, where necessary to consider the measures necessary to promote the licensing objective of protecting children from harm when on the premises. (Paragraph 5.33)
- 5.31 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;
 (c) attractions or performances likely to attract children. (Paragraph 5.34)
- 5.32 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. (Paragraph 5.35)

6. National Guidance

- 6.1 Statutory guidance has been issued under Section 182 of the Licensing Act 2003. The committee must have regard to the guidance when determining this application. Below are relevant extract for the benefit of the committee. Emphasis added.

Licensing objectives and aims

- 6.2 The legislation provides a clear focus on the promotion of four statutory objectives *which must be addressed when licensing functions are undertaken*. (1.2)
- 6.3 The licensing objectives are:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm. (1.3)

6.4 *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. (1.4)*

6.5 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. (1.5)

Legal status

6.6 *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. (1.9)*

Licence conditions – general principles

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

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);

- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format. (1.16)

Each application on its own merits

- 6.8 *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. (1.17)*

Public nuisance

- 6.9 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. (2.18)
- 6.10 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include, in appropriate circumstances, the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health. (2.19)
- 6.11 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. (2.20)
- 6.12 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. (2.21)

- 6.13 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave. (2.22)
- 6.14 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night. (2.24)

Crime and disorder

- 6.15 *Conditions should be targeted on deterrence and preventing crime and disorder.* For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition. (2.3)
- 6.16 *Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences.* The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety. (2.6)

Protection of children from harm

- 6.17 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 with alcohol 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). (2.25)
- 6.18 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. (2.26)

6.19 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. (2.28)

6.20 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. (2.29)

6.21 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. (2.30)

6.22 *Licensing authorities should give considerable weight to representations about child protection matters.* (2.32)

Public safety

6.23 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)

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

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- 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;
- 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; and
- Considering the use of CCTV in and around the premises (this may also assist with promoting the crime and disorder objective). (2.9)

6.25 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. 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. (2.10)

Ensuring safe departure of those using the premises

- 6.26 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. (2.11)

Maintenance and repair

6.27 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

6.28 “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. (2.1)

- 6.29 It should also be noted in this context that it remains an offence under the 2003 Act to sell or supply alcohol to a person who is drunk. This is particularly important because of the nuisance and anti-social behaviour which can be provoked after leaving licensed premises. (2.14)
- 6.30 Where an authorisation is required under the 2003 Act for a performance of dance (see paragraphs 15.10 and 15.15 below), section 177 of that Act provides that any licence condition which relates to a performance of dance has no effect if certain conditions are met. In particular, the suspension of licence conditions can only occur if the permitted capacity of premises is not more than 200 persons. 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. (2.15)
- 6.31 Whilst the Cinematograph (Safety) Regulations 1955 (S.I. 1955/1129) – which contained a significant number of regulations in respect of fire safety provision at cinemas – no longer apply, authorisations granted under Schedule 8 to the 2003 Act will have been subject to conditions which re-state those regulations in their new premises licence or club premises certificate. Any holders of a converted licence seeking to remove these conditions and reduce the regulatory burden on them (to the extent to which that can be done while still promoting the licensing objectives), would need to apply to vary their converted licences or certificates. When considering applications for variations, minor variations, and the grant of new licences, licensing authorities and responsible authorities should recognise the need for steps to be taken to assure public safety at these premises in the absence of the 1955 Regulations. (2.16)
- 6.32 Public safety includes the safety of performers appearing at any premises. (2.17)

7. Licensing Comments

- 7.1 The committee must have regard to the statutory guidance issued by the Secretary of State, the Council’s adopted policy statement, the representations made and the evidence it hears when determining this application. In particular, the committee must seek to promote the four licensing objectives when determining the application.
- 7.2 A plan of the location of the premises is attached **Appendix E** (See page 59) and an plan of the premises itself is attached at **Appendix F** (See page 61).
- 7.3 Members should take into consideration only those objections which relate to this individual application and only those which relate to one or more of the licensing objectives, which are:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- Members should disregard objections which do not relate to the licensing objectives or which are not specifically to do with this application and these premises.
- 7.4 The objectors have raised a number of issues that are dealt with in turn below:

- **Extension of hours** – Several residents have referred in their objections to this application being one to extend opening hours. Members are to note that, in fact, the activities and times applied for in this application are broadly the same as those already authorised by the existing Club Premises Certificate. This application does not seek to extend the times during which licensable activities may be authorised at the premises, but to enable those activities to be provided to people who are not Club Members or guests of Club Members.
- **Litter** – Members are to note that comments relating to litter cannot be considered relevant because they do not relate to any of the four licensing objectives and there is other legislation that can be deal with the problem of litter.
- **Traffic, speeding vehicles and parking** – Comments relating to problems caused by traffic and parking cannot be considered relevant because they do not relate to the licensable activities applied for or to the licensing objectives and there is other legislation that can deal with problematic parking and traffic.
- **Proliferation of other premises** – Some objectors have questioned why this application is necessary given that there are other premises in the area. Members are reminded that such comments are not relevant as this application should be considered solely on its own merits and not in relation to other premises.
- **Property prices** – One objector has referred to the possible effect of this application on property prices in the local area. As the value of property is not related to any of the licensing objectives, such comments should be disregarded.
- **Sale of Liquor Act 1989** – An objector has referred to this piece of legislation. Members are advised that the Sale of Liquor Act 1989 is valid in New Zealand only and that this application has been made under UK legislation, specifically the Licensing Act 2003.
- **How the application was publicised** – Some objectors have made reference to the way the application was publicised to residents. Members are advised that the legislation prescribes how such applications must be publicised (by way of public notices displayed at the premises and in the local newspaper) and that the applicants took such steps to publicise the application as they were required to take in law.

7.5 The committee, having regard to the all of the above, must take such steps as it considers appropriate for the promotion of the licensing objectives which can include:

- Granting the application as requested;
- Modifying the conditions of the licence; or
- Rejecting all or part of the application.

Background Papers

Service Records

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