

Cheltenham Borough Council

Licensing Sub Committee – 04 April 2013

Licensing Act 2003 Determination of application for a Premises Licence

**Home Bargains
Unit 2, Golden Valley Retail Park,
Hatherley Lane, Cheltenham
Gloucestershire, GL51 6TA**

Report of the Licensing Officer

1. Introduction

1.1 The Licensing Act 2003 (the Act) allows applicants to apply for a premises licence or a variation of an existing premises licence at any time. In this case, an application was received on 07 February 2013 from T.J. Morris Limited, trading as Home Bargains, in respect of Unit 2, Golden Valley Retail Park, Hatherley Lane, Cheltenham GL51 6TA.

1.2 A copy of the application form is included at **Appendix A**.

1.3 The applicant has applied for a premises licence for the following licensable activities at the dates and times shown:

Sale of alcohol for consumption off the premises	Every Day	08:00 – 22:00
--	-----------	---------------

1.4 If this application is approved a premises licence will be issued.

1.4 Implications

1.4.1 Financial

**Contact officer: Sarah Didcote
E-mail: sarah.didcote@cheltenham.gov.uk
Tel no: 01242 26 4125**

1.4.2 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.

In relation to crime and disorder the purpose of the licence is to regulate behaviour on and access to premises where this relates to the licensable activities and the licensing objectives. Licence conditions do not need to replicate offences that are set out in the Licensing Act 2003 or other legislation.

In relation to the protection of children from harm this includes protecting children from the harms associated with alcohol. The sale of alcohol to children is regulated by other legislation.

The Council also has a duty under section 17 of the Crime and Disorder Act to exercise its functions in a reasonable way to prevent crime and disorder however this duty must be exercised in a way that promotes the licensing objectives.

Sarah Farooqi

E-mail: Sarah.Farooqi@teWKesbury.gov.uk

Tel no: 01684 272693

2. Application (Ref. 13/00202/PRMA)

2.1 Applicant: T.J. Morris Limited T/A Home Bargains

2.2 Agent: DWF LLP, 5 St Paul's Square, Old Hall Street, Liverpool, L3 9AE

2.3 Premises: Unit 2, Golden Valley Retail Park, Hatherley Lane, Cheltenham GL51 6TA

2.4 As part of the application, the applicants have stated that they intend to take the following steps to promote the licensing objectives:

2.4.1 The prevention of crime and disorder

CCTV will be installed and images retained for a minimum of 28 days for prosecution purposes. The premises will operate a 'Challenge 25' policy so that any person attempting to purchase alcohol who does not appear to be at least 25 years of age will be required to prove that they are aged at least 18. Staff will undergo training concerning knowledge of licensing law and social impact of the sale of alcohol.

2.4.2 Public safety

The premises will comply with legal requirements for fire safety and health and safety, including periodic risk assessments.

2.4.3 The prevention of public nuisance

Alcohol will be sold for consumption off the premises only. There will be no form of entertainment on the premises. No outdoor areas will be utilised for the benefit of members of the public. The premises operate within the required litter/refuse regulations. The management policy at the premises is to welcome communication with any local persons in relation to the prevention of public nuisance or any other licensing objectives.

2.4.4 The protection of children from harm

The premises will operate a 'Challenge 25' policy so that any person attempting to purchase alcohol who does not appear to be at least 25 years of age will be required to prove that they are aged at least 18. Acceptable forms of identification are a 10-year passport, PASS logo proof of age card or photocard driving licence. The company will operate a due diligence policy incorporating the Challenge 25 policy, full training for staff and the operation of a refusal record. There will be prominent signage located throughout the store confirming the legal minimum age for the purchase of alcohol and other age restricted products.

- 2.5 A copy of the application form is included at **Appendix A**. Steps to promote the licensing objectives are included in the operating schedule on page 13 of the application form.
- 2.6 An internal layout plan of the premises is at **Appendix B** of this report.
- 2.7 A location plan of the premises is at **Appendix C** of this report.

3. Responsible Authorities

3.1 Gloucestershire Constabulary

The Constabulary has objected to the application on the grounds of:

- The protection of children from harm
- The prevention of crime and disorder

3.1.1 The Constabulary's representation is as follows:

This application relates to a new Home Bargains store situated adjacent to B & Q at the newly developed Golden Valley Retail Park, Cheltenham. The Constabulary's objection to the grant of an alcohol licence is made on the grounds of:

- The protection of children from harm
- The prevention of crime and disorder

GROUNDS FOR OBJECTION

Alcohol is an age-restricted product with serious or even fatal consequences for any child or teenager who consumes an excessive amount. In addition to the risks it poses for the youngsters who consume the alcohol, it fuels anti-social behaviour and crime in the community. As with cigarettes, knives, and other age-restricted products there is a fundamental need for this product to be controlled to a much higher degree than normal everyday items, so that under-age children do not have easy access to alcohol.

Gloucestershire Trading Standards and the Constabulary have carried out a huge amount of work in Cheltenham (especially Test Purchasing) over the past few years to try and reduce the accessibility of alcohol to children. Despite making considerable progress, Cheltenham fares very badly as far as 'protection of children from harm' is concerned. Alcohol-specific hospital admissions for under 18's in Cheltenham are "significantly worse than the national average" (see Local Alcohol Profiles for England). Recent Test Purchase operations using 15-year old children have also shown an unwelcome rise in the failure rate. In summary, there is still a huge amount of progress to be made and there is no room for complacency in this area.

Store Layout & Crime Reduction Measures

Home Bargains intend to locate the main Alcohol display within sight of the main till, which is helpful. The Constabulary has asked that any spirits (over 20% ABV) that are to be sold must either be tagged with a Security Tag or, alternatively, displayed behind a counter where staff can control access. These two conditions are regularly used throughout the County of Gloucestershire to combat theft of spirits (which are a favoured item for shoplifters) and both have proven to be effective methods of reducing the problem.

There is actually a counter at the Lead Till, where cigarettes will be sold, however Home Bargains have declined a condition “To display spirits only behind a counter” or “Not to sell spirits.”

In these circumstances, the Constabulary takes the view that a Security Officer should be employed to monitor suspicious individuals, known troublemakers or previous offenders. However, Home Bargains have declined a condition to employ a Security Guard – even for a limited period i.e. peak trading times/days. This, in effect, leaves the alcohol vulnerable to theft, including theft by under-agers.

Drunken Customers

Alcohol is a product that also needs to be restricted when it is being sought by those who are already drunk.

If drunken customers are refused service by staff, they will sometimes be tempted to steal the product instead. Even if staff see thefts occur, there will be no Security Guard at the store to deal with it, so the responsibility for dealing with the problem would shift entirely to the Police who would have to try to identify, locate and arrest an offender after they had left the store. This is usually a very lengthy and difficult process, compared with incidents where an offender has been detained at the scene.

Theft

- Theft is a major problem in British society, and is the most frequent crime linked to the retail sector.
- During 2011, there were 10,233 crimes in Cheltenham, of which 3,903 (38%) were Thefts of various categories.
- Of these various Thefts 1,039 (26%) were Shoplifting. Additional categories of Theft that take place in supermarkets include ‘Theft by employees’ and ‘Theft from the person’ (theft of purses from shopping trolleys for example).

The Retail Sector, therefore, places enormous demands on the police. Each arrest consumes approximately 7 hours of a Police Officer’s time, during which time they are unavailable for other demands for policing in the local community.

Theft of Alcohol

Alcohol is one of the most-frequently-stolen items and it is often specifically targeted by thieves. Unfortunately, stores and supermarkets often invite theft, by placing alcohol displays close to the entrances/exits. This is regarded by the Constabulary as an irresponsible practice, as it not only tempts shoplifters to steal, but affords shop-staff no realistic opportunity to intervene to prevent the theft of such items. For this reason, the Constabulary is seeking a condition that alcohol shall not be displayed within 5 metres of the entrance/exit. Without such a condition this store would be at liberty to place a freestanding display just inside the entrance.

Home Bargains have indicated that they would accept such a condition.

Crime Reduction Measures

There are many measures that Licence Holders can take to reduce their Crime & Disorder levels, thereby reducing demand on the Constabulary and minimising impact on the local community:

- The use of Uniformed Security Staff as a Crime Prevention measure in stores is hard to overstate. Their ‘visible presence’ at a store entrance or overseeing Alcohol displays has a positive deterrent effect for thieves. The role of Security Guards is particularly necessary in supermarket-style stores, where shelving is so high that staff cannot easily monitor customers (as in a small shop or Off-Licence). The presence of a Security Guard not only acts as a deterrent to criminals who are intent on stealing goods, but also provides a degree of protection for staff and customers. Their presence, allied with good observations, is the single most effective measure to combat shoplifting and general disorder. Security Officers perform a specialised role and are the main point-of-contact and providers of good quality evidence when involvement of the Police is necessary.

A Security Guard enables vulnerable products to be monitored, enables suspicious activity to be properly observed and allows offenders to be detained when necessary. It also means that incidents of a minor nature can be dealt with 'in-house', without constantly calling on the Police to assist. Most importantly, it enables stores to enforce a Ban against previous offenders. The latter, if not implemented, permits repeat offenders to return to the store time-after-time.

Home Bargains have indicated that they are relying on shop staff to prevent thefts; however it is the experience of the Constabulary that, whilst the presence of shop staff can act as a deterrent, they are usually busy with other duties, so will not be observing the alcohol display or suspicious customers. Moreover stores generally direct staff not to get involved in dealing with crime and disorder issues, due to risks involved e.g. assault. The Constabulary has requested sight of the company's policy on staff directives, but has not yet seen it.

In essence, the presence of a Security Officer has a direct bearing on the level of Crime & Disorder and on the demands being made on the Police, and they are the single most important crime-reduction measure.

- 'Tagging' of Alcohol causes an alarm to sound if an individual attempts to leave the store with Alcohol without first having the Tag removed/de-activated at the Checkout. This is an effective measure that helps to reduce Theft by making it more difficult for goods to be stolen unnoticed although, for practicality, tagging is often confined to Spirits (where large highly-visibility tags are used) or the more valuable bottles of alcohol.

Home Bargains are not wishing to implement a Tagging system to protect their products.

During discussions, Home Bargains made a comparison with their existing store within Gloucestershire (which is based at Merrywalks, Stroud) and pointed out that it does not suffer significant crime & disorder problems. However, that store is situated within a Shopping Mall that benefits from the constant presence of a Security Officer on every day of the week. Without that Security presence the store would undoubtedly experience higher levels of crime & disorder, as the Security Officers intercept and observe known troublemakers and thieves. This strategy gives a high degree of protection to all the stores within the Mall; as one also sees at other Malls such as the Regent's Arcade, the Beechwood Shopping Centre and the Brewery, where crime & disorder in individual units is low.

The Mall in Stroud also benefits from participation in a local 'Shopwatch' which alerts the Security Officers to undesirables and links directly to the Police Camera Room.

I have undertaken research regarding the Merrywalks Mall and can say that 108 incidents are recorded for the period 1/1/12 – 4/3/13.

Home Bargains have also indicated that they are relying on their CCTV system to combat crime. Whilst CCTV systems act as a deterrent to some extent, they are of limited value as they simply record crimes that take place. It does not stop them occurring. Home Bargains have indicated that, when a crime occurs, they would supply CCTV footage of the crime to the Police. This places the onus and workload on the Constabulary to investigate a crime after the offender has gone; a crime that is often preventable if adequate security and crime prevention measures are in place in the first instance.

Supermarkets and discount stores compound Crime & Disorder problems in our communities by engaging in a 'price war' over the sale of Alcohol. Alcohol is often discounted to very low levels and is aggressively marketed, hence the Government currently considering Minimum Pricing. The promotion of Alcohol in this manner is not without it's consequences in the community.

The sale of alcohol is a significant part of the core business for Home Bargains, and this discount store is situated very close to ASDA where alcohol is sold at low prices. Home Bargains is likely to compete with them on price. ASDA accepted a condition on their licence for a Security Guard between 1100hrs and closing time, even though they also have Tagging and CCTV. As a result, ASDA has low crime & disorder and makes very few demands on the Constabulary's resources.

CONCLUSION

It should be noted that the Licensing Act Objectives quite rightly place an emphasis on the PREVENTION of crime and disorder. Without appropriate Conditions, the Grant of this Application is likely, in the view of the Constabulary, to lead to unnecessarily high crime & disorder, and a higher risk of harm to children.

Home Bargains have declined to accept a condition that they will employ a Security Guard if the number of crimes exceeds four per month. They have also declined to give an Undertaking for a Security Guard for the first 3 or 6 months of trading whilst an assessment is made of the long-term need or otherwise.

Aside from reported crime, a Security Guard would also help the store reduce stock losses, so is partially self-funding.

This application is, therefore, opposed by the Constabulary on the grounds related above.

In the event that the Committee grants this Licence, the Constabulary seeks the Conditions below:

1. The Challenge 25 scheme shall be adopted.
2. The premises shall operate a system of till prompts to assist colleagues determining the age of customers purchasing age-restricted products.
3. Alcohol shall only be displayed in direct line-of-sight of the main till.
4. Unless behind a sales counter, alcohol shall not be displayed within 5 metres of the main entrance/exit.
5. A CCTV system consisting of at least 4 cameras shall be installed at the premises. At least 1 camera shall cover the alcohol display and at least 1 camera shall cover the main entrance to 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.
6. Spirits shall only be displayed behind the counter (or shall not be sold). (For the purpose of this condition Spirits shall be defined as being an alcoholic product with an alcohol by volume (ABV) percentage in excess of 20%)
OR
Security Tags shall be fitted to all spirits over 500ml.
7. A Security Guard shall be employed at the premises for a minimum of 20 hours per week.

The Committee is respectfully reminded that, under Section 17 of the Crime & Disorder Act, "it shall be the duty of each authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area".

[The Constabulary's representation ends here]

Home Bargains	Page 6 of 12	Last updated 25 March 2013
---------------	--------------	----------------------------

3.1.2 A full copy of the Constabulary's representation, including a supporting statement from the Acting Inspector, is at **Appendix D**.

3.2 **Responsible Authorities**

No representations have been received from any of the other responsible authorities.

4. **Other People**

No representations have been received from any other person.

5. **Local Policy Considerations**

5.1 The 2003 Act introduces a unified system of regulation through two new types of licences: the premises licence and the personal licence (club premises certificates for qualifying clubs). 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 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)

5.5 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. (Paragraph 4.2)

5.6 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)

5.7 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)

5.8 Through their operating schedule, applicants will be expected, where necessary, to demonstrate the positive steps taken to promote the licensing objectives. (Paragraph 5.3)

5.9 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)

- 5.10 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)
- 5.11 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 by “interested parties” or by “responsible authorities“(Paragraph 6.1)
- 5.12 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)
- 5.13 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)
- 5.14 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)
- 5.15 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)
- 5.16 **The prevention of crime and disorder** - 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)
- 5.17 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)
- 5.18 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
 (f) Anti-social behaviour. (Paragraph 5.13)
- 5.19 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. (Paragraph 5.14)
- 5.20 Annex D part 1 of the Secretary of State’s revised Guidance sets out matters that may be relevant to the imposition of conditions relating to crime and disorder on licensed premises. Where relevant representations are received the Council may impose appropriate

conditions on premises licences and club premises certificates in accordance with this guidance. (Paragraph 5.15)

5.21 Appropriate conditions include:-

- (a) adoption of a 'Challenge 21 or Challenge 25' policy;
- (b) adoption of best practice guidance including our voluntary code of practice for Reducing Alcohol Related Violence (RARV);
- (c) agreeing a prescribed capacity for the premises;
- (d) requirements for an appropriate ratio of tables and chairs to customers, based on capacity, and for areas to be allocated permanently for seated customers in order to prevent overcrowding, which can lead to disorder and violence;
- (e) a requirement for Security Industry Authority registered door supervisors to control numbers of persons entering the premises and to deny entry to individuals who appear drunk, disorderly or intent on crime;
- (f) requirements that drinking vessels be made of toughened glass or plastic or other materials that do not form a sharp edge when broken, and that glass bottles are not passed to customers. This may be a particular concern if drinks are to be consumed outside premises;
- (g) restrictions on drinking in areas within and outside the premises;
- (h) limitations on the types of promotions of alcoholic drinks, so as not to encourage excessive drinking, or drunkenness;
- (i) the maintenance of good order by the management, particularly where alcohol is supplied for consumption and where large numbers of people are admitted;
- (j) dedicated communications networks between management teams, local police and other licensed premises to provide early warning of disorder;
- (k) warning signs about crime prevention measures;
- (l) clear policies and measures to prevent weapons or illegal drugs being brought onto the premises and measures to discourage the use of illegal drugs; and/or
- (m) the installation and maintenance of appropriately sited closed circuit television cameras (CCTV) to be operational during the period of the licence, and other appropriate times both inside and immediately outside the premises which can provide images of a suitable quality for use as evidence. (Paragraph 5.16)

5.22 **Protection of children from harm** - The Council needs to satisfy itself that there are appropriate measures in place to protect children from harm. (Paragraph 5.32)

5.23 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)

5.24 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)

5.25 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)

5.26 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) the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises;
- (d) 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;
- (e) 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;
- (f) due regard is paid to industry codes of good practice on the labelling and display of alcoholic drinks;
- (g) there are 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;
- (h) the likelihood of children being attracted to the premises; eg by the nature of activities or facilities provided whether or not these are licensed;
- (i) there is evidence of heavy, binge or underage drinking on the premises;
- (j) the premises commonly provides entertainment or services of an adult or sexual nature;
- (k) there is a strong element of gambling on the premises;
- (l) age restricted films are to be shown classified in accordance with the recommendations of the British Board of Film Classification;
- (m) 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. Obtaining Enhanced Disclosure from the Criminal Records Bureau may be appropriate in some cases. (Paragraph 5.36)

6 National Guidance

- 6.1 Guidance has been issued under Section 182 of the Licensing Act 2003.
- 6.2 Para 9.12 of the Guidance states: In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. 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 be the licensing authority’s main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.
- 6.3 Para 10.10 of the Guidance states: “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.”
- 6.4 Para 10.12 of the Guidance states: “The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.”
- 6.5 Proportionality: para 10.14 of the Guidance states: “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.”

- 6.6 Duplication with other statutory provisions: para 10.16 of the Guidance states: “If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate to impose the same or similar duties as conditions.”

7. Licensing Comments

- 7.1 Members are to note that on 25 April 2012, the following amendments to the Licensing Act 2003 came into force:
- 7.2 The Licensing Authority became a Responsible Authority for premises and club premises applications and will have the power to refuse, remove or review a licence without representation from the Police or other Responsible Authority.
- 7.3 Primary Care Trusts and Local Health Boards also joined the list of Responsible Authorities and are able to make representations regarding licensing applications and apply for reviews, even though the licensing objectives have not been revised to include health.
- 7.4 The term 'interested parties' has been replaced by 'any other person' meaning that anyone can voice objections regardless of geographic vicinity, however any such objection must relate to one or more of the licensing objectives.
- 7.5 The Secretary of State has been required to make changes to the Licensing Act Regulations 2005 requiring the Licensing Authority to advertise applications 'in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it'.
- 7.6 The Committee must have regard to all of the representations made and the evidence it hears. The Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives which can include:
- Granting the application as requested;
 - Modifying the conditions attached to the licence; or
 - Rejecting all or part of the application.
- 7.7 Members must only take account of representations which are specific to the premises and which relate specifically to this application for a premises licence for the sale of alcohol. Representations which relate to issues not associated with the sale of alcohol and / or not specific to these premises, should be disregarded.
- 7.8 In determining this application, Members must have regard to the guidance issued by the Secretary of State and the Council's adopted policy statement.
- 7.9 The Council has a statutory duty to promote the licensing objectives and therefore Members can only give consideration to representations that relate to the likely effect the grant of this licence will have on the promotion of those objectives, these being:
- a. the prevention of crime and disorder;
 - b. public safety;
 - c. the prevention of public nuisance; and
 - d. the protection of children from harm.
- 7.10 Members may impose such conditions as they consider appropriate for the promotion of one or more of the licensing objectives.

Report Author

Contact officer: Mr Philip Cooper
E-mail: licensing@cheltenham.gov.uk
Tel no: 01242 775200