

## **Extracts from the Local Licensing Policy Statement**

### **1.0 Introduction**

1.9 (a) The Act describes two “bodies” that may make representations to licence applications and may apply for an existing premises licence to be reviewed by the Licensing Authority, Responsible Authorities and “Other Persons”.

1.9 (b) “Other Persons” means any individual, body or business who is affected by the operation of a licensed premises regardless of their geographical location. Although they may be in any geographical position, any representation they make must be relevant to one or more of the licensing objectives and must not be considered to be frivolous or vexatious. Additionally, any application to review a premises licence must not be repetitious.

1.9 (c) This Licensing Authority will, however, look at the geographical location of the author of any representation or review application received. Where the author lives or works a significant distance from the premises subject of an application or review, this Authority will examine the content of the representation particularly closely. We would expect the author to explain in detail how, in terms of the licensing objectives, they would be affected by the application. The Licensing Authority will consider rejecting any representations which did not include sufficient detail to outline any harm or disturbance which may be caused.

1.9 (d) We take the following approach to the decision-making process:

- a) Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making;
- b) Other parties can include residents’/ tenants’ associations, community associations and trade associations. Councillors may represent other parties, providing they do not also sit on the Licensing Sub- Committee determining the application in question.
- c) We will give clear reasons for our decisions.

1.10 Where valid representations are made applications will be considered by a Licensing Sub-Committee (consisting of Councillors); we give both applicants, Responsible Authorities and other parties an equal opportunity to state their case in accordance with our protocol, which is available from our Licensing Team.

1.11 It is recognised that the licensing function is only one means of securing the delivery of the licensing objectives and should not therefore be seen as solving all problems within the community. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the Police, local businesses and local people towards the promotion of the objectives as outlined.

1.12 Each licence application will be considered on its own merits in the context of the four licensing objectives, and unless relevant representations are received from Responsible Authorities or other parties, there is no provision for the Licensing Authority to impose conditions on a licence other than those proposed within an application.

1.13 The Licensing Authority will primarily focus on the direct impact of the licensable activities on members of the public living, working or engaged in normal activity, regardless of their geographical proximity to the premises.

1.18 The licensing function should not be seen as a primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. However, whilst there is a range of statutory powers available to deal with such behaviour,

these powers may not always be sufficient to control negative impacts beyond the immediate vicinity of all premises. Therefore, the fact that such impact may occur may be a relevant factor in the consideration of certain licence applications. This may lead in some cases to the refusal of the application or the imposition of conditions to meet the concern.

#### **4.0 The Licensing Process**

4.3 A main part in ensuring compliance with the Act, and in particular showing how the four licensing objectives are to be achieved, is the 'Operating Schedule' for the licensed premises. The operating schedule forms part of the licence application - the schedule will aid any Responsible Authority or other party to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The schedule will form part of the conditions of licence (if a licence is granted). The Licensing Authority will work with the licensees and licensed premises applicants to minimise the number of disputes that may arise in this area by providing guidance notes on the completion of the schedules. However, the responsibility for drawing up the operating schedule rests with the applicant. The operating schedule should detail the manner in which the business will be run and the steps/controls put in place to meet the licensing objectives. Any individual preparing an operating schedule is free to volunteer any measure as a step he or she intends to take to promote the licensing objectives. The operating schedule must specify all types of entertainment, which will take place at the premises. If there is performance of dancing on the premises the operating schedule should specify the type of dancing and whether this will include lap dancing, strip tease, members of the public, professional performers and in what setting. In particular applicants should note that the provision of adult entertainment must be detailed in the relevant section of the premises licence application form.

4.7 In an effort to avoid unnecessary hearings, applicants are strongly advised to consult with the Responsible Authorities before submitting their applications. Applicants are advised to prepare risk assessments and from these formulate any steps they consider necessary to promote the licensing objectives and then consult with the Responsible Authorities. Failure to do so may lead to representations, which can only be determined by a licensing hearing.

4.9 Account will be taken of the need to encourage and promote all types of entertainment, including live music, dancing and theatre for the wider cultural benefit of the community as a whole. ....  
If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.

4.10 The Licensing Authority is conscious that the views of vocal minorities should not be allowed to predominate over the general interest of the community.

4.11 If the Licensing Authority receives representations on an application the appropriate Officer of the Council may wherever possible undertake discussions with the applicant and each person making representations with a view to taking steps to ensure the licensing objectives are met without the requirement of a hearing.

4.12 Where relevant the Licensing Authority will retain the discretion to deem objections remaining after the discussion stage as irrelevant, frivolous or vexatious.

4.13 The guidance issued by the Home Office indicates that representations can be made in opposition to, or in support of, an application. With this in mind the Licensing Authority would remind all parties that all representations (both for or against an application) must relate to the licensing objectives.

#### **4.14 Licensing Hours**

The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at

the same time. Longer licensing hours regarding the sale of alcohol may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport.

4.15 Under the Act there are no standard permitted hours for the sale of alcohol. Applicants are able to suggest in their operating schedules the hours they wish to be open for the sale of alcohol and to apply to vary their existing licences if they wish to sell alcohol beyond their current hours. However, whilst acknowledging the contents of Paragraph 4.14 above, there is no general presumption in favour of lengthening licensing hours (in all areas of the District) and the four licensing objectives will be paramount considerations at all times.

4.16 As far as the Licensing Authority's overall approach to licensing hours is concerned it is not intended that any form of zoning will be introduced. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is necessary and can lead to unnecessary disorder and nuisance. Applicants should note however that the Licensing Authority will give careful consideration to applications for premises situated in predominantly residential areas, where relevant representations have been received and the proposed hours of operation are likely to result in unreasonable noise disturbance between the hours of 11.00 p.m. and 7 a.m. In the absence of representations, the application must be granted.

4.19 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. Applicants are reminded that large parts of the East Lindsey District are very sensitive to the impact of licensable activities because they are either residential in character or lie within rural communities. However, some commercial areas in the District, such as parts of town centres and entertainment areas on the coastal strip, may be more suitable for licensed activities, especially for those which have late opening hours or attract significant numbers of people. When issuing a licence, stricter conditions with regard to noise control and/or limitations to opening hours may be imposed in the case of premises, which are situated in largely residential areas and have been subject of relevant representations.

## **5.0 Licensing Objectives**

5.1 Each of the four licensing objectives is of equal importance. The Licensing Authority considers the effective and responsible management of the premises and the instruction, training and supervision of staff in the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives. For this reason, these elements should be specifically considered and addressed within an applicant's operating schedule.

As set out in Paragraph 4.7 of this Policy the Licensing Authority recommends that applicants carry out their own risk assessments in relation to the four licensing objectives in order to assist them in deciding whether any steps are required to be taken in order to meet these objectives.

5.2 In accordance with the Home Office Guidance to Licensing Authorities, this Authority expects applicants to demonstrate knowledge of the area within which the licensed premises is situated. This would include, for example, proximity to residential properties, areas where children congregate and any risk posed to the local area by the applicants proposed licensable activities.

### **5.16 Prevention of Public Nuisance**

Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. This will particularly apply in areas where residential accommodation is in close proximity to licensed premises. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.17 The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.18 Applicants are encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

5.19 When addressing the issue of prevention of public nuisance, applicants are encouraged to demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
- The hours of opening, particularly between 11.00 p.m. and 07.00 a.m.
- The nature of the activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises.
- The design and layout of the premises and in particular the presence of noise limiting features.
- The occupancy capacity of the premises (where appropriate).
- The availability of public transport.
- ‘Wind down period’ between the end of the licensable activities and the closure of the premises.
- Last admission time.
- The formulation of a dispersal policy.
- Provision of suitable CCTV (and recording facilities).

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

- Effective and responsible management of premises.
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance (e.g., to ensure customers leave quietly).
- Control of operating hours for all or parts (e.g., outside / garden areas) of the premises, including such matters as deliveries.
- Adoption of best practice guidance (e.g., Good Practice Guide on the Control of Noise from Pubs and Clubs - produced by Institute of Acoustics).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- Management of people, including staff and traffic (and resulting queues) arriving and leaving premises.
- Liaison with public transport providers.
- Siting of external lighting, including security lighting.
- Management arrangements for collection and disposal of litter.
- Effective ventilation systems to prevent nuisance from odour.
- Undertaking noise impact assessments.
- Installation of a noise limiting device.

## 5.21 Noise Impact Assessment

Licence applicants should be aware that a proposal for a new premises or variation of existing licensed premises may have an adverse impact on existing occupants of nearby buildings. This may particularly be the case if the proposal is close to existing sources of noise or near to a site with a particular use that is sensitive to noise.

- Noise can be generated by a number of different sources which include:
- traffic and customers arriving and leaving the premises.
- customers queueing in order to enter the premises.
- regulated entertainment (particularly live and recorded music).
- deliveries to and collections from premises.
- other noise associated with the night-time economy such as people accessing hot food takeaways and people in the street in the late evening or early hours of the morning.

With this in mind, where appropriate, applicants should consider the commission of a noise impact assessment prior to the submission of the premises licence application. The assessment should be prepared by a suitably qualified acoustician – the Council’s Environmental Health Department may be able to offer advice in order to work towards an agreed method statement for the assessment.

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Where appropriate a Licensing Sub-Committee may impose a condition requiring the completion of a noise impact assessment and that the recommendations of the assessment be acted upon.

## 9.0 Conditions of Licence

### 9.4 Model Pool of Licence Conditions

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. Conditions should be tailored to the particular circumstances of an individual licensed premise and determined on a case-by-case basis. Standardised conditions which ignore these individual aspects should be avoided.

The Licensing Authority does not propose to implement standard licence conditions across the board. However, it will develop its own pool of model conditions, and attach such conditions as appropriate given the circumstances of each individual case.

All parties are reminded that conditions which are appropriate to promote the licensing objectives should emerge initially from the prospective licence holders risk assessment and then be translated to form part of the operating schedule for the premises. This Authority’s pool of model conditions has been produced to assist prospective licence holders where they consider that conditions from the pool would promote the licensing objectives in the circumstances of their application.

Once an application has been made, the Police, other Responsible Authorities, and other relevant persons are encouraged to engage with the applicant if they are considering making a representation to the application. With this in mind, the pool of model conditions has been produced to assist all parties and promote a consistent approach when proposing conditions on a premises licence (or club premises certificate).

9.5 The pool of model conditions is not an exclusive or exhaustive list of conditions which may be included on a premises licence or club premises certificate. It does not restrict any applicant, Responsible Authority,

or other person from proposing any alternative conditions, nor would it restrict a Licensing Sub-Committee from imposing any reasonable condition on a premises licence (or club premises certificate) it considers appropriate for the promotion of the licensing objectives.

The imposition of conditions, by a Licensing Sub-Committee, will be determined upon the individual merits of the application.

#### **9.6 Live Music, Dancing and Theatre**

The Licensing Authority is aware of the need to avoid measures, which deter live music, dancing and theatre by imposing indirect costs of a substantial nature. The Licensing Authority will take account of this when imposing conditions. The impact of licensing on live music, dancing and theatre will be monitored and in so doing the Authority will ensure that only necessary, proportionate and reasonable licensing conditions are applied.

9.7 Proper account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally.