

LICENSING SUB-COMMITTEE
8 April 2022

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

LICENSING ACT 2003

APPLICATION BY NEIL BURTON
FOR THE VARIATION OF A PREMISES LICENCE IN RESPECT OF
CHEZ BURTON, 48 HIGH STREET, BALDOCK, HERTFORDSHIRE, SG7 6BJ

REPORT OF THE LICENSING OFFICER

1. BACKGROUND

- 1.1 A premises licence was granted to the property under grandfather rights from the previous Licensing Act 1964 and has been in existence since 5 September 2005. The current licence is for the building only with no outdoor space.
- 1.2 The premises licence was transferred to the current owner, Neil Burton, on 21 June 2021.
- 1.3 In addition to the premises licence, a pavement licence exists for the front of the property and is valid until 30 September 2022, at which point the temporary legislative provisions for pavement licences are due to end.
- 1.4 A copy of the current premises licence is attached as **Appendix A**.

2. APPLICATION

- 2.1 The application is for a full variation of the premises licence under Section 34 of the Licensing Act 2003 and is included as **Appendix B**.
- 2.2 The variation is to amend the existing layout plan to include an outdoor area to the rear of the property. The intention would be to use the outdoor area as an extension of the current indoor dining and consumption of alcohol provision.
- 2.3 No other amendments to the existing licensable activities and timings are proposed in this variation.

3. APPLICATION PROCESS

- 3.1 On 3 February 2022, Neil Burton made an application to North Hertfordshire District Council for the variation of the existing premises licence.
- 3.2 The prescribed consultation period was from 4 February 2022 until 3 March 2022 inclusive, however this was subsequently extended to 11 March 2022 due to a delay in the applicant displaying the prescribed notices on the premises.

- 3.3 The application was received electronically so copies were served by the Council to Hertfordshire Constabulary and the other responsible authorities.
- 3.4 A public notice was displayed on the premises for a period of not less than twenty-eight (28) consecutive days in accordance with the requirements of the Act.
- 3.5 A newspaper advertisement was placed in The Comet in accordance with the requirements of the Act.

4. REPRESENTATIONS

- 4.1 No representation was received from Hertfordshire Constabulary.
- 4.2 No representation was received from NHDC Environmental Protection
- 4.3 No representations were received from any other responsible authority.
- 4.4 Six (6) representations were received from “other persons” against the application and are attached as **Appendix C**.
- 4.5 The licensing officer attempted to mediate the concerns of the “other persons”. The applicant agreed to two (2) conditions that relate to the “other persons” representations however not all the “other persons” withdrew their representations.
- 4.6 The additional conditions offered by the applicant where:
- (i) The premises licence holder will ensure that the outdoor area is not used by patrons after 22:00hrs and that it will be cleared of patrons by that time.
 - (ii) The premises licence holder will ensure that there is a separate, unimpeded access to Flat 1D that will not form part of the outdoor area.

These conditions would likely resolve some of the representations as they referred to a later finish time in line with the premises opening hours.

- 4.7 The sub-committee, if it is minded to grant the application, may amend (add to, remove, or change) the conditions agreed by the applicant if it deems it appropriate to promote the licensing objectives in relation to matters raised in the representations. If the sub-committee is minded that a 22:00hrs finish time is unnecessary, all representations have been included in Appendix C so that it is aware of all objections to the later finish time.
- 4.8 The Council's Scheme of Delegation requires the licensing officer to determine whether a representation is relevant as specified within the Act.
- 4.9 Where representations include comments that are not relevant to the Act, these comments have been clearly redacted by the licensing officer and should not be considered as part of the determination process. **The other persons must not refer to these paragraphs in any oral presentation at the hearing (see sections 8.7 – 8.12).**

- 4.10 Where the licensing officer has determined that the representations are relevant, it is for the sub-committee to determine what weight to apportion to each representation.
- 4.11 The applicant has been served with a copy of the representations by way of this report.
- 4.12 The applicant and the other persons making relevant representations have been invited to attend the hearing to present their cases respectively. They have been advised that they may be legally represented and of the hearing procedure.

5. OBSERVATIONS

- 5.1 In determining this application, the sub-committee must have regard to the representations and take such steps as it considers appropriate for the promotion of the licensing objectives.
- 5.2 In making its decision, the sub-committee must act with a view to promoting the licensing objectives. It must also have regard to the licensing authority's Statement of Licensing Policy and National Guidance.
- 5.3 The sub-committee has the following options when issuing the Decision Notice:
- i) Grant the application as made
 - ii) Grant the application with conditions and/or amendments to the licensable activities and/or timings (conditions should only be added where they are appropriate to promote the licensing objectives).
 - iii) Refuse the application.

6. LICENSING POLICY CONSIDERATIONS

- 6.1 The following paragraphs from the Council's Statement of Licensing Policy 2021 – 2026 may be relevant to this application. This section does not prevent the sub-committee from considering other paragraphs of the Statement of Licensing Policy where they deem it appropriate:

B6

Our vision is:

"To ensure that North Hertfordshire continues to offer a diverse range of well managed licensed venues and community and cultural activities within a safe and enjoyable environment, in both the daytime and night-time economy."

B7

The Council recognises that national and worldwide events may impact on its ability to promote this vision, particularly during pandemics and the impact of exiting the EU. The vision detailed in paragraph B6 will always underpin licensing policy however the Council may need to adapt to measures introduced by Government to stimulate the economy or protect public safety. Under these circumstances, temporary measures may not always be within the control of the licensing authority however the Council will always seek to strike a reasonable balance between achieving its vision and promoting the licensing objectives.

B9

In making a balanced decision, the Council accepts that those living in town centre environments are likely to experience a degree of disturbance associated with a vibrant night-time economy but

this must be managed in such a way to limit its impact beyond that which is reasonable. The Council will at all times consider the wider benefits to and impacts on the community as a whole and will take a proportionate view on the weight to apply to representations.

D1.4

When determining applications the Council will have regard to this Statement of Licensing Policy, relevant legislation and any Guidance issued by the Home Office pursuant to section 182 of the Act. If relevant representations are made, the Licensing and Appeals Committee or its Sub-Committee, will balance its decision against all other factors for and against the application.

D2.1

Each licence application will be decided by reference to this Policy, the National Guidance issued by the Secretary of State, relevant legislation and to the individual circumstances of the particular application. The Council may depart from the Policy where the individual circumstances of any application merit such a decision in the interests of the promotion of the Licensing Objectives. Full reasons will be given for decisions taken by the Council when undertaking its licensing functions.

D2.4

In determining applications, the Council will focus primarily on the direct impact of the proposed activities on persons that may be adversely affected in relation to the licensing objectives. The scope of those persons that may be affected will be determined on a case by case basis taking into account all relevant factors.

D2.8

The Council recognises that the exercise of its licensing function is only one of a number of means of securing the promotion of the licensing objectives. The exercise, by the Council, of its licensing function should not be seen as a panacea for all problems within the community. The Council will encourage co-operation between its licensing function, planning function and environmental health functions to ensure that any problems are addressed using the most appropriate means and that its licensing function does not duplicate any other statutory responsibilities.

D2.9

The Council will carry out its licensing functions in the promotion of the licensing objectives and, in addition, will support the stated aims of the Act which are as follows:

- (i) protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;*
- (ii) 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;*
- (iii) 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;*
- (iv) 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*
- (v) encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.*

D3.3

Generally, when the Council's discretion is engaged, the presumption will be to grant the hours requested unless there are representations raised by responsible authorities and/or other persons that demonstrate an adverse effect or likely effect on the licensing objectives

D3.4

The Council also recognises that licensing hours should not inhibit the development of a thriving and safe evening and night time economy, which is important for local investment, employment and tourism. The Council will not seek to restrict the trading hours of any particular premises unless this is necessary to promote one or more of the licensing objectives.

D6.2

The Council recognises that each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and activities concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. A standardised approach to imposing conditions must be avoided and conditions will only be lawful where they are deemed appropriate to promote the licensing objectives in response to relevant representations.

D6.3

Conditions will only be imposed when they are appropriate for the promotion of the licensing objectives and will focus upon matters within the control of the individual licensee such as the premises, places or events being used for licensable activities or the surrounding areas of the premises, places or events. Conditions are likely to be focused towards the direct impact of those activities on persons living in, working in or visiting areas affected by, or likely to be affected by, those activities.

D6.8

It is the Council's view that the imposition of conditions should be restricted to those that are proportionate in addressing any concerns in relation to the promotion of the licensing objectives. Conditions should not be used as a tool to attempt to mitigate every possible scenario; this will serve only to place undue burden on applicants and is not consistent with the general principles of the Guidance.

D6.9

Operating schedules and licence conditions should be drafted in such a way that it is clear to licence holders exactly what is required of them and these requirements should be concise and well-worded to assist the licence holder in managing their premises. The Council is strongly of the view that the imposition of a substantial list of conditions in order to grant an application calls into question the suitability of the applicant to hold a licence. Where a Licensing Sub-Committee determines that it is appropriate to impose a substantial list of conditions to the extent that they are effectively determining the day-to-day management of the premises, they will give serious consideration to refusing the application.

E3.1.1

Licensed premises may have significant potential to impact adversely on communities through public nuisances that arise from their operation. The Council interprets 'public nuisance' in its widest sense and takes it to include such things as noise, light, odour, litter and anti-social behaviour, where matters arising at licensed premises impact on those living, working or otherwise engaged in activities in the locality. Ordinarily, the Council's Environmental Protection & Housing Team, in their role as a responsible authority, would take the lead in respect of nuisance issues.

E3.3.1

This may include noise and disturbance from customers on the premises and customers in outdoor areas such as terraces, beer gardens and smoking areas. It will also include noise, disturbance and obstruction from customers in the vicinity of premises smoking and/or drinking and customers arriving at, leaving or queuing outside premises. Measures to prevent a public nuisance may include, but are not limited to:

- use of time restrictions on specified areas of the premises (different times can apply to different areas);
- cessation of the use of certain areas of the premises;
- supervision of outdoor areas, entrances and exits;
- suitably worded, clear and prominent signage;
- restriction of seating in outdoor areas of the premises;
- restriction of times that drinks can be taken in specified outdoor areas of the premises;
- restriction of the number of customers permitted in specified outdoor areas of the premises, including time-specific restrictions (different numbers and times can apply to different areas)..

E3.9.3

Should disturbance from licensed premises become unreasonable, any review proceedings will seek to impose suitable control measures in the first instance. Should control measures prove ineffective or are deemed inappropriate then the restriction of licensable activity timings, removal of licensable activities, suspension or revocation of the licence will be seriously considered.

F4.1

In order to avoid duplication with other regulatory regimes the Council will not, as far as reasonably possible, attach conditions to licences unless they are appropriate for the promotion of the licensing objectives and inadequately covered by other legislation. Ordinarily, conditions will be considered unnecessary if they are already adequately covered by other legislation.

F4.3

Notwithstanding the above, it is the responsibility of the applicants to ensure that they have all necessary consents, whether statutory or otherwise, and it should not be assumed that an authorisation under the Licensing Act 2003 removes this responsibility.

O1.1

The Council accepts that it can only consider matters in relation to the four licensing objectives when determining licensing applications, however as a public body it also has a statutory duty to consider the following legislative requirements:

- (i) *Crime and Disorder Act 1998*
Local authorities are required to have due regard to the crime and disorder implications of any decision it makes.
- (ii) *Human Rights Act 1998*
Local authorities are required to implement the Act in a manner consistent with the Human Rights Act 1998 by giving due consideration to the European Convention on Human Rights and Fundamental Freedoms.
- (iii) *Equality Act 2010*
Local authorities are required to implement the Act in a manner consistent with its responsibilities to consider the equality implications of any decision it makes.

O2.2

Any licence/certificate is issued without prejudice to any other consent, licence, approval or other authorisation required by other functions or responsibilities of the Council or any other statutory body. The possession of a licence/certificate under the Act does not supersede or replace any other statutory provision.

O4.7.1

Where practicable, the Council will try to mediate between any person or authority making a representation and the applicant to see if the concerns can be addressed prior to the hearing (this

mediation could start as soon as the first representation is received during the consultation period).

O4.7.2

Any attempts at mediation will be brought to the attention of the licensing sub-committee who is entitled to consider that as part of its determination

7. RELEVANT EXTRACTS OF STATUTORY GUIDANCE

7.1 The following paragraphs from the Guidance issued by the Home Office under section 182 of the Licensing Act 2003 (April 2018 version) may be relevant to this application. This section does not prevent the sub-committee from considering other paragraphs of the Guidance where they deem it appropriate and the determination should be based upon consideration of the full document:

1.3

The licensing objectives are:

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

1.4

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

1.5

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

They include:

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

1.17

The licensing authority should only impose conditions on a premises licence or club premises certificate which are appropriate and proportionate for the promotion of the licensing objectives. If other existing law already places certain statutory responsibilities on an employer at or operator of a premises, it cannot be appropriate to impose the same or similar duties on the premises licence holder, or club. It is only where additional and supplementary measures are appropriate to promote the licensing objectives that there will be a requirement for appropriate, proportionate conditions to be attached.

2.15

The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.16

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.18

As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

8.42

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

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

8.44

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

8.47

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

9.42

Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

10.8

The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.

10.9

It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

10.10

The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

8. LICENSING OFFICER COMMENTS

- 8.1 The comments within this section of the report are provided by the licensing officer to assist the sub-committee with the interpretation of the Act, the Guidance and existing case law. It is for the sub-committee to determine what weight they attach to this advice.

Definition of 'appropriate'

- 8.2 When determining applications, licensing authorities must ensure that their decision is based on what is 'appropriate' for the promotion of the licensing objectives.

- 8.3 The Guidance explains 'appropriate' as:

9.43

The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44

Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

- 8.4 It is anticipated that, in due course, case law will provide clarity on the meaning of 'appropriate' as referred to in paragraphs 9.43 and 9.44 of the Guidance. The sub-committee is therefore advised to give 'appropriate' its ordinary meaning, as expanded upon by paragraph 9.43 of the Guidance, subject to the over-riding requirement on all local authority decisions of reasonableness.

- 8.5 This approach, of allowing the courts to provide clarity, is reflected in the following paragraphs of the Guidance:

1.9

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

1.10

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

- 8.6 The sub-committee should also be aware that their decision must be proportionate to the evidence received in respect of the application and representation. Proportionality is a key factor in assisting with the definition of 'appropriate'.

Evidence not to consider

- 8.7 Representations have referred to existing issues that can be adequately dealt with under other legislation, for example rat infestation. The Statutory Guidance is clear that the Licensing Act 2003 should not consider issues where other legislation exists.
- 8.8 Some representations refer to problems that will be experienced in other properties in addition to their own. All persons had the opportunity to make representations during the public consultation therefore it would be reasonable to assume that the residents of neighbouring properties that have not made representations do not object to the application.
- 8.9 Many references have been made to other licensed premises and their impact on the vicinity. The application must be considered on its own merits against the licensing objectives. Further explanation is given below in the cumulative impact paragraphs.
- 8.10 Reference has been made to the impact on household insurance of the proposed outdoor area. Residential property insurance is not a matter for the licensing objectives.
- 8.11 Reference has been made to the access to Flat 1D potentially being blocked by the use of the outdoor area. The Fire Authority were a statutory consultee however raised no objections. In any event, the applicant has offered a condition to maintain a separate, unimpeded access to Flat 1D that will not form part of the outdoor area.
- 8.12 Reference was made to the economic viability of the current premises and the need to further expand the business. Financial viability and demand are not matters for the licensing objectives.

Planning vs Licensing

- 8.13 The sub-committee are reminded of the two distinctive regulatory regimes and their different objectives:
- 8.14 Planning deals with the wider remit of the impact of a property use on the locality.
- 8.15 Licensing deals with the narrower remit of the management of the premises in relation to the four licensing objectives.

Consumption of alcohol

- 8.16 The sub-committee are reminded that the consumption of alcohol is not a licensable activity; it is the sale of alcohol that is licensable.
- 8.17 Had the existing premises licence authorised the sale of alcohol for consumption on or off the premises, alcohol could be consumed within the outdoor area without varying the licence and without any conditions relating to the management of the outdoor area.
- 8.18 The premises licence only authorises the sale of alcohol for consumption on the premises so the application is seeking to include the outdoor area within the plan attached to the premises licence. This would then allow the consumption of alcohol outdoors as the outdoor area would be part of the premises.
- 8.19 Should the application be granted, alcohol consumption outside would be restricted to the outdoor area shown on the plan and would be subject to any conditions placed on the premises licence. The licence holder would also be able to provide a bar facility in the specified outdoor area. In effect, the outdoor area would become part of the premises and would be subject to the same responsible management required of the indoor areas.

Outdoor dining

- 8.20 The sub-committee are reminded that the outdoor consumption of food is not a licensable activity and may already take place in the outdoor area without the requirement to amend the licence.

Cumulative impact

- 8.21 As mentioned above in paragraph 8.9, the sub-committee should consider the impact or likely impact of this application on its own merits against the licensing objectives, having regard to representations received and the submission of the applicant.
- 8.22 With regard to existing alleged nuisance from other licensed premises, each premises licence holder is responsible for the management of their own premises and should not be judged against the actions, or inactions, of other licence holders.
- 8.23 The Licensing Act 2003 provides a review process (detailed further below) whereby any evidenced issues at an individual premises can be considered against the licensing objectives. The ethos being targeted action at premises causing problems rather than restricting further businesses that may not undermine the licensing objectives through effective premises management.
- 8.24 Whether considering an application for a new premises, the variation of a premises, or the review of a premises, sub-committees must have regard to the Council's Vision for Licensing published in its Licensing Policy which states:

"Our vision is:

To ensure that North Hertfordshire continues to offer a diverse range of well managed licensed venues and community and cultural activities within a safe and enjoyable environment, in both the daytime and night-time economy."

- 8.25 The Policy also considers the balancing act a sub-committee must have regard to when determining an application in town centres:

“In making a balanced decision, the Council accepts that those living in town centre environments are likely to experience a degree of disturbance associated with a vibrant night-time economy, but this must be managed in such a way to limit its impact beyond that which is reasonable. The Council will at all times consider the wider benefits to and impacts on the community as a whole and will take a proportionate view on the weight to apply to representations.”

Review of a premises licence

- 8.26 Should the sub-committee be minded to grant a licence it will exist in perpetuity however there is a safeguard within the Act.
- 8.27 Any responsible authority or other person may apply to the licensing authority for the review of a premises licence if they can demonstrate that the premises are not adequately promoting the licensing objectives. In the case of other persons, they would need to demonstrate the direct impact on their household of licensable activities at the premises in terms of one or more of the licensing objectives.
- 8.28 If accepted by the licensing authority, an application for review would result in a twenty-eight (28) day consultation period advertised at the premises and on the licensing authority website where any responsible authority or other person could submit a representation.
- 8.29 A licensing sub-committee would hold a hearing to assess the representations and the oral submissions of the licence holder before considering what, if any, action was appropriate. The options available to the sub-committee would be:
- i) to take no action;
 - ii) to modify the conditions of the premises licence (modify includes adding new conditions, altering or omitting existing conditions, or altering permitted timings of licensable activities);
 - iii) to exclude a licensable activity from the premises licence;
 - iv) to remove the designated premises supervisor from the premises licence;
 - v) to suspend the premises licence for a period not exceeding three months; or
 - vi) to revoke the premises licence.

9. APPENDICES

- 9.1 Appendix A Existing premises licence
9.2 Appendix B Application and proposed plan amendment
9.3 Appendix C Representation from other persons

10. CONTACT OFFICER

Jasmine Jennings
Licensing Officer
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