

**LICENSING AND APPEALS SUB-COMMITTEE**  
**13 MARCH 2025**

**\*PART 1 – PUBLIC DOCUMENT**

**AGENDA ITEM No.**

**LICENSING ACT 2003**

**APPLICATION 18669 BY AE & WA FARR  
FOR THE VARIATION OF A PREMISES LICENCE IN RESPECT OF  
BYGRAVE PLANTATION (LC/2701)  
LAND ADJACENT TO 1 CALDECOTE ROAD, NEWNHAM  
HERTS SG7 5JX**

**REPORT OF THE LICENSING OFFICER**

**1. BACKGROUND**

- 1.1 The existing premises licence was granted by North Hertfordshire District Council, under the Licensing Act 2003 (“the Act”) which is currently in place for the premises, it was granted and issued to AE & WA Farr on 28 April 2017.
- 1.2 A copy of the current premises licence and plan is attached as **Appendix A**

**2. APPLICATION**

- 2.1 The application is for the variation of a premises licence under Section 34 of the Act.
- 2.2 The application form shows the licensable activities and hours originally applied for, including operating schedule conditions are attached as **Appendix B**
- 2.3 The plan is attached as **Appendix C**
- 2.4 A comparison document showing the current timings for licensable activities and the proposed changes is attached for clarity **Appendix D**

**3. APPLICATION PROCESS**

- 3.1 On Friday 6 December 2024, AE & WA Farr made an application to North Hertfordshire District Council for the variation of a Premises Licence.
- 3.2 The application was received electronically so copies of this application were served by the Council to Hertfordshire Constabulary and the other Responsible Authorities.
- 3.3 The prescribed consultation period was from 7 December 2024 to 3 January 2025 inclusive.
- 3.4 Public notices were displayed on the premises in accordance with the requirements of the Act and were exhibited for a period of not less than twenty-eight (28) consecutive days. A newspaper advertisement was placed in The Comet on 12 December 2024 in accordance with the requirements of the Act.

3.5 The Council's website published the notice for 28 consecutive days.

#### 4. REPRESENTATIONS

4.1 The following Responsible Authorities provided a response to the application which are attached as **Appendix E**

- NHDC Environmental Protection – No objections
- NHDC Environmental Health – No objections
- Fire Protection – No objections
- Public Health – No objections
- Planning – No objections

4.2 The Police submitted comments on which little emphasis can be placed as they were received outside the prescribed consultation period. It is therefore not a formal representation. The comments are broadly neutral, and all issues raised can be addressed through the EMP conditions. Attached as **Appendix F**

4.3 No representations were received from any other Responsible Authority.

4.4 37 relevant representations were received from Other Persons

- 29 of these representations were received from those objecting to the application which are attached as **Appendix G**
- 8 representations were received from those supporting the application which are attached as **Appendix H**

4.5 The Council's Scheme of Delegation requires the licensing officer to determine whether a representation is relevant as specified within the Act.

4.6 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. **Other persons must not refer to these paragraphs in any oral presentation at the hearing (see sections 8.8 – 8.13).**

4.7 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.

4.8 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 in whole or in part
  - 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.”***

*B8*

*The Council is committed to the continued promotion of the diverse cultural and community activities within the district and providing a safe and sustainable night-time economy for residents and visitors alike. Licensing Policy will be approached with a view to encouraging new and innovative forms of entertainment that promote this vision and are consistent with the four licensing objectives.*

*The Council encourages greater live music, dance, theatre and other forms of entertainment for the benefit of the community. Where activities require a licence, the Council will seek to balance the potential for disturbance of local residents and businesses against the wider community and cultural benefits.*

*B10*

*The Council is aware that those living in the rural communities of the district often do so to enjoy the quiet of a rural location. In making a balanced decision, the Council accepts that the level of disturbance that is reasonable in a rural location will be less than in a town centre location. This could be addressed by reduced licensable activity timings, particularly in the evenings and early mornings, and the frequency of activities. Whilst a 1-off event may cause some reasonable disturbance, it would be more tolerable than an event lasting multiple days or occurring numerous times throughout the year. That said, rural public houses and community buildings are often a key part of village life and should not be precluded from being able to offer appropriate activities for the benefit of the rural location.*

### *C1.3*

*Where premises have caused problems to local residents, the police, trading standards and NHDC environmental health have successfully addressed issues relating to anti-social behaviour, noise and underage alcohol sales through the review process.*

### *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.*

### *D1.5*

*The Council expects applicants to address the licensing objectives in their operating schedule and have due regard to this Policy. To achieve this, the Council supports the principles set out in sections 8.41 – 8.44 of the Statutory Guidance which state:*

- 8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.*
- 8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives that they understand:*
- the layout of the local area and physical environment including crime and disorder hotspots, proximity to local 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 taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.*
- 8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.*
- 8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.*

### *D1.6*

*Applicants should be aware that if they fail to have due regard to this Policy it is more likely that the licensing authority or responsible authorities may deem it appropriate to make a representation. If representations are made as a result of the applicants' failure to address this Policy in its operating schedule, the Licensing and Appeals Sub-Committee may take this into consideration when determining 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.*

#### *D2.2*

*The Act makes it clear that unless relevant representations are received, the application must be granted subject only to the mandatory conditions and conditions consistent with those offered in the operating schedule accompanying the application.*

#### *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.*

#### *D2.5*

*The Council acknowledges that the licensing process can only seek to impose conditions that are within the direct control of the licence holder. The Council does not consider that the term 'direct control' can be generically defined and will consider its definition relative to the specific circumstances of each application. For example, licensed premises at the end of road leading to a car park may be able to control its patrons leaving the premises and using the car park. In general terms, to be considered to be under the 'direct control' of a licence holder, there will need to be a direct causal link between the problems or likely problems and the specific premises.*

#### *D2.6*

*Where problems with a direct causal link to premises exist in relation to the promotion of the licensing objectives but they cannot be mitigated by the imposition of appropriate conditions, a Licensing Sub-Committee will seriously consider refusal of the application. For example, patrons from a licensed premise that are causing disorder in a town centre after leaving the premises cannot be controlled by conditions, however the problem may be resolved by the refusal of the application or revocation of the licence.*

#### *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.*

#### *D2.11*

*The Council is aware that applicants sometimes request longer hours or more licensable activities than they would ordinarily want in order to provide some room for negotiation to obtain their actual requirements. Whilst the Council cannot, nor would seek to, limit the content of an application, this approach is counter-productive in that it may attract more representations. Additionally, it is unnecessary as each application is assessed on its own merits with the option of appearing before a sub-committee if negotiations with a responsible authority are unsuccessful.*

#### *D3.1*

*The Council recognises that fixed and artificially early closing times previously established under the Licensing Act 1964 were one of the main causes of rapid binge drinking prior to closing times and one of the causes of disorder and disturbance when large numbers of customers were required to leave premises simultaneously. These concentrations of people leaving can result in friction at places such as late night food outlets, taxi ranks and other sources of transport. The aim through the promotion of the licensing objectives will be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times where appropriate.*

#### *D3.2*

*The Council recognises that arbitrary restrictions would undermine the principle of flexibility and should be avoided; the licensing objectives will be the paramount consideration at all times. That said, if there is a proliferation of disorder and/or disturbance related to licensed premises in a specific location, for example a town centre, the Council may determine that a fixed terminal hour to mitigate the problems may be appropriate if no other control method has resolved the problem.*

#### *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.*

#### *D6.4*

*Where appropriate the Council will draw upon the pool of model conditions attached at Appendix A. The pool of model conditions relates specifically to the four licensing objectives*

*(see section F7) and are indicative of condition wording that may address identifiable issues. Licensing sub-committees are reminded that they should ensure that the wording of any condition is appropriate and proportionate to address any concerns raised in respect of the specific issues at the premises.*

#### *D6.6*

*The Council interprets Section L of the application form, "Hours premises are open to the public", as an integral part of the operating schedule. In assessing an application, responsible authorities and other persons are likely to read those hours as though they were part of the operating schedule and tailor their representations based on that interpretation. These hours, therefore, form conditions of the licence operating schedule and restrict the hours during which members of the public can be on the licensed premises at the conclusion of trading irrespective of whether licensable activities are taking place. Applicants are advised to consider any necessary 'drinking-up time' or wind-down period at the end of normal licensable activities when completing this section of the application.*

#### *D6.7*

*The Council strongly believes that a carefully considered operating schedule that fully considers the impact of the proposed activities in relation to the promotion of the licensing objectives, having regard to this Policy and the Guidance, is less likely to result in the imposition of conditions by a Licensing Sub-Committee following representations.*

#### *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.*

*D8.1 The Council recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community.*

*D8.2 Only appropriate, proportionate and reasonable licensing conditions will be imposed on licences so as not to discourage the promotion of entertainment. Conditions will relate to the minimum needed to ensure the promotion of the licensing objectives.*

*D8.3 The Council will ordinarily avoid any measure which deters live music, dancing and theatre by imposing indirect costs of a substantial nature (for example, noise limiting devices for smaller or community premises). The Council acknowledges, however, that on occasions the imposition of appropriate conditions with cost implications may be the only alternative to refusing an application where there is sufficient evidence in relation to the effect, or likely effect on the licensing objectives.*

#### *E1.3.1*

*The Council understands that the setting of capacity limits for the purposes of fire safety is not permitted, however, it may be appropriate to restrict capacity in premises in order to help control overcrowding and disorder.*

#### *E1.3.2*

*Where a condition is imposed restricting capacity to promote the prevention of crime and disorder objective, it is likely that a condition requiring door supervisors will also be appropriate to manage capacity.*

#### *E1.3.3*

*If it is deemed appropriate to restrict or manage capacity to promote the prevention of crime and disorder objective, it may be appropriate to impose a condition specifying the ratio of tables and chairs to patrons and for areas to be allocated as permanent seating areas in order to prevent overcrowding which in turn could lead to violence and disorder.*

#### *E2.1*

*The Council recognises that the public safety objective is concerned with the physical safety of the people using the relevant premises and not with public health, which is dealt with in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.*

#### *E2.2*

*The Council is aware that applicants are legally responsible for complying with a range of public safety legislation, for example the Health and Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005, and for conducting suitable risk assessments in relation to their premises. Failure to comply with these requirements may lead to representations from responsible authorities when public safety is put at risk.*

#### *E2.4.1*

*“Safe capacities” should only be imposed on licences where necessary for the promotion of public safety or the prevention of disorder. If a capacity has been imposed through other legislation it would be unnecessary to reproduce it as a licence condition. It would also be wrong to impose conditions that conflict with other legislation. If no safe capacity has been imposed by other legislation, however, a responsible authority may consider it necessary for a new capacity to be attached. For example, a capacity limit may be necessary to prevent disorder as overcrowded premises can increase the risk of crowds becoming frustrated and hostile.*

#### *E2.5.1*

*Where venues providing entertainment use equipment or special effects that may affect public safety, such as strobe lighting, smoke machines, etc., the Council will expect the premises licence holder to have carried out risk assessments and taken the necessary actions to safeguard patrons at the premises.*

#### *E2.7.1*

*The Council expects premises licence holders and applicants to undertake a public safety risk assessment to ensure the safety of persons using their premises. The assessment should consider issues such as, but not limited to:*

- safe capacities in identifiable areas of the premises that can be evacuated quickly in the case of an emergency*
- policies in relation to persons wishing to smoke at the premises, including provision of identified areas and separation from admission queues*



- policies in relation to admission and readmission particularly control of capacity and queuing
- policies in relation to the safe dispersal of patrons from the premises and locality
- sufficient basic first aid provision and responsibilities for contacting the emergency services.

#### *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.*

#### *E3.1.2*

*Despite the wide interpretation of public nuisance, the Council does not consider this objective to apply to matters where there is other suitable legislative provision for example, but not limited to:*

- welfare of animals
- conservation areas
- flora and fauna

#### *E3.1.3*

*The Council encourages applicants to seek early engagement with the Environmental Protection & Housing Team when preparing an operating schedule, ideally before submitting an application. The following examples of control measures is not an exhaustive or exclusive list but is given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or licensable activities:*

- (i) appropriate instruction, training and supervision of those employed or engaged in the business (such as external DJs, performers, etc.) to prevent incidences of public nuisance; and*
- (ii) adoption of best practice guidance such as, but not limited to:*
  - *the Good Practice Guide on the Control of Noise from Pubs and Clubs produced by the Institute of Acoustics;*
  - *Safer Clubbing: The National Alcohol Harm Reduction Strategy Toolkit;*
  - *the British Beer and Pub Association's Guide on Effective Management of Noise from Licensed Premises; and*
  - *the Code of Practice on Environmental Noise Control at Concerts produced by the Noise Council.*

#### *E3.1.4*

*The Council recognises that conditions relating to noise nuisance may not be appropriate in certain circumstances where the provisions of other legislation (for example, the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005) adequately protect those living in the areas surrounding the premises. That said, the approach of the Council will be one of prevention and it will consider each application on its own merits, having due regard to the avoidance of duplication balanced against the effectiveness or otherwise of the other legislative provisions.*

#### *E3.1.5*

*Where there is the potential for public nuisance and the applicant's operating schedule does not fully address the concerns, NHDC's Environmental Protection & Housing Team may request the applicant to volunteer additional conditions to avoid the need for a representation. Example conditions are included in the attached appendix of Model Conditions to assist applicants with the wording of suitable conditions. The applicant is under no obligation to agree to the suggested conditions if they believe they are not appropriate or proportionate. If the applicant does not wish to volunteer the suggested conditions then a representation may*

*be made which will result in the matter being referred to a licensing sub-committee for determination.*

#### *E3.2.4*

*The Council is aware that entertainment has been deregulated between the hours of 08:00hrs and 23:00hrs on licensed premises under certain circumstances (see section 16 of the National Guidance). There is a safeguard that, at a review hearing, the deregulation can be removed by a licensing sub-committee if they deem it appropriate in order that entertainment can then be controlled through restrictions of hours or addition of licence conditions.*

#### *E3.9.1*

*The Council is fully aware of the nuisance that can be caused by poorly managed or inappropriately located premises, however, will seek to strike an appropriate balance with its vision of promoting a diverse and vibrant daytime and night-time economy.*

#### *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.*

#### *E4.1*

*The Council recognises that the protection of children from harm objective relates primarily to children accessing or using licensed premises, or being exposed to activities taking place without having to access the premises (for example, underage alcohol sales, exposure to performances or advertising of an adult nature whether within or outside a premises)*

#### *E4.6.7*

*Of particular relevance to applicants is the Information Handbook for Licensed Premises available from the HSCB website. The Council expects applicants to read this handbook and ensure that the operating schedule identifies all management controls, particularly preventing CSE, appropriate for the promotion of the prevention of children from harm objective.*

#### *E4.11*

*The Council expects applicants to fully set out the steps they propose to take to protect children from harm when preparing an operating schedule. Dependant on the nature of the proposed business model, there may be times when the presence of children in the premises would be inappropriate. The Council encourages applicants to undertake a self-assessment of their proposed business model in relation to the welfare of children and propose any appropriate restrictions as part of their operating schedule.*

#### *F3.4*

*The Council acknowledges that a minority of customers will behave badly and unlawfully once away from well-managed licensed premises. Whilst the Council cannot use its licensing function to directly control the behaviour of customers once they are away from licensed premises, it can place control measures on customers in the immediate surrounding areas of the premises where they remain within the licence holder's control. Where customers move beyond the control of the licence holder, other control measures outside the licensing function include:*

- planning policy and controls;*
- the power to ban alcohol consumption in designated areas and police powers to confiscate alcohol within these areas;*
- police enforcement of the law relating to anti-social behaviour and disorder, including the use of dispersal powers, fixed penalty notices and the new powers introduced*

*under the Anti-social Behaviour, Crime and Policing Act 2014 (such as Statement of Licensing Policy 2021 - 2026 Page 39 of 92 v1 07/01/2021 Community Protection Notices, Public Space Protection Orders and Criminal Behaviour Orders); and*

- *positive measures to create and maintain a safe night-time economy in partnership with local businesses, transport providers and trade bodies (such as Business Improvement District Companies).*

#### *F3.5*

*The Council will work with partner agencies to integrate its licensing function with other local strategies by establishing best working practices and utilising some of the controls available to the Council under the licensing function such as:*

- *powers to close down licensed premises immediately for up to twenty-four hours on the grounds of disorder, the likelihood of disorder or excessive noise associated with the premises;*
- *powers for responsible authorities or residents to request a review of an existing authorisation under the Act;*
- *targeted joint agency enforcement against premises failing to promote the licensing objectives or contravening legislation;*
- *promoting Challenge 25 (or equivalent) proof of age schemes; and*
- *supporting an information sharing agreement between responsible authorities to ensure timely targeted action against problem premises.*

#### *F7.4*

*To assist applicants and licensing sub-committees with this process the Council has included an appendix to this policy detailing model licence conditions. The conditions Statement of Licensing Policy 2021 - 2026 Page 42 of 92 v1 07/01/2021 included in Appendix A have been developed since the introduction of the Act and represent best practice and effective existing conditions. F7.4 Appendix A is not intended as a 'wish list' for licensing sub-committees to select conditions or as a list of requirements for applicants to replicate in order to obtain a licence. The pool of model conditions is provided in order to assist with the drafting of conditions that are proportionate, reasonable and enforceable where it has been deemed appropriate to impose a condition. Any conditions drawn from the pool of model conditions will be tailored to the individual premises and activities specific to each application and will still be subject to the need to promote the licensing objectives and be appropriate and proportionate to address concerns raised through representations.*

#### *F7.5*

*The Council acknowledges that this pool of model conditions must not fetter the discretion of the decision maker but must instead be used solely to ensure consistency of approach where the particular circumstances of an application merit the imposition of a condition.*

#### *F8.1*

*The Council acknowledges that conditions cannot be imposed on an authorisation where it would be either impracticable or impossible for the licence holder to comply with such conditions when customers have left the premises and are beyond the control of the licence holder.*

#### *F8.2*

*That said, if behaviour of customers beyond the control of the licence holder can be causally linked to a specific premises and it is causing crime and disorder or a nuisance it is wrong to assume that the Act cannot address this; section 4 of the Act gives the Council a positive duty to deal with it proportionately. Whilst conditions would be inappropriate in these scenarios, the Council is strongly of the view that activities and/or operating times of an authorisation should be restricted, or an authorisation refused or revoked, where appropriate for the promotion of the licensing objectives.*

*Examples of behaviour falling within this paragraph include, but are not limited to:*

- *noise associated with customers once they have left the premises*

- *anti-social behaviour of customers such as unlawful parking, criminal damage, intimidatory behaviour, or any alcohol-related criminality.*

#### G1.5

*The Council acknowledges that unless its discretion is engaged by means of relevant representations, the application must be granted as applied for subject only to mandatory conditions or conditions consistent with the operating schedule supplied as part of the application. This section details the method of determination used by the Council once its discretion has been engaged and a hearing takes place.*

#### G1.6

*The Council will take this general approach to the determination of all applications for the grant of a premises licence or club premises certificate, that are made for events that are occasional in nature and/or are large in scale as defined in this section of the policy.*

#### G1.8

*Due to the specialist nature of large scale events, particularly in respect of temporary demountable structures, the appropriate responsible authority may consult with other authorities such as Hertfordshire Building Control on all large scale event applications to ensure the licensing authority has all relevant information when considering the licensing objective of public safety. It is likely that the appropriate responsible authority will require the applicant/licence holder to obtain design advice and sign-off for bespoke temporary demountable structures from a specialist structural engineer. This paragraph does not preclude the appropriate responsible authority obtaining advice on non-large scale applications, particularly when the use of bespoke temporary demountable structures is proposed.*

#### G2.2

*These events have significant potential to considerably undermine the promotion of the licensing objectives, due to their sheer size, complexity and the potential implications for the planning of a safe event. The Council strongly believes that this risk can only be adequately mitigated by the early submission of an up to date and detailed operating schedule that is specific to the proposed event on each separate occasion.*

#### G2.3

*The Council acknowledges that it is inherent in the Act that responsible authorities and other persons should be given the opportunity to make representations related to the nature of the individual event which is planned. The potential for adverse effects on the promotion of the licensing objectives can vary significantly between events, even when similar events are held on a regular basis. In order to support the promotion of the licensing objectives, the Council believes that responsible authorities have a role in ensuring the safety of every large-scale event, in particular when annual or multiple events are held under a single permanent premises licence.*

#### G2.6

*Sites for large occasional events are not usually purpose built for the variety of licensable activities that can take place, therefore there is considerable work involved before, during and after such events in planning and organising the event as well as co-ordinating and ensuring the full involvement of all the emergency services to ensure a safe and well managed event. The Council believes that this can only be adequately achieved by the full and ongoing involvement of the licensing authority and responsible authorities in liaising with the applicant, whilst they are compiling the operating schedule for each individual event.*

#### G2.7

*For these reasons, the Council considers that where an applicant attempts to submit an operating schedule that may refer to a series of events, potentially over a period of years, the detail and relevance of this important document is likely to be critically diluted unless it includes time-specific conditions relative to each event to allow the responsible authorities to consider the potential impact on the licensing objectives of each event.*

## G2.8

The Council acknowledges that it is under a statutory obligation to administer and enforce the licensing regime to promote the licensing objectives. The organiser of an event, however, has additional and fundamentally different considerations in planning, organising and managing their event including financial concerns (the amount of profit made for either charitable or private gain) and satisfying the demands of those attending the event (for example, music sound levels to meet the expectations of the audience). These considerations and other matters can conflict with the priorities of the Council in terms of the promotion of the licensing objectives.

## G2.11

The Council has therefore adopted the following policy that will apply to large scale events when relevant representations have been made and the application is referred to a licensing sub-committee for determination:

- (i) In respect of an application for a one-off, time-specific or permanent licence/certificate for the holding of occasional and/or large-scale events the Council will consider, amongst other matters, whether the operating schedule:
  - (a) defines the events proposed with sufficient certainty to enable responsible authorities and the Council to adequately consider the risks to the licensing objectives arising from the event; and
  - (b) defines the measures proposed to avert those risks with sufficient certainty to enable responsible authorities and the Council to make a balanced judgment as to whether the measures will be sufficient to mitigate those risks.
- (ii) The Council will generally require a high degree of certainty before deciding that the operating schedule fulfils this requirement, but will decide that matter on the individual merits of each case.
- (iii) In cases where the Council determines that the operating schedule is not drafted with sufficient certainty, the application will normally be refused, save in exceptional circumstances. It is unlikely that the circumstances will be considered exceptional unless the applicant gives assurances and safeguards that the licensing objectives will be met despite the lack of certainty in the operating schedule and suitable conditions can be imposed on the licence to mitigate this risk.
- (iv) In cases where the Council determines that the operating schedule is drafted with sufficient certainty then, in determining the application, the Council will consider any relevant risks arising from the temporary nature of the events proposed in the application in relation to the promotion of the licensing objectives.

## G3.1

The Council requires the following minimum periods in order to process applications for large scale events, however, the Council encourages the submission of applications as early as possible:

Maximum capacity at any one time (inc. staff and performers)	Minimum Notice Period for Application
500 - 900	2 months
1000 - 4999	3 months

5000 - 14999	4 months
15000 - 19999	5 months
20000 +	6 months

Note: the starting point of two months is based on the minimum amount of time needed for an application to be considered allowing for the prescribed consultation period and a Hearing if necessary.

*Where relevant representations have been made and the application is referred to a licensing sub-committee for determination, the Council will generally refuse all such applications that are not submitted, and duly made, in accordance with the minimum notice periods prior to the event, except in exceptional circumstances.*

G3.2 *The Council's reasons for this policy principle are the following:*

- (i) *These events have significant potential to considerably undermine the promotion of the licensing objectives due to the numbers of people attending, the sometimes temporary nature of facilities and, most importantly, the variety and complexity of matters that may be relevant to the planning and organising of such events. The Council believes these potentially adverse impacts can only be mitigated in a full and proper manner by an applicant engaging with the licensing process at an appropriate time before the event.*
- (ii) *Furthermore, where less notice is provided there may be insufficient time for the licensing process to run its full course, namely there may insufficient time prior to a proposed event for any party to appeal the Council's decision if they are not satisfied. It is clear that such cases can be complex and controversial, potentially involving considerable court time on appeal; this may create a situation where for any aggrieved party to an application to engage in the appeal process becomes effectively impossible due to time constraints before a proposed event.*
- (iii) *Alternatively, an appeal decision may be made that due to its proximity to an event either does not:*
  - (a) *deter some of those hoping to attend from still doing so (where the application has been refused) which could potentially adversely impact upon the licensing objectives; or*
  - (b) *where an application has been granted, the resources spent on such an appeal may have adversely affected the promotion of an event or undermined the planning and management of it.*
- (iv) *If less notice is given by an applicant, they may have insufficient time to respond fully to representations that may have been submitted. This is particularly relevant where responsible authorities and/or other persons take the view that an application is lacking in detail and substance, and where the licensing process becomes drawn out in the lead up to the proposed event. This can lead to pressures on an organiser in the crucial lead up time to an event itself.*

G4.2 *The Council's reasons for this policy principle are the following:*

- (i) *The demands on the responsible authorities can be disproportionate to their resources, particularly in light of the Council's policy of encouraging cultural activities such as music, dancing and theatre. This may place undue pressure on such bodies, undermining the level of scrutiny of such applications.*
- (ii) *It must be considered that the legal responsibilities connected to holding such events rests primarily with the organiser and land owner. Where an application does not*

*contain reference to such guidance and expertise, statutory bodies may be placed in an untenable position where they may be open to litigation due to the level of input/advice they may have to provide, and by implication may have taken an inappropriate degree of legal responsibility/liability in connection with the event. The Council believes it is pertinent, therefore, to attempt to avoid such a problem arising.*

- (iii) *Where an applicant does not consider such advice and guidance before making an application, this can place responsible authorities and/or other persons in a difficult position due to the fact that many aspects of an application may be lacking and it may not allow full and proper consideration of the proposals during the consultation period. This may undermine their full and proper consideration of an application.*

#### G6.1.1

*Large scale events, in particular music festivals, have the potential to significantly impact on the prevention of crime and disorder objective for reasons such as, but not limited to:*

- a significant number of event attendees being attracted to North Hertfordshire and the creation of 'an event community', often the size of small town;*
- disorder associated with travel to and from the venue;*
- potential criminal elements being attracted to the event, particularly multi-day events; and*
- the additional pressures on police resources associated with the event.*

#### G6.1.2

*In preparing an application, applicants are encouraged to have early discussions with the police about the potential for crime and disorder associated with or at the event in order that any concerns can be addressed in the operating schedule.*

#### G6.1.3

*Given the potential impact on the licensing objectives of a large scale event, the Council will place significant weight on any representation received from the police and will give serious consideration to refusing the application unless the concerns raised in the representation are fully addressed.*

#### G6.2.1

*Where evidence exists that an event is likely to, or has the potential to, attract crime and/or disorder into North Hertfordshire, the police may consider the implementation of dispersal powers available by virtue of the Anti-social Behaviour, Crime and Policing Act 2014. This would allow the removal of any problem persons from a specified area to address these concerns (for example, rogue traders, known criminal gangs, disorderly persons, etc.)*

#### G6.2.2

*A decision relating to the implementation of dispersal powers is not a decision for the Council as part of the licensing function and dispersal powers cannot be imposed as a licence condition. That said, the use or planned use of dispersal powers by the police may be considered as part of the sub-committee's allocation of weight to a police representation.*

#### G6.2.3

*Additionally, an applicant's willingness or otherwise to support and assist with dispersal powers can be considered by a licensing sub-committee as part of its determination.*

#### G6.4.1

*As part of an operating schedule or an EMP, the Council expects an applicant to fully apprise the police of the event security plan (including any requested details of security companies and operatives) and comply with any reasonable requests from the police in finalising the event security arrangements.*

#### G6.4.2

*For events that will have the potential to pose a significant risk to the licensing objectives, applicants should give serious consideration to including a Security and Stewarding Plan (SSP) as part of their operating schedule or EMP. Where appropriate for the promotion of the licensing objectives, the Council may consider imposing a condition requiring a SSP to be agreed with the police in advance of the event.*

#### G6.4.3

*Where appropriate based on the evidence and/or any perceived risk, the Council expects the security companies and operatives employed by the applicant to work closely with the police in regard to:*

- *information sharing;*
- *best practice;*
- *attendance at police briefings; and*
- *co-operation and assistance during the event.*

#### G6.4.4

*Where appropriate based on the evidence and/or any perceived risk, the Council may consider imposing conditions in relation to closed-circuit television (CCTV) at events for monitoring of audiences, camping, parking and ingress/egress.*

#### G6.4.5

*Where appropriate based on the evidence and/or any perceived risk, the Council may consider imposing conditions relating to a security search requirement on entry to an event site.*

#### G6.6.1

*Large numbers of event attendees give rise to pressures on local transport networks, particularly main and local roads, railway stations and taxi provision. The Council expects applicants to liaise with local transport providers, having assessed their target audience profile, and address any transport concerns within the operating schedule or EMP.*

#### G6.6.2

*For events that will have a significant impact on the local road/railway network, applicants should give serious consideration to including a Transport Management Plan (TMP) as part of their operating schedule or EMP. Where appropriate for the promotion of the licensing objectives, the Council may consider imposing a condition requiring a TMP to be agreed with the police in advance of the event.*

#### G6.6.3

*Where large numbers are expected to use local transport venues, such as railway stations, the Council considers these venues as areas that are causally linked to the event and within the licence holder's control. Where appropriate for the promotion of the licensing objectives, the Council may consider imposing conditions in relation to the provision of security at local transport venues to control event patrons.*

#### G6.6.4

*If the event venue is a considerable distance from key transport providers, such as railway stations, the Council expects the applicant to consider the implications of a significant number of pedestrians attending the event. This is particularly relevant for venues adjacent to main arterial routes such as Knebworth Park.*

#### G6.6.5



*Where appropriate to promote the licensing objectives the Council may consider imposing conditions requiring the provision of an additional transport provision between the venue and the main transport provider (such as railway stations), for example shuttle buses or organised taxi provision within the venue.*

#### **G6.6.6**

*Additionally, due to the causal link between the venue and the large number of pedestrians attending, the Council may consider imposing conditions relating to the stewarding of pedestrian routes where appropriate for the promotion of the licensing objectives.*

### **Emergency Liaison Team**

#### **G6.7.1**

*For events that due to their size, nature and/or duration effectively create a temporary community at the event venue pose additional risks and the Council expects operating schedules to address how this temporary community will be managed to promote the licensing objectives.*

#### **G6.7.2**

*In circumstances where one or more of the emergency services deem it necessary to have a permanent on-site presence, or where an event is deemed high risk by the Council, it may be appropriate for the applicant to provide a control centre permanently staff by the key agencies and event management in order to monitor the event and provide a combined response to any problem or emergency that may arise. This control centre is often referred to as an ELT (Emergency Liaison Team).*

#### **G6.7.3**

*The Council considers it good practice for an applicant to provide an ELT as part of an operating schedule or EMP. In circumstances where an applicant doesn't intend to provide an ELT, the Council would expect the operating schedule to demonstrate other suitable management arrangements to ensure the promotion of the licensing objectives.*

#### **G6.7.4**

*Where appropriate for the promotion of the licensing objectives, the Council may consider imposing a condition requiring the provision of a fully-staffed ELT throughout the event (or at specified times dependant on the individual circumstances of the application).*

#### **G6.7.5**

*Applicants should be aware that if the Council deems it appropriate to impose a condition requiring the provision of an ELT it is likely to impose a condition requiring the applicant to provide and maintain suitable telephony and IT to allow the effective operation of the ELT.*

#### **G7.1.1**

*The Council recognises that the public safety objective is concerned with the physical safety of the people attending the event and not with public health, which is dealt with in other legislation. That said, public health issues that may impact on public safety may be a relevant consideration.*

#### **G7.1.2**

*Given the nature of large scale events, particularly those that involve camping, the Council recognises that the applicant's responsibility in promoting the public safety objective is much wider than that of permanent premises with much shorter customer visiting periods.*

#### **G7.1.5**

*Applicants should be aware that if a licensing sub-committee is not satisfied that an operating schedule adequately promotes the public safety objective it is likely to impose conditions from the model conditions attached to this policy. In cases where there are insufficient conditions to*

*fully address the public safety objective or the risk to the public is so significant a licensing sub-committee is likely to refuse the application.*

#### *Catering Concessions and crew catering*

##### *G7.3.1*

*Large scale events usually require the provision of on-site catering concessions for the public and crew catering for production and site personnel. Whilst catering concessions are often provided in purpose-built mobile units, they can also be provided by way of temporary demountable structures.*

##### *G7.3.2*

*Given the temporary nature of event catering, the risk to the public from poor conditions of hygiene and/or the quality and fitness to consume of the products is increased. The effect of a food poisoning incident within crew catering puts the public at significant risk if event safety staff are unable to undertake their duties effectively.*

##### *G7.3.3*

*The Council expects applicants to fully demonstrate in the operating schedule or EMP how they will mitigate this increased risk and ensure the promotion of the public safety objective.*

##### *G7.3.4*

*The Council supports the Food Standard Agency's national Food Hygiene Rating Scheme (FHRS) used to display the hygiene standards of businesses. The Council encourages applicants to use catering concessions and crew catering providers that have a FHRS rating of three (3) or above.*

##### *G7.3.5*

*Where an operating schedule does not adequately promote the public safety objective in relation to catering concessions, a licensing sub-committee may consider imposing a condition, where appropriate, requiring a FHRS rating of three (3) or above.*

#### *G7.4*

##### *Water supply*

##### *G7.4.1*

*Large scale outdoor events, particularly greenfield sites, often involve a temporary or extended water supply network which has the potential to adversely affect the public safety objective.*

##### *G7.4.2*

*The water supply and distribution network must meet the standards required by BS 8551 and applicants should have due regard to the guidance provided by the document 'Guidelines for the Provision of Temporary Drinking Water Supplies at Events'.*

##### *G7.4.3*

*The Council expects applicants to provide a Water Management Plan (WMP), including an appropriate risk assessment, which should include provision of an alternative water supply in the event of loss of the original supply.*

##### *G7.4.4*

*If an operating schedule does not fully address public safety concerns in respect of the water supply a licensing sub-committee may consider imposing a condition, where appropriate for the promotion of the licensing objectives, requiring the applicant to produce a WMP as part of the operating schedule or EMP.*

##### *G7.4.5*

*The Council encourages applicants to have early discussions with NHDC's Commercial Team to enable them to address any issues associated with temporary water supplies in the operating schedule or EMP.*

#### **G7.4.6**

*The Council expects applicants/licence holders to liaise with the appropriate water company to ensure the safety of any water supply.*

#### **G7.4.7**

*The Council will expect to see suitable evidence as to the competency of any contractor installing or amending a water supply at a large-scale event and suitable evidence that the supply has been professionally installed/amended to meet appropriate standards.*

### **G7.6**

*Public safety risk assessment*

#### **G7.6.1**

*The Council expects premises licence holders and applicants to undertake a public safety risk assessment to ensure the safety of persons using their premises. The assessment should consider issues such as, but not limited to:*

- (i) safe capacities in identifiable areas of the event site, including camping and car parking, that can be evacuated quickly in the case of emergency;*
- (ii) policies in relation to ingress, re-admission and egress, particularly control of capacities, queuing and safe dispersal from the locality;*
- (iii) policies in relation to securing the safety of patrons whilst at the event, including camping and car parking; and*
- (iv) sufficient on-site medical provision, including procedures for contacting the emergency services.*

### **G8.**

*The prevention of public nuisance*

#### **G8.1**

*Supplementary to section E3 of this policy*

##### **G8.1.1**

*Applicants are reminded that for brevity, paragraphs of policy relating to the prevention of public nuisance that appear in section E3 of this policy are not repeated here. It is important, therefore, that applicants read this section in conjunction with and supplementary to section E3 of this policy.*

#### **G8.2 Overview**

##### **G8.2.1**

*Large scale outdoor events have significant potential to impact adversely on communities through public nuisance that may arise from their operation, in particular in relation to noise from live or recorded music. The Council expects applicants to seek early engagement with NHDC's Environmental Protection & Housing Team when preparing an operating schedule.*

##### **G8.2.2**

*Where the applicant's operating schedule does not fully address concerns in relation to the prevention of public nuisance objective, NHDC's Environmental Protection & Housing Team will initially request the applicant to volunteer additional conditions to avoid the need for a*

representation. Example conditions specific to large scale outdoor events are included in the attached appendix of model conditions to assist applicants with the wording of suitable conditions. The applicant is under no obligation to agree to the suggested conditions if they believe they are not appropriate or proportionate to the application. If the applicant does not wish to volunteer the suggested conditions then a representation is likely and the matter will be referred to a licensing sub-committee for determination.

### G8.2.3

Applicants should be aware that if a licensing sub-committee is not satisfied that an operating schedule adequately promotes the prevention of public nuisance objective it is likely to impose conditions from the model conditions attached to this policy. In cases where there are insufficient conditions to fully address the prevention of public nuisance objective or the risk of nuisance is so significant a licensing sub-committee is likely to refuse the application.

### G8.3

Noise from entertainment

#### G8.3.1

This may include noise from live or recorded music, human voices (both amplified and unamplified) and other forms of entertainment (i.e. playing of films). Measures to prevent a public nuisance may include:

- restrictions on the number of days that entertainment is held during an event;
- restrictions on the timings and types of entertainment, including sound propagation testing and pre-event sound checks;
- limiting the overall front of house sound levels including, where appropriate, limiting specific frequencies;
- suitably located and orientated stages to minimise the potential for noise nuisance;
- limiting the number of stages and/or sound sources that can be used for the provision of entertainment at any one time;
- use of noise control measures, for example directional sound systems, noise limiting devices and acoustic barriers or enclosures;
- employing a competent noise consultant to plan and implement noise control measures before and during the event.

#### G8.3.2

The Council is aware that the potential for noise nuisance must be proportionately balanced against the benefits to the community and each application must be determined on its individual merits. That said, the Council will give additional weight to concerns where an event has the potential to affect a large number of the public (for example, multiple communities such as neighbouring towns and/or villages).

#### G8.7.1

The Council believes that an applicant's responsibility for litter directly associated with an event is not confined to the event site itself. Where an event has a clearly identifiable pedestrian access (for example, a direct route between the event site and a railway station) or utilises an identifiable transport venue (for example, a railway station or car parking site), the Council expects the applicant to identify in the operating schedule or EMP what measures they will use to ensure the prevention of public nuisance for those routes and/or venues.

#### G8.7.2

Measures to prevent a public nuisance may include:

- entering into waste contract agreements with appropriate recycling provision;
- provision of litter bins adequate for the size and nature of the event;
- provision of rubbish bags for non-day ticket holders (i.e. campers);
- regular litter picks in the identified vicinity, on access routes and on associated transport venues.

## *G8.8 Noise management plan (NMP)*

### *G8.8.1*

*Section G5 of this policy details the Council's recommendation that an applicant utilises an Event Management Plan as a condition of a premises licence to allow maximum flexibility for multiples events. For the same reasons, the Council also recommends that applicants utilise a Noise Management Plan (NMP) as a condition of a premises licence.*

### *G8.8.2*

*A NMP gives maximum flexibility for an applicant to adapt the measures required for managing any potential noise nuisance from an event by reacting to amended site plans, differing artiste profiles, weather conditions, etc.. It removes the need for inflexible fixed noise levels on a premises licence and allows the applicant to work with environmental protection officers to ensure the most appropriate controls are applied proportionately for each event.*

### *G8.8.3*

*The Council acknowledges that a NMP cannot be a requirement to enable an applicant to obtain a licence, however it is the Council's preferred option to balance appropriate control and flexibility for the applicant.*

### *G8.8.4*

*In order to assist applicants with the preparation of appropriate operating schedule conditions in relation to a NMP the attached appendix of model conditions includes some examples of NMP licence conditions that work effectively for various existing licence holders.*

### *G8.8.5*

*Where a licensing sub-committee determines that an operating schedule does not adequately promote the prevention of public nuisance objective it is likely to consider imposing, where appropriate, conditions similar to the model conditions in respect of a NMP.*

### *G8.8.6*

*Applicants should be aware that if they volunteer, or a licensing sub-committee imposes, a licence condition requiring a NMP to be approved by NHDC's Environmental Protection & Housing Team, they should submit the NMP with sufficient time for the NMP to be considered and amended where necessary.*

## *G9. The protection of children from harm*

### *G9.1*

*The Council is aware of the added risk to the protection of children from harm objective arising from large scale outdoor events, particularly those with camping facilities that create a temporary community within the event site.*

### *G9.2*

*In addition to identifying in an operating schedule or EMP the measures to be taken to address section E4 of this policy, the Council expects applicants to consider what other control measures are appropriate based on the specific nature of the event.*

### *G9.3*

*Measures to protect children from harm at large scale outdoor events may include, but are not limited to:*

- restricting access to unaccompanied children below a specified age;*
- additional supervision of and/or restricted access to concessions selling agerestricted products;*
- an identifiable wristband scheme to distinguish children from adults (including additional entry and sales policies to ensure children cannot access adult tickets);*

- *policies in relation to lost children (specifically, lost children points, welfare arrangements, contact with the police, secure or coded communication between agencies)*
- *additional security clearance for staff that may come into contact with children;*
- *mitigating additional risk factors in terms of the prevention of CSE;*
- *restricting access to children from events where the entertainment or nature of the event is not suitable for children.*

#### G9.5

*Where a licensing sub-committee determines that an operating schedule does not fully address the protection of children from harm objective it is likely to consider imposing, where appropriate, conditions similar to the model conditions.*

#### 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.*

#### O4.2.1

*In order for a representation to be relevant it must be:*

- (i) made during the prescribed consultation period;*
- (ii) relate to the effect or likely effect on the licensing objectives;*
- (iii) not be frivolous or vexatious [other persons only]; and*
- (iv) in the case of reviews, not be repetitious [other persons only]*

## **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 (December 2023 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.*

### 1.7

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

### 1.8

*The police remain key enforcers of licensing law. This Guidance does not bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.*

### 1.16

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

- must be appropriate for the promotion of the licensing objectives;*
- must be precise and enforceable;*
- must be unambiguous and clear in what they intend to achieve;*
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;*
- must be tailored to the individual type, location and characteristics of the premises and events concerned;*
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;*
- should not replicate offences set out in the 2003 Act or other legislation;*
- should be proportionate, justifiable and be capable of being met;*
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and*
- should be written in a prescriptive format*

### 1.17

*Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.*

### 2.21

*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.*

### 2.22

*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.

#### 2.23

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

#### 2.24

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

#### 2.25

Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise Revised Guidance issued under section 182 of the Licensing Act 2003 | 11 emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

#### 2.27

Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

#### 8.41

In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to 62 | Revised Guidance issued under section 182 of the Licensing Act 2003 publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.



#### 8.42

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

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

#### 8.44

*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 Revised Guidance issued under section 182 of the Licensing Act 2003 | 63 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.*

#### 9.15

*It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.*

#### 9.42

*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 any 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 82 | Revised Guidance issued under section 182 of the Licensing Act 2003 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. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. copy of any document checked or a clear copy of the online right to work check) is retained at the licensed premises. Licensing authorities may also wish to consider placing additional conditions on licences to safeguard patrons against spiking, if deemed appropriate and proportionate for a specific venue where there is evidence to justify such action (a definition of spiking can be found in para 2.7). 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.*

#### **10.13**

*The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.*

#### **10.14**

*Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.*

### **Major festivals and carnivals**

10.18

*Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.*

10.19

*For other events, applications for many connected premises licences may be made which in combination will represent a single festival. It is important that licensing authorities should publicise the need for proper co-ordination of such arrangements and will need to ensure that responsible authorities are aware of the connected nature of the individual applications.*

10.20

*Local authorities should bear in mind their ability to seek premises licences from the licensing authority for land or buildings under public ownership within the community in their own name.<sup>8</sup> This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas where festivals and carnivals might take place.<sup>9</sup> Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give performances in these places, although they would need the permission of the local authority to put on the event.*

10.24

*Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:*

- *a prescribed capacity;*
- *an appropriate ratio of tables and chairs to customers based on the capacity; and*
- *a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both*

10.61

*Under section 21 of the 2003 Act, when a condition is included in a premises licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in section 21(3)(a) by reference to the Private Security Industry Act 2001 ("the 2001 Act")), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority ("the SIA") under the 2001 Act, or be entitled to carry out that activity by virtue of section 4 of the 2001 Act.*

10.62

*A premises licence need not require a person to hold a licence granted by the SIA if that person benefits from an exemption under section 4 of the 2001 Act. For example, certain employees benefit from an exemption when carrying out conduct in connection with a certified sports ground (section 4(6) to (12)). Furthermore, in certain circumstances persons benefit from an exemption where they operate under the SIA's Approved Contractor Scheme (section 15).*

10.63

*Conditions under section 21 of the 2003 Act should only relate to individuals carrying out security activities defined by section 21(3)(a) of the 2003 Act. Therefore, they should only relate to an activity to which paragraph 2(1)(a) of Schedule 2 to the 2001 Act applies (certain manned guarding activities) and which is licensable conduct within the meaning of section 3(2) of that Act. The requirement does not relate to individuals performing non-security related activities, and section 21 should not be used in relation to any such activities.*

10.66

*It is therefore important that if a licensing authority intends that individuals must be present to*

*carry out security activities (as defined by section 21(3)(a) of the 2003 Act) this should be explicit, as should the mandatory condition for those individuals to hold an SIA licence or be entitled to carry out that activity by virtue of section 4 of the 2001 Act. On the other hand, where a licensing authority intends that individuals must be present to carry out other activities (for example, activities related to safety or steward activities to organise, advise and direct members of the public), no mandatory condition Revised Guidance issued under section 182 of the Licensing Act 2003 | 95 should be imposed under section 21 of the 2003 Act. In all cases it is important when determining whether or not a condition is to be imposed under section 21 of the 2003 Act to consider whether the activities of any individual working in licensed premises fall within the definition of security activities in section 21(3)(a) of the 2003 Act. (Regardless of whether a condition is imposed under section 21 of the 2003 Act, under the 2001 Act the appropriate SIA licence must be held by any individual performing an activity for which they are licensable under that Act.*

## **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 any 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 82 | Revised Guidance issued under section 182 of the Licensing Act 2003 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'.

## **9. APPENDICES**

- 9.1 Appendix A Current premises licence
- 9.2 Appendix B Variation Application
- 9.3 Appendix C Plan
- 9.4 Appendix D Comparison Document
- 9.5 Appendix E Representation from Responsible Authorities
- 9.6 Appendix F Comments from Police
- 9.7 Appendix G Representations from Other Persons – Objecting
- 9.8 Appendix H Representations from Other Persons - Supporting

## **10. CONTACT OFFICER**

Sharon Bartram  
Licensing Officer  
[sharon.bartram@north-herts.gov.uk](mailto:sharon.bartram@north-herts.gov.uk)