

**LICENSING SUB-COMMITTEE  
TUESDAY 19<sup>TH</sup> MAY 2026**

**\*PART 1 – PUBLIC DOCUMENT**

**AGENDA ITEM No.**

**LICENSING ACT 2003**

**APPLICATION BY HARTSFIELD JMI SCHOOL FOR THE GRANT OF A  
PREMISES LICENCE IN RESPECT OF HARTSFIELD JMI SCHOOL, CLOTHALL  
ROAD, BALDOCK, HERTFORDSHIRE, SG7 6PB.**

**REPORT OF THE LICENSING OFFICER**

**1. BACKGROUND**

- 1.1 No premises licence under the Licensing Act 2003 is currently in place for the premises.
- 1.2 There have been 19 Temporary Event Notices at this premises since 19<sup>th</sup> November 2022 until present. In 2022, there was one event that lasted one day. In 2023 there were three events, two events were one-day events and one event lasted two days. In 2024, there were five events, four of the five events lasted one day and one of the events lasted two days. In 2025, eight events, seven of these events were one day only events and one of the events was a two-day event. An event took place on April 2026 which was a one-day event and there is currently a pending temporary event notice for November 2026 which is a one-day event.
- 1.3 Following the temporary event notices, there were no objections from the police or environmental health, and there were no complaints raised by any local residents.

**2. APPLICATION**

- 2.1 The application is for the grant of a premises licence under Section 17 of the Licensing Act 2003.
- 2.2 The licensable activities and hours applied for are as follows:

**Films:**

Monday	10:00 – 21:00
Tuesday	10:00 – 21:00
Wednesday	10:00 – 21:00
Thursday	10:00 – 21:00
Friday	10:00 – 22:00
Saturday	10:00 – 22:00
Sunday	10:00 – 21:00

Further details-

The provision of films will be limited to occasional outdoor cinema events held within the school grounds, such as the playground or field, organised by the school or authorised third parties including a local Community Interest Company (CIC). Events will use temporary screening equipment and will primarily consist of family-friendly

films, with appropriate age classifications observed where applicable. All events will be infrequent, appropriately supervised and risk assessed in advance, with measures in place to manage noise, ensure the safe entry and exit of attendees, and minimise disturbance to nearby residents.

Seasonal variations for the exhibition of films –

Outdoor film events will primarily take place during the spring and summer months, with limited or no events during the autumn and winter period.

**Live Music:**

Monday	12:00 – 20:00
Tuesday	12:00 – 20:00
Wednesday	12:00 – 20:00
Thursday	12:00 – 20:00
Friday	12:00 – 00:00
Saturday	12:00 – 00:00
Sunday	12:00 – 20:00

Further details –

Live Music will include occasional school and community events. Performances may involve amplified live music from bands and will take place within the school grounds or indoors. Events will be infrequent, appropriately supervised and managed by professionals to minimise noise and disturbance to nearby residents.

Seasonal variations for the performance of live music –

Live music events will primarily take place during the spring and summer months, with limited or no events during the autumn and winter period.

**Recorded Music:**

Monday	12:00 – 20:00
Tuesday	12:00 – 20:00
Wednesday	12:00 – 20:00
Thursday	12:00 – 20:00
Friday	12:00 – 00:00
Saturday	12:00 – 00:00
Sunday	12:00 – 20:00

Further details –

Recorded music will be limited to occasional school and community events, including background music and music ancillary to other activities, and will be managed to minimise noise and disturbance to nearby residents.

Seasonal variations for the playing of recorded music –

Use will mainly be during spring and summer.

**Supply of Alcohol:**

Monday	12:00 – 22:00
Tuesday	12:00 – 22:00
Wednesday	12:00 – 22:00
Thursday	12:00 – 22:00
Friday	12:00 – 00:00
Saturday	12:00 – 00:00
Sunday	12:00 – 22:00

### 3. APPLICATION PROCESS

- 3.1 On 23<sup>rd</sup> March 2026, Hartsfield JMI School made an application for the grant of a Premises Licence.
- 3.2 The Applicant served copies of this application to the Police Authority and the other Responsible Authorities
- 3.3 A public notice was displayed on the premises for a period of not less than twenty-eight (28) days in accordance with the requirements of the Licensing Act 2003.
- 3.4 A newspaper advertisement was placed in a local newspaper in accordance with the Act.

### 4. REPRESENTATIONS

- 4.1 No representation was received from Hertfordshire Constabulary.
- 4.2 No representations were received from any other Responsible Authority.
- 4.3 On 26<sup>th</sup> March 2026, the applicant agreed with the Senior Environmental Health Officer, Suzanne Lane, the following conditions. On the grounds of public safety, Environmental Health has not objected to this application:

#### PS1 – Event Management Plan

For an event of **2000 people (including staff/volunteers) or greater**, the premises licence holder shall submit a draft Event Management Plan to the Council's Environmental Health Officer no later than three (3) calendar months prior to the commencement of the event and a final management plan no later than twenty-eight (28) days prior to the commencement of the event build-up on site. The final EMP will form part of the operating schedule conditions of the licence.

For an event of **greater than 500 people (including staff and volunteers) but less than 2000** the premises licence holder shall submit a final management plan no later than twenty-eight (28) days prior to the commencement of the event build-up on site. The final EMP will form part of the operating schedule conditions of the licence.

In the event that the final EMP does not appear to adequately identify and mitigate the public safety risks of an event of this nature, the event will not proceed until such time that the EHO notifies the licensing authority in writing that they believe the EMP is adequate. This condition places no liability on the EHO for the safety of the event, it merely confirms that the EMP would be suitable for an event of this nature assuming that the event organisers implemented the content and continued to review the public safety risks throughout the event.

#### PS2 – Event Management Plan

For an event of greater than 500 people (including staff/volunteers), demonstrate that suitable arrangements are in place for operating a safe event in accordance to the timescales in PS1, or it shall not go ahead. To demonstrate suitable arrangements for the management of a safe event, an event management plan shall be prepared that is not limited to, but includes the following:

- a. a scaled site plan, showing how each part of the licensed area will be used, identification of all structures, access routes and ingress/egress points.
- b. a table listing all areas and the spaces allocated to each;

- c. roles and responsibilities of all key personnel responsible for managing the event, including names and contact numbers plus back-up contacts in the event of their non-availability.
- d. risk assessments for all activities relating to the event;
- e. full details of security and stewarding arrangements, means for giving warning of an emergency, including the initiating and effecting of any evacuation, including from structures;
- f. detail of crowd management including capacities and how these will be monitored and evacuation times from each area of the site to allow for safe and quick evacuation in the event of an emergency
- g. details of all proposed safety barriers and fencing to be erected on site, including the positioning;
- h. details of proposed special effects (including fireworks, lasers, dry ice special lighting effects) and proposed safety arrangements associated with their use;
- i. details for managing all traffic and vehicle movements on site, including within parking areas, during the event build-up phase, during the event and during the site breakdown phase.
- j. management arrangements for site access and egress, including specific arrangements for emergency services;
- k. layout and facilities in any campsites and management arrangements for camping areas (including policies on camp-fires and barbecues);
- l. smoking policy in the licensed area;
- m. medical and first aid provision;
- n. Details of electrical installations for the event, including generators. This should include how cable hazards will be avoided and measures to prevent members of the public from interfering with any parts of the electrical installations;
- o. Provision of artificial lighting to all parts of the licensed area, including emergency lighting;
- p. Arrangements for the provision of sanitary accommodation (including toilets, washing facilities and washing-up facilities) plus methods for the disposal of waste water;
- q. Arrangements for the management of sanitary accommodation during the event
- r. Details of the water supply and network available at the event (BS 8551)

### PS3 – Temporary Demountable Structures

For an event of **2000 people (including staff/volunteers) or greater**, the premises license holder shall submit a scaled plan showing the location of all proposed temporary demountable structures within the licensed area no later than twenty-eight (28) days prior to the commencement of the event build-up on site.

Details of these structures will include:

- a. a plan to a suitable scale indicating the location of all such structures;
- b. a description and type of each structure, for non-standard structures a detailed design statement should accompany the description;
- c. the person(s) responsible is/are identified and their competency proven for the:
  - i) construction of each structure;

- ii) 'sign-off' of each structure, including the format of the certificate (the term sign off refers to written documentation that states that the structure is safe and fit for the proposed purpose and identifies any limitations);
- iii) for non-standard structures or designs those responsible for third party accreditation with regard to design and sign-off;
- iv) for monitoring the structure during the licensed period
- d. location and availability of the 'sign-off for use' completion certificates;
- e. monitoring of structures in line with the risk assessment
- f. details of the limitations placed upon the structure other than wind speed;
- g. details of limiting wind speeds for each structure, the method of assessing the wind speed during the event and what action is to be taken at relevant speeds;

#### PS4 – Water management Plan

If extending an existing supply pipework, the premises licence holder is to provide a water management plan for their event to Environmental Health no later than twenty-eight (28) days prior to the commencement of the event. This plan should contain, but not be limited to;

- a. The source of water (mains or private water supply)
- b. A schematic of the water distribution network and drainage arrangements
- c. Contingency arrangements for failure of supply
- d. Drinking water testing arrangements
- e. Calculation that the water supply is sufficient for activities onsite during peak demand
- f. Assurance that any person responsible for commissioning or working on the water supply network is suitably competent. A suitably competent person is a member of "watersafe" or hold equivalent accreditation details
- g. Assurance that any person responsible for commissioning or working on the water supply network provides water in accordance with BS 855, Provision and management of temporary water supplies and distribution networks.

Where water provision will be via mains water, the Premises Licence holder must inform the water undertaker at least twenty-eight (28) days prior to the commencement of the event.

#### PS5 - High risk food traders

For all events, the Premises Licence Holder shall provide relevant information to the Commercial Team (Environmental Health) regarding the for high risk, open food traders\*. Information provided to North Hertfordshire District Council's Environmental Health Commercial Team shall be provided in the manner detailed below.

- Name of food trader
- Registered name of food business
- Registered address of food business (including postcode)
- Food hygiene rating & Date awarded
- Type of food sold
- Inspecting Authority

(\*High-risk, open food traders; food businesses that sell, prepare foods that are non-ambient stable (must be kept cold or hot for safety) and/or are unwrapped foods directly handled by staff.)

#### PS6 – Multi-agency meetings

For an event of **2000 people (including staff/volunteers) or greater**, the premises licence holder will ensure that a schedule of multi-agency meetings are held on site before and during the event, and that a full multi-agency debrief is held as soon as possible, but no later than three (3) months after the event taking place each year

#### PS7 – Safety Officer

For an event of **2000 people (including staff/volunteers) or greater**, a competent (suitably experienced and qualified) safety officer be appointed for assisting in the planning, build and during the event.

4.4 On 7<sup>th</sup> April 2026, the applicant agreed with Public Health at Hertfordshire County Council, the following condition. On the grounds of protection of children from harm, Public Health has not objected to this application:

Regarding the protection of children from harm – Public Health requests the applicant demonstrate how they will ensure that alcohol sales are not made to anyone under the age of 18 years e.g. by adopting PASS or Challenge 25, and to confirm that all staff will be appropriately trained and supported to enforce this policy and check ID and hold a refusal log.

4.5 8 representations were received from Other Persons and are enclosed below:

4.6 The Council's Scheme of Delegation in respect of the Licensing Act 2003 requires the Licensing Officer to determine whether a representation is relevant as specified by the Act.

4.7 Where representations include paragraphs that are not relevant to the Licensing Act 2003, these paragraphs have been clearly redacted by the Senior 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.

4.8 The Senior Licensing Officer determined that the representations were relevant; it is for the Sub-Committee to determine what weight to apportion to the representation.

4.9 The Applicant has been served with a copy of the representation as part of this report.

4.10 The applicant has provided a response to the other persons to try to mitigate the concerns:

We take all concerns raised by neighbouring residents very seriously and are committed to responding in a clear, open, and constructive manner which we hope has been achieved in this correspondence.

First and foremost, we would like to clarify the core reason for this application. It is not intended to expand the scale or nature of events, nor to open the grounds to third-party commercial use. The application has been made primarily to address the capacity limitations associated with Temporary Event Notices (TENs), which are capped at 499 people on site at any one time.

This limit includes not only attendees, but everyone present, including staff, volunteers, security, medics, contractors, food vendors, stallholders, and artist and their entourages. In practice, this can account for approximately 70 to 80 people at a typical event, significantly reducing the number of tickets available to the public.

For established fundraising events such as Country Boots and Baldock Roots, this restriction has a direct impact. Demand often exceeds supply, but fewer tickets mean reduced funds raised for the school and associated charities. A premises licence would provide a more suitable and controlled framework, allowing these existing

community events to operate safely at an appropriate capacity rather than being constrained by TEN limits.

The application supports a programme of school-led, community-focused events, many of which are already well established and valued within Baldock. These are primarily fundraising activities organised by the school, parents, and local groups.

It is important to emphasise that these are not commercial festivals or events. There are no plans to host raves, EDM events, or large-scale entertainment. Events will remain local, occasional, and focused on supporting the school, family fun and bringing the community together.

We are also exploring low-impact, positive uses of the site, such as the free open-air family cinema event – Baldockbuster (previously held on the Buffs field), using the secure school grounds as a safer environment for families, and a community sports day as a daytime, family-friendly activity. Any such additions would be infrequent and aligned with the community-focused nature of the site.

The school currently hosts a small number of annual events including fireworks, the Christmas fair, Country Boots Baldock Roots, and a school camp-out, alongside occasional indoor fundraisers such as bingo and quiz nights. This application reflects that existing pattern. It is not an attempt to introduce frequent or large-scale entertainment, nor regular late-night use.

Indoor fundraising events have historically taken place until midnight without complaint and are well established, community-based occasions attended primarily by parents and carers. There is therefore no justification for reducing indoor hours.

Outdoor events are limited in number and are carefully managed. In the spirit of compromise, we are willing to limit outdoor licensable activities to 22:00. However, for the annual Country Boots event, we would request a specific licence condition allowing a one-off extension to 23:00. This would apply only to this single event each year, which is the only occasion expected to run to that time, and we would be content for this to be explicitly stated within the licence.

We recognise that the wording of the application may appear broad or ambiguous, which may understandably cause concern. The proposed hours have been included solely to accommodate existing events and occasional additions such as an outdoor cinema, not to enable frequent late-night activity.

There are no plans to rent the grounds to third parties or commercial promoters. All events will remain school-led or community-led. The involvement of the Baldock Events Forum reflects trusted local expertise, not commercial use.

Comparisons to large-scale events such as Balstock, or venues such as the Buffs Club, are not relevant to this application. These are separate operations with no connection to the school and differ significantly in scale and nature.

The school is proud to have hosted events on this site for many years without any recorded incidents or significant disruption. This reflects careful planning, responsible management, and respect for the neighbours.

All operational matters, including sound management, stewarding, crowd dispersal, safeguarding, alcohol sales, and waste management, will be addressed through detailed Event Management Plans. These will be developed using extensive experience and reviewed with the North Herts Safety Advisory Group, ensuring full alignment with licensing objectives. This approach allows each event to be managed proportionately and appropriately, rather than through blanket restrictions.

Safeguarding is a key priority. The Designated Premises Supervisor brings over 35 years of safeguarding experience in her career as the Director of Social Services of a London Borough, and more than 20 years of organising safe community events.

Alcohol sales will remain ancillary to events and managed responsibly, with appropriate training and oversight. We also support initiatives such as the North Herts Women and Girls Safety Charter, reinforcing our commitment to a safe and inclusive environment.

The Baldock Events Forum is a not-for-profit Community Interest Company dedicated to community benefit. It brings together significant expertise, including the Designated Premises Supervisor, a director of a security company with over 25 years' experience managing major events, and a long-standing local community organiser and all 3 are former Hartsfield pupil parents.

The forum also consults with North Herts councillors to discuss any events and takes feedback/suggestions on board from them. This collective experience ensures all events are professionally planned, responsibly managed, and fully compliant with licensing requirements.

We take care to minimise any impact on local residents. For larger events, there is no on-site parking, and this is clearly communicated in all promotional materials. Attendees are encouraged to walk or use local transport, with emphasis on the school's proximity to the train station and town centre parking in all advertising. There is no history of traffic or parking issues arising from previous events.

We respectfully believe this application is both appropriate and proportionate. It enables better planning, safer capacity management, and continued support for vital school fundraising without changing the fundamental nature of events already taking place.

We do not believe that blanket restrictions such as reduced hours, strict caps on event numbers, or additional alcohol limitations are necessary given our strong track record. These matters are more effectively managed through event-specific Event Management Plans.

We are committed to being considerate neighbours and genuinely value the views of local residents. We welcome ongoing feedback, discussion, and constructive suggestions. We hope this response has helped to address any concerns but if anyone would like further clarification or has any questions, we would encourage them to contact Katy Matthews, who is overseeing the application and is very happy to speak with residents directly.

Our aim is to ensure that events remain something the whole community can feel comfortable with and even enjoy.

Thank you for taking the time to raise your concerns and to consider our response.

4.11 The Applicant and supporting parties have been invited to attend the hearing to present their respective cases. They have been advised that they may be legally represented and of the Committee 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 Licensing 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 Licensing and Appeals Sub-Committee has the following options when issuing the Decision Notice:
- i) Grant the Application as made
  - ii) Grant the Application with conditions; 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.

### *D2.1*

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

### *D2.4*

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

### *D2.9*

*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.*

#### **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.*

#### **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.*

#### **E3.9.1**

*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.*

#### **E3.9.2**

*The provision of well-managed and controlled entertainment will be encouraged to promote the vision, however the potential disturbance to residents and businesses will need to have been adequately considered by applicants as part of their operating schedule.*

#### **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.*

**O4.1.4**

*Other persons are defined as any individual, body, business or member of the licensing authority.*

**O4.2.6**

*Officers will make professional judgements on the relevancy of representations and give reasons in writing when a representation is deemed not relevant. If there is an element of doubt over relevancy, the benefit of the doubt will be given to the writer of the representation and the sub-committee can consider the weight (if any) to apportion to the representation as part of their determination.*

**O4.7.1**

*Where practicable, the Council will try to mediate between any person or authority making a representation and the applicant to see if the concerns can be addressed prior to the hearing (this mediation could start as soon as the first representation is received during the consultation period).*

**O4.7.2**

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

## **7. RELEVANT EXTRACTS OF STATUTORY GUIDANCE**

- 7.1 The following paragraphs from the Guidance issued by the Home Office under section 182 of the Licensing Act 2003 (February 2026 version) may be relevant to this application. This section does not prevent the Sub-Committee from considering other paragraphs of the Guidance where they deem it appropriate and the determination should be based upon consideration of the full document.

**1.3**

*The licensing objectives are:*

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

**1.4**

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

**1.5**

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

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;*
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;*

- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area;
- and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

#### 1.16

*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, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave;
- and
- should be written in a prescriptive format.

#### 1.17

*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

*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.*

#### *2.26*

*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.*

#### *8.47*

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

#### *9.3*

*Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.*

#### *9.9*

*It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.*

#### *9.37*

*As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.*

#### *9.38*

*In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:*

- the steps that are appropriate to promote the licensing objectives;*
- the representations (including supporting information) presented by all the parties;*
- this Guidance;*

- *its own statement of licensing policy.*

#### 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 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.*

#### 10.9

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

## **8. LICENSING OFFICER COMMENTS**

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

### **Definition of 'appropriate'**

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

#### 9.43

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

**9.44**

*Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that 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 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. The requirement is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood the Guidance, they may depart from it if they have reason to do so as long as they are able to provide full reasons. Departure from the 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). The 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 the 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'.

## **Case Law**

- 8.7 As Guidance confirms, public nuisance under the Licensing Act 2003 has a wide interpretation and it is for the Sub-Committee to determine, based on the evidence, whether they consider these issues to be a public nuisance.
- 8.8 The Guidance states at paragraph 2.20 that conditions relating to public nuisance beyond the vicinity of the premises are not appropriate and the Council's Statement of Licensing Policy supports that view. Conditions that it would be either impracticable or impossible for the licence holder to control would clearly be inappropriate.
- 8.9 That said, if behaviour beyond the premises can be clearly linked to a premises and it is causing a public nuisance, it is wrong to say that the Licensing Act 2003 cannot address this. Whilst conditions may well be inappropriate, if the evidence deems it necessary, times and/or activities under the licence could be restricted or, indeed, the application could be refused.
- 8.10 The magistrates court case of *Kouttis v London Borough of Enfield, 9th September 2011* considered this issue.
- 8.11 In a summary of the case provided by the Institute of Licensing it is reported that District Judge Daber considered an appeal against a decision of the local authority to restrict the hours of musical entertainment of a public house to mitigate the noise from patrons as they left the premises in response to representations from local residents. The appellant relied on the sections of the Guidance that state that "beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right" (para 2.38). It was also suggested that, given that certain residents were not disturbed, this did not amount to public nuisance within the meaning of para 2.33 of the Guidance as approved by Burton J in the Hope and Glory case.
- 8.12 The District Judge held that there was ample evidence of public nuisance, and that section 4 of the Act gave the licensing authority a positive duty to deal with it proportionately. In this case, no less interventionist way of dealing with the nuisance had been suggested. He held that not only was the authority not wrong, but that it was in fact right to reduce the hours as it had. The appeal was therefore dismissed.
- 8.13 As this was a decision of the Magistrates Court it would not be binding on other courts, however, it could be considered as persuasive.

## **Evidence not to consider**

- 8.14 The representation includes information that has been appropriately redacted, as the Licensing Officer does not consider it relevant to the application.
- (i) An objector raises concerns that the application was submitted by an individual organiser, however the applicant and proposed premises licence holder is Hartsfield JMI School.
  - (ii) Multiple objectors have stated that the surroundings roads are residential and do not have adequate parking, unfortunately under the Licensing Act 2003, we cannot consider any parking issues.

- (iii) Other parts of the objections suggest that there will be increased litter and waste following the events, this is not considered as relevant within a representation under the Licensing Act 2003.
- (iv) An objection explains that there are other events held at different schools within the district, this is not considered as valid as each application is considered on its own merits.
- (v) An objector has stated that granting the premises licence could have a negative impact on environmental issues, this cannot be considered as valid under the Licensing Act 2003, as environmental issues do not fall under the licensing objectives.
- (vi) Information regarding increased traffic cannot be considered as relevant within the representations.

### **Review of premises licence**

8.15 Should the sub-committee be minded to grant a licence it will exist in perpetuity however there is a safeguard within the Act.

8.16 Any responsible authority or other person may apply to the licensing authority for the review of a premises licence if they can demonstrate that the premises are not adequately promoting the licensing objectives. In the case of other persons, they would need to demonstrate the direct impact on their household of licensable activities at the premises in terms of one or more of the licensing objectives.

8.17 If accepted by the licensing authority, an application for review would result in a twenty-eight (28) day consultation period advertised at the premises and on the licensing authority website where any responsible authority or other person could submit a representation.

8.18 A licensing sub-committee would hold a hearing to assess the representations and the oral submissions of the licence holder before considering what, if any, action was appropriate. The options available to the sub-committee would be:

- i) to take no action;
- ii) to modify the conditions of the premises licence (modify includes adding new conditions, altering or omitting existing conditions, or altering permitted timings of licensable activities);
- iii) to exclude a licensable activity from the premises licence;
- iv) to remove the designated premises supervisor from the premises licence;
- v) to suspend the premises licence for a period not exceeding three months; or
- vi) to revoke the premises licence.

**9. APPENDICES**

9.1 Appendix A Application

9.2 Appendix B Plan

9.3 Appendix C 8 representations from Other Persons

**10. CONTACT OFFICERS**

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