

**LICENSING AND APPEALS SUB-COMMITTEE
TUESDAY 16th JUNE 2026**

***PART 1 – PUBLIC DOCUMENT**

AGENDA ITEM No.

LICENSING ACT 2003

**APPLICATION BY GREEN KING BREWING AND RETAILING LTD FOR THE
GRANT OF A PREMISES LICENCE IN RESPECT OF GEORGE & DRAGON, HIGH
STREET, GRAVELEY, HITCHIN, HERTS, SG4 7LE**

REPORT OF THE LICENSING OFFICER

1. BACKGROUND

- 1.1 A premises licence under the Licensing Act 2003 is currently in place for the premises – the applicant states that should the new application be granted they will surrender the current licence.
- 1.2 The current licence LC/4087 has the following licensing activities

Recorded & Live Music - Indoors

Saturday 18:00 to 00:00

Non-Standard Times

These hours are to apply each week of the year with the exception of: Christmas Eve, Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, The Sunday and Monday of all other Bank Holidays On all these days, the hours will be from 18:00hrs - 01:00hrs the following morning. New Year's Eve On this day, the permitted hours will be from 18:00hrs until the standard permitted hours on New Year's Day. The premises will be allowed to open for extended hours on twenty (20) occasions in any calendar year. These occasions are in addition to the stated extended hours above. On these days, the following licensable activities shall be permitted between the hours of 18:00hrs and midnight: Live Music, Recorded Music, Anything of a Similar Description to Live or Recorded Music, Supply of Alcohol. On these dates, a written log is to be kept by the premises licence holder of the event held and will be made available to the Licensing Authority at their request.

Supply of Alcohol – on and off Premises

Monday to Wednesday & Sunday 11:00 to 23:30

Thursday 11:00 to 00:30

Friday & Saturday 11:00 to 01:00

Non-Standard Times

These hours are to apply each week of the year with the exception of: Christmas Eve, Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, The Sunday and Monday of all other Bank Holidays On all these days, the hours will be from 11:00hrs - 01:00hrs the following morning. New Year's Eve On this day, the permitted hours will be from 11:00hrs until the standard permitted hours on New Year's Day. The premises will be allowed to open for extended hours on twenty (20)

occasions in any calendar year. These occasions are in addition to the stated extended hours days set out above. On these days, the following licensable activities shall be permitted between the hours of 18:00hrs and midnight: Live Music, Recorded Music, Anything of a Similar Description to Live or Recorded Music, Supply of Alcohol. On these dates, a written log is to be kept by the premises licence holder of the event held and will be made available to the Licensing Authority at their request.

Hours premises is open to public
Monday to Wednesday & Sunday 11:00 to 00:00
Thursday 11:00 to 01:00
Friday & Saturday 11:00 to 11:00 to 01:00

Non-Standard Times

These hours are to apply each week of the year with the exception of: Christmas Eve, Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Saturday, Easter Sunday, Easter Monday, The Sunday and Monday of all other Bank Holidays. On these days, the hours will be from 11:00hrs to 01:30hrs the following morning. New Year's Eve. On this day, the standard permitted hours for New Year's Eve will be extended until the start of the standard permitted hours for New Year's Day.

This current licence can also use the deregulated part of the act where the premises does not require a licence to stage a performance of live music, or the playing of recorded music if:

- it takes place between 8AM and 11PM
- it takes place at an alcohol on-licensed premises
- the audience is no more than 500 people
- to put on unamplified live music at any place between the same hours
- to put on amplified live music at a workplace between the same hours and provided the audience is no more than 500 people.

This will also be applied to the new licence if granted unless conditions are added to counter it.

- 1.3 In June 2024 Environmental Health (noise) had recorded 2 - appears to be related to same event
- A) Complaint logged as 17/06/2024 Elvis event
Noise officer spoke with Licensing officer as complaints related – no further action
 - B) Complaint logged as 21/06/2024 Elvis event on 15/06/2024 Afternoon to 20:00hrs in the garden area.
Noise officer emailed complaint in response to their questions – and no further correspondence followed
- 1.4 In June 2024 Licensing recorded 1 -
- C) Complaint dated 21/06/24 regarding previous events, complaint logged with manager of premises and an event taking place on 21/06/2024
Lic officer stated on complaint
“Visited premise. Spoke to the General Manager, Kerri Evans. She explained she had received a telephone complaint at 19.30 St 15 June. This was an Elvis tribute Act that concluded at 20.00. The following weekend there was a wedding reception with no amplified music, all indoors that concluded at 22.00. All music is in line with the licence and deregulation. I will write to the complainant.”

2. APPLICATION

- 2.1 The application is for the grant of a premises licence under Section 17 of the Licensing Act 2003.
- 2.2 An application was received on 22nd April 2026 for the grant of a premises licence. **Application APPENDIX A - Plan APPENDIX B**
- 2.3 The licensable activities and hours applied for are as follows:

Live & Recorded Music - Indoors:

Monday	08:00 to 23:00
Tuesday	08:00 to 23:00
Wednesday	08:00 to 23:00
Thursday	08:00 to 23:00
Friday	08:00 to 00:00
Saturday	08:00 to 00:00
Sunday	08:00 to 23:00

Seasonal variations for the performance of Live & Recorded music

with non-standard timings From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day for Christmas Eve, Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Saturday/Sunday/Monday, the Sunday & Monday of all other Bank holidays from 08:00 to 01:00 the following morning for licensable activities closing at 01:30.

Supply of Alcohol on and off premises:

Monday	08:00 to 23:30
Tuesday	08:00 to 23:30
Wednesday	08:00 to 23:30
Thursday	08:00 to 00:30
Friday	08:00 to 01:00
Saturday	08:00 to 01:00
Sunday	08:00 to 23:30

Seasonal variations for the Supply of Alcohol

with non-standard timings From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day for Christmas Eve, Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Saturday/Sunday/Monday, the Sunday & Monday of all other Bank holidays from 08:00 to 01:00 the following morning for licensable activities closing at 01:30.

To allow for the showing of major sporting events involving England men's or women's teams to be shown and alcohol sold up to 1 hour prior to the commencement of the sporting event and finishing 30 minutes after the sporting event (where such times fall outside of the ordinary operating set out above). Notice of any events under this condition to be given to the Police licensing team a minimum of 7 days' notice in advance of the event taking place.

Late Night Refreshment:

Monday	23:00 to 23:30
Tuesday	23:00 to 23:30
Wednesday	23:00 to 23:30
Thursday	23:00 to 00:30
Friday	23:00 to 01:00
Saturday	23:00 to 01:00
Sunday	23:00 to 23:30

Seasonal variations for late night refreshment

with non-standard timings From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day for Christmas Eve, Christmas Day, Boxing Day, New Years Day, Good Friday, Easter Saturday/Sunday/Monday, the Sunday & Monday of all other Bank holidays from 08:00 to 01:00 the following morning for licensable activities closing at 01:30.

3. APPLICATION PROCESS

- 3.1 On 22nd April 2026, TLT the agent for Green King Brewing And Retailing Ltd made an application for the grant of a Premises Licence.
- 3.2 The Application copies were served 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 2 "No objections" were received from Senior Environmental Health Officer (Commercial) and Assistant Trading Standards Officer.
- 4.3 An agreement was made with the Applicant/Agent and Senior Environmental Protection & Housing Officer to a condition that would be added if the licence is granted.
'Prior to the first provision of regulated entertainment, a Noise Management Plan (NMP) shall be submitted to the Environmental Health Department. The NMP shall identify measures to control noise emanating from the premises and its patrons. Any identified measures to control noise shall be implemented in accordance with the approved plan at all times. The noise management plan shall be periodically reviewed to reflect any changes in the operation, building or event type, following any complaints or at the request of the Environmental Health Department.'

Additional information provided from the Senior Environmental Protection & Housing Officer regarding the above agreement:

Environmental Health Officers will normally seek to base any required noise levels for external events on 'The Code of Practise for Environmental Noise Control at Concerts'.

This document is normally referred to inform noise levels for larger, festival style events but it can be useful in offering limits for smaller venues. I will not be necessarily looking for strict noise limits in the NMP but will seek to ensure that noise is considered and controlled during the provision of regulated entertainment.

- 4.4 This condition was advised to the objectors and 0 objections were withdrawn
- 4.5 7 representations were received from Other Persons and are enclosed in **APPENDIX C**
- 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 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.
- 4.7 The Licensing Officer determined that the representations were relevant; it is for the Sub-Committee to determine what weight to apportion to the representation.
- 4.8 The Applicant has been served with a copy of the representation as part of this report.
- 4.9 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) Using the neighbouring premises as a comparison. Using neighbouring venue(s) cannot be used for comparison – each application is considered on its own merits.
 - (ii) 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 7 representations from Other Persons

10. CONTACT OFFICERS

10.1 Melanie Gillespie
Licensing Officer
01462 474253