

Licensing Policy Considerations

It is considered that the following have a bearing upon the application:

- 3.1 Teignbridge District Council, as licensing authority, has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives. Each objective is of equal importance and there are no other licensing objectives. The licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and
- the protection of children from harm

When addressing the four objectives the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of these objectives. Such steps as are necessary to deal with these identified issues should be included within the applicant's operating schedule.

- 3.2 Applicants applying for variation or a new premises licence or certificate are required to produce an operating schedule detailing the measures that will be put in place to promote the licensing objectives.
- 3.3 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a panacea for solving all problems within the community. The licensing authority will therefore continue to work in partnership with its neighbouring authorities, the police, the fire authority, local businesses and local people towards the promotion of the objectives as outlined.
- 3.4 These objectives are the only matters to be taken into account in determining applications and any conditions attached must be necessary to achieve the licensing objectives. If there are no relevant representations then an application must be granted and will be subject only to the mandatory conditions and the applicant's operating schedule.
- 3.5 In undertaking its licensing function, the licensing authority is also bound to have regard to Section 17 Crime and Disorder Act 1998, The European Convention on Human Rights, which is applied by the Human Rights Act 1998 and The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000.

The licensing authority will also have regard to other legislation, strategies, policies and guidance in its decision making.

The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. It is the licensing authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

- 3.6 The licensing authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the infrastructure and police resources to cope with the influx of people, particularly at night.
- 3.7 In the absence of relevant representations the licence must be granted. In the event of relevant representations being received which are not withdrawn the application will be referred to the

licensing sub-committee for hearing. At the hearing the overriding principle adopted by the licensing authority will be that each application will be determined on its merits.

- 3.8 The purpose of this policy document is to assist the licensing authority in reaching a decision on a particular application, setting out those matters that will normally be taken into account. In addition, the policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the Teignbridge district with some measure of certainty.

The four licensing objectives are the only matters that the licensing authority can take into account when making a decision.

- 4.1 Licensing relates to the control of licensed premises and other events within the terms of the Act and any conditions which may be attached to licences and the various other permissions will focus on matters falling within the control of individual licence holders.
- 4.2 Appropriate and proportionate conditions will be tailored to the individual application where relevant representations have been received and only those necessary to promote the licensing objectives will be imposed. These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the vicinity. In this regard the licensing authority will primarily focus on the direct impact of any activities taking place at the licensed premises on those living, working or otherwise engaged in the area concerned.
- 4.3 It is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licence holder or individual club or business holding the licence, certificate or authorisation concerned.
- 4.4 The licensing authority will avoid imposing disproportionate and over burdensome conditions on premises. The licensing authority does not propose to implement standard conditions on licences across the board, but will attach conditions as appropriate given the circumstances of each individual case. This will only apply where relevant representations are received, or volunteered by the applicant in their operating schedule and any mandatory conditions prescribed in the 2003 Act.
- 4.5 Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public (e.g. health and safety at work and fire safety legislation). However, the licensing authority may, where relevant representations are received, impose conditions where existing legislation does not provide adequately for the promotion of the four licensing objectives.

The Act enables the authority where relevant representations are received, to impose such conditions as are necessary upon premises which have the potential to cause danger to visitors, disturbance to neighbours, crime or harm to children. However, many premises operate without such risks which the authority will reflect by adopting a lighter touch to the imposition of conditions.

- 5.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the licensing authority can take into account. This should not, however, be equated with 'need' which relates to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 5.2 The licensing authority may receive relevant representations from either a "responsible authority" or "an interested party" (both defined by the Act), that the cumulative impact of licences has led to an area becoming saturated with licensed premises making it a focal point and thereby creating problems of disorder and nuisance over and above the impact from the individual premises themselves. The onus will be on those making such representations to provide evidence to the licensing authority of the problems caused by the licensed premises in the area. If such representations are received the licensing authority may consider that imposing conditions is

unlikely to address these problems and may consider the adoption of a policy of refusing new premises licences (or variations of existing licences which increase the licensed provision, for example, by way of longer hours) because the area is saturated with licensed premises and the granting of any more would undermine the licensing objectives.

- 5.5 The policy is not absolute, the licensing authority will not operate a quota of any kind which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Regard will be given to the individual characteristics of the premises concerned within a given area when deciding whether to depart from the policy. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the saturation policy.

It would normally not be justifiable to adopt a saturation policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises.

- 6.1 In the absence of relevant representations, the terminal hours contained within the operating schedule must be granted. However, if there are relevant representations, the licensing authority will deal with the issue of licensing hours on the individual merits of each application. The licensing authority may set an earlier terminal hour when it considers this is appropriate to the nature of the activities and the amenity of the area unless the applicant can show that the proposal would not adversely affect the licensing objectives. The applicant should build into their operating schedule sufficient time to allow customers to consume their alcohol and allow sufficient time for the customer to vacate the premises in a quiet and orderly manner and achieve the licensing objectives.
- 6.2 In considering licence applications, the licensing authority will consider the adequacy of measures proposed to deal with the potential for crime, disorder and/or nuisance having regard to all the circumstances of the case. The licensing authority strongly encourages the adoption of best practice. This includes the expectation, as an item of best practice, that CCTV will be provided in those premises that wish to trade in the sale of alcohol beyond midnight for the purpose of preventing crime and disorder and public safety. Applicants should carry out a risk assessment with regard to CCTV and are expected to include CCTV in their operating schedule. Where they elect not to do so they are strongly advised to provide information explaining that omission. For example, that the risk assessment has shown CCTV to be unnecessary.
- 6.4 The legislation does not provide for standard closing times. Entertainment providers will be encouraged to provide and promote a range of entertainment during their operating hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operational schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community. The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the licensing authority believe it necessary, proportionate and reasonable to restrict the hours required.
- 6.5 Zoning refers to the setting of fixed trading hours within a designated area and will not be introduced as this can lead to the significant movement of people across boundaries in search of premises opening later.
- 9.5 In order to avoid duplication with other statutory regimes as far as possible the licensing authority will not attach conditions on a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation e.g. The Health and Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.
- 12.1 When determining applications the licensing authority will have regard to any guidance issued by the Government Department. If relevant representations are made concerning the potential for

limited disturbance in a particular neighbourhood, the licensing authority's consideration will be balanced against the wider benefits to the community.

- 13.1 The licensing authority recognises that drug use is not something that is relevant to all licensed premises. However, special conditions may need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. These conditions will only be imposed where relevant representations have been received in such cases the conditions will be taken from the Government Department pool of conditions which take into account the report "Safer Clubbing" issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs Action Team and the Police.
- 14.1 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must comply with the Private Security Industry Authority Act 2001 and the Violent Crime Reduction Act 2006 in accordance with the Private Security Industry Act 2001 and any successive legislation. The licensing authority may consider that certain premises require strict supervision for exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder. In such cases, if relevant representations are made the licensing authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.
- 14.2 The licensing authority strongly encourages the adoption of best practice. This includes the expectation, as an item of best practice, that door staff will be provided in those premises that wish to trade in the sale of alcohol beyond midnight for the purpose of preventing crime and disorder and public safety. Applicants should carry out a risk assessment with regard to door staff and are expected to include door staff in their operating schedule. Where they elect not to do so they are strongly advised to provide information explaining that omission. For example, that the risk assessment has shown door staff to be unnecessary.
- 17.1 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps which are required to deal with these identified issues should be included within the applicant's operating schedule. The impact of the licensable activities on people living in the vicinity should not be disproportionate or unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter. The prevention of public nuisance can include low level nuisance affecting a few people living locally as well as a major disturbance affecting the whole community. It may also include the prevention of the reduction of the living and working amenity and environment of the interested parties.
- 18.1 Where it is considered necessary to control the maximum numbers of persons attending premises for the purpose of preventing crime and disorder or for public safety the licensing authority will expect this to be addressed in the operating schedule. The licensing authority, if relevant representations are received and only then if such conditions are deemed necessary proportionate and reasonable, may impose a condition stipulating a maximum number of persons permitted to attend premises.

