

Appendix 6 – Extracts from Statement of Licensing Policy 2021-2026

7.1 Planning

The use of premises for licensable activities is subject to planning control. Such use will normally require express planning consent or must otherwise be lawful, i.e. have a certificate of lawfulness issued by the planning authority. A licence or TEN issued under the 2003 Act does not override any restriction placed on the premises by the planning authority. Premises operating in breach of their planning permission remain liable to enforcement action under planning law. It should also be noted that a decision made by the Licensing Authority does not relieve an applicant of the need to apply for planning or building control authorisation. Applicants need to be aware that there may be circumstances when planning restrictions impose an earlier closing time than that authorised under the Licensing Act. Where the operating hours under planning regulations are different to the permitted hours under licensing, the applicant must observe the earlier hours. The Council is of the view that the licensing authority is not bound by decisions made by the planning authority and vice versa. The two authorities consider different (albeit related) matters, but the only relevant considerations for the Licensing Authority when determining applications are the licensing objectives.

Key message 01

Licence applications should normally be from premises where

- The activity to be authorised by the licence is lawful under the planning regime
- The hours sought do not exceed those authorised by any planning permission; and
- Any existing hours are appropriate for the use of the premises Note – Where the appropriate planning consent has not been obtained in advance and relevant representations are made, applicants will need to demonstrate that the operation of the premises would not be detrimental to the promotion of the licensing objectives.

9.3 Conditions imposed at a hearing

If, after receiving relevant representations, the licensing authority believes it appropriate to do so, it will consider attaching conditions to licences. However, only those which relate specifically to the representations received and are considered appropriate to promote the licensing objectives will be imposed. The authority will not impose disproportionate and over burdensome conditions where there is no need for them. Any conditions considered appropriate will be tailored to the individual style and characteristics of the premises or event. In addition, licence conditions will not seek to replicate offences which are set out in the Licensing Act 2003. For example, a condition that states that a licence holder shall not permit drunkenness and disorderly behaviour or serve alcohol to under 18s is unnecessary as this is already a criminal offence under the Act Conditions may, however, be attached to a licence which require measures to be taken to meet one or more of the licensing objectives to address a particular problem specific to those premises, even if such measures may also be a general requirement of another regulatory regime.

13.3 Prevention of public nuisance

Licensed premises have a significant potential to impact adversely on communities through public nuisances, which can arise from their operation. The licensing authority recognises the need to prevent public nuisance to residents, visitors and other businesses, whilst balancing the rights of licensed premises to develop their business potential. In considering what constitutes a public nuisance the Licensing Authority will make a judgement as to whether the effect of the licensable activities on those living or working in the surrounding area is unreasonable. It is accepted that such disturbance could affect small numbers of people and does not need to cause a major disturbance to the whole community. Issues which could be considered as public nuisance are mainly noise, light pollution and litter.

13.3.1 Disturbance by patrons leaving the premises

Whilst it is accepted that once patrons have left the curtilage of a licensed premises, there are limits on what the premises or its staff are able to do to address any associated noise and disturbance, those managing the premises should nevertheless put in place appropriate measures to minimise such nuisance and disturbance. Management, staff and door supervisors are encouraged to be proactive in assisting customers to leave the premises in an orderly manner, to reduce the nuisance to neighbours arising from noise or poor behaviour, especially after midnight. Residents are particularly impacted by late night venues and premises should look at procedures and staff training to minimise nuisance and disorder in the locality. Where a review is brought as a result of late night disturbance being caused to local residents, the Licensing Authority will consider the need to reduce licensable hours in order to promote the prevention of public nuisance objective.

Key message 17

Operators of any premises licensed under the Act should consider placing notices at exits to ask patrons to respect neighbours. Door supervisors employed at premises must encourage patrons leaving the curtilage of the premises to do so in an orderly manner.

13.3.3 Noise Nuisance

Conditions relating to noise nuisance will normally concern the measures necessary to control the levels of noise emanating from the premises. Any conditions necessary to promote the licensing objectives will be tailored to the style and characteristic of particular premises and may include restrictions which ensure that the volume of amplified sound used in connection with entertainment, is under the control of the licensee or management and that the controlling mechanism is operated from a part of the premises inaccessible to the public. Where applications lead to representations about noise, all appropriate conditions will normally be focused on the most sensitive periods. For example music is more problematical when it is played from late evening until the early hours of the morning when nearby residents are attempting to get to sleep. Outdoor areas used for consumption of food or drink or for smoking may lead to noise issues for nearby residents. Wherever possible designated areas that are away from nearby residents should be used for smoking.

Key message 18

Outside areas used by patrons should be monitored through the evening, with particular attention to hours after 22.00hrs. Door supervisors should monitor, limit numbers or corral customers in specific areas, where possible.

Key message 19

If an outside area falls within the licensed area applicants are expected to consider the following condition for inclusion in the operating schedule: 'Any outside area used for the consumption of alcohol will cease to be used by patrons after 22.00hrs'

17. Need for licensed premises

Demand is a decision for planners and the commercial sector to consider and the licensing authority will not use its decision making powers, policy or practice, seek to restrict the number or type of licensed premises, based purely on the perception of market need for additional licensed premises.