

<b>Licensing Sub Committee</b>		
Author's Title	Public Protection Manager	
Are there back ground papers	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Exempt	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Ward(s) affected?		
Responsible Members	Cllr P Fisher – Chairman Licensing Committee Cllr C Ringer – Portfolio Holder (Licensing)	
Contact Officer	<b>Licensing Team</b>	
E-mail address		
Telephone number	01263 516291	
Are there Non Electronic Appendices	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
List of Background Papers and Appendices	North Norfolk District Council Licensing Policy  Statutory Guidance issued by the Home Office  Appendices to the report containing copies of correspondence from Responsible Authorities and Other Persons  Application and Current Application Form	

**This report has been subject to the following processes:**

<b>Consultation with:</b>		
Head of Financial Services (S151 Officer)	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> Not apt
Solicitor to the Council/Legal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Not apt
Others:	Head of Environmental Health	

<b>File Location:</b>	M3 Database WK/230098837
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**Application for a Variation to Premises Licence - Maltings Hotel, The Street,  
Weybourne, Norfolk, NR25 7SY**

- Summary:** This is an application for a variation to Premises Licence
- Conclusions:** That Members consider and determine the case from the written and oral information provided.
- Recommendations:** That Members consider and determine this case

Cllr P Fisher – Chairman  
Licensing Committee

Ward(s) affected: Weybourne

Contact Officer, telephone  
number, and e-mail:

**Nicky Davison**

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**nicky.davison@north-norfolk.gov.uk**

**1. Jurisdiction**

- 1.1. North Norfolk District Council is the Licensing Authority under the Licensing Act 2003 in respect of Premises licences for the sale of alcohol or regulated entertainment. Where a valid application for a premises licence or variation is received and relevant representations are made, before determining the application, the authority must hold a hearing to consider the case.
- 1.2. The four licensing objectives to be considered when determining the application, and relevant representations, are:
- a. the prevention of crime & disorder
  - b. public safety
  - c. the prevention of public nuisance, and
  - d. the protection of children from harm

**2. The Application**

- 2.1 Chestnut Inns Ltd has made an application to vary the Premises Licence. The application can be seen in **Appendix A**. A noise management plan has been submitted to accompany the application which can be seen in **Appendix A** also. The proposed ground floor and first floor plans can be seen in **Appendix B**. The red outline on the plans relates to the proposed licensable area, the

yellow outline on the ground floor plan relates to the outdoor areas and the green outline on the ground floor plan relates to the location of the bar serveries.

- 2.2 The Premises are used as a hotel and restaurant. The main hotel building is proposed to be used for the public aswell as the customers residing at the Hotel. The hotel lounge will provide 90 covers with a bar servery area. There are 28 double resident bedrooms where it is proposed to provide minibars. The barn/conference building is proposed to be used as the restaurant for all customers and provides 110 covers on the ground floor and a further 68 covers on the first floor. A bar servery is situated on the ground floor with an additional bar servery area on the external patio area adjacent to the barn.
- 2.3 The premises currently has the benefit of a premises licence and can be seen in **Appendix C**.
- 2.4 The application is seeking the following variation to the Premises Licence:
- a) to extend the licensable area to include the first floor of barn/conference building,
  - b) to include outside courtyard area with seating for the consumption of alcohol only,
  - c) to include the residents bedrooms in the main hotel for consumption of alcohol looking to provide minibars in the resident rooms,
  - d) to include live music and recorded music. Live music to take place in the barn and recorded music to take place in the barn and main hotel building.
  - e) to include late night refreshment for both residents and customers,
  - f) increase the hours for sale by retail of alcohol for consumption on and off the premises.
  - g) Proposing to remove conditions 10, 11 and 12 (numbered 11, 12 & 13 on the premises licence in Appendix C due to incorrect numbering) currently imposed on the premises licence:
    - 11 - LIH001 The hours which you are permitted to sell alcohol by your Premises Licence shall be restricted on the following days:\* Good Friday 12 noon - 22.30 hours only\* Christmas Day 12 noon - 22.30 hours only\* New Years Eve 11.00 hours - New Years Day 23.00 hours. Drinking up time is 20 minutes (or 30 minutes with food) at the end of these hours.
    - 12 - LIH002 Drinking up time is 20 minutes (or 30 minutes with food) at the end of these hours.
    - 13 - The premises is structurally adapted and bona fide used/intended to be used for the purpose of habitually providing for the accommodation of persons frequenting the premises substantial refreshment to which the sale and supply of intoxicating liquor is

ancillary. This allows intoxicating drinks to be served as an accompaniment to meals until midnight on Mondays to Saturdays, and until 11.30pm on Sundays, Good Friday and Christmas Day.

2.5 The applicant seeks permission to operate as follows:

<b>Licensable activity</b>	<b>Days</b>	<b>Times</b>
<b>Opening Hours</b>	Monday to Sunday	00:01 - 00:00
<b>Live Music</b>	Monday to Sunday	12:00 – 01:00 Indoors in Barn Area
<b>Recorded Music</b>	Monday to Sunday	11:00 - 01:00 Indoors in Barn Area and Main Hotel
<b>Late Night Refreshment</b>	Monday to Sunday	23:00 – 01:00 Indoors in Barn Area and Main Hotel
<b>Sale of Alcohol On Premises Sale of Alcohol Off Premises</b>	Monday to Sunday	11:00 - 01:00

### 3. Conditions

3.1 The premises licence is subject to the following mandatory conditions:

- a. **LIP001** No supply of alcohol may be made under the premises licence, at a time when there is no designated premises supervisor in respect of the premises licence or at a time when the designated premises supervisor does not hold a personal licence, or the personal licence is suspended.
- b. **LIP002** Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- c. **LIP003** Where a premises licence includes the condition that at specified times one or more individuals must be at the premises to carry out a security activity; each such individual must be licensed by the Security Industry Authority.
- d. **LIP004** Where a premises licence authorises the exhibition of films, the admission of children to the exhibition of any film to be restricted in accordance with this section.

e. **LIP006**

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

- f. **LIP008** The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

g. **LIP009**

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

i. **LIP010** The responsible person shall ensure that:

a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

i) beer or cider: ½ pint;

ii) gin, rum, vodka or whisky: 25ml or 35ml; and

iii) still wine in a glass: 125ml; and

b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

j. **LIP011** A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

3.2 The current premises licence **Appendix C**, is subject to three conditions consistent with the operating schedule. These conditions are requested to be removed as part of this variation application and are detailed under paragraph 2.4 (g).

3.3 The licence will be subject to the following conditions which are consistent with the operating schedule:

a. When events involving regulated entertainment are to occur the event details and a contact number to be advertised at least seven days before the event either outside the venue and/or on the website, where concerns and suggestions can be raised before, during or after the proposed event. A written record of such calls and actions taken to be maintained.

b. **LIPN10** All doors and windows to the main building and barn must be kept closed from 22:00 hours, other than for access and egress, when events involving amplified music or speech are taking place.

- c. **LIPN14** Prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents and leave the premises and the area quietly.
- d. **LIPN19** The Designated Premises Supervisor or a nominated representative shall receive and respond to complaints throughout the duration of all noisy events and will have full control at all times over the sound amplification.
- e. **LIPN22** A designated premises supervisor or nominated representative shall ensure that no nuisance is caused by noise emanating from the premises by implementing a Self Policing Policy which shall include sound checks inside and out.
- f. **LICD15** Any person selling or supplying alcoholic drink under the authority of a personal licence holder will ask for a photo ID proof of age where they have reason to suspect that the individual may be under 25 years of age.
- g. **LIPN24** The premises shall have a written dispersal procedure designed to make the maximum impact immediately before premises close, and directly thereafter, by exercising pro-active measures, to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours, both residential and business, and to make the minimum impact upon the neighbourhood in relation to potential nuisance, antisocial behaviour, crime and disorder.

#### 4. Representations from Responsible Authorities

- 4.1 Section 13(4) of the Act defines the 'Responsible Authorities' as the statutory bodies that must be sent copies of an application. Representations made must relate to the licensing objectives.
- 4.2 The following comments have been received from the Responsible Authorities and can be seen in **Appendix D**:

<b>Responsible Authority</b>	<b>Comments</b>	<b>Date</b>
Trading Standards Service	Nil response	
Fire Service	Application acknowledged and referral to guidance documents: <b>Small and Medium Places of Assembly and Sleeping accommodation</b>	16/10/2023
Home Office (Immigration Enforcement)	Nil response	

<b>Responsible Authority</b>	<b>Comments</b>	<b>Date</b>
EH - Environmental Protection	Suggested conditions: PN14 – as offered by applicant in 3.3 (c) PN19 – as offered by applicant in 3.3 (d) PN21 - The specification and orientation of all speakers shall be agreed with the Licensing Authority/Responsible Authority. PN22 – as offered by applicant in 3.3 (e)	26/10/2023
EH -Licensing	No objection subject to the current conditions, proposed conditions by both the applicant and the environmental protection team.	05/01/2024
E.H - Commercial	No objection.	20/12/2023
Norfolk Safeguarding Childrens Board	Nil response	
Planning	No objection.	03/01/2024
Primary Care Trust, N C C	Nil response	
Norfolk Constabulary - Licensing Team	With the conditions offered to support the licensing objectives, there are no police objections.	04/01/2024

## 5. Representations from Other Persons

- 5.1 Section 17(5) of the Act describes other persons as persons who live, or are involved in business, in the relevant licensing authority's area and who are likely to be affected by it. Representations made must relate to the licensing objectives.
- 5.2 There has been correspondence received from seven other persons concerning this application. Copies of all the correspondence is attached for information. The relevant issue raised has been that of public nuisance. See the table below and **Appendix D**.



## Representations from Other Persons

Name	Representation	Date
Councillor Victoria Holliday Objection 1	Prevention of public nuisance	02/11/2023 and 06/01/2024
Mr and Mrs Penrose Objection 2	Prevention of public nuisance	03/11/2023
Anne Steven Objection 3	Prevention of public nuisance	05/11/2023
Marie Fraser Objection 4	Prevention of public nuisance	06/11/2023
Cortina Newton Objection 5	Prevention of public nuisance	05/01/2024
Mr and Mrs Silver Objection 6	Prevention of public nuisance	08/01/2024
Mr and Mrs Cartwright Objection 7	Prevention of public nuisance	08/01/2024

## 6. Notices

- 6.1 The applicant is responsible for advertising the application by way of a notice in the specified form at the premises for not less than 28 consecutive days and in a local newspaper. The Public Notice appeared in the North Norfolk News on the 21 December 2023 and notices were posted and displayed on the premises until 09 January 2024.

## 7. Plans

- 7.1 A location plan showing the general location of the premises is attached at **Appendix E**.

## 8. North Norfolk District Council Licensing Policy

- 8.1 The current Statement of Licensing Policy was approved by Council on 17 November 2021 and became effective on 31 January 2022 and the following extracts may be relevant to this application:

### 3.0 Main Principles

3.1 Nothing in the 'Statement of Policy' will:

- undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, and/or

- override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act

3.2 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions that are attached to licences, certificates will be focused on matters which are within the control of individual licensee or club, i.e. the premises and its vicinity.

3.3 Whether or not incidents can be regarded as being 'in the vicinity' of licensed premises is a question of fact and will depend on the particular circumstances of the case. In dispute, the question will ultimately be decided by the courts. When considering these conditions, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

3.4 The Council acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. In this respect, the Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- planning and environmental health controls
- ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments
- designation of parts of the District as places where alcohol may not be consumed publicly
- regular liaison with Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises
- the power of the police, other responsible authority or a local resident or business or District Councillor to seek a review of the licence or certificate

#### **4 Crime and Disorder**

4.1 The Council acknowledges that the Police are the main source of advice on crime and disorder.

4.2 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. The Council will expect Operating Schedules to satisfactorily address these issues from the design of the premises through to the daily operation of the business.

## **5 Public Safety**

5.1 Licence holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety included the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.

5.2 A number of matters should be considered in relation to public safety, these could include;

- Fire safety
- Ensuring appropriate access for emergency services such as ambulances
- Good communication with local authorities and emergency services
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits
- Ensuring the safety of people when leaving the premises (for example through the provision of information on late-night transportation)
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles
- Ensuring appropriate limits on the maximum capacity of the premises; and
- Considering the use of CCTV

5.3 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. The Council expects applicants to consider, when making their application, which steps it is appropriate to take to promote the public safety objective and demonstrate how they will achieve that.

## **6 Prevention of Public Nuisance**

6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

6.2 The concerns mainly relate to noise nuisance, light pollution and noxious smells and due regard will be taken of the impact these may have. The Council will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Health and Pollution Enforcement Officers before preparing their plans and Schedules.

6.3 The Council will consider attaching Conditions to licences and permissions to prevent public nuisance, and these may include Conditions drawn from the Model Pool of Conditions relating to 'Public Nuisance'.

## **7 Prevention of Harm to Children**

7.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.

7.2 The 2003 Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.

7.3 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. Between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the new offences created by the 2003 Act. (See the Licensing Policy for further detail)

## **10 Standard Conditions**

10.1 Conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises and events concerned.

10.2 However, where considered appropriate, and necessary for the promotion of the Licensing Objectives, the Council will consider attaching Conditions drawn from the relevant Model Pools of Conditions and from any published Local Pool of Conditions

## **9. Guidance Issued under section 182 of the Licensing Act 2003**

9.1 The current Guidance was issued by the Home Office in December 2023 and offers advice to Licensing authorities on the discharge of their functions under the Licensing Act 2003.

9.2 The following extracts may be relevant to this application and assist the panel:

### **Licensing conditions – general principles**

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

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

### **Each application on its own merits**

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

## **Crime and Disorder**

2.1 Licensing Authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

## **Public Safety**

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;

- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

## **Public Nuisance**

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.16 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.

2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (See Chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should avoid inappropriate or

disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

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

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

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social 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.

## **7 Prevention of Harm to Children**

7.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.

7.2 The 2003 Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises



being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.

7.3 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice. Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. Between 5am and midnight the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the new offences created by the 2003 Act. (See the Licensing Policy for further detail)

### **Determining applications**

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.

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.

### **Relevant, Vexatious and Frivolous Representations**

9.4 A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new

premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

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.

### **Determining actions that are appropriate for the promotion of the licensing objectives**

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 the 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.

### **Conditions attached to Premises Licences**

10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below

#### **Proposed Conditions**

10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention

#### **Imposed Conditions**

10.8 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all

parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. This provision also applies to minor variations.

10.9 It is possible that in some cases no additional conditions are appropriate to promote the licensing objectives.

### **Proportionality**

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

### **Hours of trading**

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

10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

### **Overview of circumstances in which entertainment activities are not licensable**

16.6 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
  - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that does not have a licence, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community

premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

– any playing of recorded music between 08.00 and 23.00 on any day, at the non- residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

## **10. Determination**

- 10.1 The Sub Committee are requested to consider the application, representations, and determine this application.
- 10.2 When considering this application, the Sub Committee will need to have regard to the North Norfolk District Council Licensing Policy and to statutory guidance under the Licensing Act 2003 issued by the Secretary of State
- 10.3 In determining the application for a Premises Licence the Sub Committee may take the following actions:
  - a. Grant the application
  - b. Grant the application subject to conditions relevant to the promotion of the licensing objectives
  - c. Refuse the application
- 10.4 This application must be determined and notified to the applicant within 5 working days from the conclusion of the hearing. Reasons for the Panel's decision must be given as both the applicant and objectors have a right of appeal against that decision to the Magistrates Court.
- 10.5 There is a right of appeal to the decision of the Sub Committee to the Magistrates court within 21 days.

## **Appendices:**

- A. Copy of Application
- B. Plan of Premises
- C. Current Premises Licence
- D. Letters/emails of objection or support from Responsible Authorities/ 'Other Persons'
- E. Location Plan

**Background Papers:**

1. The Licensing Act 2003
2. North Norfolk District Council Statement of Licensing Policy (approved 17 November 2021)
3. Guidance issued under section 182 of the Licensing Act 2003 (December 2023)
4. The Legislative Reform (Entertainment Licensing) Order 2014