

NORTH HERTFORDSHIRE DISTRICT COUNCIL

STATEMENT OF LICENSING POLICY (adopted by Full Council on 18 November 2004)

as required by

THE LICENSING ACT 2003

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7th January 2005

NORTH HERTFORDSHIRE DISTRICT COUNCIL

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Statement of Licensing Policy

This Licensing Policy Statement was adopted by the Council on 18 November 2004 and is effective from 7 January 2005.

1. Introduction

1.1 This Licensing Policy Statement ("The Policy") has been produced in accordance with the Licensing Act 2003 ("The Act") and has been drafted with regard to the Department of Culture Media and Sport Guidance. Its purpose is to give guidance to North Hertfordshire District Council ("The Council") when carrying out its functions and responsibilities under the Act.

1.2 This Policy applies to all those activities identified as falling within the provisions of the Act , namely:-

- Retail sale of alcohol.
- Supply of alcohol by or on behalf of a club member, or the order of a member of a club.
- The provision of late night refreshment, which includes the supply of hot food and/or drink on or from any premises between 11pm and 5am to members of the public.
- The provision of 'regulated entertainment', as defined by the Act, which may include:
 - A performance of a play
 - An exhibition of a film
 - An indoor sporting event
 - Boxing or wrestling entertainment (indoor or outdoor)
 - A performance of live music
 - Any playing of recorded music
 - A performance of dance
 - Provision of facilities for making music
 - Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance

1.3 Each licence application will be decided by reference to this Policy 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.

2. The Licensing Objectives

2.1 The Council has a duty under the Act to carry out its functions and responsibilities with a view to promoting the 'Licensing Objectives' which are as follows:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and

- the protection of children from harm.
- 2.2 Each objective has equal importance.
- 2.3 The Council recognises that the exercise of its licensing functions are only one of a number of means of securing the above objectives. The exercise, by the Council, of its licensing functions should not be seen as a panacea for all problems within the community. The Council will continue to work in partnership with other people and organisations towards the promotion of the Licensing Objectives.
- 2.4 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:
- the introduction of better and more proportionate regulation to give businesses greater freedom and flexibility to meet their customers' expectations;
 - greater choice for consumers, including tourists, about where, when and how, they spend their leisure time;
 - the encouragement of more family friendly premises where younger children can be free to go with the family;
 - the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns;
 - the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring; and
 - the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

3. Consultation and Review

- 3.1 In preparing this Policy the Council has consulted with:
- The Police;
 - The Fire Authority;
 - persons/bodies representing local holders of liquor licences;
 - persons/bodies representing local businesses;
 - persons bodies representing local residents;
 - The North Herts Local Strategic Partnership;
 - The North Herts Community Safety Partnership;
 - The North Herts and Stevenage Primary Care Trust;
 - Parish Councils; and
 - other representatives of the wider community.
- 3.2 Appropriate weight has been given to the views of all those consulted prior to the adoption of this Policy.
- 3.3 The Council will keep this Policy under review and continue to work in partnership with neighbouring local authorities, local Police, local businesses and local people, towards the promotion of the Licensing Objectives. The Policy will also be integrated with the community, rural and town centre development briefs and strategies.

- 3.4 The Council will publish its Policy every three years and it will be kept under review in the intervening period. The Council may make such revisions as it considers appropriate, for instance in the light of feedback from the local community on whether the Licensing Objectives are being met.

4. Regulating Licensing

- 4.1 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. The Council may attach conditions to licences issued under the Act and these must be focussed on matters which are within the control of the individual licence holders and others in possession of relevant authorisations.
- 4.2 Licensing law is not a mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises or event and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in North Hertfordshire.
- 4.3 In addressing these matters the Council will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or otherwise engaged in activities in the vicinity.

5. Licence Conditions

- 5.1 The Council will tailor any conditions to the individual circumstances of the premises and events concerned and will seek to avoid attaching disproportionate and over burdensome conditions on licences.
- 5.2 Conditions will only be imposed when they are necessary 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. Conditions are likely to be focused towards the direct impact of those activities on persons living, working or otherwise engaged in activities in the vicinity.
- 5.3 Where appropriate the Council will draw upon the pool of model conditions issued under the Act. A copy of the current pool of model conditions can be found on the Council's website at www.north-herts.gov.uk. The pool of model conditions relate to:
- the prevention of crime and disorder;
 - public safety (including fire safety);
 - the promotion of public safety in theatres, cinemas, concert halls and similar places;
 - the prevention of public nuisance; and
 - the protection of children from harm.

5.4 Any conditions drawn from the pool of model conditions will be tailored to the individual premises and events concerned and determined at the time the application is being considered.

6. Cumulative Impact

6.1 'Cumulative Impact' means the potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area. An example of this impact would be the increase in crime and disorder or public nuisance in a town centre resulting from a large concentration of licensed premises in one area over and above the impact of the individual premises themselves.

6.2 The Cumulative Impact of a licensed premises on the promotion of the Licensing Objectives is a matter which the Council can properly consider in developing its Licensing Policy Statement.

6.3 The Council recognises that there is a difference between the commercial need and the Cumulative Impact of premises in an area. Commercial need is the commercial demand for another pub or restaurant or hotel and is a matter for planning consideration and market forces. It does not form part of this Licensing Policy Statement.

6.4 The Council will not operate a quota of any kind, nor will it seek to impose general limitations on trading hours in particular areas.

6.5 In considering issues of Cumulative Impact the Council will be mindful that, in addition to the licensing functions, there are a number of other mechanisms, both within and outside the licensing regime, for addressing nuisance and disorder. These include:

- planning controls;
- ongoing measures to provide a safer and cleaner environment in partnership with local businesses, transport operators and others;
- the provision of CCTV;
- the provision of sufficient taxi ranks and transport facilities;
- the power to designate parts of the District as places where alcohol may not be consumed publicly;
- the confiscation of alcohol in designated areas;
- Police law enforcement with regard to disorder and anti-social behaviour;
- Police powers to close premises for a period of up to 24 hours on grounds of disorder or imminent disorder, or public nuisance;
- the powers of the Police, local businesses or residents to seek a review of the licence or certificate; and
- enforcement action against those selling alcohol to people who are drunk.

6.6 The Council will also address the issue of crime and disorder through the District Community Safety Partnership in line with strategic objectives for crime and disorder reduction within the District. The success of these measures in reducing nuisance and disorder will be subject to ongoing review.

6.7 'Special Policies' relating to cumulative impact

Where, after considering the available evidence and consulting relevant people and organisations, the Council is satisfied that it is appropriate to introduce an approach to Cumulative Impact, it may introduce a Special Policy to combat the Cumulative Impact of licensed premises in a particular area.

Where such a policy is implemented in respect of any particular area it would create a presumption that new licence applications should be refused, where relevant representations are received, unless it could be shown that the new premises would not increase the Cumulative Impact already being experienced in that area.

In determining whether to introduce a Special Policy the Council will take the following steps:

- identify evidence of concerns about the crime and disorder or public nuisance;
- consider whether it can be demonstrated that the crime and disorder or public nuisance are arising and are being caused by customers of licensed premises and, if so,
 - identify the area from which the problems are arising and the boundaries of that area; or
 - that the risk factors are such that the area is reaching a point when a Cumulative Impact is imminent;
- undertake consultation as required; and
- where a Special Policy is adopted by the Council, publish the Special Policy as part of this Licensing Policy Statement.

6.8 As with any other application under the Act the Council will take account of all the relevant circumstances surrounding any application and may depart from the Policy where the individual circumstances merit such a decision in the interests of the promotion of the Licensing Objectives. No Special Policy for a specific area will be absolute, each application will be considered on its own merits.

7. Licensing Hours

7.1 The Council recognises that fixed and overly restrictive opening times can lead to peaks of disorder and disturbance on the streets due to large numbers of people leaving licensed premises simultaneously. These concentrations of people leaving can result in friction at places such as late night food outlets, taxi ranks and other sources of transport. Longer licensing hours with regard to the sale of alcohol are an important factor in reducing these concentrations and the resulting crime and disorder.

7.2. The Council also recognises that licensing hours should not inhibit the development of a thriving and safe evening and night time economy, which is important for local investment, employment and tourism. The Council will not seek to restrict the trading hours of any particular premises unless this is necessary to promote one or more of the Licensing Objectives.

7.3 The Council has no intention to introduce the zoning of licensing hours. Experience in other areas has shown that this can lead to significant

movement of people across boundaries in search of premises opening later and places greater pressure on town centres than is necessary.

8. Children and Licensed Premises

- 8.1 The Council recognises the diversity of premises that will be licensed under the Act. The premises will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-away shops, community halls and schools. Access by children to any premises will not be limited unless it is considered necessary for the prevention of physical, moral or psychological harm to them.
- 8.2 When deciding whether to limit access by children to premises, the Council will judge each application on its individual merits.
- 8.3 Premises where concern for the protection of children may arise, include:
- where entertainment of an adult or sexual nature are commonly provided;
 - where there is a strong element of gambling on the premises;
 - where there is a known association with drug taking or dealing;
 - where current staff members have been convicted for serving alcohol to minors;
 - where there is evidence of underage drinking; and
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 8.4 There are a range of alternatives which the Council may consider for limiting the access of children, which include:
- a limit on the hours when children may be present;
 - a limitation or exclusion when certain activities are taking place;
 - the requirement to be accompanied by an adult;
 - limited access to parts of the premises; and
 - full exclusion of those people under 18 from the premises when any licensable activities are taking place.
- 8.5 Any licensed premises used for film exhibitions will be subject to conditions restricting children from viewing age restricted films in accordance with recommendations given by the British Board of Film Classification or the Council itself.
- 8.6 Conditions requiring the admission of children to premises cannot be attached to licences or certificates. Where no restriction or limitation is imposed the issue of access will remain a matter of discretion of the individual licensee or club or holder of a temporary event notice.
- 8.7 The Council recognises the Hertfordshire Area Child Protection Committee as being competent to advise on matters relating to the protection of children from harm.
- 8.8 The Council supports the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks. Alcohol should be packaged and promoted in a socially responsible manner so as not to encourage

drinking amongst those who are under 18 years old. A copy of the Code can be found at www.portman-group.co.uk.

9. The Prevention of Public Nuisance

9.1 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 these matters impact on those living, working or otherwise engaged in activities in the vicinity of a particular premises.

9.2 The Council may impose conditions on licences to prevent unnecessary Public Nuisance to local residents. The conditions may include:

- sound proofing requirements;
- restrictions on times when music or other licensable activities may take place;
- technical restrictions on sound levels at the premises, by the use of sound limiting devices;
- limiting the hours of regulated entertainment;
- limiting the hours of open-air entertainment and the use of outdoor areas, gardens and patios; or
- requiring the display of signs both inside and outside the premises reminding customers to leave the premises quietly and to respect the rights of nearby residents.

9.3 The following examples of control measures are given to assist applicants when preparing their Operating Schedules, having regard to their particular type of premises and/or activities. These are not exhaustive but include:

- effective and responsible management of the premises;
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of Public Nuisance;
- adoption of best practice guidance such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics; Safer Clubbing and the National Alcohol Harm Reduction Strategy Toolkit;
- management of arrangements for the collection and disposal of litter; and
- effective ventilation systems.

10. Live Music, Dancing and Theatre

10.1 The Council recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community.

10.2 Only necessary, proportionate and reasonable licensing conditions will be imposed on relevant licences so as not to discourage the promotion of entertainment. Conditions will relate to the promotion of the Licensing Objectives.

- 10.3 The Council will avoid any measure which deters live music, dancing and theatre by imposing indirect costs of a substantial nature.

11. Fire Safety and Capacity

- 11.1 The Council will protect the safety of persons, both public and employees, at all licensed premises by ensuring that the Operating Schedule addresses the importance of fire safety by making detailed note of the following matters:

- that there are adequate and effective means of escape for all persons in the event of fire or emergency;
- that fire alarms, emergency lighting and fire fighting equipment, suitable for the risks at the premises, are available and adequately maintained; and
- that staff are adequately trained in emergency procedures and that evidence is provided of the training of staff, its frequency and associated record keeping procedures.

- 11.2 Conditions may be imposed in relation to the maximum number of persons to be in the premises at any one time to ensure the safety of those persons.

12. Door Supervisors

- 12.1 All persons employed at licensed premises to carry out any security activity must be licensed with the Security Industry Authority.

- 12.2 Conditions may be imposed on premises licences requiring supervision by door supervisors in order to reduce crime and disorder or public nuisance. The conditions may provide that door supervisors must be employed at the premises at all times or at such times when certain licensable activities are being carried out.

13. Drugs

- 13.1 The Council recognises that drug use is more prevalent in a dance and nightclub environment. Conditions may be imposed to control the use and consumption of drugs and alcohol and to create a safer environment for patrons that may have taken them. When imposing conditions, the Council will have regard to the publication "Safer Clubbing" issued by the Home Office and may seek advice from the local Drugs Action Team and the Police.

14. Enforcement

- 14.1 The Council intends to establish enforcement protocols with the Police and other enforcing authorities. The enforcement protocols will focus upon agreed problem and high risk premises that fall short of the Licensing Objectives while providing a lighter touch to low risk premises that are shown to be well managed and maintained.

- 14.2 Enforcement action will be taken in accordance with the Council's

Environmental Health Enforcement Policy. Enforcement action will follow the five guiding principles of consistency, transparency, proportionality, fairness and objectivity. A copy of the Environmental Health Enforcement Policy can be found on the Council's website at www.north-herts.gov.uk.

15. Integrating Strategies and the Avoidance Duplication

- 15.1 The Council through consultation will endeavour to secure integration with local crime prevention, planning, transport, tourism, cultural and community strategies.
- 15.2 The Council may give due consideration to wider strategic issues when dealing with applications. The Council's Licensing and Appeals Committee may receive reports, when appropriate, on the:
- needs of the local tourist economy;
 - cultural strategies for the area;
 - employment situation and the need for local investment; and
 - planning considerations that may affect licensed premises.
- 15.3 The Council recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation between the planning and licensing regimes to avoid duplicity and inefficiency.
- 15.4 In order to avoid duplication with other regulatory regimes the Council will not, as far as reasonably possible, attach conditions to licences unless they are in promotion of the Licensing Objectives. Conditions will generally be considered unnecessary if they are already covered by other legislation.

16. The Licensing Process

- 16.1 The powers of the Council under the Act will be carried out by the Licensing and Appeals Committee, by a Sub-Committee of the Licensing and Appeals Committee, or by one or more officers acting under delegated authority.
- 16.2 It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency most functions will be carried out by officers with delegated authority.
- 16.3 The Licensing and Appeals Committee consists of 14 Members of the Council. The Committee may delegate its powers to a Sub-Committee of the Licensing and Appeals Committee consisting of 3 Members. The Licensing and Appeals Committee, or its Sub-Committee, will deal with all applications and applications to vary when relevant representations are received from a responsible authority or interested party.
- 16.4 When determining applications the Council will have regard to this Statement of Licensing Policy and any Guidance issued by the Department of Culture, Media and Sport. If relevant representations are made, the Licensing and

Appeals Committee or its Sub-Committee, will balance its decision against the wider benefits to the community.

16.4 The Council expects individual applicants to address the Licensing Objectives in their Operational Plan having regard to:

- the type of premises;
- the licensable activities to be provided;
- the operational procedures;
- the nature of the location;
- the needs of the local community; and
- this Statement of Licensing Policy.

17. Delegation of Function

17.1 The delegation of licensing functions are as follows:

<u>Matter to be dealt with</u>	<u>Full Committee (14 Councillors)</u>	<u>Sub Committee (3 Councillors)</u>	<u>Officers</u>
Application for personal licence		If a Police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises			All cases

supervisor

<u>Matter to be dealt with</u>	<u>Full Committee (14 Councillors)</u>	<u>Sub Committee (3 Councillors)</u>	<u>Officers</u>
Application for transfer of premises licence		If a Police objection	All other cases
Applications for Interim Authorities		If Police objection	All other cases
Application to review premises licence/club certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application			All cases
Determination of a Police representation to a temporary event notice		All cases	