



# **STATEMENT OF LICENSING POLICY**

## 1. Introduction

- 1.1 Warwick District Council (the Council) makes this Statement of Licensing Policy in pursuance of its duties and powers under the Licensing Act 2003, (the Act) and guidelines on its content issued under Section 182 of the Act
- 1.2 Warwick District Council is situated in the south of Warwickshire in the centre of England. Appropriately for England's heartland, Warwick District Council's boundaries are roughly heart-shaped, embracing an area of some 28,253 hectares with a population of 128,000 people. The District covers four towns, Royal Leamington Spa, Warwick, Kenilworth and Whitnash as well as a large rural area with 17 Parish Councils. It is acknowledged that the town centres have a large proportion of residential premises.
- 1.3 The aim of this Policy is to:-
- promote the Licensing Objectives.
- 1.4 The following Licensing Objectives can be found in the Licensing Act 2003:-
- **prevention of crime and disorder;**
  - **public safety;**
  - **prevention of public nuisance; and**
  - **protection of children from harm.**
- 1.5 In making this Policy, the Council recognises the following:-
- **that residents within, and visitors to the District need a safe and healthy environment to live, work and visit; and**
  - **that safe and well run entertainment premises are important to the local economy and vibrancy of the District.**
- 1.6 This Statement provides guidance to the police, applicants, objectors and residents on the general approach that the Council (acting through its Regulatory Committee) will take when making licensing decisions.
- The following, will guide that decision making process:-
- the Council as licensing authority must carry out its functions under the Act with a view to promoting the Licensing Objectives;
  - each licence application will be given individual consideration on its merits;
  - when making its decisions, the Council will have regard to the matters contained in this Statement and to any government guidance that is issued from time to time; and
  - the Council will have regard to the provisions of the Human Rights Act 1998 and in particular, Article 6 (right to a fair and public hearing); Article 8 (right to respect for home, private and family life) and Article 1 of the First Protocol (right to peaceful enjoyment of property and possessions).
- 1.7 This Statement covers the period 30 December 2004 until 30 December 2007 and will be kept under review and revised/amended as required, following consultation.

1.8 The Council will carry out its licensing functions in accordance with the Licensing Act 2003 (as amended) and any relevant guidance issued under the Act.

1.9 The Council will observe the principle of the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000.

## **2 Delegation of Functions for Regulatory Matters**

2.1 In the interests of speed, efficiency and cost effectiveness the Regulatory Committee will only decide matters that have not been delegated to a sub-committee or to an officer. A copy of the scheme of delegation is available on request.

## **3. General Statement of Guiding Principles**

3.1 The Council as a licensing authority has adopted the following principles. These principles will serve as a **general** guide to the Council when it carries out its licensing functions:-

3.2 **Principle 1** - The Council will not fix pre-determined licensing quotas in any given area. However, the overall cumulative impact may be taken into account and this could have an effect on the number of licences issued.

3.3 The purpose behind this Principle is to:-

- promote the prevention of crime and disorder; and
- address the issue of cumulative impact.

3.4 If there are problems in a particular area with nuisance, crime or disorder and those problems are associated with the number or proximity of licensed premises in that area, the Council will normally use licence conditions to address those problems, but may impose 'quotas.'

3.5 **Principle 2** - The Council generally supports the use of longer opening hours as a means of reducing the concentration of people leaving licensed premises at the same time and of slowing their dispersal. However the Council will take into account any evidence which shows that longer opening hours in any particular case undermines the licensing objectives.

3.6 The purpose behind this Principle is to:-

- promote the prevention of crime and disorder;
- promote public safety;
- promote the prevention of public nuisance; and
- address the issue of closing hours.

3.7 It is recognised by the Council, following Government recommendations that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided.

- 3.8 Restrictions that undermine this Principle will normally be avoided and licence conditions used to address any problems which may arise.
- 3.9 **Principle 3 -** The Council will not normally fix pre-determined closing times for particular areas but will take into account any objections received when dealing with individual applications.
- 3.10 The purpose behind this Principle is to:-
- promote the prevention of crime and disorder;
  - promote public safety; and
  - promote the prevention of public nuisance.
- 3.11 Restrictions that undermine this Principle will normally be avoided and licence conditions used to address any problems which may arise.
- 3.12 **Principle 4 -** As far as shops, stores and supermarkets are concerned, the Council will normally permit the sale of alcohol during legal opening hours unless evidence is available that to do so would undermine the licensing objectives.
- 3.13 The purpose behind this Principle is to:-
- promote the prevention of crime and disorder;
  - promote the prevention of public nuisance; and
  - address the issue of alcohol sales in shops, stores and supermarkets.
- 3.14 Restrictions that undermine this Principle will normally be avoided and licence conditions used to address any problems which may arise.
- 3.15 **Principle 5 -** The Council will not limit the access of children to licensed premises unless it is necessary for the prevention of harm.
- 3.16 The purpose behind this Principle is to:-
- promote the protection of children from harm; and
  - address the issue of children in licensed premises, including cinemas and other public entertainment.
- 3.17 Restrictions that undermine this Principle will normally be avoided and licence conditions used to address any problems which may arise.
- 3.18 **Principle 6 -** The Council will only attach conditions that further the Licensing Objectives.
- 3.19 The purpose behind this Principle is to:-
- ensure that all applications are dealt with on merit; and
  - ensure that conditions imposed further the licensing objectives.

## **4. Licensing Objectives**

### **4.1 Prevention of Crime and Disorder**

- 4.1.1 In addition to the requirement for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the District.
- 4.1.2 The Council will expect all licensed premises to be managed responsibly and would not expect types of promotions to be held which encourage binge drinking.
- 4.1.3 When considering applications for premises licenses the Council will take into account the potential for disorder at late night food outlets.
- 4.1.4 The Council will consider attaching conditions to licences and certificates to prevent crime and disorder, and these may include conditions drawn from a Pool of Model Conditions. Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected to take place there. Any Pool of Model Conditions will be published and available to interested parties.
- 4.1.5 The Council recognises that there are a number of mechanisms for addressing unlawful or anti-social behaviour that occurs away from licensed premises, qualifying clubs and temporary events. These include:–
- planning controls;
  - enforcement of Environmental Protection legislation (e.g. on noise nuisance);
  - positive measures to provide a safer and clean town centre;
  - environmental controls, in partnership with local businesses, transport operators and other departments of the Council;
  - powers to designate parts of the District as places where alcohol may not be consumed publicly;
  - police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices;
  - dispersal of people quickly and safely from town centres to avoid concentrations which may produce disorder and disturbance;
  - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
  - confiscation of alcohol from adults and others in designated areas;
  - police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises; and
  - the power of police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

### **4.2 Public safety**

- 4.2.1 The Council will consider attaching conditions to licences and certificates to promote public safety, and these may include conditions drawn from the Pool of Model Conditions. Any such conditions will be tailored to the style and characteristics of the premises and the type of activities expected to take place there.

4.2.2 The Council will consider attaching a 'safe capacity' to licences and certificates when it appears necessary to ensure public safety or to prevent crime and disorder.

### **4.3 Prevention of public nuisance**

4.3.1 The Council will take an objective view as to the potential for nuisance and will seek to attach appropriate and proportionate conditions to licences and certificates where necessary in order to prevent it. These may include conditions drawn from the Pool of Model Conditions. Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected to take place there. In each individual case that arises following representation, the Council will:

- consider the potential for nuisance associated with the style, characteristics and activities of the licensable activity involved;
- examine the potential steps which could be taken to reduce the risk of nuisance, particularly in areas of dense residential accommodation; and
- consider restricting the hours of the licence or the licensable activity only as a last resort because of the potential impact on disorder and anti-social behaviour from fixed and artificially early closing times.

4.3.2 By way of guidance, the Council would expect that after 11:00 p.m., all persons outside the premises would move indoors, and any amplified sound to be inaudible in neighbouring domestic properties.

4.3.3 Any exceptions to this would need to be justified in an operating schedule showing how the licensing objectives were being achieved.

4.3.4 It should also be noted that the Council expects that the premises will close within half an hour of the end of the last licensable activity.

### **4.4 Protection of children from harm**

4.4.1 Nothing in this statement of policy limits the access of children to licensed premises unless it is necessary for the protection of children from harm.

4.4.2 Areas that will give rise to particular concern in respect of children include premises:

- where there have been convictions for serving alcohol to minors, with a reputation for underage drinking or where the Portman Group Code of Practice on Naming, Packaging and Promotion of Alcoholic Drinks is not being followed;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises; and
- where entertainment of an adult or sexual nature is commonly provided.

4.4.3 It is acknowledged that complete bans will be rare but the options the Council will consider for limiting the access of children, where necessary, for the protection of children from harm, may include any of the following:

- limitations on the hours where children may be present;

- age limitations (below 18);
  - limitations or exclusions when certain activities are taking place;
  - restrictions or exclusions in respect of parts of premises;
  - requirements for an accompanying adult; and
  - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 4.4.4 The Council will not impose conditions requiring the admission of children to any premises. Where no licensing restriction is necessary, this will remain a matter for the discretion of the individual licensee or club.
- 4.4.5 In the case of premises giving film exhibitions, the Council expects licensees to impose conditions that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classifications.
- 4.4.6 Where a large number of children are expected to attend regulated entertainment (e.g. theatre production, 'junior disco' etc or film shows), the District Council will consider the need to place a requirement for a specified number of adults to be present at the places of public entertainment to control the access and egress of children and to assure their safety. The number of adults required will need to be calculated on the basis of a risk assessment by the applicant and will need to take into consideration the size of the venue, the number and ages of the children present, the type of activity involved and any requirements included in the Children's Acts.
- 4.4.7 These matters will need to be addressed by the applicant as part of the operating schedule.
- 4.4.8 The Council will consider attaching conditions to licences and certificates to protect children from harm, and these may include conditions drawn from the Pool of Model Conditions.
- 4.4.9 The Council may also seek the views of the Warwickshire Children and Young People's Joint Management Team when drawing up any conditions. The Joint Management Team is made up of representatives from the County Council, Police, Health, Connexions, Learning Skills Council, the voluntary sector and the Borough and District Councils in the County

## **5. Other Considerations**

### **5.1 Live Music, Dancing & Theatre**

- 5.1.1 This Policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues, the potential for disturbance in neighbourhoods will always be carefully balanced with these wider benefits.

### **5.2 Integration of Strategies**

- 5.2.1 The Council shall secure the proper integration of this policy with local crime prevention, anti-social behaviour away from licensed premises, planning, transport, tourism and cultural strategies by:

- Liaising and consulting with Warwickshire Police, Community Safety Forum, and considering any guidance from the crime and disorder strategy document; and
  - Liaising and consulting with the appropriate Council Officers, the Planning Committee, the Executive, and considering guidance in the Local Plan.
- 5.2.2 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include
- the use of closed circuit television cameras;
  - the provision and use of shatterproof drinking receptacles;
  - a drugs and weapons search policy;
  - the use of registered door supervisors;
  - specialised lighting requirements;
  - restrictions on hours of opening; and
  - membership of an appropriate Pub-Watch scheme.
- 5.2.3 Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above. The Council will have regard to any local orders and/or strategies relating to street drinking.
- 5.2.4 The Council's Regulatory Committee shall receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that the Committee considers these matters.
- 5.2.5 The Council's Regulatory Committee shall receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.
- 5.2.6 Unnecessary duplication or inefficiencies will be avoided by properly separating the planning and licensing regimes. Where appropriate, matters for consideration in licensing applications will not duplicate matters considered as part of any planning application. Licensing decisions will take into account any relevant planning decisions either by the Planning Committee or following appeals against decisions taken by that Committee and will not cut across such decisions.
- 5.2.7 The Council's Regulatory Committee shall provide and receive regular reports to and from the Planning Committee on the situation regarding licensed premises in the area.

## **6. Other regulatory regimes**

- 6.1 This policy shall avoid duplication with other regulatory regimes wherever possible. The following notes are made with regard to specific regimes: -

### **6.2 Health and Safety**

- 6.2.1 Premises will normally have been visited by the Council's Environmental Health inspection staff with regard to health and safety enforcement at the premises. Certain premises will not fall under this regime and will be the subject of health and safety enforcement by the Health and Safety Executive (HSE). These regimes place a range of general and specific duties on employees, employers, operators of venues and members of the public.



Matters arising out of the Health and Safety at Work etc Act 1974 and associated Regulations should not be the subject of conditions unless they are necessary for the promotion of the licensing objectives. Health & Safety Legislation is primarily aimed at persons at work and it may be necessary to protect the public through specific licence conditions.

### **6.3 Fire Safety**

- 6.3.1 Premises and their operators will be under general duties under current fire safety regimes. The operating schedule should indicate the occupancy numbers of persons that are expected to use the premises, and the precautions that are taken to protect public safety.

### **6.4 Food Hygiene**

- 6.4.1 Premises selling alcohol and/or premises engaged in a food business will be registered with the Council and subject to risk-based food hygiene inspections at regular intervals.

### **6.5 Noise**

- 6.5.1 Statutory and public nuisances are dealt with by the Council's Environmental Health Business Unit under the Environmental Protection Act 1990 and associated legislation.

### **6.6 Planning**

- 6.6.1 Any premises that apply for a licence or a variation of a licence must have authorised planning permission and comply with all conditions of that planning permission including hours of operation.

### **6.7 Standard Conditions**

- 6.7.1 The Council does not support the use of blanket conditions which, if imposed, may be seen as disproportionate and overly burdensome. Conditions attached to licences shall be tailored to the individual styles and characteristics of the premises and events concerned. However, the Council will draw up a pool of conditions which will be relevant to the majority of applications and from which appropriate and proportionate conditions may be drawn in particular circumstances.

### **6.8 Enforcement**

- 6.8.1 The enforcement of licensing law and the inspection of licensed premises is detailed in the Protocol between Warwickshire Police and the Council, together with Warwickshire Fire Service and Trading Standards. This Protocol reflects the need for a more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement. A copy of the Protocol is available on request.
- 6.8.2 Attention is drawn to the targeting of agreed problem and high risk premises requiring greater attention as identified in the Protocol. Inspections of premises will be on a risk assessed basis, to be undertaken when and if judged necessary.

**7. Further Information**

- 7.1 The Council will be producing guides for applicants, and a summary of these will be available in January 2005.
- 7.2 Specialist Legal advice should be sought from the applicant's legal advisor. The Council will only offer advice on the due process of an application.

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