

Licensing Panel

Wednesday 19 March 2014

A Licensing Panel will be held in the Town Hall, Royal Leamington Spa, on Wednesday 19 March 2014 at 2.00 pm.

Membership: Councillors Illingworth, Pratt and Wilkinson.

Agenda

1. **Emergency Procedure**

At the commencement of the meeting the emergency procedure for the Town Hall will be announced.

2. **Appointment of Chairman**

To appoint a Chairman for the meeting.

3. **Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be entered on the form to be circulated with the attendance sheet and declared during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

4. **Application for the grant of a premises licence under the Licensing Act 2003 for The Assembly and Zephyr Lounge**

To consider a report from Health & Community Protection. **(Item 4/Page 1)**

Published 11 March 2014

General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.


Telephone: 01926 353362
Facsimile: 01926 456121
E-Mail: committee@warwickdc.gov.uk

For Enquires regarding the specific reports please contact the named officer for the individual report.

Details of all the Council's committees, councillors and agenda papers are available via our website www.warwickdc.gov.uk/committees

Please note that the majority of the meetings are held on the first floor at the Town Hall. If you feel that this may restrict you attending this meeting, please call (01926) 353362 prior to this meeting, so that we can assist you and make any necessary arrangements to help you attend the meeting.

**THE AGENDA IS AVAILABLE IN LARGE
PRINT ON REQUEST, PRIOR TO THE
MEETING.**

 Licensing Panel 19 March 2014		Agenda Item No. 4
Title	Application for the grant of a premises licence under the Licensing Act 2003 for The Assembly and Zephyr Lounge.	
For further information about this report please contact	Emma Dudgeon, Licensing Enforcement Officer, Health and Community Protection. Tel: 01926 456113 Emma.dudgeon@warwickdc.gov.uk	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number	N/A	
Background Papers	None	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality and Sustainability Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive		
Head of Service	6.3.2014	Marianne Rolfe
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)		
Consultation & Community Engagement		
N/A		
Final Decision?		Yes
Suggested next steps - None		

1. SUMMARY

- 1.1 Warwick District Council Licensing Authority has received a valid application for a new premises licence from Lost In Vegas Entertainment Limited.
- 1.2 Representations have been received in relation to this application for the consideration of the panel in the determination of the application.

2. RECOMMENDATION

- 2.1 Members are asked to consider the information contained in this report and decide whether the application for the grant of a premises licence for The Assembly and Zephyr Lounge, Spencer Street, Leamington Spa, should be approved and, if so, whether the Licence should be subject to any conditions.

3. THE APPLICATION

- 3.1 Lost In Vegas Entertainment Limited applied for a premises licence on 31 January 2014. The table attached as Appendix 1 shows what has been applied for.
- 3.2 Currently the premises operate under three licences, one for Zephyr and two for The Assembly. This licence would incorporate both these premises into one licence. Appendix 2 shows the current hours the premises may operate under each three of these licences.
- 3.3 An operating schedule which has been submitted by the applicant and will form part of any licence issued has been supplied as follows:

General

Training programme in place to ensure all staff are briefed on the licensing objectives.

No underage drinking or drunkenness on the premises or outside of the premises.

The use of drugs, violent or anti-social behaviour will not be tolerated.

Staff training records must be maintained and available for inspection on request by an authorised officer.

The prevention of crime and disorder

Internal and external lighting will be checked regularly.

The premises will operate a zero tolerance policy against drugs.

Customers found with or using drugs will have them confiscated, their details taken and police called or notified as appropriate.

The premises must have a full incident recording system, where all incidents are recorded , whether any of the emergency services have been called or not and to be made available for inspection on request by an authorised officer.

All door supervisors to be SIA registered and badged.

Door supervisors to start no later than the start of the event on dates when required.

When live bands are playing, door staff required unless prior agreement with police on production of a full risk assessment within 14 days of the event.

If premises open to public in the form of a disco/nightclub, whether for payment or otherwise door staff required.

With all other events DPS to make full professional risk assessments on the requirement of door supervisors.

DPS to make risk assessments depending on the event taking place whether to use plastic/polycarbonate glasses instead of glass due to risks associated with balcony area and staging.

CCTV to conform to British Standard – and offer live time recording on each camera. Images to be retained for a minimum of 31 days. Cameras to be sited in positions agreed with Warwickshire Police Architectural Liaison Officer. At least one member of staff must be on duty at all times who can operate, access and download the images upon the request of an authorised officer.

No off licence sales after 23:00 hours

No open vessels to be removed from the Premises on or off licence sales.

All windows and doors to be closed after 23:00 hours (except egress and entry)

The premises must remain an active member of local police approved Pubwatch scheme (if in existence) and radio scheme. It must conform to the Pubwatch policy procedures and DPS or manager must attend pre-arranged meetings.

No persons that have been ejected by nearby nightclub, Evolve to be allowed entry into premises.

CCTV to be installed, maintained and used whilst licensable activities are taking place. The CCTV must include Head and facial recognition coverage; must be digitally recorded and retained for a minimum of 31 days.

At least one member of staff must be on duty at all times who can operate, access and download the images upon the request of an authorised officer.

Images will record in real time a minimum of 12 frames per second.

The System and the camera locations must be agreed and signed off by the Warwickshire Police Architectural Liaison Officer.

Public safety

A member of staff who has been trained in first aid will be on duty at all times premises open to the public.

Health and safety risk assessment must be carried out regularly and records must be kept and maintained.

A fire risk assessment must be carried out weekly and staff trained in the event of an emergency.

Balcony rail to be of sufficient height and standard to prevent injury and objects being knocked from, height to satisfy Warwickshire Police Architectural Liaison Officer.

Prevention of public nuisance

The Premises Licence Holder will comply with any reasonable requirements as to noise made during the event by the appropriate Responsible Authority and shall ensure the conduct of patrons leaving premises will be supervised and monitored to minimise potential nuisance. Similarly, conduct of the general public in the vicinity will be monitored and the Police advised of inappropriate behaviour/unlawful activity.

Noise arising from activities within these premises, when measured one metre from the façade of any noise sensitive premises, shall not be such as to constitute a statutory nuisance.

All windows and doors shall be closed (except for access and egress) when any regulated entertainment takes place within the premises. (The main external doors may be excluded from this requirement only if suitable arrangements are included in the sound insulation scheme below by which noise breakout from the premises is avoided.)

No regulated entertainment shall be audible in any residential accommodation within the general structure of the premises of which The Assembly forms part of or any residential premises within adjoining premises.

No regulated entertainment shall take place until a scheme of noise insulation, drawn up by a suitable acoustic expert, has been implemented to the satisfaction of the licensing authority. Following completion, from a suitably qualified acoustic expert, confirming implementation of the approved scheme.

Protection of children from harm

Sufficient staff must be on duty to ensure the protection of children from harm. The Premises Licence Holder shall adopt the Challenge 21 Scheme and appropriate signage will be placed at the entrance to the premises and adjacent to any bar serveries. The premises will operate a policy whereby any person attempting to buy alcohol or any person attempting to gain entry to the premises who appears to be under 21 will be asked for photographic ID to prove their age. The only ID that will be accepted is a passport, driving licence with a photograph or an accredited proof of age card bearing the PASS mark hologram.

Children must be accompanied by a responsible adult. No children permitted at the bar serveries.

No one under 18 years of age in the premises after 20:00 hours, without the express permission of the DPS or someone acting under his/her authority.

When the Premises open to the public by payment or otherwise as a disco/night club no persons under 18 years allowed in the premises.

Any identification seized by the venue for being or suspected to being false will be seized under the provisions of the current Home Office guidance and handed to local Police station within 72 hours of seizure.

- 3.4 Between October 2012 and November 2013 the Assembly traded with incorrect last entry times due to an administrative error on the part of the Licensing Authority. The last entry time displayed on the licence was 1am, however this should have been 12.30am. During this time no complaints were received in relation to the premises.
- 3.5 The Licensing Department has received one complaint in relation to the Assembly and none in relation to Zephyr since the premises opened. The complaint was received in November 2013 and was in relation to the premises operating outside their licensable hours. Following this a meeting was held with the Designated Premises Supervisor who explained that a Temporary Event had not been completed correctly causing a misunderstanding on the dates the extension of the licence was applied for.
- 3.6 There are a lower number of Multi Agency reported incidents for these premises compared to premises of a similar size and operation in the Cumulative Impact Zone within the District and Street Marshalls employed by Warwick District Council are required to spend very little time assisting the premises.
- 3.7 Since October 2013 The Assembly has applied for seven Temporary Event Notices to extend their licensable hours to 3am. There have also been 18 Temporary Event Notices applied for by Zephyr since February 2013. These Temporary Event Notices were to extend the licensable hours, all but one until 3am. The Licensing Department have not received any complaints in relation to these events being held.

3.8 Relevant representations have been received from Warwickshire Police, attached as appendix 3 and an interested party attached as appendix 4. There have been no representations received from:

- Fire Authority
- Enforcement Agency for Health and Safety
- Authority Responsible for Environmental Health
- The Licensing Authority
- Authority Responsible for Planning
- Authority Responsible for the Protection of Children from Harm
- Warwickshire County Council (Weights & Measures)
- National Health Service/Public Health

3.9 A plan of the premises submitted by the applicant is attached as appendix 5 and a map of the area of the premises is attached as appendix 6.

4. **POLICY FRAMEWORK**

4.1 **These premises are located within the Council's Cumulative Impact Zone. This means that the applicant must prove that the application will not impact significantly on any of the Licensing Objectives – it is not for anyone making representations to prove it will.**

4.2 When considering the application the panel must give appropriate weight to:-

- a) The representations received.
- b) Statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- c) The Council's Licensing Policy Statement (attached as appendix 7)
- d) The Licensing Objectives, which are:-
 - i) The Prevention of Crime and Disorder.
 - ii) Public Safety.
 - iii) The Prevention of Public Nuisance.
 - iv) The Protection of Children from Harm.

However, it should only consider those licensing objectives which have been referred to in the representations received.

4.3 The Council's Licensing Policy Statement provides that the authority will take an objective view on all applications and will seek to attach appropriate and proportionate conditions to licences where necessary in order to ensure the promotion of the four licensing objectives. Each application will be judged on its own merits.

4.4 Details of the procedure adopted by the Licensing Committee for Panel Hearings have been supplied to the applicant and those making representations. The procedure will be explained more fully by one of the Council's Legal Team at the commencement of the hearing.

5. BUDGETARY FRAMEWORK

- 5.1 There would be costs associated with any appeal against the decision as set out in 6.1 below.

6. RISKS

- 6.1 Any decision made by the Panel may be appealed against at a Magistrates Court within 28 days of the decision. There would be costs associated with responding to an appeal and the Council could be ordered to pay the Appellants costs if it is deemed to have behaved unreasonably.

	Supply of alcohol for consumption on the premises.	Supply of alcohol for consumption off the premises.	Plays*, Films, Indoor Sporting Event*, Boxing or Wrestling, Live Music*, Recorded Music, Performance of Dance*, Anything of a similar description to that falling within Live Music, Recorded Music and Performance of Dance (All indoors)	Late night refreshment (Indoors)	Opening Hours of the premises
Monday	10:00 to 02:00	10:00 to 23:00	10:00 to 02:00	23:00 to 02:00	10:00 to 02:00
Tuesday	10:00 to 02:00	10:00 to 23:00	10:00 to 02:00	23:00 to 02:00	10:00 to 02:00
Wednesday	10:00 to 02:00	10:00 to 23:00	10:00 to 02:00	23:00 to 02:00	10:00 to 02:00
Thursday	10:00 to 03:00	10:00 to 23:00	10:00 to 03:00	23:00 to 03:00	10:00 to 03:00
Friday	10:00 to 03:00	10:00 to 23:00	10:00 to 03:00	23:00 to 03:00	10:00 to 03:00
Saturday	10:00 to 03:00	10:00 to 23:00	10:00 to 03:00	23:00 to 03:00	10:00 to 03:00
Sunday	10:00 to 00:00	10:00 to 23:00	10:00 to 00:00	23:00 to 00:00	10:00 to 00:00

***On New Year's Eve until the start of permitted hours on New Year's Day.**

Last Entry times:

The Assembly
Sunday 00:00
Monday to Saturday 01:30

Zephyr Lounge
Sunday 00:00
Monday to Saturday 00:30

It is not at present intended to use the premises for adult entertainment but the Applicant cannot rule out such a use in the future. If adult entertainment was introduced it would be on an infrequent basis, i.e. provided on not more than 11 occasions within a 12 month period, no such occasion beginning within a period of one month beginning with the end of the previous occasions and no such occasion lasting longer than 24 hours.

For Recorded Music, Live Music and Opening Hours the following seasonal variation:

New Year's Eve until the start of permitted hours on New Year's Day

*Following changes to Regulated Entertainment under the Live Music Act 2012 and The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 the below will apply to this application.

Live music – Live amplified music between the hours of 08:00 to 23:00 to an audience of less than 200 people is not licensable. All licensing conditions applicable to the control of live music on the licence would be deemed not to be in operation.

Performance of dance – The performance of dance taking place between 08:00 and 23:00 to an audience of less than 500 people is not licensable. All licensing conditions applicable to the control of performance of dance on the licence would be deemed not to be in operation.

Indoor sporting events - Between the hours of 08:00 and 23:00, when Indoor sporting events are taking place to an audience of less than 1000 people all licensing conditions applicable to the control of Indoor sporting events on this licence are deemed not to be in operation.

Plays - Between the hours of 08:00 and 23:00, when plays are taking place to an audience of less than 500 people all licensing conditions applicable to the control of plays on this licence are deemed not to be in operation.

WDCPREM00566 – The Assembly

	Sale of alcohol for consumption on the premises.	Live Music (Indoors)*	Recorded Music (Indoors)*	Performance of Dance (Indoors)*	Indoor sporting events, Plays, Films, Boxing or wrestling, Other Activities of a similar description to that of live music, recorded music or performance of dance (Indoors)*	Late night refreshment (Indoors)*	Opening Hours of the premises*
Monday	10:00 to 00:30	10:00 to 00:30	10:00 to 00:30	10:00 to 23:00	10:00 to 00:00	23:00 to 00:00	10:00 to 01:00
Tuesday	10:00 to 00:30	10:00 to 00:30	10:00 to 00:30	10:00 to 23:00	10:00 to 00:00	23:00 to 00:00	10:00 to 01:00
Wednesday	10:00 to 00:30	10:00 to 00:30	10:00 to 00:30	10:00 to 23:00	10:00 to 00:00	23:00 to 00:00	10:00 to 01:00
Thursday	10:00 to 01:00	10:00 to 00:30	10:00 to 01:00	10:00 to 23:00	10:00 to 00:00	23:00 to 00:00	10:00 to 01:30
Friday	10:00 to 02:00	10:00 to 00:30	10:00 to 02:00	10:00 to 23:00	10:00 to 00:00	23:00 to 00:00	10:00 to 02:30
Saturday	10:00 to 02:00	10:00 to 00:30	10:00 to 02:00	10:00 to 23:00	10:00 to 00:00	23:00 to 00:00	10:00 to 02:30
Sunday	10:00 to 00:00	10:00 to 00:00	10:00 to 00:00	10:00 to 23:00	10:00 to 00:00	23:00 to 00:00	10:00 to 00:00

*On New Year's Eve until the start of permitted hours on New Year's Day.

WDCPREM00742 – The Assembly

	Sale of alcohol for consumption on the premises.	Live Music, Recorded Music, Other Activities of a similar description to that of live music, recorded music or performance of dance, Plays, Films, Indoor Sporting Events and Boxing or Wrestling (Indoors)*	Performance of Dance (Indoors)*	Late night refreshment (Indoors)*	Opening Hours of the premises*
Monday	10:00 to 00:00	10:00 to 00:00	10:00 to 23:00	23:00 to 00:00	10:00 to 01:00
Tuesday	10:00 to 00:00	10:00 to 00:00	10:00 to 23:00	23:00 to 00:00	10:00 to 01:00
Wednesday	10:00 to 00:00	10:00 to 00:00	10:00 to 23:00	23:00 to 00:00	10:00 to 01:00
Thursday	10:00 to 02:00	10:00 to 00:30	10:00 to 23:00	23:00 to 00:00	10:00 to 02:30
Friday	10:00 to 03:00	10:00 to 00:30	10:00 to 23:00	23:00 to 00:00	10:00 to 03:30
Saturday	10:00 to 03:00	10:00 to 00:30	10:00 to 23:00	23:00 to 00:00	10:00 to 03:30
Sunday	10:00 to 00:00	10:00 to 00:00	10:00 to 23:00	23:00 to 00:00	10:00 to 00:00

WDCPREM00726 – Assembly 2/Zephyr

	Sale of alcohol for consumption on the premises.	Sale of alcohol for consumption off the premises	Live Music, Performance of Dance, Other Activities of a similar description to that of live music, recorded music or performance of dance (All indoors)	Recorded Music (Indoors only)	Opening Hours of the premises
Monday	10:00 to 00:00	10:00 to 23:00	10:00 to 23:00	10:00 to 00:00	10:00 to 00:30
Tuesday	10:00 to 00:00	10:00 to 23:00	10:00 to 23:00	10:00 to 00:00	10:00 to 00:30
Wednesday	10:00 to 00:00	10:00 to 23:00	10:00 to 23:00	10:00 to 00:00	10:00 to 00:30
Thursday	10:00 to 00:00	10:00 to 23:00	10:00 to 23:00	10:00 to 00:00	10:00 to 00:30
Friday	10:00 to 00:30	10:00 to 23:00	10:00 to 23:00	10:00 to 00:30	10:00 to 01:00
Saturday	10:00 to 00:30	10:00 to 23:00	10:00 to 23:00	10:00 to 00:30	10:00 to 01:00
Sunday	10:00 to 23:30	10:00 to 23:00	10:00 to 23:00	10:00 to 23:30	10:00 to 00:00

Licensing Act 2003

REPRESENTATION FORM FROM RESPONSIBLE AUTHORITIES

Responsible Authority (please delete as applicable):

Police

Your Name	PS 645 Paul Calver
Job Title	Harm reduction Sgt
Postal and email address	Leamington Police Station, Newbold Terrace, Leamington Spa
Contact telephone number	01926 684166

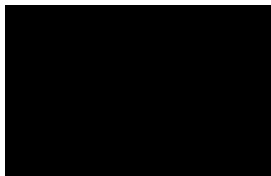
Name of the premises you are making a representation about	Assembly and Zephyr Lounge
Address of the premises you are making a representation about	Spencer St, Leamington Spa, CV31 3NF

<i>Which of the four licensing Objectives does your representation relate to?</i>	<i>Yes Or No</i>	<i>Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary</i>
To prevent crime and disorder	Yes	<p>Warwickshire Police has considered the application to grant this premises licence and would ask Warwick District Council to refuse this application.</p> <p>Warwickshire Police believes that allowing this new premise licence will increase Crime & Disorder in the vicinity.</p> <p>The premises is within the Cumulative Impact Zone of Leamington Spa, and is an extension of hours within that area.</p> <p>Further evidence will be supplied in advance of any hearing</p>
Public safety	No	
To prevent public nuisance	Yes	<p>As above,</p> <p>Further evidence will be supplied in advance of any hearing</p>
To protect children from harm	No	

Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.

Warwickshire Police will continue to work with the premises during the application stage and will consider submitting suggested conditions prior to any hearing

Signed:



Date: 14th Feb 2014

Representation against the application by Assembly/Zephyr for a premises licence to be issued under the Licensing Act 2003 (LA2003).

The basis of this representation is based around the fact that the premises in question sits within the Cumulative Impact Zone (CIZ) as laid out in Warwick District Council's (WDC) Licensing Policy. I understand that WDC is currently exploring the extension of the CIZ to the south of Leamington. Clearly, it is felt that the current CIZ is both necessary and fulfilling the purpose for which it is intended.

I have seen nothing in the operating schedule to show that the increase in hours (up to three additional hours) and increase in numbers of clientele will not impact on the levels of crime and disorder **in the area** evidenced by the adoption of the CIZ. The operating schedule concerns itself with the premises only and makes no provision for the additional numbers of people **in the area** or the increase in lateness of their presence.

The CIZ policy was put in place by Warwick District Council based on figures supplied by Warwickshire Police. These figures are based on the Police's own crime and disorder figures for the area. I therefore submit that the additional hours and increase in numbers requested in the application cannot fail to impact upon the crime and disorder and public safety objectives under the LA 2003 **in the area**.

The Assembly and Zephyr currently hold two separate premises licences. Previous Licensing Committees deemed it necessary not to permit the free transfer of customers between the two premises. No such safeguard appears to be built into the current application.

It is my intention at the hearing to amplify the above points.

Whilst accepting that this is a new application, the same management team are common to the existing premises licences for both Zephyr and Assembly, so their previous record in running their establishment and the manner in which the licences were acquired 'by stealth' should be brought to the attention of the Licensing Authority. My presentation to the Licensing Committee will include reference to this and the application history will be amplified and referred to.

I have personally witnessed breaches of the existing premises licences by the current management team. I reported these breaches to both Warwickshire Police and WDC at the time. The premises licence holders are aware of the incidents. If the management team cannot be trusted to adhere to the conditions that exist currently on their premises licence, how can they be trusted with additional hours and clientele?

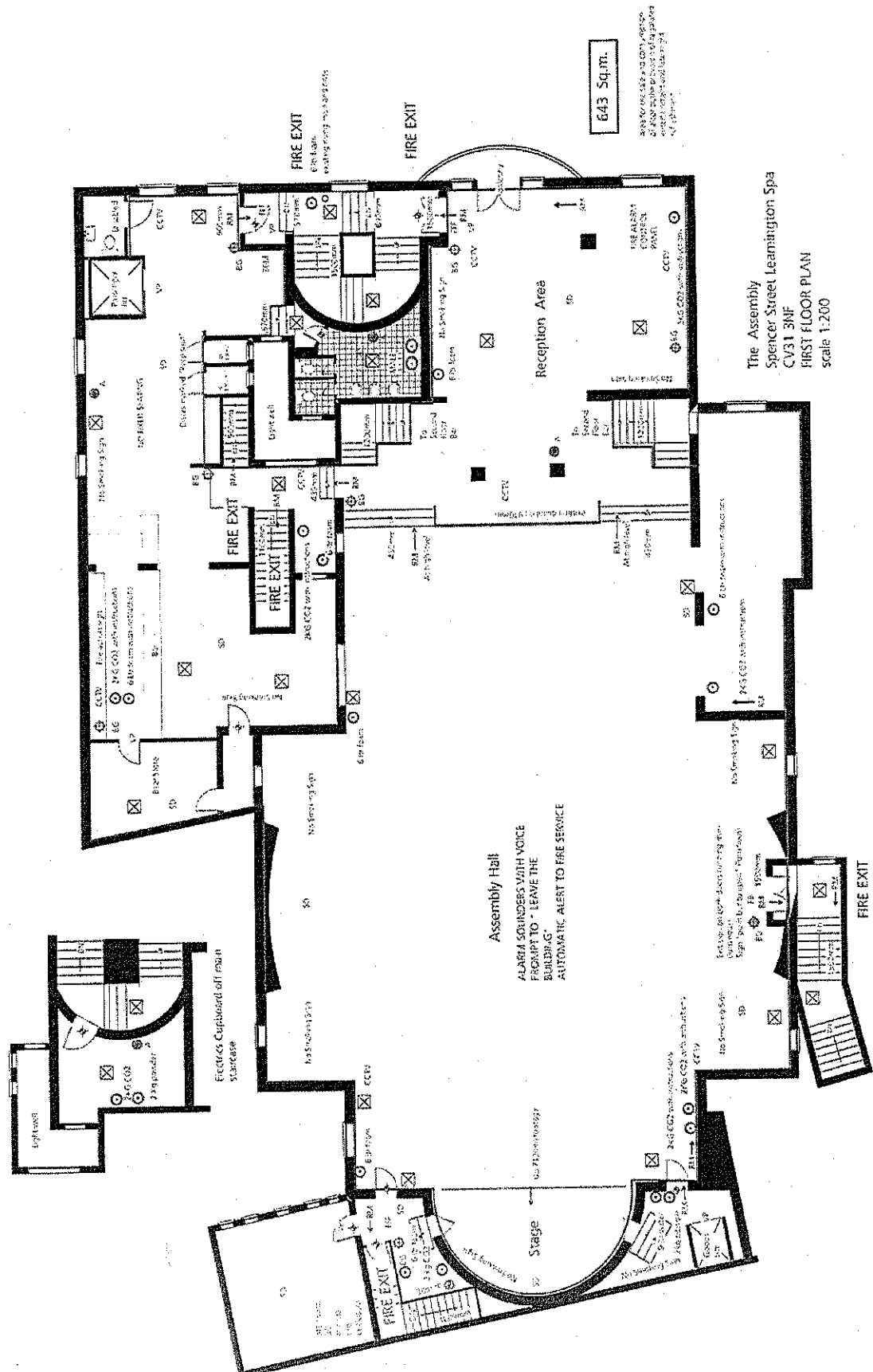
Should further points regarding this application and its impact on the crime and disorder and public safety objectives come to my attention, I will notify WDC in good time before the hearing in order to satisfy disclosure.



David Davies FInstLM, MInstL

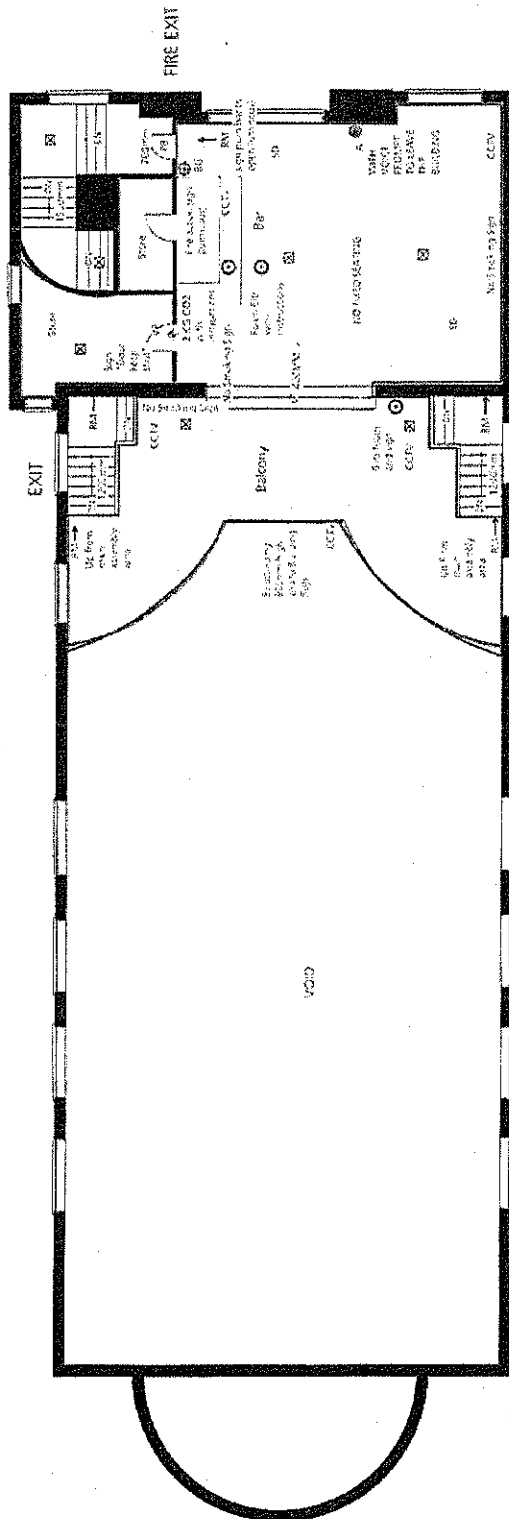
27th February 2014

Assembly



The Assembly
Spencer Street Learning Spa
CV31 3NF
FIRST FLOOR PLAN
scale 1:200

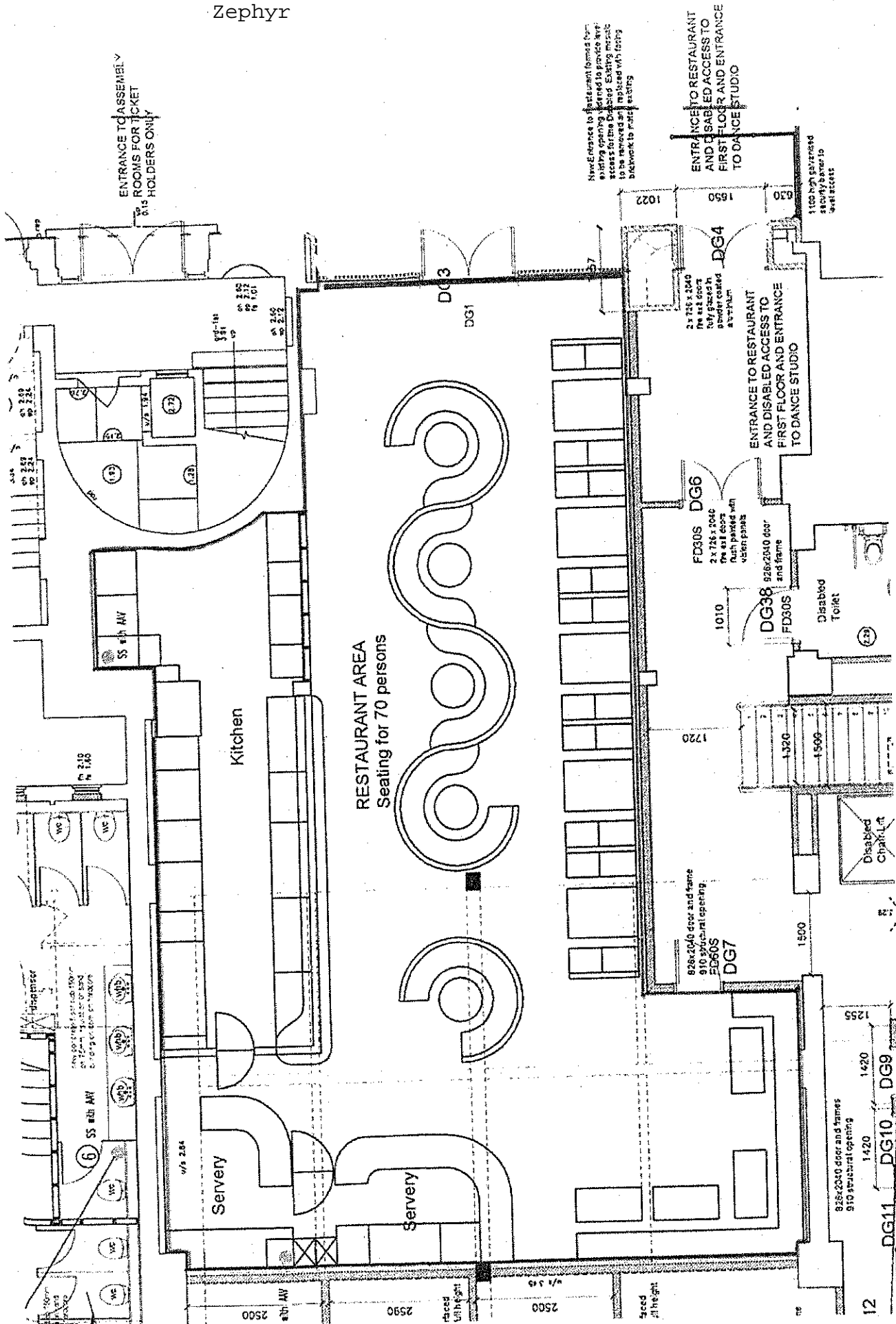
Assembly



The Assembly
 Spencer Street Leamington Spa
 CV31 3NF
 SECOND FLOOR PLAN
 scale 1:200

132 Sq. m.

Area for the assembly is 132 Sq. m.
 including the kitchen and bar area.







STATEMENT OF LICENSING POLICY

Reviewed 2009

(Changes to cumulative impact zone added)

9th July 2009

1. Introduction

- 1.1 Warwick District Council (the Licensing Authority) 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 126,000 people. The District covers four towns, Royal Leamington Spa, Warwick, Kenilworth and Whitnash as well as a large rural area with 18 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 Licensing Authority 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 Licensing Authority (acting through its Licensing 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 Licensing Authority will have regard to the matters contained in this Statement and to any government guidance that is issued from time to time; and
 - the Licensing Authority 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 7 January 2008 to 6 January 2011 and will be kept under review and revised/amended as required, following consultation.

- 1.8 The Licensing Authority 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 Licensing Authority 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 Licensing 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 Licensing Authority will not normally fix pre-determined licensing 'quotas' in any given area but see paragraphs 7 and 8.

- 3.3 The purpose behind this Principle is to:

- promote the prevention of crime and disorder.

- 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 Licensing Authority will normally use licence conditions to address those problems, but may impose 'quotas.' (see paragraphs 7 and 8)

- 3.5 **Principle 2 -** The Licensing Authority 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 staggering their dispersal. However, there is no presumption in favour of longer hours and the Licensing Authority 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 Licensing Authority, 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 Licensing Authority will not 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 Licensing Authority 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 Licensing Authority 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 Licensing Authority will only attach conditions that further the Licensing Objectives and relate to the operating schedule, relevant representations that have been received or mandatory conditions as prescribed in the Licensing Act 2003.

3.19 The purpose behind this Principle is to:-

- ensure that all applications are dealt with on merit;
- ensure that conditions imposed further the licensing objectives; and
- ensure that conditions relate to the operating schedule or relevant representations which have been received.

4. Licensing Objectives

4.1 Prevention of Crime and Disorder

4.1.1 In addition to the requirement for the Licensing Authority 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 Licensing Authority will expect all licensed premises to be managed responsibly.

4.1.3 When considering applications for premises licences for late night refreshment the Licensing Authority will take into account the potential for disorder that this type of premises may cause to the night time environment.

4.1.4 The Licensing Authority will consider attaching conditions to licences and certificates to prevent crime and disorder. 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.

4.1.5 The Licensing Authority 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 Licensing Authority will consider attaching conditions to licences and certificates to promote public safety. 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 Licensing Authority 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 Licensing Authority 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. 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 Licensing Authority 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 Licensing Authority would expect that after 23.00 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 In the event of a variation to remove this condition, and in the case of the necessity of a hearing, evidence would be expected to be submitted to the Licensing Panel that the change would not impact on the licensing objectives
- 4.3.5 It should also be noted that the Licensing Authority expects that the premises will usually close within half an hour of the end of the last licensable activity.

4.4 Prevention of Harm to Children

- 4.4.1 For the purposes of the Act, the "responsible authority" in respect of issues relating to the protection of children from harm, and to which copies of applications should be sent is:

The Assistant Head of Service, Planning and performance children, Young Children and Families Directorate, Saltisford Office Park, Ansell Way, Warwick. CV32 4UL

- 4.4.2 For the purposes of this Policy and for the making of representations in respect of any application, the Warwickshire Children and Young People's Joint Management Team have indicated that they will regard the term "children" to include any person between the ages of 0 – 18 years old.
- 4.4.3 Nothing in this statement of policy limits the access of children to licensed premises unless it is necessary for the prevention of harm to children.
- 4.4.4 Areas that may give rise to particular concern in respect of children include premises:
- Where there have been convictions of members of the current staff 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 (the Portman Group's code is particularly commended to applicants for premises licences/ club registration certificates);
 - With a known association with drug taking or dealing;
 - Where there is a strong element of gambling on the premises;
 - Where entertainment of an adult or sexual nature is commonly provided (e.g. topless bar staff, striptease, lap/table/pole dancing, strong and offensive language).
- 4.4.5 It is acknowledged that complete exclusion of children will be rare but the options to be considered by the Council for limiting access of children, where regarded as necessary for the prevention of harm to children, may include any of the following:
- Limitations on the hours when 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;
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 4.4.6 The Licensing Authority cannot 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.
- 4.4.7 In the case of premises giving film exhibitions, the Licensing Authority expects licensees or clubs to include in their operating schedules arrangements to ensure that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classifications.

- 4.4.8 Where a number of children are expected to attend regulated entertainment (e.g. theatre production, 'junior disco', film shows), the Licensing Authority may consider the need to require a specified number of adults to be present at the place of 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 and ability of the children present and the type of activity involved. These matters will need to be addressed by the applicant as part of the operating schedule.

The Licensing Authority will consider attaching conditions to licences and certificates to prevent harm to children.

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 Licensing Authority 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 Licensing Authority will have regard to any local orders and/or strategies relating to street drinking.

- 5.2.4 The Council's Licensing 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 Licensing 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 Licensing 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 advice relates to specific regimes but is not exhaustive:-

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.

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 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 Licensing Authority 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 may also need planning permission.

6.7 Standard Conditions

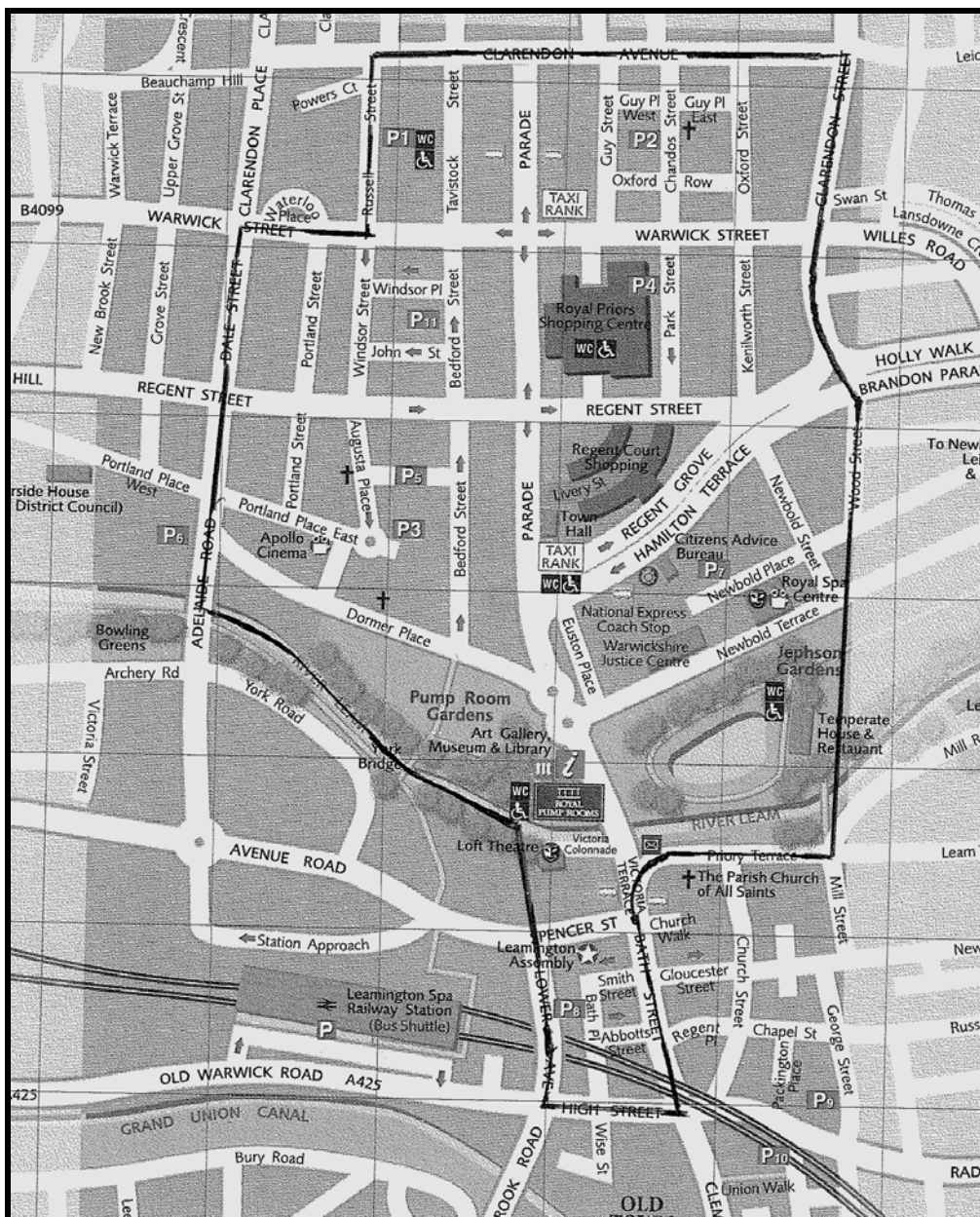
- 6.7.1 The Licensing Authority does not support the use of blanket conditions which, if imposed, may be seen as disproportionate and overly burdensome. Conditions attached to licences shall be tailored to the individual styles and characteristics of the premises and events concerned

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, assisted by information provided by the Multi Agency Enforcement Group. Information about this group is available separately

7. Special Policy Regarding Cumulative Impact

- 7.1 The Licensing Authority recognises that there is a difference between the cumulative impact of premises and commercial need. The latter is a function of market forces and is not a factor the Council may take into account in the discharge of its licensing function.
- 7.2 The Licensing Authority adopted a special policy regarding cumulative impact in November 2005 at the commencement of the Licensing Act 2003 where it considered that a significant concentration of licensed premises would have an impact on the licensing objectives and granting of further licences in that area would add to this impact. When adopting the special policy reference to the steps outlined in paragraph 13.26 of the Licensing Act Guidance were made.
- 7.3 The Licensing Authority formed two saturation zones, based on information supplied to it in 2005 on crime and disorder and other related matters. The area and its necessity has been ratified by further figures supplied to the Licensing Authority in January 2009 as part of its review of the cumulative impact policy.
- 7.3 The two zones, when joined together, form the same area as the Leamington Safer Neighbourhood area. In the interest of clarity and transparency, the two zones have been amalgamated into one cumulative impact zone. A map of the zone is shown below. Properties on both sides of any road which borders the zone are deemed to be included within the zone. (see plan below)



- 7.4 It is considered that the cumulative impact of further new licences in this zone may lead to the area becoming further saturated with premises of a certain type, including pubs, clubs, takeaways and off licences, making the area a focal point for large groups of people, thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves.
- 7.5 The special policy regarding cumulative impact is not absolute and where licences are unlikely to add to the cumulative impact on the licensing objectives, or the Licensing Authority does not receive any representations, the licence will be granted.
- 7.6 The special policy regarding cumulative impact will not be used to try and revoke an existing licence or certificate when representations are made about the way the premises are being operated; representations would be considered and determined

in respect of the four licensing objectives. However, the special policy may be a justification to refuse an application or to vary a licence or certificate.

- 7.7 The Licensing Authority will not operate a quota of any description including any special policy, that would pre determine an application. Each application will be considered on its individual merits. Proper regard will be given to the contrasting styles and individual characteristics of the premises concerned, and the differing impact they will have on the local community.
- 7.8 The Licensing Authority will consider the individual merits of all applications and where it feels to grant the application would be unlikely to add significantly to the cumulative impact in light of the licensing objectives, the Licensing Authority may grant the application.
- 7.9 If an application for a licence within the cumulative impact zone is made, the Licensing Authority will expect the applicant to demonstrate in their operating schedule, the steps to be taken to prevent problems of nuisance and, public safety and the steps to be taken to promote the reduction of crime and disorder. The onus of proof will be on the applicant to show that the application will not impact on the four licensing objectives.
- 7.10 The Licensing Authority recognises that if no representations are made regarding an application for a licence within the cumulative impact zone, the Licensing Authority must and will grant the licence.
- 7.11 The policy will be subject to review.

8. Further Information

- 9.1 The Licensing Authority has produced guides for applicants.
- 9.2 The Council's Licensing Section can only offer advice on the process for, and, progress of, applications and as to whether particular activities fail to be licensed. If you require detailed advice on the requirements of the legislation and how it affects you and your premises you should seek your own independent legal advice.
- 9.3 The grant of a licence under the Licensing Act 2003 does not obviate the need for permission or consent required under other legislation.
- 9.4 The Licensing Authority cannot impose conditions and restrictions on events covered by a temporary event notice. However, all the other regulatory considerations in Section 5 above will apply, and should be considered by organisers. Further advice is available in the guide to temporary events.