



Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I LEE WATERHOUSE

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
FALCON INN BIRMINGHAM ROAD HASLEY WARWICK	
Post town	Post code (if known)
WARWICK	CV35 7HA
Name of premises licence holder or club holding club premises certificate (if known)	
MR DEAN TRACEY	
Number of premises licence or club premises certificate (if known)	
WOC PREM0024	

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)



2) a responsible authority (please complete (C) below)



3) a member of the club to which this application relates (please complete (A) below)



(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr ☒ Mrs ☐ Miss ☐ Ms ☐ Other title  
(for example, Rev)

Surname

WATERHOUSE

First names

LEE JOHN

I am 18 years old or over

Please tick ✓ yes



Current postal  
address if  
different from  
premises  
address

Post town

WARWICK

Post Code

Daytime contact telephone number

E-mail address  
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

MRS. LISA WATERHOUSE  
Address as above.

Telephone number (if any)

E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address
Telephone number (if any)
E-mail address (optional)

**This application to review relates to the following licensing objective(s)**

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

**Please state the ground(s) for review** (please read guidance note 2)

The prevention of crime and disorder

- During an event on Saturday 2nd August the volume of noise and live music coming from the terrace and garden area was so over-bearing that we called the police in an attempt to get it stopped. We were given the incident number 330.
- On Saturday 9th August the people on the terrace commenced personal taunts in our direction, chanting and shouting loudly "neighbours, everyone be quiet", then laughing. This went uncontrolled and unmitigated by the license holders.

Public safety

- The terrace and the public house both seem to operate without capacity restrictions. At some points, the Falcon car park is so packed as a result of an event they are holding, that cars are forced to park on the grass verges outside of the perimeter of the pub. This makes it very difficult for people leaving the venue to get a safe view up the Birmingham Road before pulling out (it's a 50 mph road and a well known accident spot). If we had wanted to leave our property on these occasions, it would also have made it difficult for us to leave our drive and on to the Birmingham Road.
- On the terrace area, the license holders permit 'table BBQs' which in a canvas roof and timber framed construction seems very risky.
- The license holder also frequently use their substantial brick built BBQ which is located in very close proximity to the terrace structure. This presents the same fire hazard and also emits substantial volumes of smelly food smoke over to our garden. If our windows are open, it permeates into our house.

The prevention of public nuisance

- The current license does not in anyway reflect the existence of the (originally unlawfully constructed, later granted at appeal) terrace area. This massively increases the useable capacity of the pub and its existence has led to most of the issues we have experienced.
- The current license does not reflect the shift the pub had undertaken away from a country local to a gastro pub which has increasingly been used for private parties and wedding receptions. This substantial increase in intensity of use has led to significant noise and disturbance for us. The pub is advertised as a party venue on its website.
- The noise disturbance from the Falcon terrace area (and within the pub during events) is very well documented with the Environmental Health team.
- The management of the pub in recent times, with the noise and disturbance, has caused us significant stress and anxiety.
- The license holders have created such a disturbance this summer that we have felt unable to have guests around to our house all season.
- The existence of the terrace area materially extends the time that the outside area of the premises is in use, people tend to hang around in there, under the heaters, long after an outside area would have been vacated as the temperature drops. The result is that we never seem to get a rest bite from the noise of chatter, shouting and people leaving the premises.
- The extension of the outside operating hours means that more people leave the pub late, creating noise and disturbance as they go.
- All this means that with the recent management of the pub, we rarely get to enjoy our house and garden. This summer it has very seriously undermined the enjoyment of our property.
- The number of vehicles at the premises means that the bridleway that runs down the side of our property and through the Falcon car park is obstructed for people, horses and cyclists.

The protection of children from harm

- The noise from the terrace, the garden area and the sound of people leaving the premises has been so significant that it has woken our baby boy (he is now 14 months) on a multitude of occasions.
- During the summer months, in order to help him settle and protect him from noise, we have been forced to keep his bedroom window closed. This has resulted in his bedroom temperature soaring to levels (27 degrees) that as parents, causes us concern as the well documented safe temperature is 16-18 degrees. We have installed a fan to help but it's an imperfect solution.

**Please provide as much information as possible to support the application** (please read guidance note 3)

During the summer of 2011 the license holders at the time organised a number of events that caused a noise nuisance and resulted in us seeking help from the Environmental Health team. Chris Davis and Peter Lawson both witnessed a number of noise nuisance occurrences from the Falcon and actions were taken against the license holders, these will be on record with the team. These license holders vacated the premises in 2012 and the subsequent license holders had a much more considerate approach to managing the pub and intended to run the establishment as a country inn, inline with the premises that we purchased our property behind. We had no issues or complaints during this time.

This summer, under the stewardship of Mr Tracey, the enjoyment of our property has been severely diminished by the use of the pub and the outside area for parties and wedding receptions, some carried out under Temporary Events Notices (TENs), others without TEN's. The noise from the terrace in particular has been unbearable at times because of:

- birthday parties that last all day
- bouncy castles pitched by our boundary fence
- evening events with people outside shouting and singing until the early hours
- live music on the terrace that has been impossible to keep out of our house
- smelly and smokey BBQs
- generally poor and inconsiderate management of the outside area

Over the summer we have called the Environmental Health team to report noise nuisances on:

#### 5th June

Environmental Health team called to report noise nuisance from the terrace. This was a massive party that had live music and incredible amounts of shouting, singing and disturbance. This woke our baby and was a real shock as this was the first issue like this we had experienced with the current license holders. No TEN was issued for this event.

#### 21st June

Music clearly audible in the house and garden, windows had to be shut, our baby woke up, hot and distressed. We were drowned out of conversation in our garden by the noise from the pub. This exceeded any interpretation of regular pub noise; it was uncontrolled and highly intrusive. They pitched a bouncy castle very close to our perimeter fence which seems strange given the size of their garden. On a lovely summer evening they totally destroyed the enjoyment of our house and garden.

#### 2nd July

Confirmation from Katherine Warren (Environmental Health team) that a letter had been sent to license holders which "reinforces the discussions that had been had with them and reiterates the advice already given in terms of noise control and avoiding causing a nuisance to neighbours".

#### 7th July

Environmental Health emailed to inform of a noise disturbance. There was screaming and shouting from the terrace going on for several hours, uncontrolled. All our windows and doors were shut but we could still hear it over our TV. This was a Monday night and went on well past 23:00.

#### 18th July

Email sent to the Environmental Health team at 00:05 on the 19th regarding an event that was taking place. The pub looked massively over capacity and the noise from the outside area was completely uncontrolled. This was a very hot evening but we had to have all our windows shut. Our baby was woken up by the noise. We have a photo of the car park which shows the patron's cars spilling out on to the verges by the side of the Birmingham Road. There must have been over 200 people in and around the terrace area.

#### 19th July

Email to Environmental Health to report noise from a birthday party on the terrace. There was a BBQ which smoked us out in our garden and the smell found it's way into the house.

#### 23rd July

Email to Environmental Health to make aware of shouting from the terrace at 23:20 which was clearly audible in our house even with the windows shut.

### 2nd August

Live amplified music on the terrace from 19:00 which was clearly audible in every room of our house and every area of our garden. A summer night totally ruined, baby massively disturbed. This stopped at 21:30 but the follow-on music in the pub was emitting bass that was constant and disturbing to us in our house. We called the police and got an incident number 330. We notified Cllr Susan Gallagher as the night noise team were not on duty when the nuisance started and wanted someone to witness what we were going through. The noise team arrived at 23:20 to witness the event, Katherine Warren went into the pub but only the noise from within the pub was addressed during this meeting as apparently Mr Tracey's attitude prevented a discussion of the events that had caused the disturbance earlier in the evening. The noise continued and a further call to the Environmental Health team was made at 00:20 but the noise continued until after 01:00 and we had to wear ear defenders to get to sleep.

### 3rd August

23:10 email to Environmental Health to report uncontrolled terrace noise and nuisance.

### 10th August

Email to Environmental Health to report a disturbance from an event on the 9th August. Terrace noise between 23:00 - 00:00 whereby patrons were shouting and singing, some of these were personal chants made directly at us, so it's evident that the license holders have made a joke of this and accept that their customers can make fun of what has become a very upsetting and anxious situation for us. Stuart from the Environmental Team only got to witness the groups waiting for taxis after midnight. The license holders seem to facilitate them hanging around in the car park rather than have them wait at the front of the pub away from our house. These issues were passed to the licensing team.

### 30th August

A marquee based event with 150 guests held under a TEN. The TEN required that the outside areas be cleared by 23:00. This did not happen, a fact witnessed by Cllr Susan Gallagher. We made a call to the Environmental Health team to reference the noise nuisance from the outside area, the officer on duty witnessed the outside areas in use at 23:30.

On the 12th August we have a discussion with Emma Dudgeon about the nature of the license currently in force at the Falcon. It is at the least, out of kilter with the planning conditions granting retrospective permission for the terrace. These state that it should be cleared by 23:00 and there be no music. Notwithstanding this, the current license conditions are archaic; representing a time when there was no terrace, therefore the pub had a naturally smaller capacity with less use of the outside space. At the time, it was also more of a 'locals country pub' and certainly not one that advertises proactively on it's website as a destination for parties and wedding receptions. Here is a quote from the Falcon website; "our fabulous grounds can cater for 200 people, ideal for BBQs and hog roasts..."

With respect, as well as considering how to align the license with the planning conditions, we believe that in order to mitigate future issues, the following would secure us enduring utility of our house and garden:

- De-license the terrace for alcohol consumption
- Capacity limits in the terrace at all times
- Terrace and gardens to be cleared by 21:00
- No outside cooking

These ongoing issues have caused us a great deal of stress and anxiety, leaving us with a feeling that we are being driven out of our home.

As a final word, Mr Tracey was well aware of the issues that had occurred during 2011 at the time of taking on the lease. This is a rural pub in green belt area that simply should not be allowed to disturb the peace in this or any way. The pub seems to change hands fairly regularly and we are appealing to you to find a completely enduring solution to the noise issues. This is important because otherwise we have to start from scratch every time a new tenant moves in and either inherits bookings made by the previous tenant, or manages the pub in an inconsiderate way, causing a nuisance.

Please help us.

Have you made an application for review relating to the premises before

Please tick ✓ yes  
☐

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

**If you have made representations before relating to the premises please state what they were and when you made them**

Please tick ✓  
yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

1/9/14.

Capacity

APPLICANT FOR REVIEW.

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)**

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



Waterhouse, Lee

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Subject: FW:



EXAMPLE OF BRIDLEWAY BLOSSOM

29/08/2014



TYPICAL BBQ SMOKE

30 AUGUST





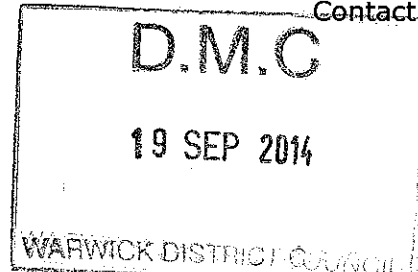
18 JULY

2 AUGUST LIVE SATO OUTLIPS



Our Ref: TAS/MPC-L/FAL22

Contact: Tim Shield



17 September 2014

Licensing Enforcement Officer  
Health & Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Dear Sirs

**Falcon, Birmingham Road, Haseley, Hatton, Warwickshire.CV35 7HA**  
**Premises Licence Number: WDCPREM00121**

We are instructed on behalf of Marston's Plc the owners of the above premises in relation to a Review of the Premises Licence which we understand has been issued pursuant to Section 51 of the Licensing Act 2003 by an interested party.

Marston's Plc are the owners of the premises and across the country own and operate a large number of licensed premises. These premises fall within the Leased and Tenanted operation and as such they do not hold the Premises Licence. Individual tenants run individual premises autonomously and in this instance the tenant at the time of issue of the Premises Licence Review and Premises Licence Holder is Mr. D. Tracy.

Marston's Plc took the decision following licensing reform to hold certain of their Premises Licences in their name. This was in an attempt to retain a link with Licensing Authorities and Responsible Authorities which could otherwise not be apparent from the Premises Licence itself. In this instance these premises fall within the tenanted division and as such the Premises Licence is not held by Marston's Plc.

Marston's Plc are not at the premises on a day to day basis but employ a number of Business Development Managers with responsibility for a number of different premises where they assist and work with Licensing Authorities and Responsible Authorities and Tenants in relation to the operation of their business. In this instance the Business Development Manager is Nick Morris.

Please take this letter as notice of a relevant representation pursuant to the Licensing Act 2003. Our clients (Marston's Plc) will seek to address the Committee regarding the licensing objectives and the steps that are undertaken to promote the licensing objectives and support the Premises Licence Holder/Tenant in the Review proceedings that have been issued.

We should be grateful if you could kindly acknowledge receipt of this correspondence as a valid representation. We have had a copy of the documentation filed by the interested party who has issued the Review

Partners:

John Gaunt (569711)

Katharine Redford (569712)

Tim Shield (569713)

Michelle Hazlewood (569714)

Associates:

Christopher Grunert

Jonathan Hyldon

Practice Manager:

Jonathan Pupius

Tel: 0114 266 8664

Helpline: 0114 266 3400

Fax: 0114 267 9613

Email: info@john-gaunt.co.uk

www.john-gaunt.co.uk

John Gaunt &amp; Partners

Omega Court

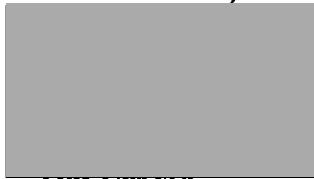
372 - 374 Cemetery Road

Sheffield

S11 8FT

Proceedings (Mr. Lee Waterhouse). If further documentation or representations are received we should be grateful if you could supply us with a copy in this matter.

Yours faithfully



**Tim Sheld**  
**John Gaunt & Partners**  
**Email: [tim@john-gaunt.co.uk](mailto:tim@john-gaunt.co.uk)**







# **STATEMENT OF LICENSING POLICY**

**Reviewed 2009**

**(Changes to cumulative impact zone added)**

**9<sup>th</sup> 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**

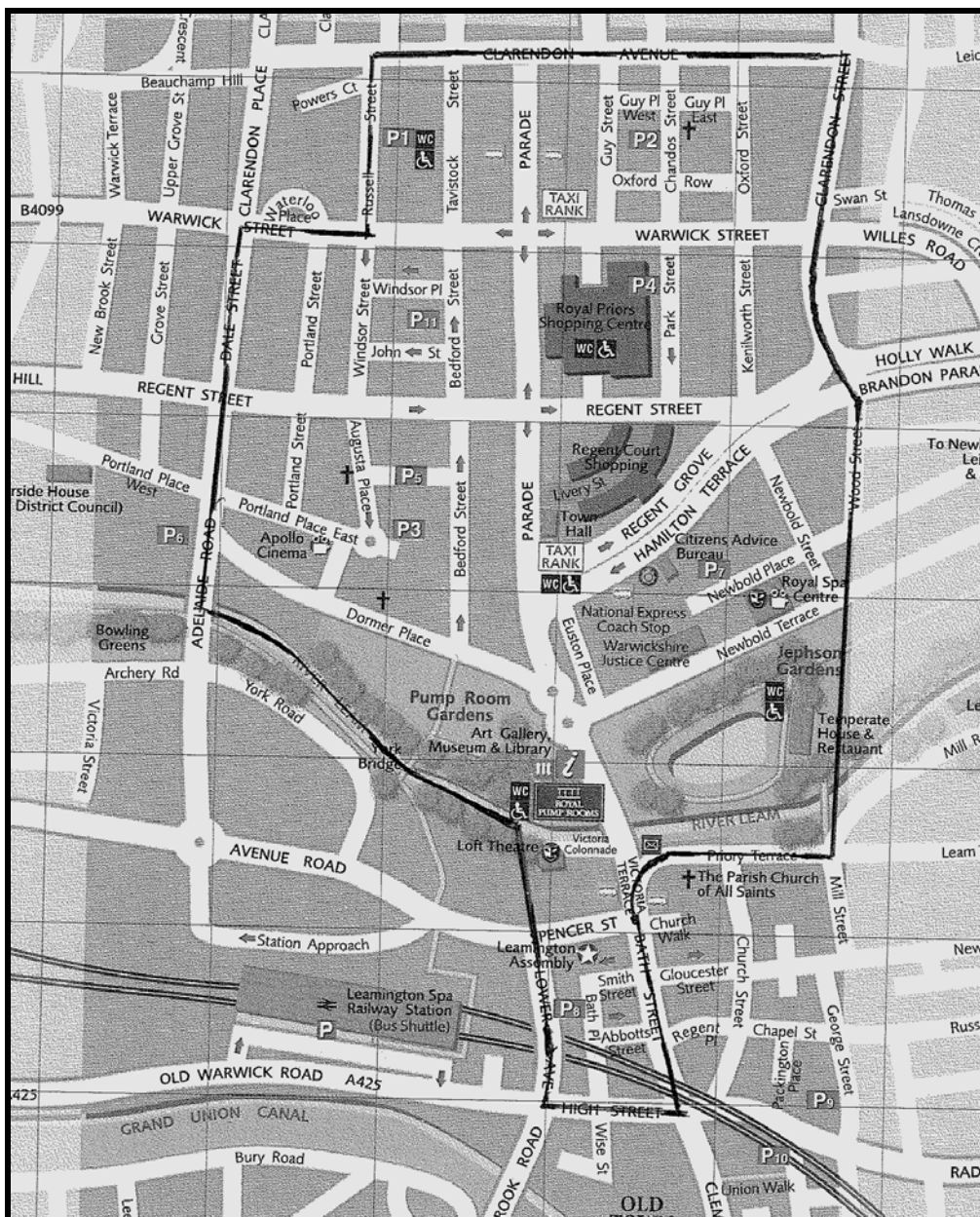
- 6.7.1 The Licensing Authority does not support the use of blanket conditions which, if imposed, may be seen as disproportionate and overly burdensome. Conditions attached to licences shall be tailored to the individual styles and characteristics of the premises and events concerned

## **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.