

## **Licensing and Regulatory Panel**

### **Wednesday 7 February 2024**

An additional Licensing & Regulatory Panel will be held at Saltisford One, Warwick on Wednesday 7 February 2024 at **10:00am**.

Membership: Councillors Barton, Gorman and Matecki.

### **Agenda**

1. **Appointment of Chair**

To appoint the Chair of the meeting.

2. **Substitutes**

To receive the name of any Councillor who is to act as a substitute, notice of which has been given to the Chief Executive, together with the name of the Councillor for whom they are acting.

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 disclosed 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 a new Premises Licence under the Licensing Act 2003 for Sombrero, 40 Bedford Street, Royal Leamington Spa**

To consider a report from Safer Communities, Leisure, and Environment.

**(Pages 1 to 62)**

Published Tuesday 30 January 2024

General Enquiries: Please contact the Committee Services Team at [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk) . Alternatively, you can contact us at:

Warwick District Council, Town Hall, Parade, Royal Leamington Spa, CV32 4AT

Telephone: 01926 456114

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(01926) 456114

Licensing and Regulatory Panel  
tbc

**Title: Application for a new Premises Licence under the Licensing Act 2003 for Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY**

**Lead Officer: Emma Morgan**

**Public report**

**Wards of the District directly affected: Leamington Clarendon**

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: No

Final Decision: Yes

Accessibility checked: Yes

**Officer/Councillor Approval**

<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Team Leader	23.01.24	Rachael Russell
Legal Services	23.01.24	Sue Mullins

## 1. Summary

Warwick District Council Licensing Authority has received a valid application for a new premises licence at Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY. Representations have been received in relation to this application for the consideration of the Panel in the determination of the application.

## 2. Options available to the Panel

The Panel is asked to consider the information contained in this report and decide whether the application for a new premises licence for Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY, should be granted and, if so, whether the licence should be subject to any additional conditions. The following options are available to the Panel:

Option 1 – Grant the application as requested;

Option 2 – Grant the application with amended hours and/or added conditions; or

Option 3 – Refuse the application.

## 3. Details for Consideration

3.1 When considering the application the Panel must also 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 6**)
- 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 must only consider those licensing objectives which have been referred to in the representations received.

3.2 The Council's Statement of Licensing Policy 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.

- 3.4 Mr Uniss Ali Mohammed applied for a new premises licence for Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY on 22 December 2024. The premises has been described by the applicant as a hot food takeaway.
- 3.5 The application is for the sale of hot food and drink after 23:00hours. A copy of the relevant part of the application form is attached as **Appendix 1**.
- 3.7 The Licensing Department has received two objections, one from Warwickshire Police and one from Environmental Health, and these are attached as **Appendix 2 and Appendix 3**. The Responsible Authorities have been invited to attend the Licensing and Regulatory Panel.
- 3.8 No representations have been received from:
- Trading Standards
  - Fire Authority
  - The Licensing Authority
  - Enforcement Agency for Health and Safety
  - Authority Responsible for Planning
  - National Health Service/Public Health
- 3.9 A plan showing the location of the premises is attached as **Appendix 4** along with the current plan of the internal layout. Photographs of the premises are attached as **Appendix 5**.

### 4. Legal Comments

- 4.1 The Council's Statement of Licensing Policy 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 to ensure the promotion of the four licensing objectives. Each application will be judged on its own merits.
- 4.2 Restrictions may be required as licensed premises, especially those offering late night/early morning entertainment or alcohol and refreshment can sometimes be associated with elevated levels of crime and disorder.
- 4.3 There is also an expectation in the Policy that premises selling alcohol will be properly managed in accordance with the Act and operate in a way that promotes the prevention of crime and disorder and that, where alcohol is being sold, premises licence holders will operate a recognised Age Verification Scheme.
- 4.4 Details of the procedure adopted by the Licensing and Regulatory 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. The decision should be made in accordance with the Panel's agreed procedure.
- 4.5 All parties to the Hearing will be notified of the decision of the Panel in writing within five working days of the conclusion of the hearing.

- 4.6 Any party aggrieved by a decision taken by the Panel may appeal against the decision to a Magistrates' Court within 21 days of being notified of the decision in writing.

## 5. Policy Framework

### 5.1. Fit for the Future (FFF)

- 5.1.1 The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.
- 5.1.2 The FFF Strategy has 3 strands, People, Services and Money, and each has an external and internal element to it, the details of which can be found [on the Council's website](#). The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

### 5.2 FFF Strands

#### 5.2.1 External impacts of proposal(s)

**People - Health, Homes, Communities** - The licensing policy recognises 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.

**Services - Green, Clean, Safe** – None.

**Money- Infrastructure, Enterprise, Employment** - The licensing policy relates to current legislation, and, where possible, to local factors, allowing flexibility and the potential to expand and augment the local economy and promote cultural issues.

### 5.3 Internal impacts of the proposal(s)

**People - Effective Staff** – None.

**Services - Maintain or Improve Services** - None.

**Money - Firm Financial Footing over the Longer Term** - None.

## Application for a premises licence to be granted 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/We Mr Uniss Ali Mohamed

*(Insert name(s) of applicant)*

**apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003**

#### Part 1 – Premises details

Sombrero Mexican Food 40 Bedford Street			
<b>Post town</b>	Leamington Spa	<b>Postcode</b>	CV32 5DY
Telephone number at premises (if any)		[REDACTED]	
Non-domestic rateable value of premises		£8,500	

#### Part 2 - Applicant details

Please state whether you are applying for a premises licence as **Please tick as appropriate**

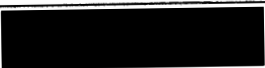



- |  |                                     |                             |
|--|-------------------------------------|-----------------------------|
| a) an individual or individuals *                    | <input checked="" type="checkbox"/> | please complete section (A) |
| b) a person other than an individual *               |                                     |                             |
| i as a limited company/limited liability partnership | <input type="checkbox"/>            | please complete section (B) |
| ii as a partnership (other than limited liability)   | <input type="checkbox"/>            | please complete section (B) |
| iii as an unincorporated association or              | <input type="checkbox"/>            | please complete section (B) |
| iv other (for example a statutory corporation)       | <input type="checkbox"/>            | please complete section (B) |
| c) a recognised club                                 | <input type="checkbox"/>            | please complete section (B) |
| d) a charity   | <input type="checkbox"/>            | please complete section (B) |

- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☐
- I am making the application pursuant to a statutory function or ☐
- a function discharged by virtue of Her Majesty's prerogative ☐

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b> Mohamed			<b>First names</b> Uniss Ali		
<b>Date of birth</b> 01/11/1974		I am 18 years old or over <input checked="" type="checkbox"/> Please tick yes			
<b>Nationality</b> British					
Current residential address if different from premises address					
Post town		Postcode			
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 15 for information)					
Copy off passport attached					

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

### Part 3 Operating Schedule

When do you want the premises licence to start?

DD		MM		YYYY			
2	2	1	2	2	0	2	3

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD		MM		YYYY			

<p>Please give a general description of the premises (please read guidance note 1)</p> <p>A hot food takeaway</p>

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

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What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

a) plays (if ticking yes, fill in box A)

☐

b) films (if ticking yes, fill in box B)

☐

- c) indoor sporting events (if ticking yes, fill in box C) ☐
- d) boxing or wrestling entertainment (if ticking yes, fill in box D) ☐
- e) live music (if ticking yes, fill in box E) ☐
- f) recorded music (if ticking yes, fill in box F) ☐
- g) performances of dance (if ticking yes, fill in box G) ☐
- h) anything of a similar description to that falling within (e), (f) or (g)  
(if ticking yes, fill in box H) ☐

**Provision of late night refreshment** (if ticking yes, fill in box I) ☒

**Supply of alcohol** (if ticking yes, fill in box J) ☐

**In all cases complete boxes K, L and M**

# I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4) To supply non-alcoholic, hot and cold foods on a takeaway basis		
Mon	23 00	05 00			
Tue	23 00	05 00			
Wed	23 00	05 00			
			<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 5) No season variations		
Thur	23 00	05 00			
Fri	23 00	05 00			
Sat	23 00	05 00			
			<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 6)  When the business footfall is low we would like to close the takeaway earlier than 5am.		
Sun	23 00	05 00			

J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)		On the premises	<input type="checkbox"/>
					Off the premises	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)			
Mon						
Tue						
Wed						
Thur						
Fri						
Sat						
Sun			<b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 6)			

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

Name Mr Uniss Ali Mohamed	
Date of birth	
Address	
Postcode	
Personal licence number (if known)	
Issuing licensing authority (if known)	
Warwickshire District Council	

## K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

## L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b>State any seasonal variations</b> (please read guidance note 5) No seasonal variations
Day	Start	Finish	<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</b> (please read guidance note 6)  When footfall is low, we would like to close the premises earlier than 5am.
Mon	23	05	
	00	00	
Tue	23	05	
	00	00	
Wed	23	05	
	00	00	
Thur	23	05	
	00	00	
Fri	23	05	
	00	00	
Sat	23	05	
	00	00	
Sun	23	05	
	00	00	

## M

Describe the steps you intend to take to promote the four licensing objectives:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)**

The 4 licensing objectives which are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

**b) The prevention of crime and disorder**

Restriction on opening hours

Place provision of CCTV

Text and radio pager communications for staff and direct links to the police

**c) Public safety**

Not allowing certain activities or limiting times when they can take place

Provision of door supervisors

Capacity limits

Control of bad smells

**d) The prevention of public nuisance**

Calming measures eg free food, lowered volume of music for final hour

Control of noise and vibration

**e) The protection of children from harm**

Reducing risks from choking by serving smaller sized foods easier to consume.  
If anyone involved with premises which have been licensed has any concerns about a child, then they must discuss these with the local Police Child Abuse Investigation Team and the local Warwickshire children's social care services at the earliest possible opportunity. These may include concerns about a member of staff or a suspicion that an activity taking place in the establishment could place children at risk.

**Checklist:**

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee. ☒
- I have enclosed the plan of the premises. ☒
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☒
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. ☒
- I understand that I must now advertise my application. ☒
- I understand that if I do not comply with the above requirements my application will be rejected. ☒
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15). ☒


**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.**

**Part 4 – Signatures** (please read guidance note 11)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the</li> </ul>
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	<p>entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</p> <ul style="list-style-type: none"> <li>The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)</li> </ul>
Signature	
Date	22/12/2023
Capacity	Premises Licence holder

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			



## REPRESENTATION FORM FROM RESPONSIBLE AUTHORITIES

**Responsible Authority** (please delete as applicable):

Police / Fire / Environmental Protection / Health and Safety / Child Protection / Weights and Measures / Planning Authority

<b>Your Name</b>	Insp Martin Hewish
<b>Job Title</b>	Prevention Team Inspector
<b>Postal and email address</b>	Bedworth Police Station High Street Bedworth CV12 8NH
<b>Contact telephone number</b>	02476483430

<b>Name of the premises you are making a representation about</b>	Sombrero's
<b>Address of the premises you are making a representation about</b>	40 Bedford Street Leamington Spa

<b>Which of the four licensing Objectives does your representation relate to?</b>	<b>Yes Or No</b>	<b><i>Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary</i></b>
<b>To prevent crime and disorder</b>	Yes	Lack of detail on proposed conditions for the CCTV system, provision of door staff and participation in the Leamington Retail Watch Scheme
<b>Public safety</b>	Yes	As above
<b>To prevent public nuisance</b>		
<b>To protect children from harm</b>		

<b>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.</b>	<p>The following conditions were discussed and proposed to the applicant, however, he failed to agree to them within the time scale required.</p> <p><u>Condition 1</u></p> <p>The Applicant shall ensure that CCTV is installed and maintained to the satisfaction of the Police and Licensing Officers and shall ensure :-</p> <ol style="list-style-type: none"> <li>1. All equipment shall have constant time/date generation.</li> <li>2. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time etc.</li> <li>3. If the system is not capable of achieving this requirement the Licence holder or a nominated person must ensure that a</li> </ol>
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	<p>manual facility is available to carry out this update as an alternative.</p> <ol style="list-style-type: none"> <li>4. Recordings must be kept for a minimum of 31 days.</li> <li>5. Recordings of incidents at the premises must be made secure for inspection by the Police and or Licensing Officers.</li> <li>6. Copies of recordings will be made available to officers of the responsible authorities on reasonable request.</li> <li>7. Unauthorised persons should not be allowed access to the system or view personal data as it could contravene the Data Protection Act or jeopardise any criminal investigation.</li> <li>8. Arrangements for its repair must be made without delay.</li> </ol> <p><u>Condition 2</u></p> <p>The Premises Licence holder shall implement and maintain an up-to-date register of incidents occurring on the premises. This register shall be made available to the Police or Authorised Officers on request.</p> <p><u>Condition 3</u></p> <p>Door supervisors are to be employed on Thursday, Friday and Saturday from 11pm to 5am (or closing time). All door staff to be SIA registered and badged. The requirement for the deployment of door staff may be varied in writing with the agreement of Warwickshire Police. Should a variation be agreed and there is subsequently an increase in disorder, then Warwickshire Police may reinstate the original requirements by notifying the licence holder in writing.</p> <p><u>Condition 4</u></p> <p>The applicant or manager of the premises shall join the WRCI retail scheme for the Leamington Spa area and participate in the local retail watch meetings and actively use the "retail" radio provided as part of this scheme.</p>
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Signed: Martin Hewish Insp 117

Date: 19/01/2024

Please return this form along with any additional sheets to Licensing, Safer Communities, Leisure and Environment, Riverside House, Milverton Hill, Royal Leamington Spa. CV32 5HZ.

This form must be returned within the Statutory Period.



**WARWICK DISTRICT COUNCIL**  
**Licensing Act 2003**

**REPRESENTATION FORM FROM  
RESPONSIBLE AUTHORITIES**

**Responsible Authority** – Environmental Health, Riverside House, Milverton Hill, L/Spa, CV32 5HZ

<b>Your Name</b>	Stacey Walsham
<b>Job Title</b>	Environmental Health Technical Officer
<b>Postal and email address</b>	Safer Communities, Leisure and Environment. Warwick District Council, Town Hall, Prade, Leamington Spa, CV32 4AT
<b>Contact telephone number</b>	01926 456719
<b>Email Address</b>	stacey.walsham@warwickdc.gov.uk

<b>Name of the premises you are making a representation about</b>	<b>Sombrero Mexican Takeaway</b>
<b>Address of the premises you are making a representation about</b>	40 Bedford Street Leamington Spa Warwickshire CV32 5DY

<b>Which of the four licensing Objectives does your representation relate to?</b>	
<b>To prevent crime and disorder</b>	
<b>Public safety</b>	
<b>To prevent public nuisance</b>	X
<b>To protect children from harm</b>	

**History**

Sombrero Mexican Food is a hot food take away, with the ability to order online, pay and have food delivered straight to your door. You can order your takeaway via their own website or others such as Ubereats.com, Deliveroo.co.uk and Just-eat.co.uk. Delivery time is stated to be under 30 minutes, and they have over 200 reviews online. The premises is currently trading from 12:00 till 23:00 hours Monday through to Sunday. They are looking to extend these hours to include Late Night Refreshment and trade until 05:00 hours 7 days a week.

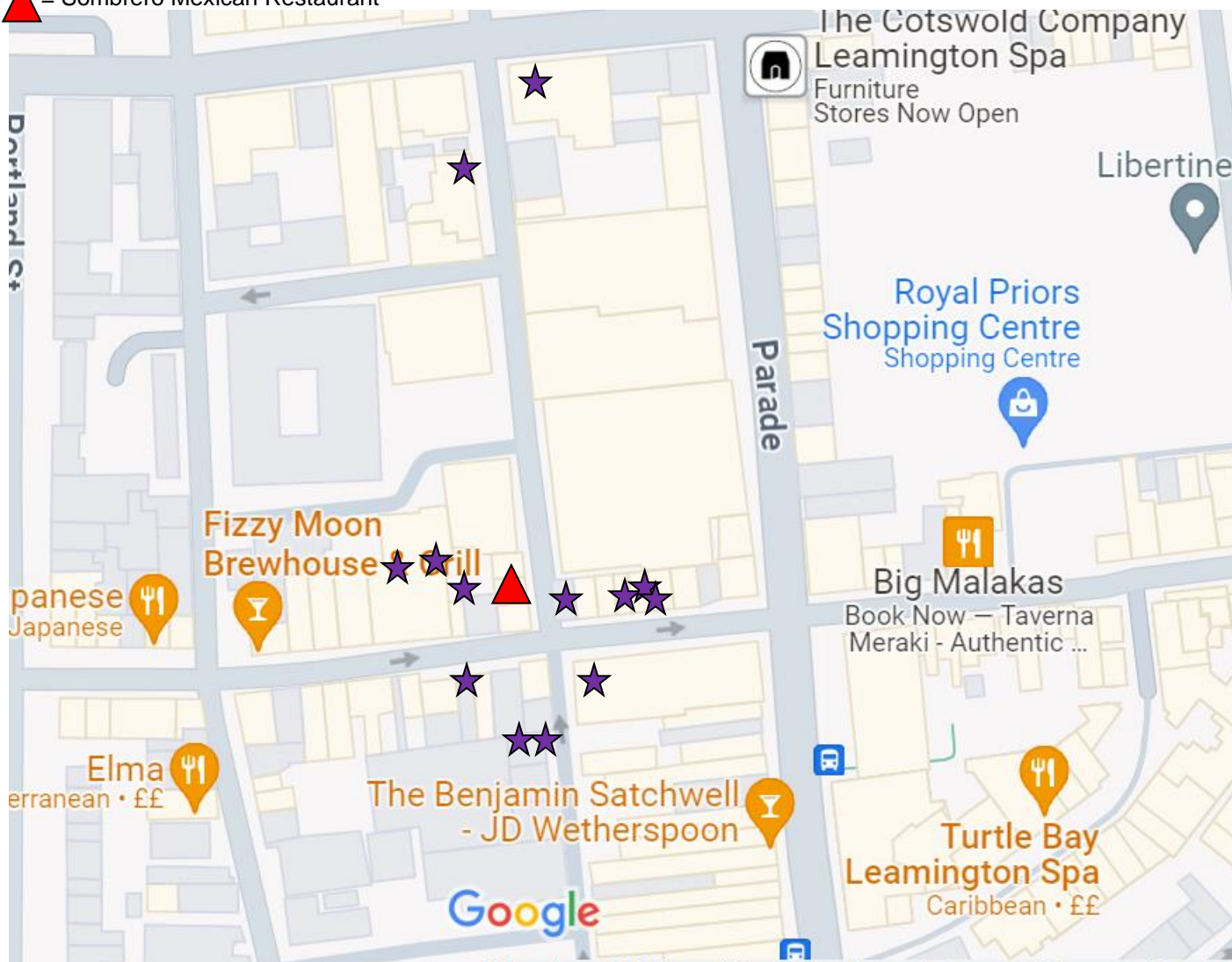
**Location**

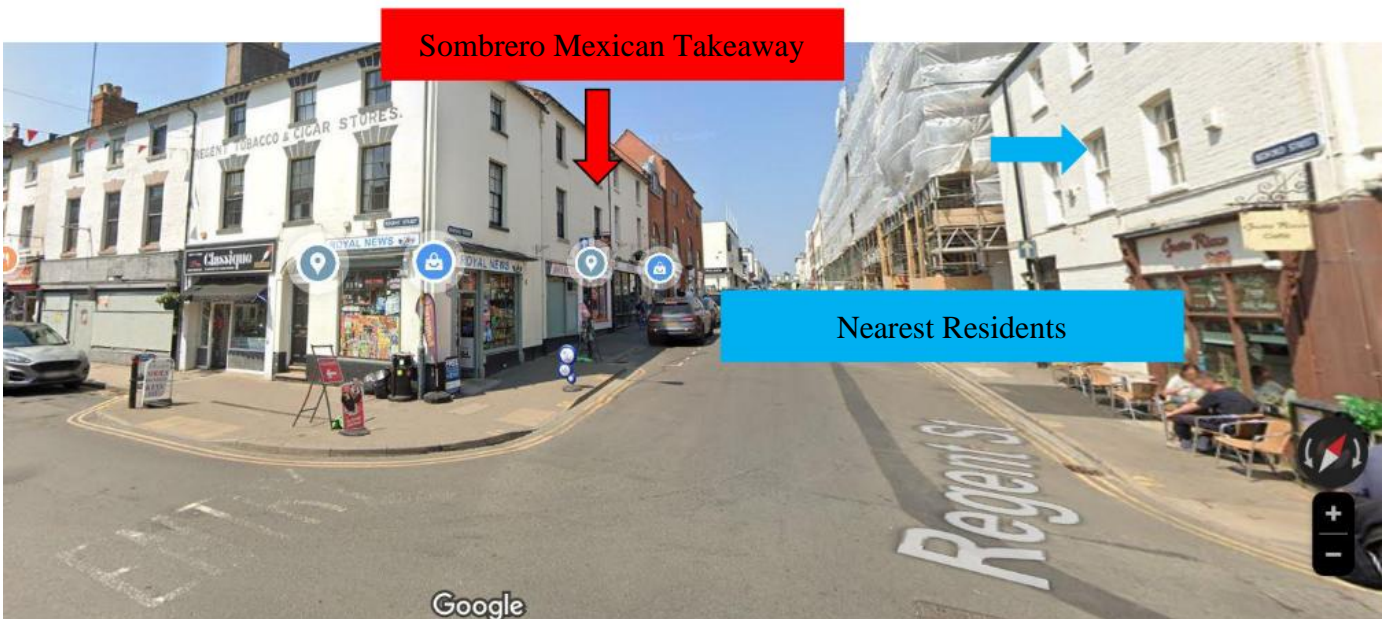
There has been a food establishment at this premises for at least 20 years in various forms. The premises is in the centre of Leamington Spa, roughly 500 meters from busy late-night establishments. There are currently six licenced premises along this street, four of which open past 23:00 hours serving Late night refreshment. There is also a café along the street which offers light bites and snacks, opening till 15:00 most days except Saturday where they are open until 23:00 hours. On the opposite side of the road is another café, with their entrance located on a different road. There are residential properties near the premises which could be affected by the late night opening and associated plant running throughout the night.

**Residential Receptors in close proximity to the Premises:**

Flat 1 – 6 – 1 Bedford Street, Flat 4 Bedford Street, 37 Bedford Street, Apartments 1 to 20, 43 Bedford Street, Bedford Street Lofts, 46/48 Bedford Street, 48 Bedford Street, 24 John Street, 26 John Street, 56a Regent Street, The Flat 73 Regent Street, 76a & 76B Regent Street

- ★ = Residential Property which could be affected by Late Night Refreshment
- ▲ = Sombrero Mexican Restaurant





Sombrero Mexican Takeaway

Nearest Residents

**Licensable activities applied for:**

<b>Opening Times:</b> 23:00 – 05:00
<b>Late Night Refreshment</b> 23:00 – 05:00

**Comparable Premises in proximity:*****La Bottega, 45 Regent Street, Leamington Spa, Warwickshire, CV32 5EE*****Sale of Alcohol for Consumption on and Off the Premises**

Monday to Sunday from 07:00 to 23:30

**Late night refreshment (both Indoors and Outdoors)**

Monday to Sunday from 23:00 to 23:30

**Normal Opening Hours**

Monday to Sunday from 07.00 to 24.00

**Conditions agreed with the Licensee**

1. Prominent, clear, and legible notices must be displayed at all exits requesting that customers respect the needs of residents and to leave the premises and area quietly.
2. Clear and legible notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of residents and use the area quietly.
3. No open vessels to leave the premises at any time.
4. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21:00 and 08:30 on the following day.
5. No waste or recyclable materials, including bottles, shall be removed from, or placed in outside areas between 21:00 hours and 08:30 hours on the following day.

No off-licence sales after 23:00 hours.

***Papa John's Pizza, 49 Bath Street, Leamington Spa, Warwickshire, CV31 3AG*****Late Night Refreshment for consumption off the premises**

Monday to Sunday from 23:00 to 01:00

**Normal Opening Hours**

Monday to Sunday from 10:30 to 01:00

**Conditions agreed with the Licensee**

Between the hours of 23.00 and 01.00 Monday to Sunday the front door of the premises must be locked with no entry to visiting members of the public. During these hours, all deliveries only to be made to a fixed address for pre-orders only.

**Conditions from Hearing or Magistrates**

Deliveries must be made from the rear access only.

***Halikarnas Take Away, 55 Regent Street, Leamington Spa, Warwickshire, CV32 5EE*****Late night refreshment**

Monday from 23:00 to 01:00

Tuesday from 23:00 to 01:00

Wednesday from 23:00 to 01:00

Thursday from 23:00 to 04:00

Friday from 23:00 to 04:00

Saturday from 23:00 to 04:00

Sunday from 23:00 to 01:00

Christmas Eve &amp; New Year's from 23:00 to 04:00

**Normal Opening Hours**

Sunday to Wednesday from 23:00 to 01:00

Thursday to Saturday from 23:00 to 04:00

Christmas Eve &amp; New Year's from 23:00 to 04:00

***Vialli's Fast Foods, 24 Victoria Terrace, Leamington Spa, Warwickshire, CV31 3AB*****Late night refreshment**

Monday to Wednesday 23:00 to 03:00

Thursday and Friday 23:00 to 04:00  
Saturday 23:00 to 04:30  
Sunday 23:00 to 02:30

**Normal Opening Hours**

Monday to Wednesday from 11:00 to 03:00  
Thursday from 23:00 to 04:00  
Friday from 11:00 to 04:30  
Saturday from 11:00 to 04:30  
Sunday from 12:00 to 02:30

***Dominos Pizza, 118 Regent Street, Leamington Spa, Warwickshire, CV32 4NR***

**Late Night Refreshment on the Premises**

Monday to Saturday including Bank Holiday Sundays from 23:00 to 02:00  
Sunday from 23:00 to 01:00

**Late Night Refreshment Off the Premises**

Everyday from 23:00 to 05:00

**Normal Opening Hours**

Monday to Sunday from 07:00 to 05:00(Except Christmas Day)

**Conditions agreed with the Licensee**

1. CCTV to conform to British Standard - and offer live time recording.
2. Membership of Retail Radio Link and conform to it's procedures.

**Conditions from Hearing or Magistrates**

1. CCTV of British Standard B2378 providing live time recording to be installed in positions agreed with the Community Safety/Architectural Liaison Officer of Warwickshire Police. Images are to be retained for at least 31 days and shall be made available at the request of Warwickshire Police.
2. Notices are to be displayed at the exits requesting that customers are to leave the premises quietly and respect the local neighbourhood.
3. There will be at least one SIA Registered member of Door staff on duty at the premises from midnight on Fridays and Saturdays until counter service closure.
4. The Premises Licence Holder will adhere to the attached Operational and Dispersal Plan;
5. The counter service open to the public will only be available until 01:00 Sundays and 02:00 Mondays to Saturdays and Bank Holiday Sundays. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late-night refreshment via the delivery service.
6. Any deliveries from the premises will only be made to a customer's place of residence or place of business.

***Thai Elephant, 20 Regent Street, Leamington Spa, Warwickshire, CV32 5HQ***

**Sale of Alcohol for Consumption Off the Premises**

**Sale of Alcohol off the Premises when supplied with substantial meal.**

- (1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10:00 to 00:00
- (2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12:00 to 23:00
- (3) On Christmas Day: 12:00 to 23:30
- (4) On New Year's Eve, except on a Sunday, 10:00 to 23:00
- (5) On New Year's Eve on a Sunday, 12:00 to 23:30
- (6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00:00 on 31st December).

**Late night refreshment**

On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 23:00 to 00:30, On Sundays other than Christmas Day or New Year's Eve, and on Good Friday: 23:00 to 00:00  
On Christmas Day: 23:00 to 00:00 On New Year's Eve and Christmas Day except on a Sunday, 23:00 to 00:30 On New Year's Eve on a Sunday, 23:00 to 00:00

**Normal Opening Hours**

The premises will close at the end of the period for the consumption of alcohol referred to in (a) above.

***Aroma Cafe, 47 Bedford Street, Leamington Spa, Warwickshire, CV32 5DY***

**Normal Opening Hours**

Monday to Saturday from 08:30 to 24:00

Sunday from 10:00 to 23:00

**Sale of Alcohol for Consumption on the Premises**

Monday to Saturday from 08:30 to 23.30

Sunday from 10:00 to 22.30

**Recorded Music (Indoors only)**

Monday to Saturday from 08:30 to 23:00

Sunday from 10:00 to 22:00

NOTE: Between the hours of 08:00 and 23:00, when recorded music is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises, all licensing conditions applicable to the control of recorded music on this licence are deemed not to be in operation.

**Late night refreshment (both Indoors and Outdoors)**

Monday to Saturday from 23:00 to 24:00

**Conditions agreed with the Licensee**

1. CCTV to be installed and the premises licence holder must ensure that :-
  - a. CCTV cameras are located within the premises to cover entrances and bar servery.
  - b. The system records clear images permitting the identification of individuals.
  - c. The CCTV system is able to capture a minimum of 12 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
  - d. The CCTV system operates at all times while the premises are open for licensable activities'. All equipment must have a constant and accurate time and date generation.
  - e. The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
  - f. Downloads will be provided to the Police upon reasonable request in line with the DPA.
  - g. Signed off by Warwickshire Police Architectural Liaison officer
2. All Staff training records to be maintained and made available for inspection on reasonable request from responsible authority.
3. Regular staff training to ensure that both the law and company policies / procedures are understood, up-to-date and applied consistently.
4. No Open vessels containing alcohol to be taken outside the premises at anytime
5. All staff to be trained in age verification policies and procedures
6. A 'Challenge 25' age verification policy requiring proof of age by passport, photo driving licence or PASS accredited card
7. A 'challenge log' recording all challenges - where both sales and refusals result must be kept and the Refusals register to be made available for inspection on reasonable request from responsible authority.
8. A prompt or reminder to staff, at the point of sale, to consider whether a sale or challenge ought to be made

**Environmental Protection is the Responsible Authority for upholding the licensing objective 'The Prevention of Public Nuisance'. We object to the application to extend the opening hours to 05:00 hours for late night refreshment on the following grounds:**

Environmental Protection has tried to engage with the applicant on numerous occasions but have not received sufficient information to demonstrate that they can address our concerns. Customer Noise on the street at unsocial hours could cause a nuisance by way of disturbing nearby residents until 05:00 / 05:30. Delivery drivers and customer's cars idling in the street, car doors slamming, raised voices etc. which are difficult to measure, quantify or control but are highly impactful on neighbours. Late night comings and goings near residential properties can negatively impact on the amenity of the area for residents.

Planning conditions placed on the approval for a change of use to a takeaway limited opening hours to 23:00 hours for the same reasons. They also had pre-commencement conditions for the applicant to provide details of the odour control system and the noise levels of that system to ensure that odour and noise did not impact negatively upon residents in the area. No information has been submitted to address these requirements and, as such Environmental Protection have no evidence to demonstrate that the use of the odour extract system will not negatively impact on residents during this extended period of operation. This is particularly necessary given that the applicant has asked for 05:00 hours when background levels are likely to have dropped significantly in the area.

There are other licenced premises along Bedford Street which are open for Late night refreshment passed 23:00 hours. Two open until midnight, one until 02:00 hours and one which is open until 03:00 hours on a

Friday and Saturday night. However, this establishment is a bar which and late night refreshment is only a part of their business model.

EP therefore have concerns that the opening of this premises until 05:00 hours will attract customers vacating other licensed premises and thereby delay people dispersing from the centre and may become a focal point for congregations of late night revellers.

**However, if Councillors are minded to grant the application, then Environmental Protection recommend the following conditions be placed on the licence as a minimum:**

1. Prominent, clear, and legible notices must be displayed at all exits requesting that customers respect the needs of residents and to leave the premises and area quietly.
2. Prominent, clear, and legible notices must be displayed at all entrances requesting that all delivery drivers, **do not** leave their cars in idle when collecting deliveries.
3. The premises licence holder (or his/her nominees) shall ensure that any patrons queuing and/or smoking outside the premises Do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.
4. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21:00 and 08:30 on the following day.
5. Where the premises provide food to the public for consumption off the premises, there shall be provided at or near the exits, one waste bins to enable the disposal of waste food, food containers, wrappings etc.
6. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.
7. No deliveries to the premises shall take place between 22:00 and 08:30 on the following day
8. The counter service open to the public will only be available until 02:00. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late-night refreshment via the delivery service.
9. Any deliveries from the premises will only be made to a customer's place of residence or place of business.

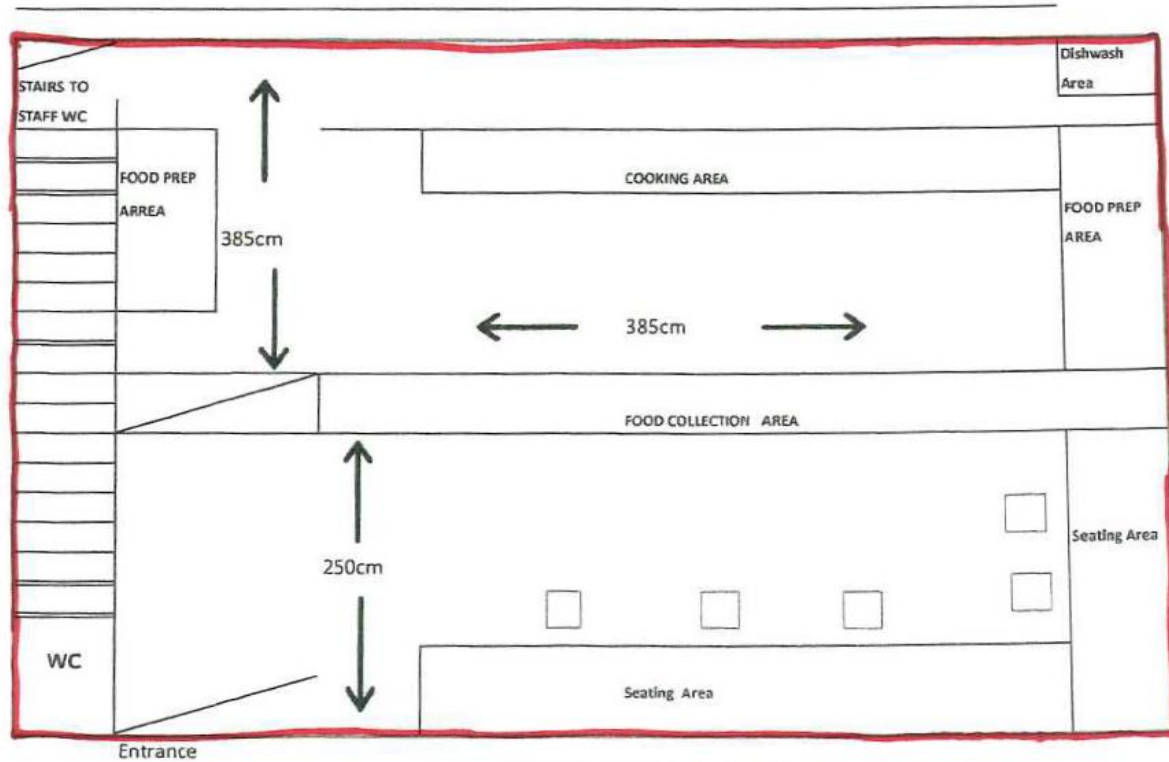
**Recommended Licensable activities:**

	<b>Opening Times:</b> 23:00 – 05:00
	<b>Late Night Refreshment</b> 23:00 – 05:00

Signed:   
Stacey Walsham  
Environmental Health Technical Officer

Date: Friday, 19 January 2024





Sombbrero Mexican Food 40 Bedford Street, Leamington Spa. CV32 5DY

Seating -



Seats will be removed after 22:30 to ensure safety after 23:00





## STATEMENT OF LICENSING POLICY

(Required by section 5 of the Licensing Act 2003)

2021 - 2026

## **IMPORTANT NOTE**

In producing this Statement Of Licensing Policy the Licensing Authority is aware that the Government may amend the Licensing Act 2003, subordinate legislation and statutory guidance.

Any such amendments made in the future may not be incorporated into this policy document and readers of this document are advised to check the Home Office/Gov.uk website to ensure they have the latest information.

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## **Appendix**

1. Model Conditions
2. Responsible authorities List

## STATEMENT OF LICENSING POLICY

### INTRODUCTION

1.1 Warwick District Council ('the Council') has a duty under the terms of the Licensing Act 2003 ('the Act') to carry out its functions as the Licensing Authority with a view to promoting the following licensing objectives:

- **The prevention of crime and disorder**
- **Public safety**
- **The prevention of public nuisance**
- **The protection of children from harm**

1.2 The promotion of these objectives is the paramount consideration when determining an application and any conditions attached to an authorisation.

1.3 Warwick District Council (WDC) 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 exceeding 138,400 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.

1.4 This statement of licensing policy relates to all those licensing activities identified as falling within the provisions of the act, namely:

- **The sale by retail of alcohol**
- **The supply of alcohol by clubs**
- **The provision of regulated entertainment**
- **The provision of late night refreshment**

For the purposes of this document any reference to an 'authorisation' means a Premises Licence, Club Premises Certificate, Temporary Event Notice (TEN) and where appropriate to the context a Personal Licence.

1.5 The Licensing Authority recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Licensing Authority will therefore continue to work with the Responsible Authorities, the South Warwickshire Community Safety Partnership, local businesses and local people to promote the common objectives as outlined. In addition the Licensing Authority recognises its duty under s.17 of the Crime and Disorder Act 1998 with regard to the prevention of crime and disorder.

- 1.6 This policy statement has been prepared in accordance with the provisions of the Act and the guidance issued under s.182 of the Act. The policy statement is valid until 5<sup>th</sup> January 2026. This policy statement will be subject to review and further consultation prior to any substantial changes.
- 1.7 A list of contact details for the Responsible Authorities authorised under the act is attached to this policy statement as Appendix 2.
- 1.8 The Licensing Authority has recognised Warwickshire County Council as the local body competent to advise it on the protection of children from harm and has designated it as a responsible authority for the purposes of s.13 of the Act.
- 1.9 The Licensing Authority will, when acting as a responsible authority, act in accordance with the guidance issued under s.182 of the Act wherever possible. In particular, it will not normally intervene in applications where the issues are within the remit of another responsible authority and will ensure an appropriate separation of responsibilities between the officer administering an application and an officer acting as a responsible authority.

### **Public Health as a Responsible Authority**

- 1.10 There is not a specific licensing objective related directly to health within the current legislation. When making a representation, the Director of Public Health will be required to relate such representations and available data to the other licensing objectives. This may include underage drinking, prevention of accidents, injuries and other immediate harms that can result from alcohol consumption.
- 1.11 Health bodies hold valuable information which may not be recorded by other agencies, including analysis of data on attendance at emergency departments and the use of ambulance services following alcohol related incidents. Sometimes it may be possible to link ambulance callouts and attendance to irresponsible practices at specific premises. Anonymised data can be collated about incidents relating to specific premises and presented to Licensing Sub-Committees when representations are made.

## **CONSULTATION**

- 2.1 Before publishing this policy statement the Licensing Authority has consulted and given proper consideration to the views of the following in line with the statutory guidance.
- The Responsible Authorities
  - Representatives of current licence and certificate holders
  - Representatives of local businesses
  - Representatives of local residents

## **FUNDAMENTAL RIGHTS**

- 3.1 Under the terms of the Act any person may apply for a variety of authorisations and have each application considered on its individual merits. Equally, any person has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 3.2 Applicants and those making relevant representations in respect of applications to the Licensing Authority have a right of appeal to Warwickshire Magistrates' Court against the decisions of the Licensing Authority.

## **LICENSING CONDITIONS**

- 4.1 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. 'Premises' includes open spaces. Conditions attached to various authorisations will be focused on matters that are within the control of the individual licensees and others in possession of relevant authorisations. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises. If there is an incident or other dispute, the Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in other normal activities in the area concerned.
- 4.2 The Licensing Authority can impose conditions if it has received a relevant representation or if such conditions are consistent with the operating schedule.
- 4.3 When considering any conditions, the Licensing Authority acknowledges that licensing law should not be seen as the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the individual club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of general control and licensing law will always be part of a holistic approach to the management of the evening and night time economy. For example, applicants should note that stricter conditions to control noise are likely to be imposed in the case of premises situated in largely residential areas.
- 4.4 The Licensing Authority will not impose standard licensing conditions on licences or other relevant types of authorisation across the board. Therefore, the Licensing Authority will attach conditions to relevant authorisations which are tailored to the individual style and characteristics of the premises and events concerned and that are appropriate to promote the licensing objectives in the light of any representations received.

- 4.5 The Licensing Authority has produced a set of model conditions, which is aimed at assisting and supporting applicants through the application process. The model conditions would also assist the Licensing Authority and Responsible Authorities in deciding which conditions would be appropriate to add to a licence. The model conditions may be found at the end of this policy as Appendix 1.

## **OPERATING HOURS**

- 5.1 The Licensing Authority welcomes the opportunities afforded to the local economy by the Act and will strive to balance this with the rights of local residents and others who might be adversely affected by licensable activities based on the principles laid down in this document.
- 5.2 When dealing with licensing hours, each application will be dealt with on its individual merits. The Licensing Authority recognises that longer licensing hours with regard to the sale of alcohol can assist to avoid concentrations of customers leaving premises simultaneously thereby reducing the friction at late night fast food outlets, taxi ranks and other forms of transport which can lead to disorder and disturbance. The Licensing Authority does not wish to unduly inhibit the development of thriving and safe evening and night time local economies which are important for investment and employment locally and in the main welcomed by residents and visitors to the District.
- 5.3 The Licensing Authority will not set fixed trading hours within designated areas. However, an earlier terminal hour and stricter conditions with regard to noise control than those contained within an application, may be appropriate in residential areas where relevant representations are received and such measures are deemed appropriate to uphold the licensing objectives.
- 5.4 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are relevant representations giving good reasons based on the licensing objectives for restricting those hours.

## **LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS**

- 6.1 The Licensing Authority, having not been presented with any evidence to the contrary, does not consider that the application of a Late Night Levy or Early Morning Restriction Order are appropriate for the Licensing Authority's area at the present time. The Licensing Authority will keep these matters under review and accordingly reserves the right, should the need arise, to introduce these measures during the life of this statement of licensing policy.

## **CUMULATIVE IMPACT ASSESSMENT**

- 7.1 For the purposes of this document 'cumulative impact' means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Cumulative impact is a proper matter for the Council to consider in developing its licensing policy. This should not be confused with 'need', which concerns the commercial demand for another particular type of premises. Government guidance states that 'need' is not a matter for the Licensing Authority but is a matter for the Planning Authority and the free market.
- 7.2 The Licensing Authority has not been presented with sufficient evidence to consider any area within the District to currently have a particular concentration of licensed premises causing a cumulative impact on one or more of the licensing objectives. The Licensing Authority will keep this matter under review and accordingly reserves the right, should the need arise, to introduce a special policy concerning cumulative impact during the life of this statement of licensing policy.
- 7.3 The absence of a special policy does not prevent any responsible authority or any other party from making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Act allows for such consideration but the individual merits of each application must always be considered.

## **PROMOTION OF THE LICENSING OBJECTIVES**

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

- 8.1 Licensed premises, especially those offering late night/early morning entertainment or alcohol and refreshment can sometimes be associated with elevated levels of crime and disorder.
- 8.2 The Licensing Authority expects individual licence/certificate holders, new applicants and temporary event organisers, to regularly review their arrangements in addressing crime and disorder issues pertinent to their particular licensable activities, location and/or premises. Information and advice can be obtained from the Police, business network groups and other sources. The Licensing Authority also encourages local residents and other businesses, where appropriate, to discuss issues of concern directly with individual businesses, or, to contact the Police or the Licensing Authority.
- 8.3 The Licensing Authority will, through its Community Safety Partnership devise and help deliver strategies to tackle the misuse of alcohol, which has been identified as being a precursor to crime and anti-social behaviour. The Licensing Authority expects existing licence/certificate holders, new applicants and the organisers of temporary events, to be able to demonstrate the measures they

use, or propose to adopt, to prevent and actively discourage the sale/supply of alcohol to children and to individuals who are already drunk.

- 8.4 The risk assessment approach remains fundamental in the operation of all licensed premises. Licence/certificate holders and applicants are strongly recommended to work closely with the Police in particular, in bringing into effect appropriate control measures to overcome established and potential problems. A combination of short and longer term strategies may need to be deployed by holders of authorisations to sustain and promote the prevention of crime and disorder.
- 8.5 The Licensing Authority will expect new applicants, existing licence/certificate holders and organisers of temporary events to adopt recognised good practice in whatever area of operations they are engaged. The Licensing Authority will regard each responsible authority as the expert in their respective field and in some cases as the primary source of advice in relation to a particular licensing objective.
- 8.6 Queues at late night take-aways can be a source of disorder and applicants for premises licences for this type of premises are expected to address this in their operating schedule.
- 8.7 The Licensing Authority has specific duties under s.17 of the Crime and Disorder Act 1998 that underpins any control strategy that is employed. The Licensing Authority will continue to work in partnership with the Police in addressing crime and disorder issues.
- 8.8 The Licensing Authority is of the view that generally, in order to promote the licensing objectives, all licensed premises within the District are encouraged to be members of the relevant local Pubwatch Scheme, or any similar scheme, where one exists.
- 8.9 The Licensing Authority and Police have a zero tolerance of drug use in licensed premises but recognise that drug use is not something that is relevant to all licensed premises. However, it is recognised that special conditions may need to be imposed for certain venues to reduce the likelihood of drugs being sold and consumed and to create a safer environment for those who may have taken them.
- 8.10 Once away from licensed premises a minority of consumers may behave badly and unlawfully. There are other mechanisms both within and outside the licensing regime that are available for addressing such issues. The Licensing Authority will address a number of these issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction and drug and alcohol misuse within the District.
- 8.11 In relation to premises seeking or holding a premises licence and where alcohol will be sold under the terms of that licence, the Licensing Authority expects that

(a) any Designated Premises Supervisor (DPS) will have been given sufficient management authority and be able to exercise effective day-to-day control of the premises and (b) authority to make alcohol sales when given by the DPS or any other Personal Licence holder should be clearly evidenced in writing. This is to ensure that premises selling alcohol are properly managed in accordance with the Act and that premises operate in a way that promotes the prevention of crime and disorder. This will also benefit operators themselves through being able to demonstrate a commitment to the proper management of premises, particularly if enforcement action becomes necessary.

### **Promotion of Public Safety**

- 8.12 Public safety is not defined within the act, but the Government guidance advises that it is concerned with the physical safety of people using the premises and not with public health, which is covered by other legislation.
- 8.13 Applicants and event organisers will be expected to assess not only the physical environment of the premises or site but also operational practices, in order to protect the safety of members of the public visiting the premises or site, those who are employed in the business, those who are engaged in running an event or anyone else that could be affected by site activities. This assessment would normally take place within a risk assessment framework.
- 8.14 Holders of premises licences and club certificates, or those organising temporary events, should interpret 'public safety' widely to include freedom from danger or harm.
- 8.15 For licensed or certificated premises and for temporary events, public safety must be kept under review and where changes to operational practices/events occur, or the customer profile changes, a review of risk assessments must be undertaken.
- 8.16 Fire safety is governed by the Regulatory Reform (Fire Safety) Order 2005 and is not something with which the Licensing Authority will normally become involved.

Where a Responsible Authority has recommended a safe capacity limit on all or part of a premises the Licensing Authority will normally expect an applicant/authorisation holder to follow such a recommendation unless there are good reasons for not doing so.

### **Prevention of Public Nuisance**

- 8.17 The Licensing Authority remains sensitive to the expectations and needs of different parts of the community in respect of leisure and cultural pursuits, and will view applications accordingly. The impact of those activities on people who have to live, work and sleep within the local vicinity of a licensed premises or event will also be considered. If the impact of licensed activities is

disproportionate and unreasonable or markedly reduces the amenity value of the area to local people, then the Licensing Authority will take account of this when exercising its functions.

- 8.18 The Licensing Authority considers that the potential for public nuisance can be prevented or much reduced by good design and planning during new or ancillary construction works, by the provision of good facilities and effective management. This will require appropriate advice at the planning and development stages of new projects. Applicants should consider carefully the suitability of the premises for the type of activity to be undertaken, particularly in terms of ventilation, cooling, noise breakout and noise/vibration transmission to adjoining premises.
- 8.19 Licence holders already in receipt of complaints should seek an early remedy to any confirmed problem. The organisers of temporary events should seek to pre-empt potential nuisance, especially if complaints have previously arisen at the same venue.
- 8.20 The Licensing Authority expects holders of authorisations to use their risk assessment and operating schedules to review and, if need be, to make necessary improvements to the premises or to operational practices, in order to prevent public or statutory nuisance.
- 8.21 Where the provisions of existing legislation prove inadequate or inappropriate for control purposes, the Licensing Authority will consider imposing licence conditions. Any condition deemed appropriate and imposed by the Licensing Authority to promote the prevention of public nuisance will focus on measures within the direct control of the licence holder or designated premises supervisor.
- 8.22 Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected to take place. Any conditions added will be precise and enforceable and will be unambiguous and clear in what they intend to achieve.

### **Protection of Children from Harm**

- 8.23 The Act details a number of legal requirements designed to protect children in licensed premises. The Licensing Authority is concerned to ensure that holders of authorisations, including organisers of temporary events, create safe environments (in terms of physical, moral and psychological welfare) for children who may be on the premises. Children should be unable to access alcohol or drugs and be subject to an appropriate level of care and supervision at all times.
- 8.24 The Act prohibits children under the age of 16 years old and unaccompanied by an adult, to be present in licensed premises (including premises operating under a TEN) being used primarily or exclusively for consumption of alcohol.

- 8.25 The admission of children to any premises will otherwise normally be left to the discretion of the individual licensee/event organiser, as the Act does not prohibit children from accessing licensed premises. Where children are accompanied and supervised by a responsible adult, additional measures, should not normally be necessary. The Licensing Authority supports the view that children should enjoy access to a range of licensed premises, but cannot impose conditions requiring the admission of children to any premises.

The Licensing Authority will judge the merits of each application before deciding whether or not to impose conditions restricting access by children. Conditions which may be relevant in this respect are outlined in the Government Guidance.

- 8.26 In premises where alcohol is sold or supplied it is a mandatory condition that premises licence holders will operate a recognised Age Verification Scheme. The Licensing Authority supports the Challenge 25 scheme and where this is not proposed within the operating schedule, alternative and similarly rigorous controls should be detailed. The Licensing Authority recommends that the premise licence holder operates a method for recording when a sale is refused as part of any age challenge scheme (also known as a refusals book).
- 8.27 The Licensing Authority expects that customers should be confronted by clear and visible signs on the premises that underage drinking constitutes an offence in law and that they may well be required to produce proof of their age to a member of staff. Organisers of temporary events should apply similar safeguards in their undertakings.
- 8.28 Venue operators seeking premises licences and club premises certificates can volunteer prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. These will become conditions attached to the licence or certificate where no relevant representations are received by the Licensing Authority.
- 8.29 The Licensing Authority regards Warwickshire County Council as being the primary source of advice and information on children's welfare and would normally expect any advice/recommendations from the County Council to be followed unless there are good reasons for not doing so. The Licensing Authority will attach appropriate conditions where these appear necessary to protect children from moral, psychological or physical harm. It is also reasonable for the licensing authority to expect the responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concerned about crime and disorder or the sexual exploitation of children.
- 8.30 The Licensing Authority will consider the need to protect children from sexual exploitation when undertaking licensing functions.

- 8.31 In order to prevent children from seeing films incompatible with their age, licence holders who exhibit films will be expected to impose and enforce viewing restrictions in accordance with the recommendations of the British Board of Film Classification. In exceptional cases e.g. where the BBFC has not classified a film then the Licensing Authority may specify viewing restrictions which an authorisation holder will be expected to comply with.
- 8.32 It is expected that authorisation holders will ensure that, whenever children are in the vicinity of a film or exhibition that is being shown/staged in a multi-purpose premises, sufficient ushers/stewards (minimum 18 years old) will be in attendance at the entrance the viewing rooms at all times to ensure children cannot enter or view the film or exhibition.
- 8.33 Children have access to a range of regulated public entertainment venues and may be present as members of a viewing audience or as performers in their own right. The Licensing Authority expects authorisation holders including those organising temporary events, to make proper provision for child safety and welfare during such events. Notwithstanding public safety issues, supervisory arrangements must be reflected within operating schedules. Suitable monitoring strategies should also be in place to ensure that supervisory levels are appropriate.
- 8.34 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, the Licensing Authority may require that there is an adequate number of adult staff at places of entertainment to control access and egress of children and to protect them from harm. Children present at events as entertainers will be expected to have a nominated adult responsible for each child performer.

## **MANDATORY LICENSING CONDITIONS**

- 9.1 The Government has introduced a range of mandatory conditions aimed at establishing minimum standards for the way certain licensable activities are conducted. The conditions apply to all appropriate premises. A full list of the mandatory conditions can be found on the Gov.uk website.

## **OTHER CONSIDERATIONS**

### **Relationship with Planning**

- 10.1 The planning and licensing regimes involve consideration of different (albeit related) matters. The Council's Licensing and Regulatory Committee and Sub – Committees are not bound by decisions made by the Council's Planning Committee and vice versa.
- 10.2 The grant of any application or variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control approval where appropriate.

- 10.3 There are also circumstances when as a condition of planning permission; operating hours are set for the use of the premises for commercial purposes. Where these hours are shorter than the licensing hours, the applicant must observe the planning restrictions. Premises operating in breach of their planning consent would be liable to enforcement action under planning law.
- 10.4 The Local Planning Authority may also make representations against a licensing application in its capacity as a Responsible Authority, where such representations relate to one or more of the licensing objectives.

### **Applications**

- 10.5 An applicant may apply under the terms of the Act for a variety of authorisations and any such application will be considered on its individual merits. Any person may make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 10.6 The Licensing Authority expects each and every applicant for a premises licence, club premises certificate or variation to address how they intend to promote the licensing objectives.
- 10.7 In determining a licence application the Licensing Authority will take each application on its merits. Licence conditions will only be imposed following a hearing or in order to promote the licensing objectives and will only relate to matters within the control of the applicant. Licence conditions will not normally be imposed where other regulatory provisions are in force (e.g. planning, health and safety at work, fire safety and building control legislation) so as to avoid confusion and duplication, except where they can be exceptionally justified to promote the licensing objectives.
- 10.8 The Licensing Authority will impose only such conditions as are proportionate towards promoting the licensing objectives and which do not impose unnecessary burdens and which are appropriate to the individual size, style and characteristics of the premises and events concerned.
- 10.9 In considering applications, the Licensing Authority will primarily focus on the direct impact of activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Licensing Authority recognises that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 10.10 Conditions include any limitations or restrictions attached to a licence, certificate or other authorisation and essentially are the steps or actions the holder of the authorisation will be required to take or refrain from taking at all times when licensable activities are taking place at the premises in question.

## **Deregulated Public Entertainment**

- 10.11 As a result of the Live Music Act 2012 and The Legislative Reform (Entertainment Licensing) Order 2014 most public entertainment taking place between 08:00 and 23:00 hrs has, subject to certain conditions, been deregulated and removed from the scope of Licensing Authority control. No authorisation is required where public entertainment is being provided under these statutory exemptions. However, if exempt public entertainment is or will be taking place as well as licensable activities (e.g. selling alcohol) then an authorisation covering the licensable activities will still be required. Operators of 'on-licensed' premises should also note that it is possible to re-introduce full licensing controls over public entertainment where a premises licence or a club premises certificate has been reviewed and a Licensing and Regulatory Sub-Committee determines that it is appropriate for such controls to be re-introduced.

## **Public Spaces Protection Order**

- 10.12 At the time of writing, The Warwick District Public Spaces Protection Order (PSPO) (Introduced by The Anti Social Behaviour, Crime and Policing Act 2014) are under review. Regardless of the outcome of the PSPO review the local authority must have regard to section 62 and 63 of the 2014 Act which limits what can be restricted in relation to alcohol. For example, where a PSPO covers alcohol prohibition, section 62 of the 2014 Act lists a number of premises to which an Order cannot apply – such as on licensed premises (or within its curtilage), premises which by virtue of Part 5 of the Licensing Act 2003 may at the relevant time be used for the supply of alcohol, or facilities or activities relating to the sale or consumption of alcohol which are at the relevant time permitted by virtue of a permission granted under section 115E of the Highways Act 1980 (highway-related uses). Section 63 makes it an offence only when a person refuses or fails to comply with a reasonable requirement from an authorised person not to consume or surrender alcohol.

## **BEST PRACTICE SCHEMES**

- 11.1 The Licensing Authority supports best practice schemes for licensed premises. Premises in an area covered by a scheme are encouraged to become members of the scheme.

## **INTEGRATING STRATEGIES AND THE AVOIDANCE OF DUPLICATION**

- 12.1 By consulting widely prior to this policy statement, the Licensing Authority has taken full account of local policies covering crime prevention, anti-social behaviour, culture, transport, planning and tourism as part of an integrated strategy for the Licensing Authority, Police and other agencies. Many of these strategies may not be directly related to the promotion of the licensing objectives, but indirectly impact upon them.

12.2 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Council's Licensing and Regulatory Committee can request reports, where it thinks it is appropriate on the following areas:-

- The needs of the local tourist economy, to ensure that these are reflected in their considerations;
- The employment situation and the need for new investment and employment where appropriate; and
- The general impact of alcohol related crime and disorder.
- The general impact of alcohol related harms to health.

### **Crime Prevention Strategies**

12.3 Crime prevention and drug and alcohol misuse policies and the input of the South Warwickshire Community Safety Partnership (SWCSP) will be reflected in licence conditions as far as possible.

12.4 The SWCSP is committed to making South Warwickshire a safe place in which to live work and visit. It is the role of the SWCSP to strategically plan, commission and oversee services that tackle crime and disorder and address drug and alcohol misuse.

### **Duplication**

12.5 When considering any application the Licensing Authority will avoid duplication with other regulatory regimes as far as possible. Therefore the Licensing Authority will not attach conditions to a licence in relation to a matter covered by another regulatory regime unless going beyond such a regime is considered appropriate for the promotion of the licensing objectives in the particular circumstances.

### **Promotion of Equality**

12.6 The Licensing Authority in carrying out its functions under the Act is obliged to have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Government guidance advises that conditions should not be attached to authorisations which would duplicate existing statutory requirements. The Licensing Authority therefore takes this opportunity to remind operators of premises of their duties towards disabled persons (including performers) on their premises under the Building Regulations and the Equalities Act 2010. This includes a duty that any person who provides a service to the public must make

reasonable adjustments to any physical feature that makes it impossible or unreasonably difficult for a disabled person to access a service, or to provide the services by a reasonable alternative means.

## **ENFORCEMENT**

- 13.1 The Licensing Authority has an established working relationship with the Police and other responsible authorities on enforcement issues through the Multi Agency Licensing Enforcement Meeting. This provides a more efficient deployment of resources targeting high risk premises and activities.
- 13.2 This enforcement regime follows the Government's Regulators' Code in that it follows the basic principles of openness, helpfulness, proportionality and consistency. The Licensing Authority has a separate enforcement policy in respect of licensing.
- 13.3 Licensed premises are visited by the Responsible Authorities and the Licensing Authority to carry out targeted inspections to check that the premises licence or certificate is being complied with, to check compliance with other legislation and/or deal with complaints that have been received.
- 13.4 On some occasions a multi-agency group (representing a number of Responsible Authorities) will visit premises. The officers will check the premises/activities relevant to their particular role.
- 13.5 There are several enforcement options that will be used as appropriate and in line with the Licensing Authority's licensing enforcement policy. These options include:
  - Verbal advice – this covers minor complaints/infringements where advice is seen as the most appropriate way to deal with the issue.
  - Written warning – this is a step-up from verbal advice and holders of authorisations are given a letter recording the warning given and containing the details of any necessary remedial action.
  - Action planning – this plan will be written down and given to the holder of the authorisation and designated premises supervisor. It explains what actions are required, within a timescale, for compliance with the licensing objectives, specific legislation or conditions. It will be regularly reviewed and if compliance has been achieved it will be terminated. If areas of non-compliance remain a more formal enforcement option further up the scale may be selected in order to achieve compliance.
  - Review – any person may call for a review of a licensed premises where there is evidence that the licensing objectives are not being promoted. The holder of the authorisation will have to attend a review hearing in front of the Licensing Sub Committee who may decide, based on the evidence

submitted to them, to take no action, to remove the DPS, to revoke, suspend, or amend the licence or apply additional conditions.

- Prosecution – Under the Licensing Act 2003 certain offences can be prosecuted by the Licensing Authority/Director Of public Prosecutions/Weights and Measures Authority (Trading Standards). In addition, Responsible Authorities have a wide range of powers to institute prosecution under other specific legislation.
- Closure – several of the Responsible Authorities have the power to close licensed premises if they deem it necessary. The Licensing Authority also has powers to request closure through the Magistrates court for continuing unauthorised alcohol sales.

## **ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS**

### **Licensing and Regulatory Committee**

- 14.1 The majority of powers given to the Licensing Authority by the Act have been delegated by the Council to the Licensing and Regulatory Committee and Officers. The Licensing and Regulatory Committee has in turn established Sub-Committees to determine some matters under the Act.
- 14.2 The Council's Constitution defines those responsibilities and is available for inspection on the Council's website, but a summary of responsibility is set out in Table 1 below.

14.3 Table 1:

<b>Matters to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application to transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases		
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases		
Determination of a police/EHO objection to a temporary event notice		All cases	
Determination of a Minor Variation application			All cases
Removal of the requirement for a designated premises supervisor at community premises		If a police objection	All other cases

- 14.4 However Council has retained the power to set the Council's Licensing Policy Statement, but it will seek the views of the Licensing & Regulatory Committee before determining any amendments.

### **Application forms And Process**

- 14.5 All application forms will be in the prescribed format. The operating schedule will form part of the completed application form for a premises licence and a club premises certificate. The applicant will have to detail the steps that will be taken to promote the licensing objectives. Applicants should carry out a risk assessment before they apply for a licence.
- 14.6 Applicants are encouraged to fully consult the police and other statutory services well in advance of carrying out their risk assessments and submitting their applications. Application forms and guidance leaflets will be available from the Licensing Authority, including contact names for each of the responsible authorities. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.
- 14.7 Where national guidance permits, on line applications will be accepted providing the necessary documentary attachments are uploaded into the application and the appropriate fee paid.
- 14.8 Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies and local crime, alcohol, drug and disorder strategies in order to take these into account, where appropriate, when formulating their operating schedule.

### **COMMENTS ON THIS POLICY**

- 15.1 The statement of licensing policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Warwick District Council, Licensing Team, Riverside House, Milverton Hill,  
Royal Leamington Spa, CV32 5HZ

Email: [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)

## **APPENDIX 1 – Set of Model Conditions**

Warwick District Council has produced this document to assist and support applicants and existing licence holders through the application process. It has also been designed for the consideration of responsible authorities and the Council's Licensing and Regulatory Committee.

When deciding to grant or vary a premises licence under the Licensing Act 2003, the licensing authority may do so subject to conditions which it considers are appropriate for the promotion of one or more of the licensing objectives.

Those applying for a premises licence, club certificate, variation of a premises licence or variation of a club certificate may also wish to consider those conditions which would promote the licensing objectives when completing the operating schedule.

In determining what conditions are appropriate, it will be necessary to consider the individual circumstances of the premises, including:-

- The nature and style of the venue,
- The activities being conducted there,
- The location, and,
- Anticipated clientele

### **Guidance for operating schedule**

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate.

Licensing authorities should be satisfied that it is appropriate to impose conditions to promote one or more of the four licensing objectives. Conditions should be tailored to the particular circumstance of an individual licensed premises and determined on a case-by-case basis.

**Under no circumstances should licensing authorities regard pools of conditions as standard conditions to be automatically imposed in all cases.**

## **Prevention of Crime and Disorder**

1. There shall be no sales of alcohol for consumption off the premises after (time).
2. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
3. No miniature bottles of spirits of 20 cl or below shall be sold from the premises.
4. No beer, lager, cider, ale or spirit mixers with an alcohol by volume content above (insert percentage) will be sold or offered for sale.
5. Each self-serve pump must be covered, in full, by the CCTV system.
6. Only craft beer or ale is permitted to be dispensed from the self-service pumps and will only be available in measures of (measure).
7. Only wine is permitted to be dispensed from the self-service wine dispenser and will only be available in a maximum measure of (measure).
8. When a self-service dispenser is in use a notification system must be in place to alert a member of bar staff.
9. Regular meetings will take place between the Designated Premises Supervisor, Warwickshire Police and Licensing authority. The meetings will take place every (number) months.
10. All door supervisors, and other persons engaged at the premises, for the purpose of supervising or controlling queues or customers, must wear (high visibility jackets or vests or armbands).
11. Door supervision must be provided on (specify days). Door supervisors must be on duty from (insert hours) and must remain on duty until the premises are closed and all the customers have left.
12. Door supervisors must be provided with radios to enable them to contact each other and the duty manager at the premises.
13. On/at (specify days/hours) at least (insert number) of SIA registered door supervisors must be on duty at the premises (may specify location at the premises or as shown on the plan).
14. Where SIA registered door supervisors are used at the premises, a record must be kept of their SIA registration number and the dates and times when they are on duty. That register shall be available for inspection on reasonable request Authorised Officer of the Council, the Security Industry Authority or a Police Constable and shall contain the following details:-
  - the door supervisor's name, date of birth and home address;
  - his / her Security Industry Authority licence number;
  - the time and date he / she starts and finishes duty;

- each entry shall be signed by the door supervisor.
15. Any door staff register shall be available for inspection on demand by an Authorized Officer of the Council, the Security Industry Authority or a Police Constable and will be retained on the premises for a period of 12 months from the date of the last entry.
  16. The Premises Licence holder / Designated Premises Supervisor will operate to a written dispersal policy which ensures the safe and gradual dispersal of customers from the premises. The Premises Licence holder / Designated Premises Supervisor will ensure that staff receive training on the policy.
  17. CCTV to be installed and the premises licence holder must ensure that:-
    - a. CCTV cameras are located within the premises to cover all public areas.
    - b. The system records clear images permitting the identification of individuals.
    - c. The CCTV system is able to capture a minimum of 12 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
    - d. The CCTV system operates at all times while the premises are open for licensable activities'. All equipment must have a constant and accurate time and date generation.
    - e. The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
    - f. Downloads will be provided to the Police upon reasonable request in line with the Data Protection Act 2018.
    - g. Signed off by Warwickshire Police Design Out Crime Officer.
  18. The Premises Licence holder / Designated Premises Supervisor is to provide the Police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the Premises Licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request.
  19. The Premises Licence holder / Designated Premises Supervisor must notify the Licensing Office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.
  20. No open vessels to leave the premises at any time.
  21. No open vessels to be taken outside the curtilage of the premises at any time.
  22. Empty bottles must be placed into locked bins so as to prevent them from being used as weapons.

23. Toughened recycled and recyclable polycarbonate glasses or bottles (or similar compostable/reusable alternative) to be used in the outside areas of the premises.
24. Toughened recycled and recyclable polycarbonate glasses or bottles (or similar compostable/reusable alternative) will be used when requested by Warwickshire Police.
25. Drinks must only be served in toughened recycled and recyclable polycarbonate glasses or bottles (or similar compostable/reusable alternative) containers.
26. No customers carrying glassware shall be admitted to the premises at any time that the premises are open to the public.
27. SIA door staff will be required to remove all alcohol from customers who are queuing to enter the premise or entry to be refused. This alcohol must then be disposed of immediately in a bin provided at the premises.
28. A Personal Licence holder must be on the premises at all times when open to the public.
29. A Personal Licence holder must be on the premises on (state days) (time) between (time) hours and close of business.
30. The designated premises supervisor will ensure that he/she gives written authorisation to individuals whom they are authorising to sell alcohol in their absence. This should be maintained and made available for viewing by Authorised Officers.
31. Details of the names, addresses and up-to-date contact details for the Designated Premises Supervisor and all Personal Licence holders shall be maintained and kept on the premises.
32. Premises will participate in any Police or responsible authority awareness campaign or training that is relevant to the sale of alcohol, use of drugs or entertainment.
33. The Premises Licence holder shall have a written policy in relation to drugs which will include search, seizure and disposal of drugs and weapons. Staff will be provided with training on the policy, including drugs awareness.
34. A suitable receptacle for the safe retention of illegal substances will be provided and arrangements made for the safe disposal of its contents as agreed with Warwickshire Police.
35. There shall be displayed on the premises, information regarding drugs awareness. / Zero tolerance policy.
36. As soon as possible, and in any event within 1 month from the grant of this licence, the premises shall join the local Pubwatch or other local crime reduction scheme approved by the police, and local radio scheme if available.

37. The premises will be a member of the locally approved radio scheme and abide by its policies and procedures.
38. The premises is to maintain an incident book to record details of the following:-
- Any violence or disorder on or immediately outside the premises,
  - Any incident involving controlled drugs (supply / possession or influence on the premises,
  - Any other crime or criminal activity on the premises,
  - Any call for police assistance to the premises,
  - Any ejection from the premises,
  - Any first aid/other care given to a customer.
39. An incident book to made available for inspection by a responsible authority on reasonable request.
40. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:-
- (a) The police (and, where appropriate, the Ambulance Service) are called without delay;
  - (b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - (c) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
  - (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
41. Any staff employed at the premises will be provided with training on first appointment and on a regular basis thereafter. Training will include (delete where applicable);
- Drunk awareness
  - Drugs awareness
  - Age verification training
  - Conflict management training
  - First aid
42. A written record will be kept of all training carried out. This record must be kept on the premises and made available for inspection by a responsible authority on reasonable request.
43. No entry / re-entry 1 hour before permitted hours.
44. No entry / re-entry after (time) (days).
45. Any queue (in a designated queuing area) to enter the premises must be supervised at all times by door supervisors.
46. Any (designated) queuing area must be within suitable barriers.

47. Any outside areas to be demarked by physical barriers or similar with clear signs displayed to instruct patrons that vessels must not be taken outside said area.
48. The premises must only operate as a restaurant:
- in which customers are seated at a table
  - which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non-disposable crockery
  - which do not provide any take away service of food or drink for immediate consumption, and where alcohol must not be sold, supplied, or consumed on the premises otherwise than to persons who are taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals
49. The supply of alcohol to customers must be by waiter or waitress service only.
50. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.

## **Prevention of Public Nuisance**

1. Prominent, clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
2. The licence holder or his representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause disturbance to local residents. A written record shall be made of these assessments in a log book. This record must be kept on the premises and made available for inspection by a responsible authority on reasonable request.
3. All external doors and windows shall be kept closed when regulated entertainment is being provided, except for access and egress and in the event of an emergency.
4. The beer garden / outside area is not to be used/occupied after (x) hours daily.
5. There will be no external loud speakers.
6. The Premises Licence holder / Designated Premises Supervisor will adopt a "cooling down" period where music volume is reduced (insert minutes) before the closing time of the premises.
7. At an appropriate time before closing time, announcements shall be made reminding customers to leave quietly.
8. Where the premises provide food to the public for consumption off the premises, there shall be provided at or near the exits, (insert number) waste bins to enable the disposal of waste food, food containers, wrappings etc.
9. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.
10. The Premises Licence holder / Designated Premises Supervisor will ensure that litter arising from people using the premises is cleared away daily and that promotional materials such as flyers do not create litter.
11. Outside areas and activity must cease and be cleared at (time).
12. The beer garden / outside area(s) is not to be used/occupied after (time) hours daily.
13. With the exception of smokers, the outside area shall not be used by customers after (time).
14. Drinks shall not be permitted to be consumed in the outside area after (time).

15. In relation to the (specified function room) there shall be no admission after (midnight) other than to (1) residents of the hotel and their bona fide guests, or (2) persons attending a pre-booked function.
16. Licensable activities at events in the (specified function room) shall only be provided at pre-booked ticketed events.
17. Customers shall not enter or leave the premises from / by (insert specific entrances or exits), except in the event of an emergency.
18. The licence holder (or his/her nominees) shall ensure that exits are manned at closing time to ensure that patrons leave the area quickly and as quietly as possible.
19. The licence holder (or his/her nominees) shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
20. There shall be no admittance or re-admittance to the premises after (time) except for patrons permitted to temporarily leave the premises to smoke.
21. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to (number) persons at any one time.
22. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
23. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as (specify location).
24. Clear and legible notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
25. All outside tables and chairs shall be prohibited from use after (time) each day.
26. All tables and chairs shall be removed from the outside area by (time) each day.
27. No external seating shall be provided at the premises.
28. All external doors and windows shall be kept closed after (time) hours, or at any time when regulated entertainment is being provided, except for the immediate access and egress of persons or in the event of an emergency.
29. Staff shall check prior to the commencement of regulated entertainment, and periodically during regulated entertainment that all windows and doors are shut.
30. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
31. No speakers for amplification of music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.

32. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the local authority's Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised officer of the Environmental Health Service. No additional sound generating equipment for the purposes of providing regulated entertainment shall be used on the premises without being routed through the sound limiter device.
33. A sound limiting device shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of Warwick District Council's Environmental Health service to ensure that no noise nuisance is caused to local residents. The limiter shall not be altered without prior agreement with the Environmental Health Service.
34. No regulated entertainment shall take place in the outdoor areas at any time.
35. The provision of live music shall be limited to no more than two performers.
36. All outdoor entertainment shall be unamplified.
37. Suitable means of ventilation shall be provided and maintained at the premises to enable doors and windows to be closed whilst regulated entertainment is being provided.
38. Where the premises provide food to the public for consumption off the premises, there shall be provided at or near the exits, (insert number) waste bins to enable the disposal of waste food, food containers, wrappings etc.
39. The Premises Licence holder (or his/her nominees) will ensure that litter arising from people using the premises is cleared away daily and that promotional materials such as flyers do not create litter.
40. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (time) hours and (time) hours on the following day.
41. During the hours of operation of the premises, the licence holder (or his/her nominees) shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

42. No collections of waste or recycling materials (including bottles) from the premises shall take place between (time) and (time) on the following day.
43. No deliveries to the premises shall take place between (time) and (time) on the following day.

## **Public Safety**

1. A designated room, space or location to be provided within the premises to create a safe environment which is monitored by a trained and DBS checked member of staff or volunteer.
2. All doors/gates through which persons may have to pass whilst making their way from the premises shall be readily and easily openable from within without the use of a key, code, card etc.
3. Once a licence has been granted a Fire Risk Assessment is to be kept on the premises and be available for inspection by an authorised officer.
4. The premises should be provided with a means for raising the alarm in the event of fire.
5. Staff should be aware of the siting of extinguishers, of their correct method of operation and know which equipment is appropriate for a particular fire. The equipment should be so placed as to be readily available for use. At least one appliance should be placed at or near to the exit from a floor and, where extinguishers are provided for special risks, as far as practical be sited close to the risk for immediate use.
6. There shall be maintained on the premises at all times an adequate and appropriate supply of first aid equipment and materials.
7. At all times when the public are present, at least one person who holds a current recognised first aid certificate or award shall be present on the premises. Where more than one such person is present, their duties shall be clearly defined.
8. The premises licence holder shall develop and operate a procedure for dealing with unwell members of the public including those who appear to be affected by alcohol and drugs. Staff will be appropriately trained in such procedures.
9. The maximum number of persons allowed in the premises shall be (insert numbers, areas and occasions).
10. A person who is responsible for the management of the premises shall at all times be aware of the number of persons on the premises and shall if required to do so, give that information to an authorised person.
11. At all times door supervisors on duty, numbers or persons inside the venue shall be recorded by way of a clicker system or similar, and shall if required to do so, give that information to an authorised person.
12. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
13. The Premises Licence holder / Designated Premises Supervision must develop and operate a policy which ensures the safe evacuation of disabled people in the event of an emergency. All staff shall be made aware of these arrangements.

14. Staff or attendants shall be readily identifiable to members of the public.

### **Protection of Children from Harm**

1. Signage to be displayed around the premises in prominent places informing both staff and customers of the 'Challenge 25' policy.
2. Challenge 25 policy promoted on business website.
3. A notice(s) shall be displayed in and at the entrance to the premises where they can be clearly seen, indicating that there is a "Challenge 25" policy in place at the premises.
4. A prompt or reminder to staff, at the point of sale, to consider whether a sale or challenge is to be made.
5. All deliveries of alcohol must be made by a person over the age of 18 years.
6. Delivery: ID checks by courier at the point of delivery in line with Challenge 25 age verification policy.
7. No person under the age of 18 shall be permitted access to the premises when entertainment of an adult nature is taking place.
8. No person under the age of (insert age) shall be permitted to remain on the premises after (insert hours).
9. Under 18's events will not take place without prior consultation with the Police and Licensing Authority.
10. Under 18's events will not take place at the premises.
11. No persons under the age of 18 years will be allowed on the premises after (time) unless accompanied by a responsible adult of 18 years or above and with the express permission and knowledge of the DPS or someone acting under their authority.
12. The premises will operate a "Challenge 25" proof of age policy.
13. The premises is to maintain a refusals book/record to record the details of incidents where a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. The Premises Licence holder / Designated Premises Supervisor or nominated representative shall regularly monitor the book make a record of these checks. The book must be made available to a Police Constable/Authorised Officers of the Licensing Authority on request.
14. Any person who is authorised to sell alcohol at the premises will be provided with training on first appointment and on a regular basis thereafter. Training will include information on how to prevent underage sales and any other relevant matters. A written record will be kept of all training provided and this record will be kept on the premises for inspection by any Responsible Authority.

15. No persons under the age of 18 years to operate the self-serve pumps at any time.

The above are generic conditions that applicants may wish to include within their application to speed up any discussions with the relevant responsible authorities. The use of these conditions does not guarantee the granting of a premises licence. Each application will be assessed on its own merits and in the context of its location and potential to impact on the licensing objectives. Additional conditions, or amendments to these model conditions, may be necessary in order to uphold the four licensing objectives. These model conditions are not exhaustive and do not prevent you from volunteering any alternative measures that you believe are more appropriate for your particular premises.

Applicants will also need to consider whether their premises falls with any designated cumulative impact zones (CIZ) as higher standards will be applied.

For premises licences relating to outdoor music events, festivals, etc. applicants are encouraged to read the guidance provided by Warwick District Council's Safety Advisory Group (SAG) for information on planning their events. This can be found at: [www.warwickdc.gov.uk/safetyadvisorygroup](http://www.warwickdc.gov.uk/safetyadvisorygroup)

## **APPENDIX 2 – LIST OF RESPONSIBLE AUTHORITIES**

### **POLICE:**

Chief Officer of Police  
Warwickshire Police Licensing Team  
Warwickshire Justice Centre Leamington Spa  
Newbold Terrace  
Leamington Spa  
Warwickshire  
CV32 4EL

Tel: 01926 684033

Email: [southwarksliquorlicensing@warwickshire.police.uk](mailto:southwarksliquorlicensing@warwickshire.police.uk)

### **FIRE AUTHORITY:**

County Fire Officer  
Fire Service Headquarters  
Warwick Street  
Leamington Spa  
CV32 5LH

Tel: 01926 423231

Email: [firesafety@warwickshire.gov.uk](mailto:firesafety@warwickshire.gov.uk)

### **HEALTH AND SAFETY:**

Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456713

Email: [hcphealthandsafety@warwickdc.gov.uk](mailto:hcphealthandsafety@warwickdc.gov.uk)

**ENVIRONMENTAL HEALTH:**

Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456714

Email: [pollution@warwickdc.gov.uk](mailto:pollution@warwickdc.gov.uk)

**COMMUNITY SAFETY:**

Licensing Team  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456725

Email: [communitysafety@warwickdc.gov.uk](mailto:communitysafety@warwickdc.gov.uk)

**PLANNING:**

Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456522

Email: [planning.enforcement@warwickdc.gov.uk](mailto:planning.enforcement@warwickdc.gov.uk)

**WARWICKSHIRE COUNTY COUNCIL CHILD PROTECTION:**

Safeguarding, Quality and Assurance

People Directorate

B3 Saltisford Office Park

Ansell Way

Warwick

CV34 4UL

Tel: 01926 742379

Email: [licenseapplications@warwickshire.gov.uk](mailto:licenseapplications@warwickshire.gov.uk)

**WARWICKSHIRE COUNTY COUNCIL TRADING STANDARDS:**

Simon Coupe

Divisional Trading Standards Officer

Old Budbooke Road

Warwick

CV35 7DP

Tel: 01926 414080

Email: [ts@warwickshire.gov.uk](mailto:ts@warwickshire.gov.uk)

**NATIONAL HEALTH SERVICE/PUBLIC HEALTH:**

Public Health Department (Licensing)

NHSWarwickshire/Warwickshire County Council

PO Box 43

Shire Hall

Warwick

CV34 4SX

Email: [phadmin@warwickshire.gov.uk](mailto:phadmin@warwickshire.gov.uk)

**HOME OFFICE (Immigration Enforcement)**

Alcohol Licensing Team

Lunar House

40 Wellesley Road

Croydon

CR9 2BY

Email: [alcohol@homeoffice.gov.uk](mailto:alcohol@homeoffice.gov.uk)



## Addendum to Item 4

Licensing and Regulatory Panel  
7 February 2024

**Title: Application for a new Premises Licence under the Licensing Act 2003 for Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY**

**Lead Officer: Emma Morgan**

**Public report**

**Wards of the District directly affected: Leamington Clarendon**

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: No

Final Decision: Yes

Accessibility checked: Yes

### **Officer/Councillor Approval**

<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Team Leader	31/01/2024	Rachael Russell
Legal Services	31/01/2024	Alaa Cronin

### 1. Addendum

- 1.1 On 19 January 2024 Warwickshire Police submitted an objection to the application made for a new premises licence at Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY.
- 1.2 Following discussions between the applicant and Warwickshire Police, they put forward amended conditions which have been agreed with the applicant.
- 1.3 On 30 January 2024 Warwickshire Police withdrew their objection. A copy of the conditions agreed are attached as **Addendum Appendix 1** to this report.

**From:** uniss ali [REDACTED]  
**Sent:** 29 January 2024 16:33  
**To:** Hewish, Martin 0117  
**Cc:** [REDACTED] Emma.Morgan  
**Subject:** Re: Licence Application for Sombrero's

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Caution:** This is an external email. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk

Dear Martin thank you for your email  
As discussed we do accept the terms which are mentioned.

Kind regards.

Uniss.

Sent from [Outlook for Android](#)

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**From:** Hewish, Martin 0117 [REDACTED]  
**Sent:** Monday, January 29, 2024 2:54:35 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]; Emma Morgan <[Emma.Morgan@warwickdc.gov.uk](mailto:Emma.Morgan@warwickdc.gov.uk)>  
**Subject:** Licence Application for Sombrero's

Uniss, Haris

Good afternoon, it was good to speak to you earlier. As we discussed, Warwickshire Police are generally supportive of your application for Late Night Refreshment at the above address. Following our original proposal, I believe we have managed to come to an agreement regarding your opening hours and the provision of SIA registered door supervisors. You have agreed to change your opening hours to close on Sunday's – Thursday's at 2am and remain open on Friday and Saturday to 5am with door supervisors from 11pm-5am

I have tweaked the wording of my conditions to reflect this (Condition 3).

#### Condition 1

The Applicant shall ensure that CCTV is installed and maintained to the satisfaction of the Police and Licensing Officers and shall ensure :-

1. All equipment shall have constant time/date generation.
2. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time etc.
3. If the system is not capable of achieving this requirement the Licence holder or a nominated person must ensure that a manual facility is available to carry out this update as an alternative.
4. Recordings must be kept for a minimum of 31 days.
5. Recordings of incidents at the premises must be made secure for inspection by the Police and or Licensing Officers.
6. Copies of recordings will be made available to officers of the responsible authorities on reasonable request.

7. Unauthorised persons should not be allowed access to the system or view personal data as it could contravene the Data Protection Act or jeopardise any criminal investigation.
8. Arrangements for its repair must be made without delay.

Condition 2

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## Addendum to Item 4

Licensing and Regulatory Panel  
7 February 2024

**Title: Application for a new Premises Licence under the Licensing Act 2003 for Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY**

**Lead Officer: Emma Morgan**

**Public report**

**Wards of the District directly affected: Leamington Clarendon**

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: No

Final Decision: Yes

Accessibility checked: Yes

### **Officer/Councillor Approval**

<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Team Leader	31/01/2024	Rachael Russell
Legal Services	31/01/2024	Alaa Cronin

**1. Addendum**

- 1.1 On 19 January 2024 Warwickshire Police submitted an objection to the application made for a new premises licence at Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY.
- 1.2 Following discussions between the applicant and Warwickshire Police, they put forward amended conditions which have been agreed with the applicant.
- 1.3 On 30 January 2024 Warwickshire Police withdrew their objection. A copy of the conditions agreed are attached as **Addendum Appendix 1** to this report.
- 1.4 Following agreement to the conditions set out by Warwickshire Police, Environmental Health have put forward amended conditions to the applicant. These replace the original conditions requested on 19 January 2024. A copy of the new conditions are attached as **Addendum Appendix 2**.

**From:** uniss ali [REDACTED]  
**Sent:** 29 January 2024 16:33  
**To:** Hewish, Martin 0117  
**Cc:** [REDACTED] Emma.Morgan  
**Subject:** Re: Licence Application for Sombrero's

**Follow Up Flag:** Follow up  
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**To:** [REDACTED]  
**Cc:** [REDACTED]; Emma Morgan <[Emma.Morgan@warwickdc.gov.uk](mailto:Emma.Morgan@warwickdc.gov.uk)>  
**Subject:** Licence Application for Sombrero's

Uniss, Haris

Good afternoon, it was good to speak to you earlier. As we discussed, Warwickshire Police are generally supportive of your application for Late Night Refreshment at the above address. Following our original proposal, I believe we have managed to come to an agreement regarding your opening hours and the provision of SIA registered door supervisors. You have agreed to change your opening hours to close on Sunday's – Thursday's at 2am and remain open on Friday and Saturday to 5am with door supervisors from 11pm-5am

I have tweaked the wording of my conditions to reflect this (Condition 3).

#### Condition 1

The Applicant shall ensure that CCTV is installed and maintained to the satisfaction of the Police and Licensing Officers and shall ensure :-

1. All equipment shall have constant time/date generation.
2. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time etc.
3. If the system is not capable of achieving this requirement the Licence holder or a nominated person must ensure that a manual facility is available to carry out this update as an alternative.
4. Recordings must be kept for a minimum of 31 days.
5. Recordings of incidents at the premises must be made secure for inspection by the Police and or Licensing Officers.
6. Copies of recordings will be made available to officers of the responsible authorities on reasonable request.

7. Unauthorised persons should not be allowed access to the system or view personal data as it could contravene the Data Protection Act or jeopardise any criminal investigation.
8. Arrangements for its repair must be made without delay.

#### Condition 2

The Premises Licence holder shall implement and maintain an up-to-date register of incidents occurring on the premises. This register shall be made available to the Police or Authorised Officers on request.

#### Condition 3

Door supervisors are to be employed on Friday's and Saturday's from 11pm to 5am (or closing time). All door staff to be SIA registered and badged. The requirement for the deployment of door staff may be varied in writing with the agreement of Warwickshire Police. Should a variation be agreed and there is subsequently an increase in disorder, then Warwickshire Police may reinstate the original requirements by notifying the license holder in writing.

#### Condition 4

The applicant or manager of the premises shall join the WRCI retail scheme for the Leamington Spa area and participate in the local retail watch meetings and actively use the "retail" radio provided as part of this scheme.

If you are agreeable to these conditions, please reply by email, at your earliest convenience, stating your acceptance/agreement of these conditions. I will then notify Warwick District Council and advise them we have come to an agreement, as long as Environmental Health are in agreement, this will negate the need for a licensing hearing.

Many Thanks

Martin Hewish

**Sgt 117 Martin Hewish**

**Warwickshire Prevention Hub**



## WARWICK DISTRICT COUNCIL Licensing Act 2003

### REPRESENTATION FORM FROM RESPONSIBLE AUTHORITIES

**Responsible Authority** – Environmental Health, Riverside House, Milverton Hill, L/Spa, CV32 5HZ

<b>Your Name</b>	Stacey Walsham
<b>Job Title</b>	Environmental Health Technical Officer
<b>Postal and email address</b>	Safer Communities, Leisure and Environment. Warwick District Council, Town Hall, Prade, Leamington Spa, CV32 4AT
<b>Contact telephone number</b>	01926 456719
<b>Email Address</b>	stacey.walsham@warwickdc.gov.uk

<b>Name of the premises you are making a representation about</b>	<b>Sombrero Mexican Takeaway</b>
<b>Address of the premises you are making a representation about</b>	40 Bedford Street Leamington Spa Warwickshire CV32 5DY

<b>Which of the four licensing Objectives does your representation relate to?</b>	
<b>To prevent crime and disorder</b>	
<b>Public safety</b>	
<b>To prevent public nuisance</b>	X
<b>To protect children from harm</b>	

#### History

Sombrero Mexican Food is a hot food take away, with the ability to order online, pay and have food delivered straight to your door. You can order your takeaway via their own website or others such as Ubereats.com, Deliveroo.co.uk and Just-eat.co.uk. Delivery time is stated to be under 30 minutes, and they have over 200 reviews online. The premises is currently trading from 12:00 till 23:00 hours Monday through to Sunday. They are looking to extend these hours to include Late Night Refreshment and trade until 05:00 hours 7 days a week.

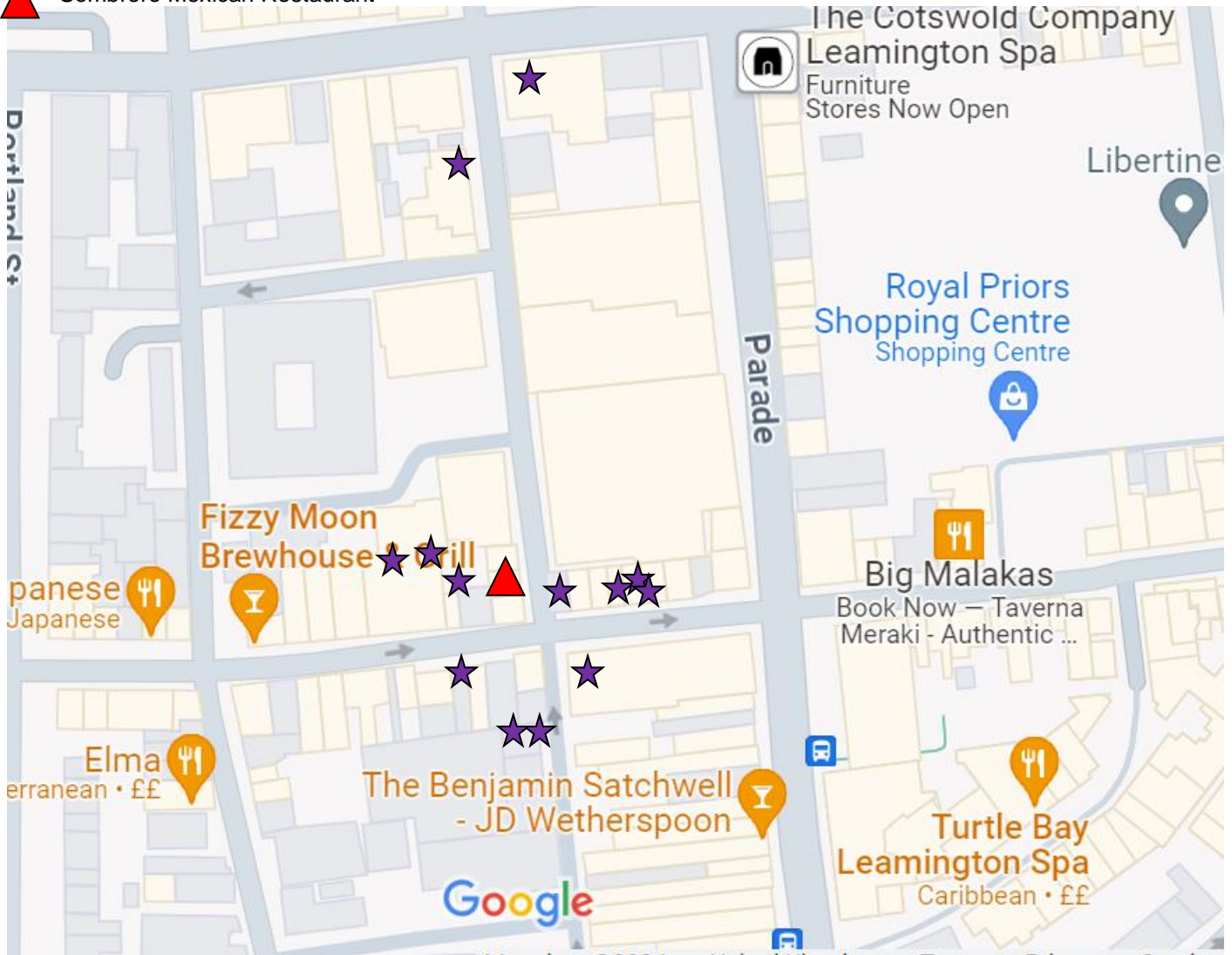
#### Location

There has been a food establishment at this premises for at least 20 years in various forms. The premises is in the centre of Leamington Spa, roughly 500 meters from busy late-night establishments. There are currently six licenced premises along this street, four of which open past 23:00 hours serving Late night refreshment. There is also a café along the street which offers light bites and snacks, opening till 15:00 most days except Saturday where they are open until 23:00 hours. On the opposite side of the road is another café, with their entrance located on a different road. There are residential properties near the premises which could be affected by the late night opening and associated plant running throughout the night.

#### Residential Receptors in close proximity to the Premises:

Flat 1 – 6 – 1 Bedford Street, Flat 4 Bedford Street, 37 Bedford Street, Apartments 1 to 20, 43 Bedford Street, Bedford Street Lofts, 46/48 Bedford Street, 48 Bedford Street, 24 John Street, 26 John Street, 56a Regent Street, The Flat 73 Regent Street, 76a & 76B Regent Street

- ★ = Residential Property which could be affected by Late Night Refreshment
- ▲ = Sombrero Mexican Restaurant





**Licensable activities applied for:**

<b>Opening Times:</b> 23:00 – 05:00
<b>Late Night Refreshment</b> 23:00 – 05:00

**Comparable Premises in proximity:**

***La Bottega, 45 Regent Street, Leamington Spa, Warwickshire, CV32 5EE***

**Sale of Alcohol for Consumption on and Off the Premises**

Monday to Sunday from 07:00 to 23:30

**Late night refreshment (both Indoors and Outdoors)**

Monday to Sunday from 23:00 to 23:30

**Normal Opening Hours**

Monday to Sunday from 07.00 to 24.00

**Conditions agreed with the Licensee**

1. Prominent, clear, and legible notices must be displayed at all exits requesting that customers respect the needs of residents and to leave the premises and area quietly.
2. Clear and legible notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of residents and use the area quietly.
3. No open vessels to leave the premises at any time.
4. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21:00 and 08:30 on the following day.
5. No waste or recyclable materials, including bottles, shall be removed from, or placed in outside areas between 21:00 hours and 08:30 hours on the following day.

No off-licence sales after 23:00 hours.

***Papa John's Pizza, 49 Bath Street, Leamington Spa, Warwickshire, CV31 3AG***

**Late Night Refreshment for consumption off the premises**

Monday to Sunday from 23:00 to 01:00

**Normal Opening Hours**

Monday to Sunday from 10:30 to 01:00

**Conditions agreed with the Licensee**

Between the hours of 23.00 and 01.00 Monday to Sunday the front door of the premises must be locked with no entry to visiting members of the public. During these hours, all deliveries only to be made to a fixed address for pre-orders only.

**Conditions from Hearing or Magistrates**

Deliveries must be made from the rear access only.

***Halikarnas Take Away, 55 Regent Street, Leamington Spa, Warwickshire, CV32 5EE***

**Late night refreshment**

Monday from 23:00 to 01:00

Tuesday from 23:00 to 01:00

Wednesday from 23:00 to 01:00

Thursday from 23:00 to 04:00

Friday from 23:00 to 04:00

Saturday from 23:00 to 04:00

Sunday from 23:00 to 01:00

Christmas Eve & New Year's from 23:00 to 04:00

**Normal Opening Hours**

Sunday to Wednesday from 23:00 to 01:00

Thursday to Saturday from 23:00 to 04:00

Christmas Eve & New Year's from 23:00 to 04:00

***Vialli's Fast Foods, 24 Victoria Terrace, Leamington Spa, Warwickshire, CV31 3AB***

**Late night refreshment**

Monday to Wednesday 23:00 to 03:00

Thursday and Friday 23:00 to 04:00

Saturday 23:00 to 04:30

Sunday 23:00 to 02:30

### **Normal Opening Hours**

Monday to Wednesday from 11:00 to 03:00

Thursday from 23:00 to 04:00

Friday from 11:00 to 04:30

Saturday from 11:00 to 04:30

Sunday from 12:00 to 02:30

### ***Dominos Pizza, 118 Regent Street, Leamington Spa, Warwickshire, CV32 4NR***

### **Late Night Refreshment on the Premises**

Monday to Saturday including Bank Holiday Sundays from 23:00 to 02:00

Sunday from 23:00 to 01:00

### **Late Night Refreshment Off the Premises**

Everyday from 23:00 to 05:00

### **Normal Opening Hours**

Monday to Sunday from 07:00 to 05:00(Except Christmas Day)

### **Conditions agreed with the Licensee**

1. CCTV to conform to British Standard - and offer live time recording.
2. Membership of Retail Radio Link and conform to it's procedures.

### **Conditions from Hearing or Magistrates**

1. CCTV of British Standard B2378 providing live time recording to be installed in positions agreed with the Community Safety/Architectural Liaison Officer of Warwickshire Police. Images are to be retained for at least 31 days and shall be made available at the request of Warwickshire Police.
2. Notices are to be displayed at the exits requesting that customers are to leave the premises quietly and respect the local neighbourhood.
3. There will be at least one SIA Registered member of Door staff on duty at the premises from midnight on Fridays and Saturdays until counter service closure.
4. The Premises Licence Holder will adhere to the attached Operational and Dispersal Plan;
5. The counter service open to the public will only be available until 01:00 Sundays and 02:00 Mondays to Saturdays and Bank Holiday Sundays. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late-night refreshment via the delivery service.
6. Any deliveries from the premises will only be made to a customer's place of residence or place of business.

### ***Thai Elephant, 20 Regent Street, Leamington Spa, Warwickshire, CV32 5HQ***

### **Sale of Alcohol for Consumption Off the Premises**

**Sale of Alcohol off the Premises when supplied with substantial meal.**

(1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10:00 to 00:00

(2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12:00 to 23:00

(3) On Christmas Day: 12:00 to 23:30

(4) On New Year's Eve, except on a Sunday, 10:00 to 23:00

(5) On New Year's Eve on a Sunday, 12:00 to 23:30

(6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00:00 on 31st December).

### **Late night refreshment**

On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 23:00 to 00:30, On Sundays other than Christmas Day or New Year's Eve, and on Good Friday: 23:00 to 00:00

On Christmas Day: 23:00 to 00:00 On New Year's Eve and Christmas Day except on a Sunday, 23:00 to 00:30 On New Year's Eve on a Sunday, 23:00 to 00:00

### **Normal Opening Hours**

The premises will close at the end of the period for the consumption of alcohol referred to in (a) above.

### ***Aroma Cafe, 47 Bedford Street, Leamington Spa, Warwickshire, CV32 5DY***

### **Normal Opening Hours**

Monday to Saturday from 08:30 to 24:00

Sunday from 10:00 to 23:00

**Sale of Alcohol for Consumption on the Premises**

Monday to Saturday from 08:30 to 23.30

Sunday from 10:00 to 22.30

**Recorded Music (Indoors only)**

Monday to Saturday from 08:30 to 23:00

Sunday from 10:00 to 22:00

NOTE: Between the hours of 08:00 and 23:00, when recorded music is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises, all licensing conditions applicable to the control of recorded music on this licence are deemed not to be in operation.

**Late night refreshment (both Indoors and Outdoors)**

Monday to Saturday from 23:00 to 24:00

**Conditions agreed with the Licensee**

1. CCTV to be installed and the premises licence holder must ensure that :-
  - a. CCTV cameras are located within the premises to cover entrances and bar servery.
  - b. The system records clear images permitting the identification of individuals.
  - c. The CCTV system is able to capture a minimum of 12 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
  - d. The CCTV system operates at all times while the premises are open for licensable activities'. All equipment must have a constant and accurate time and date generation.
  - e. The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
  - f. Downloads will be provided to the Police upon reasonable request in line with the DPA.
  - g. Signed off by Warwickshire Police Architectural Liaison officer
2. All Staff training records to be maintained and made available for inspection on reasonable request from responsible authority.
3. Regular staff training to ensure that both the law and company policies / procedures are understood, up-to-date and applied consistently.
4. No Open vessels containing alcohol to be taken outside the premises at anytime
5. All staff to be trained in age verification policies and procedures
6. A 'Challenge 25' age verification policy requiring proof of age by passport, photo driving licence or PASS accredited card
7. A 'challenge log' recording all challenges - where both sales and refusals result must be kept and the Refusals register to be made available for inspection on reasonable request from responsible authority.
8. A prompt or reminder to staff, at the point of sale, to consider whether a sale or challenge ought to be made

**Environmental Protection is the Responsible Authority for upholding the licensing objective: 'The Prevention of Public Nuisance'.**

**We object to the application to extend the opening hours to 05:00 hours for late night refreshment on the following grounds:**

Environmental Protection has tried to engage with the applicant on numerous occasions but have not received sufficient information to demonstrate that they can address our concerns. Customer Noise on the street at unsocial hours could cause a nuisance by way of disturbing nearby residents until 05:00 / 05:30. Delivery drivers and customer's cars idling in the street, car doors slamming, raised voices etc. which are difficult to measure, quantify or control but are highly impactful on neighbours. Late night comings and goings near residential properties can negatively impact on the amenity of the area for residents.

Planning conditions placed on the approval for a change of use to a takeaway limited opening hours to 23:00 hours for the same reasons. They also had pre-commencement conditions for the applicant to provide details of the odour control system and the noise levels of that system to ensure that odour and noise did not impact negatively upon residents in the area. No information has been submitted to address these requirements and, as such Environmental Protection have no evidence to demonstrate that the use of the odour extract system will not negatively impact on residents during this extended period of operation. This is particularly necessary given that the applicant has asked for 05:00 hours when background levels are likely to have dropped significantly in the area.

There are other licenced premises along Bedford Street which are open for Late night refreshment passed

23:00 hours. Two open until midnight, one until 02:00 hours and one which is open until 03:00 hours on a Friday and Saturday night. However, this establishment is a bar which and late-night refreshment is only a part of their business model.

EP therefore have concerns that the opening of this premises until 05:00 hours will attract customers vacating other licensed premises and thereby delay people dispersing from the centre and may become a focal point for congregations of late-night revellers.

**However, if Councillors are minded granting the application, then Environmental Protection recommend the following conditions be placed on the licence as a minimum:**

1. Prominent, clear, and legible notices must be displayed at all exits requesting that customers respect the needs of residents and to leave the premises and area quietly.
2. Prominent, clear, and legible notices must be displayed at all entrances requesting that all delivery drivers, **do not** leave their cars in idle when collecting deliveries.
3. The premises licence holder (or his/her nominees) shall ensure that any patrons queuing and/or smoking outside the premises Do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.
4. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21:00 and 08:30 on the following day.
5. Where the premises provide food to the public for consumption off the premises, there shall be provided at or near the exits, one waste bins to enable the disposal of waste food, food containers, wrappings etc.
6. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.
7. No deliveries to the premises shall take place between 22:00 and 08:30 on the following day.
8. The counter service open to the public will only be available until 02:00 Sunday through to Thursday. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late-night refreshment via the delivery service.
9. The counter service open to the public will only be available until 05:00 Friday and Saturday only if door staff are on duty. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late-night refreshment via the delivery service if door staff are not available.
10. Any deliveries from the premises will only be made to a customer's place of residence or place of business.

**Conditions**  
**Agree with Warwickshire Police on**  
**Monday 29<sup>th</sup> January 2024**

**Condition 1**

The Applicant shall ensure that CCTV is installed and maintained to the satisfaction of the Police and Licensing Officers and shall ensure:

- a. All equipment shall have constant time/date generation.
- b. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time etc.
- c. If the system is not capable of achieving this requirement the Licence holder or a

nominated person must ensure that a manual facility is available to carry out this update as an alternative.

- d. Recordings must be kept for a minimum of 31 days.
- e. Recordings of incidents at the premises must be made secure for inspection by the Police and or Licensing Officers.
- f. Copies of recordings will be made available to officers of the responsible authorities on reasonable request.
- g. Unauthorised persons should not be allowed access to the system or view personal data as it could contravene the Data Protection Act or jeopardise any criminal investigation.
- h. Arrangements for its repair must be made without delay.

### **Condition 2**

The Premises Licence holder shall implement and maintain an up-to-date register of incidents occurring on the premises. This register shall be made available to the Police or Authorised Officers on request.

### **Condition 3**

Door supervisors are to be employed on Friday's and Saturday's from 23:00 – 05:00 (or closing time). All door staff to be SIA registered and badged. The requirement for the deployment of door staff may be varied in writing with the agreement of Warwickshire Police. Should a variation be agreed and there is subsequently an increase in disorder, then Warwickshire Police may reinstate the original requirements by notifying the license holder in writing.

### **Condition 4**

The applicant or manager of the premises shall join the WRCI retail scheme for the Leamington Spa area and participate in the local retail watch meetings and actively use the "retail" radio provided as part of this scheme.

### **Recommended Licensable activities:**

<p><b>Opening Times:</b>  <b>Sunday to Thursday</b>  23:00 – 02:00 to the public  02:00 – 05:00 delivery service only  <b>Friday to Saturday</b>  23:00 – 05:00</p>
<p><b>Late Night Refreshment</b>  23:00 – 05:00</p>

Signed:   
Stacey Walsham  
Environmental Health Technical Officer

Date: Tuesday, 30 January 2024



## Addendum to Item 4

Licensing and Regulatory Panel  
7 February 2024

**Title: Application for a new Premises Licence under the Licensing Act 2003 for Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY**

**Lead Officer: Emma Morgan**

**Public report**

**Wards of the District directly affected: Leamington Clarendon**

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: No

Included within the Forward Plan: No

Equality Impact Assessment Undertaken: No

Consultation & Community Engagement: No

Final Decision: Yes

Accessibility checked: Yes

### **Officer/Councillor Approval**

<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Team Leader	31/01/2024	Rachael Russell
Legal Services	31/01/2024	Alaa Cronin

**1. Addendum**

- 1.1 On 19 January 2024 Warwickshire Police submitted an objection to the application made for a new premises licence at Sombrero, 40 Bedford Street, Leamington Spa, CV32 5DY.
- 1.2 Following discussions between the applicant and Warwickshire Police, they put forward amended conditions which have been agreed with the applicant.
- 1.3 On 30 January 2024 Warwickshire Police withdrew their objection. A copy of the conditions agreed are attached as **Addendum Appendix 1** to this report.
- 1.4 Following agreement to the conditions set out by Warwickshire Police, Environmental Health have put forward amended conditions to the applicant. These replace the original conditions requested on 19 January 2024. A copy of the new conditions are attached as **Addendum Appendix 2**.
- 1.5 On 5 February 2024 the applicant agreed the conditions set out by Environmental Health. A noise and odour report has also been submitted to the Environmental Health Department for their consideration. This is attached as **Addendum Appendix 3**.

**From:** uniss ali [REDACTED]  
**Sent:** 29 January 2024 16:33  
**To:** Hewish, Martin 0117  
**Cc:** [REDACTED] Emma.Morgan  
**Subject:** Re: Licence Application for Sombrero's

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Caution:** This is an external email. Please take care when clicking links or opening attachments. When in doubt, contact the ICT Helpdesk

Dear Martin thank you for your email  
As discussed we do accept the terms which are mentioned.

Kind regards.

Uniss.

Sent from [Outlook for Android](#)

---

**From:** Hewish, Martin 0117 [REDACTED]  
**Sent:** Monday, January 29, 2024 2:54:35 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]; Emma Morgan <[Emma.Morgan@warwickdc.gov.uk](mailto:Emma.Morgan@warwickdc.gov.uk)>  
**Subject:** Licence Application for Sombrero's

Uniss, Haris

Good afternoon, it was good to speak to you earlier. As we discussed, Warwickshire Police are generally supportive of your application for Late Night Refreshment at the above address. Following our original proposal, I believe we have managed to come to an agreement regarding your opening hours and the provision of SIA registered door supervisors. You have agreed to change your opening hours to close on Sunday's – Thursday's at 2am and remain open on Friday and Saturday to 5am with door supervisors from 11pm-5am

I have tweaked the wording of my conditions to reflect this (Condition 3).

#### Condition 1

The Applicant shall ensure that CCTV is installed and maintained to the satisfaction of the Police and Licensing Officers and shall ensure :-

1. All equipment shall have constant time/date generation.
2. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time etc.
3. If the system is not capable of achieving this requirement the Licence holder or a nominated person must ensure that a manual facility is available to carry out this update as an alternative.
4. Recordings must be kept for a minimum of 31 days.
5. Recordings of incidents at the premises must be made secure for inspection by the Police and or Licensing Officers.
6. Copies of recordings will be made available to officers of the responsible authorities on reasonable request.

7. Unauthorised persons should not be allowed access to the system or view personal data as it could contravene the Data Protection Act or jeopardise any criminal investigation.
8. Arrangements for its repair must be made without delay.

#### Condition 2

The Premises Licence holder shall implement and maintain an up-to-date register of incidents occurring on the premises. This register shall be made available to the Police or Authorised Officers on request.

#### Condition 3

Door supervisors are to be employed on Friday's and Saturday's from 11pm to 5am (or closing time). All door staff to be SIA registered and badged. The requirement for the deployment of door staff may be varied in writing with the agreement of Warwickshire Police. Should a variation be agreed and there is subsequently an increase in disorder, then Warwickshire Police may reinstate the original requirements by notifying the license holder in writing.

#### Condition 4

The applicant or manager of the premises shall join the WRCI retail scheme for the Leamington Spa area and participate in the local retail watch meetings and actively use the "retail" radio provided as part of this scheme.

If you are agreeable to these conditions, please reply by email, at your earliest convenience, stating your acceptance/agreement of these conditions. I will then notify Warwick District Council and advise them we have come to an agreement, as long as Environmental Health are in agreement, this will negate the need for a licensing hearing.

Many Thanks

Martin Hewish

**Sgt 117 Martin Hewish**

**Warwickshire Prevention Hub**



**WARWICK DISTRICT COUNCIL**  
**Licensing Act 2003**

**REPRESENTATION FORM FROM  
RESPONSIBLE AUTHORITIES**

**Responsible Authority** – Environmental Health, Riverside House, Milverton Hill, L/Spa, CV32 5HZ

<b>Your Name</b>	Stacey Walsham
<b>Job Title</b>	Environmental Health Technical Officer
<b>Postal and email address</b>	Safer Communities, Leisure and Environment. Warwick District Council, Town Hall, Prade, Leamington Spa, CV32 4AT
<b>Contact telephone number</b>	01926 456719
<b>Email Address</b>	stacey.walsham@warwickdc.gov.uk

<b>Name of the premises you are making a representation about</b>	<b>Sombrero Mexican Takeaway</b>
<b>Address of the premises you are making a representation about</b>	40 Bedford Street Leamington Spa Warwickshire CV32 5DY

<b>Which of the four licensing Objectives does your representation relate to?</b>	
<b>To prevent crime and disorder</b>	
<b>Public safety</b>	
<b>To prevent public nuisance</b>	X
<b>To protect children from harm</b>	

### History

Sombrero Mexican Food is a hot food take away, with the ability to order online, pay and have food delivered straight to your door. You can order your takeaway via their own website or others such as Ubereats.com, Deliveroo.co.uk and Just-eat.co.uk. Delivery time is stated to be under 30 minutes, and they have over 200 reviews online. The premises is currently trading from 12:00 till 23:00 hours Monday through to Sunday. They are looking to extend these hours to include Late Night Refreshment and trade until 05:00 hours 7 days a week.

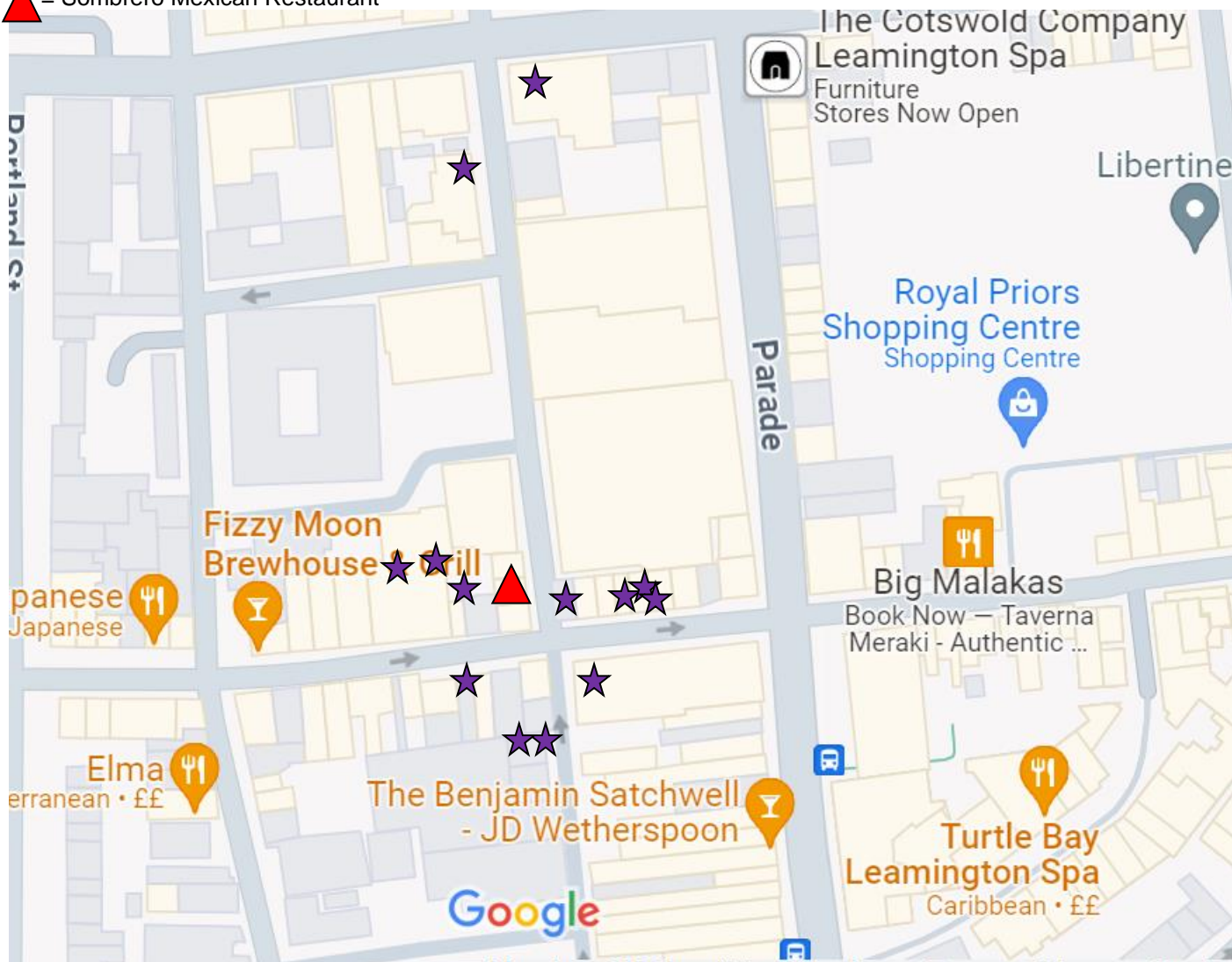
### Location

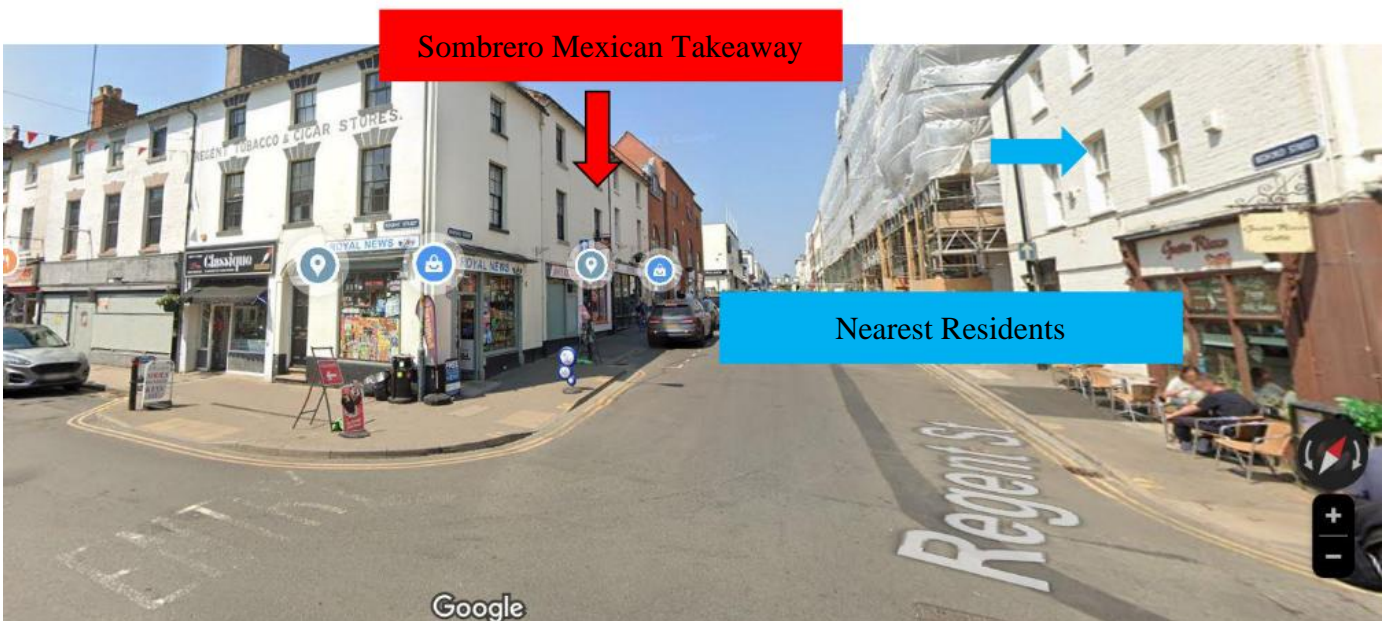
There has been a food establishment at this premises for at least 20 years in various forms. The premises is in the centre of Leamington Spa, roughly 500 meters from busy late-night establishments. There are currently six licenced premises along this street, four of which open past 23:00 hours serving Late night refreshment. There is also a café along the street which offers light bites and snacks, opening till 15:00 most days except Saturday where they are open until 23:00 hours. On the opposite side of the road is another café, with their entrance located on a different road. There are residential properties near the premises which could be affected by the late night opening and associated plant running throughout the night.

### Residential Receptors in close proximity to the Premises:

Flat 1 – 6 – 1 Bedford Street, Flat 4 Bedford Street, 37 Bedford Street, Apartments 1 to 20, 43 Bedford Street, Bedford Street Lofts, 46/48 Bedford Street, 48 Bedford Street, 24 John Street, 26 John Street, 56a Regent Street, The Flat 73 Regent Street, 76a & 76B Regent Street

- ★ = Residential Property which could be affected by Late Night Refreshment
- ▲ = Sombrero Mexican Restaurant





**Licensable activities applied for:**

<b>Opening Times:</b> 23:00 – 05:00
<b>Late Night Refreshment</b> 23:00 – 05:00

**Comparable Premises in proximity:**

***La Bottega, 45 Regent Street, Leamington Spa, Warwickshire, CV32 5EE***

**Sale of Alcohol for Consumption on and Off the Premises**

Monday to Sunday from 07:00 to 23:30

**Late night refreshment (both Indoors and Outdoors)**

Monday to Sunday from 23:00 to 23:30

**Normal Opening Hours**

Monday to Sunday from 07.00 to 24.00

**Conditions agreed with the Licensee**

1. Prominent, clear, and legible notices must be displayed at all exits requesting that customers respect the needs of residents and to leave the premises and area quietly.
2. Clear and legible notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of residents and use the area quietly.
3. No open vessels to leave the premises at any time.
4. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21:00 and 08:30 on the following day.
5. No waste or recyclable materials, including bottles, shall be removed from, or placed in outside areas between 21:00 hours and 08:30 hours on the following day.

No off-licence sales after 23:00 hours.

***Papa John's Pizza, 49 Bath Street, Leamington Spa, Warwickshire, CV31 3AG***

**Late Night Refreshment for consumption off the premises**

Monday to Sunday from 23:00 to 01:00

**Normal Opening Hours**

Monday to Sunday from 10:30 to 01:00

**Conditions agreed with the Licensee**

Between the hours of 23.00 and 01.00 Monday to Sunday the front door of the premises must be locked with no entry to visiting members of the public. During these hours, all deliveries only to be made to a fixed address for pre-orders only.

**Conditions from Hearing or Magistrates**

Deliveries must be made from the rear access only.

***Halikarnas Take Away, 55 Regent Street, Leamington Spa, Warwickshire, CV32 5EE***

**Late night refreshment**

Monday from 23:00 to 01:00

Tuesday from 23:00 to 01:00

Wednesday from 23:00 to 01:00

Thursday from 23:00 to 04:00

Friday from 23:00 to 04:00

Saturday from 23:00 to 04:00

Sunday from 23:00 to 01:00

Christmas Eve & New Year's from 23:00 to 04:00

**Normal Opening Hours**

Sunday to Wednesday from 23:00 to 01:00

Thursday to Saturday from 23:00 to 04:00

Christmas Eve & New Year's from 23:00 to 04:00

***Vialli's Fast Foods, 24 Victoria Terrace, Leamington Spa, Warwickshire, CV31 3AB***

**Late night refreshment**

Monday to Wednesday 23:00 to 03:00

Thursday and Friday 23:00 to 04:00

Saturday 23:00 to 04:30

Sunday 23:00 to 02:30

**Normal Opening Hours**

Monday to Wednesday from 11:00 to 03:00

Thursday from 23:00 to 04:00

Friday from 11:00 to 04:30

Saturday from 11:00 to 04:30

Sunday from 12:00 to 02:30

***Dominos Pizza, 118 Regent Street, Leamington Spa, Warwickshire, CV32 4NR***

**Late Night Refreshment on the Premises**

Monday to Saturday including Bank Holiday Sundays from 23:00 to 02:00

Sunday from 23:00 to 01:00

**Late Night Refreshment Off the Premises**

Everyday from 23:00 to 05:00

**Normal Opening Hours**

Monday to Sunday from 07:00 to 05:00(Except Christmas Day)

**Conditions agreed with the Licensee**

1. CCTV to conform to British Standard - and offer live time recording.
2. Membership of Retail Radio Link and conform to it's procedures.

**Conditions from Hearing or Magistrates**

1. CCTV of British Standard B2378 providing live time recording to be installed in positions agreed with the Community Safety/Architectural Liaison Officer of Warwickshire Police. Images are to be retained for at least 31 days and shall be made available at the request of Warwickshire Police.
2. Notices are to be displayed at the exits requesting that customers are to leave the premises quietly and respect the local neighbourhood.
3. There will be at least one SIA Registered member of Door staff on duty at the premises from midnight on Fridays and Saturdays until counter service closure.
4. The Premises Licence Holder will adhere to the attached Operational and Dispersal Plan;
5. The counter service open to the public will only be available until 01:00 Sundays and 02:00 Mondays to Saturdays and Bank Holiday Sundays. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late-night refreshment via the delivery service.
6. Any deliveries from the premises will only be made to a customer's place of residence or place of business.

***Thai Elephant, 20 Regent Street, Leamington Spa, Warwickshire, CV32 5HQ***

**Sale of Alcohol for Consumption Off the Premises**

**Sale of Alcohol off the Premises when supplied with substantial meal.**

(1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10:00 to 00:00

(2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12:00 to 23:00

(3) On Christmas Day: 12:00 to 23:30

(4) On New Year's Eve, except on a Sunday, 10:00 to 23:00

(5) On New Year's Eve on a Sunday, 12:00 to 23:30

(6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, 00:00 on 31st December).

**Late night refreshment**

On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 23:00 to 00:30, On Sundays other than Christmas Day or New Year's Eve, and on Good Friday: 23:00 to 00:00

On Christmas Day: 23:00 to 00:00 On New Year's Eve and Christmas Day except on a Sunday, 23:00 to 00:30 On New Year's Eve on a Sunday, 23:00 to 00:00

**Normal Opening Hours**

The premises will close at the end of the period for the consumption of alcohol referred to in (a) above.

***Aroma Cafe, 47 Bedford Street, Leamington Spa, Warwickshire, CV32 5DY***

**Normal Opening Hours**

Monday to Saturday from 08:30 to 24:00

Sunday from 10:00 to 23:00

**Sale of Alcohol for Consumption on the Premises**

Monday to Saturday from 08:30 to 23.30

Sunday from 10:00 to 22.30

**Recorded Music (Indoors only)**

Monday to Saturday from 08:30 to 23:00

Sunday from 10:00 to 22:00

NOTE: Between the hours of 08:00 and 23:00, when recorded music is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises, all licensing conditions applicable to the control of recorded music on this licence are deemed not to be in operation.

**Late night refreshment (both Indoors and Outdoors)**

Monday to Saturday from 23:00 to 24:00

**Conditions agreed with the Licensee**

1. CCTV to be installed and the premises licence holder must ensure that :-
  - a. CCTV cameras are located within the premises to cover entrances and bar servery.
  - b. The system records clear images permitting the identification of individuals.
  - c. The CCTV system is able to capture a minimum of 12 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
  - d. The CCTV system operates at all times while the premises are open for licensable activities'. All equipment must have a constant and accurate time and date generation.
  - e. The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
  - f. Downloads will be provided to the Police upon reasonable request in line with the DPA.
  - g. Signed off by Warwickshire Police Architectural Liaison officer
2. All Staff training records to be maintained and made available for inspection on reasonable request from responsible authority.
3. Regular staff training to ensure that both the law and company policies / procedures are understood, up-to-date and applied consistently.
4. No Open vessels containing alcohol to be taken outside the premises at anytime
5. All staff to be trained in age verification policies and procedures
6. A 'Challenge 25' age verification policy requiring proof of age by passport, photo driving licence or PASS accredited card
7. A 'challenge log' recording all challenges - where both sales and refusals result must be kept and the Refusals register to be made available for inspection on reasonable request from responsible authority.
8. A prompt or reminder to staff, at the point of sale, to consider whether a sale or challenge ought to be made

**Environmental Protection is the Responsible Authority for upholding the licensing objective:  
'The Prevention of Public Nuisance'.**

**We object to the application to extend the opening hours to 05:00 hours for late night refreshment on the following grounds:**

Environmental Protection has tried to engage with the applicant on numerous occasions but have not received sufficient information to demonstrate that they can address our concerns. Customer Noise on the street at unsocial hours could cause a nuisance by way of disturbing nearby residents until 05:00 / 05:30. Delivery drivers and customer's cars idling in the street, car doors slamming, raised voices etc. which are difficult to measure, quantify or control but are highly impactful on neighbours. Late night comings and goings near residential properties can negatively impact on the amenity of the area for residents.

Planning conditions placed on the approval for a change of use to a takeaway limited opening hours to 23:00 hours for the same reasons. They also had pre-commencement conditions for the applicant to provide details of the odour control system and the noise levels of that system to ensure that odour and noise did not impact negatively upon residents in the area. No information has been submitted to address these requirements and, as such Environmental Protection have no evidence to demonstrate that the use of the odour extract system will not negatively impact on residents during this extended period of operation. This is particularly necessary given that the applicant has asked for 05:00 hours when background levels are likely to have dropped significantly in the area.

There are other licenced premises along Bedford Street which are open for Late night refreshment passed

23:00 hours. Two open until midnight, one until 02:00 hours and one which is open until 03:00 hours on a Friday and Saturday night. However, this establishment is a bar which and late-night refreshment is only a part of their business model.

EP therefore have concerns that the opening of this premises until 05:00 hours will attract customers vacating other licensed premises and thereby delay people dispersing from the centre and may become a focal point for congregations of late-night revellers.

**However, if Councillors are minded granting the application, then Environmental Protection recommend the following conditions be placed on the licence as a minimum:**

1. Prominent, clear, and legible notices must be displayed at all exits requesting that customers respect the needs of residents and to leave the premises and area quietly.
2. Prominent, clear, and legible notices must be displayed at all entrances requesting that all delivery drivers, **do not** leave their cars in idle when collecting deliveries.
3. The premises licence holder (or his/her nominees) shall ensure that any patrons queuing and/or smoking outside the premises Do so in an orderly manner and are supervised by staff to ensure that there is no public nuisance or obstruction of the public highway.
4. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21:00 and 08:30 on the following day.
5. Where the premises provide food to the public for consumption off the premises, there shall be provided at or near the exits, one waste bins to enable the disposal of waste food, food containers, wrappings etc.
6. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.
7. No deliveries to the premises shall take place between 22:00 and 08:30 on the following day.
8. The counter service open to the public will only be available until 02:00 Sunday through to Thursday. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late-night refreshment via the delivery service.
9. The counter service open to the public will only be available until 05:00 Friday and Saturday only if door staff are on duty. Thereafter no public access will be permitted to the premises and the premises will only be used for the provision of late-night refreshment via the delivery service if door staff are not available.
10. Any deliveries from the premises will only be made to a customer's place of residence or place of business.

**Conditions**  
**Agree with Warwickshire Police on**  
**Monday 29<sup>th</sup> January 2024**

**Condition 1**

The Applicant shall ensure that CCTV is installed and maintained to the satisfaction of the Police and Licensing Officers and shall ensure:

- a. All equipment shall have constant time/date generation.
- b. This shall include a system to ensure automatic update in relation to the beginning and end of British Summer Time etc.
- c. If the system is not capable of achieving this requirement the Licence holder or a

nominated person must ensure that a manual facility is available to carry out this update as an alternative.

- d. Recordings must be kept for a minimum of 31 days.
- e. Recordings of incidents at the premises must be made secure for inspection by the Police and or Licensing Officers.
- f. Copies of recordings will be made available to officers of the responsible authorities on reasonable request.
- g. Unauthorised persons should not be allowed access to the system or view personal data as it could contravene the Data Protection Act or jeopardise any criminal investigation.
- h. Arrangements for its repair must be made without delay.

#### **Condition 2**

The Premises Licence holder shall implement and maintain an up-to-date register of incidents occurring on the premises. This register shall be made available to the Police or Authorised Officers on request.

#### **Condition 3**

Door supervisors are to be employed on Friday's and Saturday's from 23:00 – 05:00 (or closing time). All door staff to be SIA registered and badged. The requirement for the deployment of door staff may be varied in writing with the agreement of Warwickshire Police. Should a variation be agreed and there is subsequently an increase in disorder, then Warwickshire Police may reinstate the original requirements by notifying the license holder in writing.

#### **Condition 4**

The applicant or manager of the premises shall join the WRCI retail scheme for the Leamington Spa area and participate in the local retail watch meetings and actively use the "retail" radio provided as part of this scheme.

#### **Recommended Licensable activities:**

<b>Opening Times:</b> <b>Sunday to Thursday</b> 23:00 – 02:00 to the public 02:00 – 05:00 delivery service only <b>Friday to Saturday</b> 23:00 – 05:00
<b>Late Night Refreshment</b> 23:00 – 05:00

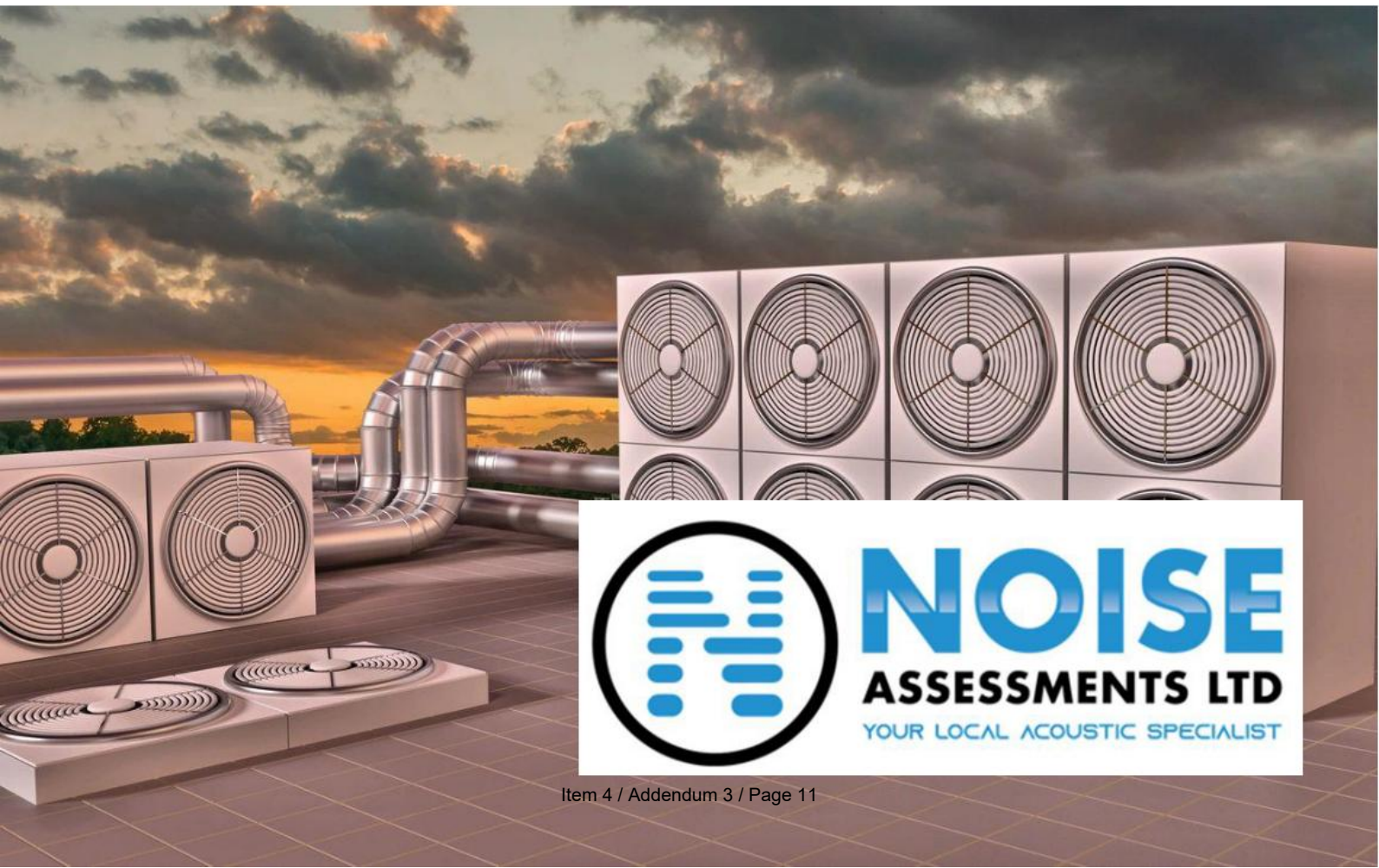
Signed:  
Stacey Walsham  
Environmental Health Technical Officer

Date: Tuesday, 30 January 2024

# ODOUR IMPACT ASSESSMENT

EMAQ, (2018) Control of Odour and Noise from  
Commercial Kitchen Exhaust Systems,  
(amendment DEFRA, 2005)

**Commercial Odour**





**NOISE**  
**ASSESSMENTS LTD**  
YOUR LOCAL ACOUSTIC SPECIALIST

## REPORT DETAILS

<b>Report Title</b>	Odour Assessment: Commercial Extraction
<b>Site Address</b>	40 Bedford Street, Leamington Spa, CV32 5DY
<b>Project No.</b>	NALPRO300124.1a
<b>Consultant Contact</b>	<a href="mailto:jonathan@noiseassessments.co.uk">jonathan@noiseassessments.co.uk</a>

## QUALITY ASSURANCE

Issue No.	Status	Issue Date	Comments	Author	Approved
1	FINAL	05/02/24	-		
			Updated based on council comments	J Mape BSc (Hons) PgDip, IOA Cert. Environ. Noise, TechIOA <b>Consultant</b>	D Warren <b>Director</b>

*This report has been prepared by Noise Assessments the trading name of Noise Assessments Limited, with all reasonable skill, care and diligence within the terms of the Contract with the client, incorporating our General Terms and Conditions of Business and taking account of the resources devoted to it by agreement with the client.*

*We disclaim any responsibility to the client and others in respect of any matters outside the scope of the above.*

*This report is confidential to the client and we accept no responsibility of whatsoever nature to third parties to whom this report, or any part thereof, is made known. Any such party relies on the report at their own risk.*

Noise Assessments Limited – Companies House Registered No. 12207511

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## Assessment Summary

A ground floor commercial property wishes to operate as a Mexican food takeaway (herein referred to as the site) is applying for planning permission to operate their extraction system for their site and is required to confirm their external flue complies with external odour guidance. The client has completed an odour assessment at 40 Bedford Street, Leamington Spa, CV32 5DY.

An odour assessment is required to assess the likely impact from odour generated during the cooking process from an extraction system within the rear of the site which has the air vented at ground floor level to above the eaves during the daytime.

The environmental health department of the local planning authority is likely to have concerns of odour emissions from the use of the extraction fan unit on neighbouring sensitive residential properties during the daytime and night-time.

With respect to odour, it has been identified that providing that the recommendations are taken into account, there should not be a loss of amenity at the existing residential receptors in the vicinity of the extraction flue and providing recommendations in the OMP are implemented, this would consist of using the “best practicable means” and would prevent statutory nuisance occurring.

As long as the proposed extraction system is properly maintained on a regular basis, it is highly unlikely that odour would become an issue in the future.

## 1. Proposal

- 1.1 A ground floor commercial property wishes to operate as a Mexican food takeaway (herein referred to as the site) is applying for planning permission to operate their extraction system for their site and is required to confirm their current external flue complies with external odour guidance. The client has completed a noise assessment at 5 Windsor Terrace, Great Lumley, DH3 4JR.
- 1.2 An odour assessment is required to assess the likely impact from odour generated during the cooking process from a new extraction system within the rear of the site which has the air vented at ground floor level to above the eaves during the daytime and night-time.
- 1.3 The environmental health department of the local planning authority will raise concerns of odour emissions from the use of the extraction fan unit on neighbouring sensitive residential properties during the daytime and night-time.

## 2. Existing Context

- 2.1 The site (ground floor level) is set within a residential commercial row of 2-storey attached buildings. The site is surrounded by residential apartments to the front, and commercial properties at the rear of the site.
- 2.2 The environmental health department of the local planning authority is likely to raise concerns of odour emissions from the use of the fan extraction unit venting on sensitive residential properties during the daytime and night-time at the front of the site.

## 3. Policy and Guidance

### Odour Technical Guidance

- EMAQ, (2018) Control of Odour and Noise from Commercial Kitchen Exhaust Systems, an amendment of the original DEFRA document published in 2005, deals specifically with the control of kitchen odours.
  - Guidance on the Assessment of Odour for Planning, Version 1.1 Institute of Air Quality Management (IAQM), 2018. The IAQM published the 'Guidance on the Assessment of Odour for Planning' document in July 2018. This guidance specifically deals with assessing odour impacts for planning purposes, namely potential effects on amenity.
- 3.1 The magnitude of odour impact depends on a number of factors and the potential for adverse impacts varies due to the subjective nature of odour perception. The FIDOL acronym is a useful reminder of the factors that can be used to help determine the degree of odour pollution:
    - Frequency of detection - frequent odour incidents are more likely to result in adverse impacts;

- Intensity as perceived - intense odour incidents are more likely to result in adverse impacts;
- Duration of exposure - prolonged exposure is more likely to result in adverse impacts;
- Offensiveness - more offensive odours have a higher risk of resulting in adverse impacts; and,
- Receptor sensitivity - (The type of land use and nature of human activities in the vicinity of an odour source. Tolerance and expectation of the receptor.)

3.2 It is important to note that even infrequent emissions of odours may cause loss of amenity if odours are perceived to be particularly intense or offensive.

## 4. Nearest Sensitive Receptor Locations

4.1 The nearest sensitive receptors (NSRs) have been identified as residential apartments/dwellings within 20 meters of the site.

## 5. Odour Assessment

### Introduction

5.1 This odour assessment relates to the potential future odour emanating from any kitchen extraction system associated with the change of use development, and the potential odour impacts on any sensitive receptors in close proximity to the extract flue.

### Nature and Effect of Odour

5.2 Odour is perceived by our brains in response to chemicals present in the air we breathe. Odour is the effect that those chemicals have upon us. Humans have sensitive senses of smell, and they can detect odour even when chemicals are present in very low concentrations. Most odours are a mixture of many chemicals that interact to produce what we detect as an odour.

5.3 Different life experiences and natural variation in the population can result in different sensations and emotional responses by individuals to the same odorous compounds. Because the response to odour is synthesised in our brains, other senses such as sight and taste, and even our upbringing, can influence our perception of odour and whether we find it acceptable, objectionable, or offensive.

### Assessment Methodology

5.4 The assessment of odour takes on the following aspects:

- A qualitative assessment of proposed odour emissions from the change of use development;
- An assessment taking into account the nature of the premises;
- The height and position of any proposed flue;
- The recommended exit velocity from the flue; and

- The distance between the proposed flue and the potential odorous emissions and the distance to the sensitive receptor.

### **Guidance on Control of Odours from Kitchens**

- 5.5 The Department for Environment Food and Rural Affairs (DEFRA) originally published Guidance (now withdrawn) on the control of odours from kitchens. That guidance has been subsequently updated by 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems' (EMAQ, July 2018).
- 5.6 Although the guidance is not statutory, it provides very useful information on best practice techniques for the minimisation of odour nuisance from kitchen exhaust systems. This source of guidance and ACCON's own experience form the basis of the assessment to determine whether nearby occupiers of existing residential properties would consider that odour emanating from the kitchen extract flue is acceptable or not.

### **General Principles in Controlling Odour**

- 5.7 The guidance is generally used for premises where food is cooked for patrons on or off the premises and where a kitchen is used to prepare and cook food. In these instances, a kitchen canopy extract system, are invariably present.
- 5.8 The main purpose of a kitchen canopy is to extract excess heat, steam, fats, smoke and odour arising from cooking processes. Removal of these unwelcome by-products of kitchen activity helps to achieve a reasonably comfortable and safe working environment, protect the working environment, as well as preventing the spread of the products from the kitchen area to other parts of the building.
- 5.9 Odours from cooking are contained both within the solid, liquid and gaseous material which is extracted by the kitchen canopy, and these different phases generally require different abatement techniques to reduce levels of odour to those levels which are acceptable to those in the vicinity. The extent to which any odour mitigation is required is dependent on the type of foods being prepared and cooked.
- 5.10 Commonly the kitchen extract canopy will contain the first line of odour control through the incorporation of coarse grease filters, which take out the largest grease particles from the extracted air stream. Such coarse grease filters tend to be a common feature of almost all kitchen canopy systems.
- 5.11 The type and levels of odour control required downstream of the canopy is very much dependent on a number of factors. The principle ones are:
- Type of food prepared. This is probably the most dominant factor as the type of food, and particularly any spices used, dictates the chemical constituents present in the exhaust air;

- Size of the cooking facility. The number of covers (for these premises, as no dining is included, the important aspect is the amount of general food output from the kitchen); and
- Types of cooking appliances used. This dictates the level of fat, water droplets and temperature within the ventilation air

5.12 The guidance includes two Tables which classify the odour and grease content of extract air according to the general cooking type and equipment used. These are reproduced in Appendix 3 (Table 2A and Table 2B). The information, in Appendix 3, has been used in this report to carry out the odour risk assessment in respect of the consented change of use development.

## 6. Odour Impact Assessment

6.1 Based on the location of the external extraction system, this odour impact assessment and Odour Management Plan has been undertaken in accordance with the EMAQ guidance 'Control of Odour and Noise from Commercial Kitchen Exhaust Systems'.

### Risk Assessment

6.2 The guidance provides a means of risk assessing the impact of any catering establishment and proposed and existing uses. The key elements of the method are reproduced in Appendix 3. The method relies on scoring the proposal on four different aspects:

- **Dispersion** – where the extract vents to atmosphere are in relation to the building to which the vent is attached.
- **Proximity of receptors** – the location of the nearest residents;
- **The kitchen size** – number of covers, i.e. level of activity; and
- **Cooking type** – based on grease and odour loading.

6.3 The level of odour which is created by a premises will depend on the size of kitchen and type of cooking. These can be determined using categories which have been set out in the guidance and are replicated in Appendix 4.

6.4 The scores for each aspect are summed to derive an overall significance score, an impact risk, and a statement about the odour control requirement. The guidance has been utilised where possible to determine the risk of odour nuisance from the proposed change of use development, without any additional odour abatement in place.

6.5 The risk assessment provided in Table 1, is a worst-case scenario.

**Table 1: Odour Risk Assessment – 40 Bedford Street, Leamington Spa, CV32 5DY.**

	Descriptor	Score	Impact Risk	Odour Control Requirement
Dispersion	Moderate	10	High	High level odour control
Proximity of Receptors	Close	10		
Size of kitchen/food cooking area	Small	1		
Cooking Type (Odour & grease loading)	Low	1		
Total		22		

6.6 For the proposed flue extract system, discharging above the eaves (Moderate, Score 10). There are receptors within 20m of the proposed flue extract (Close, Score 10).

6.7 The kitchen will be Small, less than 30 covers or small sized takeaway (Small, Score 1).

6.8 There will be Mexican grilling/frying type cooking to take place at the premises. Therefore, the cooking type (odour and grease loading) is classed as Low (Score 1).

6.9 The results of the overall assessment are potentially a **High Risk**.

## 7. The Odour Management Plan

7.1 Section 7 has quantified that as a worst case for the consented change of use development (provided the recommendations are taken into account) there is deemed to be a 'High' risk of potential nuisance and ordinarily a High level of odour mitigation would be recommended.

### Proposed Ventilation and Extraction System

7.1 The proposals are for the installation of an external flue extract on the rear of the site façade exiting above the eaves.

1. Carbon, grease and particulate filtration (carbon filter with a 0.2 – 0.4 residence time), see attached example.

### Maintenance Programme (Type, Frequency and Regime)

7.2 To minimize the risk of complaints, it is recommended that:

- A visual inspection of the ventilation system be carried out at least once a week. All metal surfaces should be checked to ensure that there is no accumulation of grease or dirt and that there is no surface damage;
- Cooker hoods and grease filters should be cleaned on a daily basis;
- Baffle type self-draining filters and collection drawers should be cleaned weekly, as a minimum. The cleaning period for mesh filters should be at least twice a week;
- Cleaning period for extract ductwork should as follows:

Use	No. hours use per day	Minimum cleaning interval
Heavy use	12-16	Every 3 months
Moderate use	6-12	Every 6 months
Light use	2-6	Annually

7.3 Based on the information provided, it is likely that the premises will be of Light to Moderate use and should be cleaned at least every 6 months.

- Periodic 'deep hygiene cleaning' should be undertaken by a specialist contractor. All accessible main ductwork runs and branches, including fitted equipment should be inspected and cleaned;
- All fans are to be maintained on a regular basis as recommended by the fan manufacturer; and
- Ventilation grilles, where fitted should have easily removable cores to facilitate cleaning.

### Recommendations for maintenance of odour control system

7.4 If the system employs fine filtration and carbon filtration ;

- Change fine filters every two weeks
- Change carbon filters every 4 to 6 months

7.5 Daily cleaning keeps the filters working at their optimum efficiency and will greatly reduce the number of service visits required throughout the year.

7.6 It will be important that the odour control methods are fully implemented and additionally, that the proposed OMP management measures and frequency of servicing is complied with. With

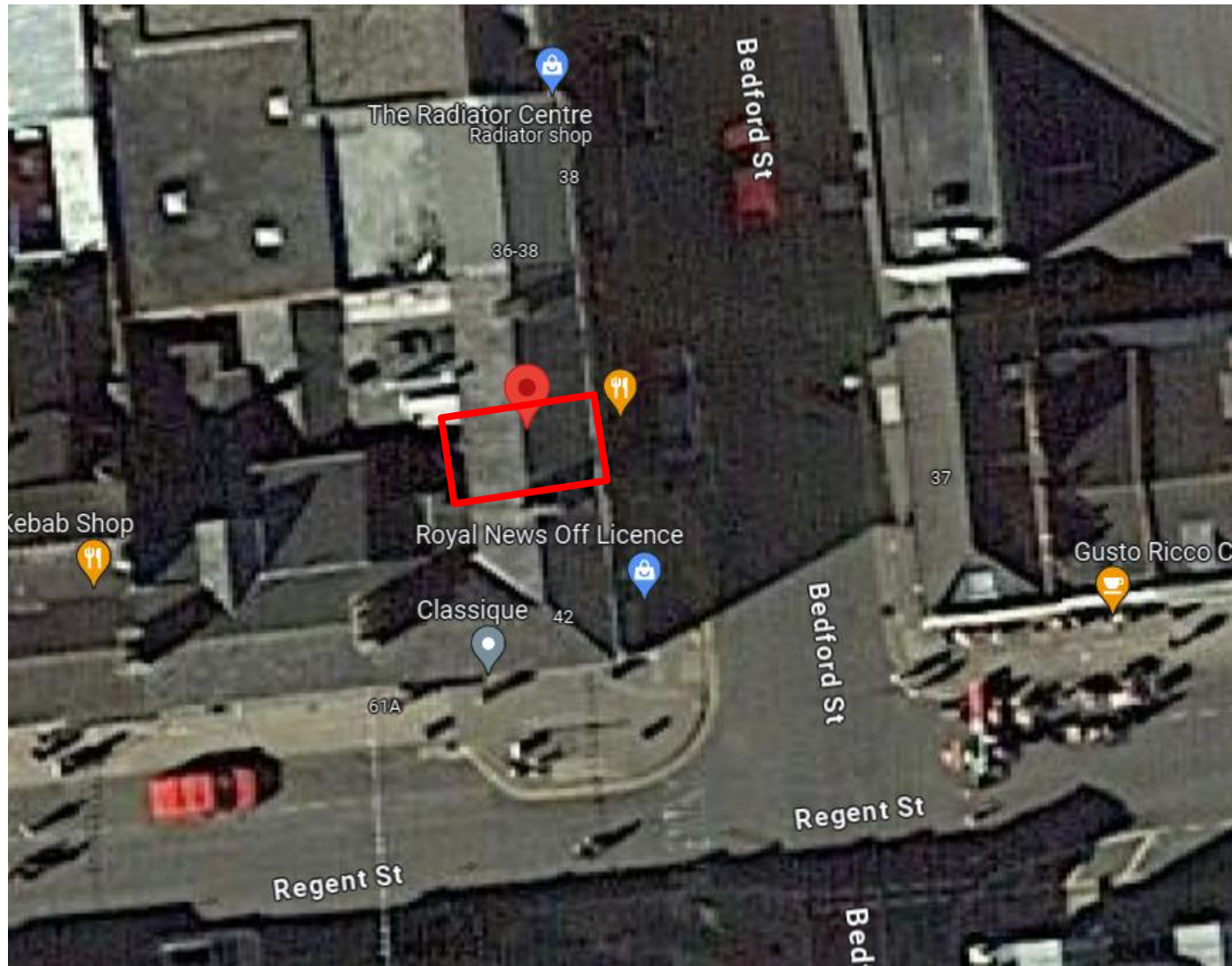
respect to the servicing and maintenance regime, audit and service records should be maintained and made available to the Local Authority on demand.

## **8. Summary**

- 8.1 With respect to odour, it has been identified that providing that the recommendations are taken into account, there should not be a loss of amenity at the existing residential receptors in the vicinity of the extraction flue and as long as the system similar to the ones recommended in the OMP are implemented, this would consist of using the “best practicable means” and would prevent statutory nuisance occurring.
- 8.2 If the extraction system is properly maintained on a regular basis, it is highly unlikely that odour would become an issue.

## **Appendices**

### **APPENDIX A – Site Location**



Site location

## APPENDIX B – Classification of Odour and Grease Content of Extract Air from Commercial Kitchens

**Table 2A: Table detailing the grease and odour content of various types of food**

Catering establishment	Description	Odour content				Grease content			
		Low	Moderate	High	Very high	Low	Moderate	High	Very high
Tea shop									
Pizza restaurant	Herb								
Steakhouses	Fat								
French	Herbs/garlic								
Italian	Herbs/garlic								
Most pubs	Fat								
Chinese	Ginger, spices, oil								
Japanese	Spices, oil								
Cantonese	Spices, oil								
Indian	Spices, oil								
Thai	Spices, oil								
Vietnamese	Spices, oil								
Kebab	Fat cooking meat								
Fried Chicken	Oil, cooking meat								
Pubs (fried)	Oil, cooking meat								
Fish & chip	Oil								
Fast food, burger	Oil, cooking meat								

**Table 2B: Table detailing the grease & moisture content of various cooking appliances**

Cooking appliance	Grease loading			Moisture content		
	Light	Medium	Heavy	Light	Medium	Heavy
Cooking pots						
Bains Marie						
Steam ovens						
Pizza ovens						
Bratt pans						
Oven ranges						
Flat top grills						
Chip fryers						
Salamanders						
Charcoal						
Gas fired open grills						
Char boilers						
Chinese wok ranges						

## APPENDIX C – EMAQ Odour Impact Risk Assessment Methodology

Odour control must be designed to prevent odour nuisance in a given situation. The following score methodology is suggested as a means of determining odour control requirements using a simple risk assessment approach.

Impact Risk	Odour Control Requirement	Significance Score*
Low to medium	Low level odour control	<20
High	High level odour control	20-35
Very high	Very high level odour control	>35

\*based on the sum of contributions from dispersion, proximity of receptors, size of kitchen and cooking type.

Criteria	Descriptor	Score	Details
Dispersion	Very poor	20	Low level discharge, discharge into courtyard or restriction on stack.
	Poor	15	Not low level but below eaves, or discharge at below 10m/s
	Moderate	10	Discharging 1m above eaves at 10-15m/s
	Good	5	Discharging 1m above ridge at 15m/s
Proximity of receptors	Close	10	Closest sensitive receptor less than 20 m from kitchen discharge
	Medium	5	Closest sensitive receptor between 20-100m from kitchen discharge
	Far	1	Closest sensitive receptor greater than 100m from kitchen discharge
Size of kitchen  Cooking type (odour and grease loading)	Large	5	More than 100 covers or large sized restaurant
	Medium	3	Between 30-100 covers or medium sized restaurant
	Small	1	Less than 30 covers or small restaurant
	Very high	10	Pub (high level of fried food), fried chicken, burgers or fish and chips
	High	7	Kebab, Vietnamese, Thai or Indian
	Medium	4	Cantonese, Japanese or Chinese
	Low	1	Most pubs, Italian, French, pizza or steakhouse

## APPENDIX D – Filtration Specifications

### KATERCARB®

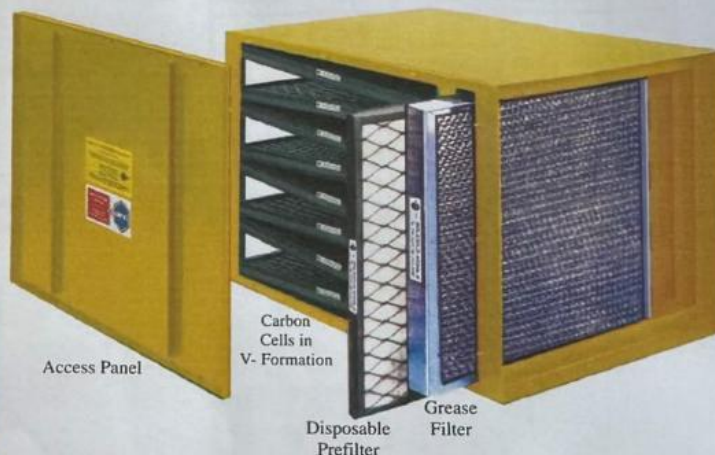
Activated Carbon Filter Units for the effective removal of cooking, catering and food processing odours.



To meet the odour control requirements of the catering and food processing industries the Katercarb activated carbon filter unit has been designed and developed by EMCEL Filters Limited.

#### Applications inc:

- Restaurants
- Public Houses
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- Take Aways
- Hotels
- Canteens
- Kitchens
- Cafés
- Food Processing



Considerable attention and emphasis has been placed on the catering industry in recent years to provide a comfortable and odour free environment.

Within the Katercarb activated carbon filter EMCEL has brought together three features to counter the problem of catering odours:-

- **Carbon Filter Cells with a special grade of activated carbon to deal more effectively with food and catering odours, especially those generated by onions, garlic and other strong spices.**
- **An integral non-combustible and washable grease filter to protect the carbon cells from grease saturation.**
- **A disposable particle pre-filter pad held within a metal grille and frame to protect carbon cells from dust contamination.**

#### Katercarb Filter Units are produced in three standard versions:

<b>Light Duty:</b>	<b>0.2 second dwell time</b>
<b>Standard Duty:</b>	<b>0.3 second dwell time</b>
<b>Heavy Duty:</b>	<b>0.4 second dwell time</b>

The unique Emcel Filter Cell construction enables a high weight of activated carbon to be employed giving high performance, longer dwell times and therefore greater efficiency.

Longer dwell times may be required where a continuous high odour concentration is present.

Custom built units to suit any airflow or specific conditions can be manufactured as required.

The special Carbon Cells that are used in the Katercarb Filter Unit are also available as replacement cells, manufactured by EMCEL, to suit any old or existing carbon units.



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# NOISE IMPACT ASSESSMENT

BS 4142:2014+A1:2019

**Commercial Noise:**  
**Takeaway**

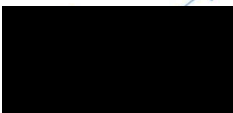



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## REPORT DETAILS

Site Address	40 Bedford Street, Leamington Spa, CV32 5DY
Report Title	Noise Assessment: Commercial Noise, Takeaway
Project No.	NALPRO300124.1b
Consultant Contact	<a href="mailto:jonathan@noiseassessments.co.uk">jonathan@noiseassessments.co.uk</a>

## QUALITY ASSURANCE

Issue No.	Status	Issue Date	Comments	Author	Approved
1	FINAL	05/02/24	-		
				J Mape BSc (Hons) PgDip IOA Cert. Environ. Noise TechIOA <b>Noise Consultant</b>	D Warren <b>Director</b>

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## **1. Proposal**

- 1.1 A ground floor commercial property wishes to operate as a Mexican food takeaway (herein referred to as the site) is applying for planning permission to operate their extraction system for their restaurant and is required to confirm the external flue complies with external noise guidance. The client has completed a noise assessment at 40 Bedford Street, Leamington Spa, CV32 5DY.
- 1.2 A noise assessment is required to assess the likely noise impact from noise generated from the extractor fan unit with appropriate silencer within the rear of the site with the air vented at ground floor level to above the eaves during the daytime and night-time. The extract fan inside the kitchen and the discharge flue are insulated to stop further noise breakout. The extract ducting is rigid in construction and installed with anti-vibration mountings.

### **Consultant**

- 1.3 Jonathan has experience in environmental, noise and vibration monitoring, acoustic consultancy and impact assessment gained over a period of 20 years in the industry, across the UK, Australia, Brunei, Turkey and the Middle East. He has a Degree in Environmental Science, Postgraduate Diploma in Environmental Monitoring and is a member of the Institute of Acoustics (TechIOA). He has also completed the IOA Certificate in Environmental Noise, from the University of Liverpool.
- 1.4 Jonathan specialises in the measurement and assessment of noise and vibration for a wide range of planning applications, including those requiring EIA, across the industrial, commercial, residential, and mineral extraction sectors. Jonathan is also involved in undertaking various aspects of indoor occupational monitoring and reporting for projects relating to worker health.

## **2. Existing Context**

- 2.1 The site (ground floor level) is set within a residential commercial row of 2-storey attached buildings. The site is surrounded by residential apartments to the front, and commercial properties at the rear of the site.
- 2.2 The environmental health department of the local planning authority is likely to raise concerns of odour emissions from the use of the fan extraction unit venting on sensitive residential properties during the daytime and night-time at the front of the site.

### 3. Criteria

- 3.1 The following targets have been selected in accordance with 'BS 4142:2014+A1:2019 – Methods for rating and assessing industrial and commercial sound.' This will be achieved when the Rating Level is below the representative background sound level.

### 4. Noise Policy and Guidance

#### Noise Policy Statement for England (NPSE)

- 4.1 The NPSE sets out the Government's policy on noise and includes the long-term vision of promoting good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development.
- 4.2 This long-term vision is supported by the following aims:
- 4.3 Through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development:
- avoid significant adverse impacts on health and quality of life;
  - mitigate and minimise adverse impacts on health and quality of life; and
  - where possible, contribute to the improvement of health and quality of life.
- 4.4 There are two established concepts from toxicology that are currently being applied to noise impacts, for example, by the World Health Organisation. They are:
- NOEL (No Observed Effect Level) – this is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise;
  - LOAEL (Lowest Observed Adverse Effect Level) – this is the level above which adverse effects on health and quality of life can be detected.
- 4.5 Extending these concepts further, NPSE leads to the concept of a significant observed adverse effect level:
- SOAEL (Significant Observed Adverse Effect Level) – this is the level above which significant adverse effects on health and quality of life occur.
- 4.6 NPSE acknowledges that it is not possible to have a single objective noise-based measure that defines NOEL, LOAEL and SOAEL that is applicable to all sources of noise in all situations. It is therefore suggested that more specific advice from other applicable noise standards and guidance could be employed to determine suitable noise level criteria within the overall principles of the NPSE.

#### National Planning Policy Framework (NPPF)

- 4.7 The revised NPPF was updated on 20 July 2021 and sets out the government's planning policies for England and how these are expected to be applied. This document replaces the first NPPF published in March 2012 and includes minor clarifications to the revised version published in July 2018 and June 2019.
- 4.8 Where issues of noise impact are concerned the NPPF provides brief guidance in Chapter 15 '*Conserving and enhancing the natural environment*' as follows:

Paragraph 170:

Planning policies and decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

Paragraph 180:

Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life;
- b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
- c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Paragraph 182:

Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

Planning Practice Guidance (PPG)

- 4.9 PPG is written in support of the NPPF and provides an increased level of specific planning guidance.
- 4.10 It suggests that noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. It is also suggested that noise should not be considered in isolation and separately from issues such as the economic, social and other environmental dimensions of proposed development.
- 4.11 Local planning authorities' plan-making and decision taking should take account of the acoustic environment and in doing so consider:
- whether or not a significant adverse effect is occurring or likely to occur;
  - whether or not an adverse effect is occurring or likely to occur; and
  - whether or not a good standard of amenity can be achieved.

#### Technical Guidance

##### BS 4142:2014+A1:2019 – Methods for rating and assessing industrial and commercial sound'

BS4142 Is a recognised standard for assessing the noise impact of fixed plant machinery via relation of noise emissions to current background noise levels.

## 5. Nearest Sensitive Receptor Locations

- 5.1 The nearest noise sensitive receptors (NSRs) have been identified as residential apartments at the front of the site.

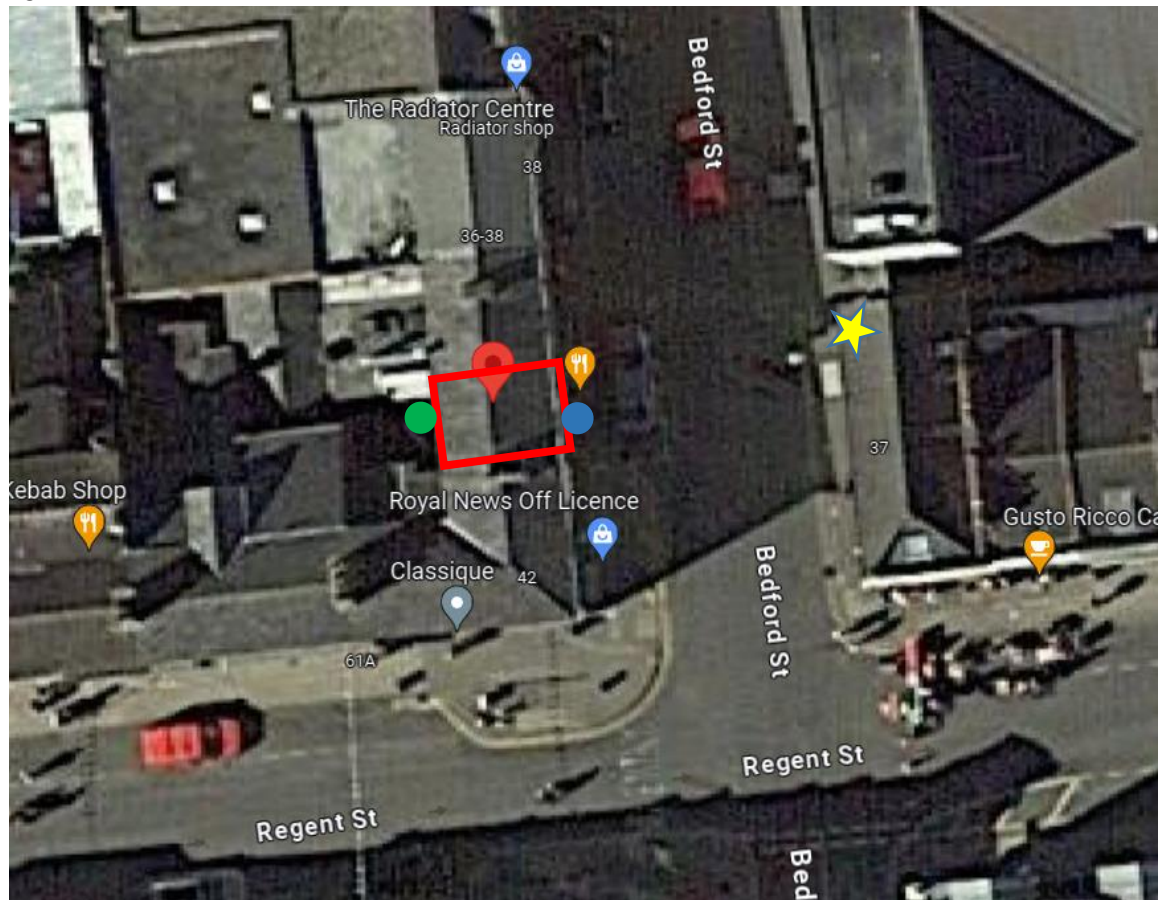
## 6. Subjective Impressions

- 6.1 The noise climate at the front and rear of the site is dominated by occasional road traffic throughout the day and night, including cars and HGVs / LGVs where tyre / road interaction noise. Secondary noise sources have been identified as other commercial noise, bird song and people chatting.

## 7. Measurement Locations

- 7.1 Background noise measurements were undertaken outside the front of the nearest sensitive receptor. The data collected during this period has been used to characterise the existing acoustic environment around the site.
- 7.2 Measurement and NSR locations are shown in figure 1 below:

Figure 1: Site &amp; Measurement Location



Background measurement location    ● M1    ● M2

★ Site location  
★ NSR1 (17m)

## 8. Measurement Procedure

8.1 Unattended/attended noise levels were measured on 2<sup>nd</sup> to 3<sup>rd</sup> February 2024. Full measurement times and durations can be found in **Appendix B**.

## 9. Measurement Equipment

9.1 Measurements were undertaken using a calibrated, Pulsar N45 class 1 sound level meter. Full equipment details can be found in **Appendix C**.

9.2 Measurements at the monitoring location was 'free field' (no vertical reflective surfaces within 3.5 metres of the microphone) and at a height of between 1.2 – 1.5 metres above ground level. During all measurements the microphone was protected with an outdoor windshield.

- 9.3 The calibration level of the meters were checked before and after the survey with a sound calibrator with no variation in the levels observed.
- 9.4 The sound level meters were set to measure various noise parameters including LAeq and LMax values using a 'fast' time weighting.
- 9.5 Full calibration details can be provided upon request.

## 10. Weather Conditions

- 10.1 Weather conditions were deemed acceptable for background noise measurement. Full meteorological conditions are detailed in **Appendix E**.

## 11. Noise Source Levels

- 11.1 The noise level of the extraction unit has been measured in situ.
- 11.2 The outlet noise level is tabulated below:

Table 2: Manufacturer Noise Level

Equipment	LAeq (dB)	r, m
Extractor fan outlet with silencer	56	3.0

## BS4142:2014 Assessment

## 12. Specific Sound Levels

- 12.1 The specific sound level is denoted LAs and is the A-weighted, equivalent noise level at the NSR locations over the reference time period.
- 12.2 The NSRs are located at the front of the site, however the location of the extractor unit ducting is above the eaves at the rear of the site and with no direct line of sight for the apartments at the front of the site. See Figure 1 for the location of sensitive receptors. Full calculations are shown in **Appendix F**:
- 12.3 The Specific Sound Level of the air vented from the internal extractor fan unit at the nearest NSR locations at the front of the site are summarised below:

Table 3: Specific Sound Levels

NSR	Specific Sound Level, Db LAs
1 (17m)	31

### 13. Background Sound Level

13.1 Environmental noise levels were measured on site 2<sup>nd</sup> to 3<sup>rd</sup> February 2024.

13.2 The lowest night-time background sound level (M1) was measured between 19:45-20:00 as 43 dB LA90,15min.

13.3 The lowest night-time background sound level (M1) was measured between 03:00-03:15 as 39 dB LA90,15min.

### 14. Rating Level

14.1 The specific sound level may be corrected for certain characteristics that make a sound more noticeable at the NSR locations. Corrections for tonality, impulsivity and intermittency may be applied.

14.2 The associated rating penalties and resultant sound rating levels, dB L<sub>Ar</sub>, are tabulated below:

Table 4: Rating Penalties, dB, and Sound Rating Levels

NSR	dB L <sub>As</sub>	Tonality	Impulsivity	Intermittency	dB L <sub>Ar</sub>
1	31	3	0	0	34

### 15. Rating Level Vs Background

15.1 The rating level is to be compared to the background sound level to determine the resultant noise impact in accordance with BS4142:

A Sound Rating Level at or below the background noise level is indicative of *Low Impact*;

A Sound Rating Level that exceeds the background noise level by around + 5dB is likely an indication of *Adverse Impact*, depending on the context;

A Sound Rating Level that exceeds the background noise level by around + 10dB is likely an indication of *Significant Adverse Impact*, depending on the context.

15.2 The noise impact during the daytime is tabulated below:

Table 5: Noise Impact

NSR	Rating Level, dB L <sub>Ar</sub>	Difference, dBA	Impact
1	34	-9	Low Impact

15.3 The noise impact during the night-time is tabulated below:

Table 5: Noise Impact

NSR	Rating Level, dB L <sub>Ar</sub>	Difference, dBA	Impact
1	34	-5	Low Impact

15.4 Low Impact has been identified at the NSRs therefore no additional mitigation is required.

15.5 The results of the noise assessment demonstrate that, noise from the use of the extractor unit venting near sensitive receivers will be considered low impact.

## 16. Summary

16.1 A ground floor commercial property wishes to operate as a Mexican food takeaway (herein referred to as the site) is applying for planning permission to operate their extraction system for their restaurant and is required to confirm the external flue complies with external noise guidance. The client has completed a noise assessment at 40 Bedford Street, Leamington Spa, CV32 5DY.

16.2 A noise assessment is required to assess the likely noise impact from noise generated from the extractor fan unit with appropriate silencer within the rear of the site with the air vented at ground floor level to above the eaves during the daytime and night-time. The extract fan inside the kitchen and the discharge flue are insulated to stop further noise breakout. The extract ducting is rigid in construction and installed with anti-vibration mountings.

16.3 The associated rating penalties and resultant sound rating levels, dB L<sub>Ar</sub>, are tabulated below:

Rating Penalties, dB, and Sound Rating Levels

NSR	dB L <sub>As</sub>	Tonality	Impulsivity	Intermittency	dB L <sub>Ar</sub>
1	31	3	0	0	34

16.4 The lowest night-time background sound level (M1) was measured between 19:45-20:00 as 43 dB LA90,15min.

16.5 The lowest night-time background sound level (M1) was measured between 03:00-03:15 as 39 dB LA90,15min.

16.6 The noise impact during the daytime is tabulated below:

Table 5: Noise Impact

NSR	Rating Level, dB L <sub>Ar</sub>	Difference, dBA	Impact
1	34	-9	Low Impact

16.7 The noise impact during the night-time is tabulated below:

Table 5: Noise Impact

NSR	Rating Level, dB L <sub>Ar</sub>	Difference, dBA	Impact
1	34	-5	Low Impact

16.8 Low Impact has been identified at the NSRs therefore no additional mitigation is required.

16.9 The results of the noise assessment demonstrate that, noise from the use of the extractor unit venting near sensitive receivers with mitigation will be considered low impact.

## 17. Uncertainties

17.1 Uncertainty can arise when a calculation method, such as distance correction, is used to determine an overall noise level at an NSR location; however, it is an accepted method when the noise sources are yet to be introduced to the site.

17.2 The monitoring equipment is subject to a 1dB error margin, however calibration before and after measurements allows the drift within the margin to be monitored and thus demonstrates that minimal drift occurred throughout the measurements.

## Appendices

### APPENDIX A – Extractor and flue details



<b>APPENDIX B - Measurement Details</b>				
Measurement	Start Date	Start Time	End Date	End Time
M1/M2	02/02/24	10:30	03/02/24	10:30

<b>APPENDIX C - Equipment Details</b>				
Equipment	Make	Model	Class	Serial Number
Sound Meter	Pulsar	N45	1	1425
Sound Meter	Pulsar	N44	1	1216
Calibrator	Pulsar	PM1	1	011254A

<b>APPENDIX D - Calibration Details</b>					
Measurement	Calibrator Ref Level (dB)	Level Before (dB)	Deviation Before (dB)	Level After (dB)	Deviation After (dB)
M1/M2	94.0	94.0	0	94.0	0

<b>APPENDIX E - Meteorology Details</b>						
Date	Temp C	Wind Speed m/s*	Wind Direction	Humidity %	Precipitation mm	Cloud Cover (Oktas)
02/02/24	11	1.2	s	84	0.0	6/8

\*Windspeeds measured on site using a Skywatch Xplorer 2 Anemo-Thermometer.

## APPENDIX F - Noise Attenuation

Utilising Measured Levels

Equipment	Manufacturer Data, dB LpA	r <sub>1</sub> , m	r <sub>2</sub> , m	Barrier	Level at NSR <sub>2</sub>
Extractor and silencer	56	17	3.0	- 10	31 (NSR1)

Barrier attenuation assumed as 5 dB and 10 dB for the partial and complete blockage of the line of sight respectively between source and receiver as per 'BS5228-1:2009 – Noise and vibration control on construction and open sites' pg. 130.

Point source distance attenuation

$$L_y = 20 \times \log \frac{r_1}{r_2}$$

Where L<sub>y</sub> is the distance attenuation factor and r<sub>1,2</sub> are the source -> measurement distance and source -> NSR distance in metres respectively

## APPENDIX G – Terminology and Definitions

### Noise

Sound only becomes noise (often defined as ‘unwanted sound’ or sound that is considered undesirable or disruptive) when it causes or contributes to some harmful or otherwise unwanted effect, like annoyance or sleep disturbance.

### Acoustic Environment

Sound from all sound sources as modified by the environment.

### Equivalent continuous A-weighted sound pressure level $L_{Aeq,T}$

Value of the A-weighted sound pressure level of a continuous, steady sound that, within a specified time interval T, has the same mean square sound pressure as a sound under consideration whose level varies with time.

### A-weighting

The human ear is most sensitive to frequencies in the range 1 kHz to 5 kHz. On each side of this range the sensitivity falls off. A-weighting is used in sound level meters to replicate this sensitivity and respond in the same way as the human ear.

### Octave Band

Band of frequencies in which the upper limit of the band is twice the frequency of the lower limit.

### Maximum Sound Pressure Level $L_{Amax,T}$

Highest value of the A-weighted sound pressure level with a specified time weighting that occurs during a given event or measuring period.

### The $L_{A10,T}$ Sound Level

The A-weighted sound pressure that is exceeded for 10% of a given time interval, T. It is often used to evaluate road traffic noise.

### The $L_{A90,T}$ Sound Level

The A-weighted sound pressure that is exceeded for 90% of a given time interval, T, measured using time weighting F. It is often referred to as the background noise level and which might in part be an indication of relative quietness at a given location

### Free-field Level

The sound pressure level away from reflecting surfaces.

NOTE Measurements made 1.2 m to 1.5 m above the ground and at least 3.5 m away from other reflecting surfaces are usually regarded as free-field. To minimize the effect of reflections the

measuring position has to be at least 3.5 m to the side of the reflecting surface (i.e. not 3.5 m from the reflecting surface in the direction of the source).

#### Façade Level

The sound pressure level 1 m in front of the façade.

NOTE Facade level measurements of LpA are typically 1 dB to 2 dB higher than corresponding free-field measurements because of the reflection from the facade.

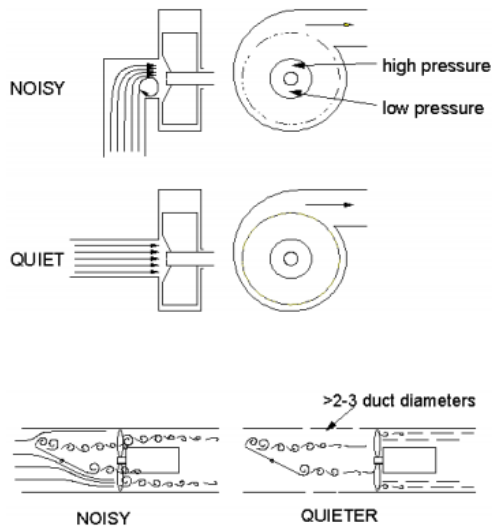
#### Indoor Ambient Noise

Noise in a given situation at a given time, usually composed of noise from many sources, inside and outside the building, but excluding noise from activities of the occupants.

## APPENDIX H – Noise Control Technique Examples

### FAN INSTALLATIONS

Typical applications Axial flow or centrifugal fans. Technique Maximum fan efficiency coincides precisely with minimum noise. Any fan installation feature that tends to reduce fan efficiency is therefore likely to increase noise. Two of the most common examples are bends close to the fan (intake side in particular) and dampers (close to the fan intake or exhaust).



Ideally, for maximum fan efficiency and minimum noise, make sure there is at least 2 - 3 duct diameters of straight duct between any feature that may disturb the flow and the fan itself. Noise reductions of 3 - 12 dB are often possible.

### DUCTWORK

Typical applications Extraction, ventilation, cooling, openings in walls and enclosures. Technique Instead of fitting silencers, it is often possible to achieve a 10 - 20 dB reduction in airborne noise from a duct or opening by lining the last bend in the ductwork with acoustic absorbent (foam or rockwool / fibreglass). Alternatively, construct a simple absorbent lined right-angled bend to fit on the opening. Ideally, either side of the bend should be lined along a length equivalent to twice the duct diameter. Where flow velocities are high ( $> 3\text{m/s}$ ), consider using cloth faced absorbent.



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