

## **Licensing & Regulatory Committee**

### **Monday 16 November 2020**

An additional meeting of the above Committee will be held remotely on Monday 16 November 2020, at **4.30pm** and available for the public to watch via the Warwick District Council [YouTube channel](#).

Councillor T Heath (Chairman)  
Councillor N Murphy (Vice-Chairman)

Councillor A Boad  
Councillor G Cullinan  
Councillor A Dearing  
Councillor A Evans  
Councillor C Gifford  
Councillor J Grey  
Councillor G Illingworth

Councillor V Leigh-Hunt  
Councillor M Luckhurst  
Councillor M Mangat  
Councillor D Norris  
Councillor P Redford  
Councillor S Syson

### **Agenda**

#### **1. Apologies & Substitutes**

- (a) to receive apologies for absence from any Councillor who is unable to attend; and
- (b) 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.

#### **2. 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.

#### **3. Minutes**

To confirm the minutes of the Committee meeting held on 14 October 2020

**(Pages 1 to 8)**

4. **Minutes of Licensing & Regulatory Panels**

To confirm the minutes of the Licensing & Regulatory Panel meeting held on 25 August 2020  
**(Pages 1 to 7)**

5. **Revision of Statement of Licensing Policy**

To consider a report from Health & Community Protection  
**(Pages 1 to 3 & Appendices 1&2)**

6. **Footpath Diversion Order**

To consider a report from Development Services  
**(To follow)**

Published Friday 6 November 2020

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

Telephone: 01926 456114

E-Mail: [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk)

For enquiries about specific reports, please contact the officers named in the reports.

You can e-mail the members of the Committee at

[landrcommittee@warwickdc.gov.uk](mailto:landrcommittee@warwickdc.gov.uk)

Details of all the Council's committees, councillors and agenda papers are available via our website on the [Committees page](#)

The agenda is available in large print on request,  
prior to the meeting, by telephoning (01926)  
456114

# Licensing and Regulatory Committee

Minutes of the remote meeting held on Wednesday 14 October 2020 at 4.30pm, which was broadcast live via the Council's YouTube Channel.

**Present:** Councillor Heath (Chairman); Councillors Boad, Cullinan, A Dearing, Evans, C Gifford, Grey, Illingworth, Leigh-Hunt, Luckhurst, Mangat, Norris, Redford and Syson.

## 15. **Apologies and Substitutes**

(a) Apologies were received from Councillor Murphy.

(b) There were no substitutes.

## 16. **Declarations of Interest**

There were no declarations of interest.

## 17. **Minutes**

The minutes of the Committee meetings held on 8 July 2020 and 21 September 2020 were taken as read and signed by the Chairman as a correct record, subject to an amendment to the minutes of the 8 July meeting, at page 2, paragraph 3, last sentence, to replace the word "discussed" with "consulted", to read: *"This approach had been informally ~~discussed~~ consulted with Warwickshire Police who supported this inclusion."*

## 18. **Minutes of Licensing & Regulatory Panels**

The minutes of the Licensing & Regulatory Panels held on 16 August 2020, 18 August 2020 and 22 September 2020 were taken as read and signed by the Chairman as a correct record.

## 19. **Statement of Licensing Policy Review – Request for Public Consultation**

The Committee considered a report from Health and Community Protection which advised Members of the statutory requirement to review the Statement of Licensing Policy and informed them of the proposed schedule for meeting **the Council's** legal requirements.

Under the terms of the Licensing Act 2003, the **Council's** statement of licensing policy had to be reviewed every three years. The current statement of licensing policy came into effect on the 5 January 2018 and a review had to therefore be completed and a revised statement published by 4 January 2021.

Before amending the policy for a further three-year period, licensing authorities were required to carry out a wide consultation process. In addition to those it had to consult by law, the Council had authority to include in the process any individuals or organisations it deemed appropriate.

## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

The Council responding to the Covid-19 pandemic had impacted on the timelines of the planned review, therefore the proposal was to have minimal changes to the wording of the policy and that the consultation would be conducted on the existing wording of the statement of policy, attached as Appendix 1 to the report.

Officers were working to create a new timeline in order to ensure the correct approvals were received in **accordance with Council's Constitution** to enable the Statement of Policy to be approved by the appropriate date.

In terms of alternatives, it could be determined that the review of the Statement of Licensing Policy should not take place. However, this was a legal requirement and failing to conduct a public consultation at this time would impact on the **Council's ability to have an approved statement in place** by the required date.

An addendum circulated at the meeting advised Members that following feedback from **the Council's legal advisor, officers wished** to amend the consultation period from 15 October - 26 November 2020 to 15 October – 5 November 2020. This was in order to enable Council to consider the recommendation at its meeting on 18 November 2020. As a result, recommendation 2.1 should now read: ***That the Licensing and Regulatory Committee supports the proposals to hold a public consultation on the Statement of Licensing Policy between 15th October 2020 and 5th November 2020.***

In addition, shortly before the meeting, a revised Statement of Licensing Policy was circulated to Members and available online. Following **consultation with the Council's legal advisor, the draft policy had been** revised to remove the references to the Cumulative Impact Zone.

The Licensing Team Leader apologised for the revised appendix being circulated so late in the day and explained this was because of the delay in **her receiving the advice from the Council's solicitor.**

Councillor Syson was concerned by the removal of the Cumulative Impact Zone from the policy, and that the changes came so late in the day. She asked for clarification on Section 7.2 of the revised appendix, which now **stated that "the Licensing Authority has not been presented with sufficient evidence to consider any area within the Borough 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."**

In response, the Licensing Team Leader advised that from 2005, the Council had a Cumulative Impact Zone or a Saturation Zone. Unfortunately, **the data on which the Council's Cumulative Impact Zone was based was** now almost 12 years old. The law required the Council to have robust and relevant data to show there was a need for the Cumulative Impact Zone (CIZ) to be in place. Following legal advice, it was felt that at this moment in time, the Council did not have robust and reliable data to support a CIZ anywhere in the District. As a result, this was removed from the policy and

## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

if it was determined that one was needed, a separate Cumulative Impact Policy could be generated based on new, relevant, robust data.

In answer to questions from Members, the Licensing Team Leader advised that:

- there was nothing intentional about not mentioning the inclusion of the CIZ in her presentation to Members and the delay in the revised appendix being circulated to Members was due to legal advice having been received late on the evening before the meeting;
- section 7.2 of the appendix would be corrected, to replace the word **"borough"** with **"district"**;
- back in January 2020, the Licensing Team Leader had approached the relevant department within the Police to ask for supporting information in order to revise the CIZ. She followed up in April and May, but was told they were too busy to provide the Council with the data it needed in order to review the CIZ properly at this time;
- the Licensing Team Leader believed that the number of complaints about antisocial behaviour and violent crime associated with the night time economy in Leamington Spa had significantly reduced when compared with the data used for the current CIZ; there had been a significant reduction in crime across the District;
- the need for a Cumulative Impact Policy had to be justified, given the reduction in crime;
- whilst the process of producing a Cumulative Impact Policy could be started quickly by officers, this had to be underpinned by data provided by the Police, and at this time, they were too busy to give the Council this data;
- the Police had not been told of the revision to the Licensing Policy, to remove the CIZ, because approval was needed from the Committee before going out for consultation on the revised policy;
- the request to the Police had gone through the data handling and statistics departments, but the Licensing Team Leader would make further contact with the Police licensing team;
- the concern of the legal officer was that the CIZ was drawn based on data which was 12 years old, and that a new policy was needed specifically for the CIZ;
- street crime was not something that could be looked at and the data required had to be specifically linked to licensed premises. It was this separation of the data which was difficult and time consuming for the Police to make;
- the antisocial behaviour information recorded by the Council could not be used because it was not linked to premises but rather, it was more to do with green spaces such as parks and disputes between neighbours. These could not be used for the Cumulative Impact Assessment;
- it would be very difficult to defend the refusal of a licence based on data which was 12 years old, hence why the legal advice was to remove the CIZ from the policy and start again;
- the map attached at Appendix 2 of the draft policy prior to its revision had been designed by the Licensing Team Leader back in 2009 and she was almost certain this map was no longer correct;
- the only change to the draft policy as it was initially circulated was to do with the CIZ;

## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

- paragraph 10.12 would be reviewed by the Licensing Team Leader to in case further changes were needed prior to the public consultation;
- no data from 2020 would be used, be it pre or post lockdown, when there had been exceptional behaviours and reporting whilst the restrictions were in place. The data to be used would be audited, verified data, in the same way in 2009, data from 2007 was being used;
- the current policy could not be extended even for a shorter period of time without going out to consultation;
- the policy could last up to five years, anything less than five years **would be at the Council's discretion and the Council could review or amend it sooner than that.**

Councillors Redford, Illingworth and Gifford felt that the CIZ was a very useful tool and having it in place was a big reason why there had been a decrease in antisocial behaviour and violent crime in Leamington Spa. As a result, it was important to take the necessary measures to have a new one in place as soon as possible.

At the request of the Committee, the Head of Health and Community Protection agreed to contact the Police and ask that the data required for the review of the CIZ would be provided to the Council as a matter of urgency, given it had initially been requested back in January.

It was proposed by Councillor Illingworth and seconded by Councillor Redford that the recommendation in the report, addendum and revised appendix be approved, subject to the addition of a second recommendation, and an amendment to Appendix 1, page 6, paragraph 7.2, to replace the word "Borough" with "District". The Licensing Team Leader would investigate if any changes were necessary to paragraph 10.12 in the revised appendix.

The Committee therefore

### **Resolved** that

- (1) the proposals to hold a public consultation on the Statement of Licensing Policy between 15 October 2020 and 5 November 2020, be approved; and
- (2) following its removal from the draft Policy, officers are asked to further investigate and bring forward proposals regarding the Cumulative Impact Zone as soon as practically possible.

## **20. Public Space Protection Orders (Intoxicating Substances)**

The Committee considered a report from Health and Community Protection which provided an update as to the public consultation which had taken place in regard to the Public Space Protection Orders (Intoxicating Substances) (PSPO) and made recommendations as to the variation and implementation of a PSPO.

## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

On 8 July 2020, the Licensing and Regulatory Committee agreed to undertake a public consultation regarding proposals to changes to the existing PSPO which was due to expire on 21 October 2020.

The public consultation in regard to the proposals began on 14 July 2020 and ran until 11 August 2020, the results of which were included at Appendix 1 to the report (response received via the online consultation platform) and Appendix 2 to the report (correspondence as outlined below).

In accordance with the legislation, the following stakeholders were consulted:

- All holders of premises licences within the District;
- All District Councillors, Parish and Town Councils;
- Warwickshire Police;
- Public Notice in the newspaper; and
- Web and social media sharing of the proposals.

It was proposed that the existing Restricted Drinking Zone PSPO should be varied to create an Intoxicating Substances PSPO. This would make it an **offence for a person 'without reasonable excuse' to fail to comply with a** police officer's or designated officer's request in terms of ingestion, inhalation, injection, smoking or otherwise use of an intoxicating substance if it was believed by that authorised officer that the continuation of the use of those intoxicating substances would lead that person to carry out anti-social behaviour. The proposals were contained in Appendix 3 to the report.

An authorised officer could request that the consumption of substances should be stopped and/ or request for it to be surrendered.

The responses received via the online consultation platform showed that 80.2% were in favour of the introduction of the intoxicating substances zone (91 responses). In addition, correspondence of support had been received from licenced premises and organisations within the District as detailed in Appendix 2 to the report.

The legislation for PSPOs outlined that if orders were varied, extended or discharged, there were statutory requirements regarding publishing or publicising of this and that a consultation process was required.

In terms of alternatives, another option would be to renew the existing PSPO without alteration. However, the public consultation had shown overwhelming support for the proposed changes to the PSPO. This would also prompt a further consultation to allow stakeholders to provide feedback on the proposals. Alternatively, a decision could be taken to removal the existing orders in relation to the current District-wide restricted drinking zone. This would also require consultation with relevant stakeholders. As outlined within the report, the feedback received outlined overwhelming support for the proposed changes.

In answer to questions from Members, the Head of Health and Community Protection advised that:

- this was a public consultation and as a result, not only were stakeholders consulted, but it was also available for the wider public to comment upon;

## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

- altogether, there were 91 responses on the online platform, and two other responses as detailed at Appendix 2 to the report;
- a definition of the intoxicating substances was provided in the proposed order attached at Appendix 3 to the report, stating:  
**"Intoxicating Substances are defined for the purposes of this order as Alcohol and any other substance which have the ability to suppress and/or depress the bodies central nervous system". It was written in such a way to cover not only illicit substances, but also those who are "legal highs", such as nitrous oxide;**

It was proposed by Councillor Boad and seconded by Councillor Redford that the recommendations in the report be approved.

The Committee therefore

**Resolved** that

- (1) the variances to the existing order district wide restricted drinking zone be agreed in order to create a district wide intoxicating substances zone; and
- (2) the adoption of the PSPO for the next three years, be agreed.

### **21. Public Space Protection Orders (Dog Controls)**

The Committee considered a report from Health and Community Protection which provided an update on the stakeholder consultation which had taken place in regard to the Public Space Protection Orders (Dog Controls) (PSPO) and made recommendations as to the extension of the existing orders.

On 21 September 2020, the Licensing and Regulatory Committee agreed to undertake a consultation regarding the proposal to extend the existing PSPO which was due to expire on the 21 October 2020.

The consultation began on 22 September and ran until 5 October 2020. The results of that consultation were included as Appendix 1 to the report. From the responses received, there were no objections to extending the existing orders.

In accordance with the legislation, the following stakeholders were consulted:

- All District Councillors, Parish and Town Councils.
- Warwickshire Police;
- The Dogs Trust;
- The Kennel Club;
- Guide Dogs;
- The Jockey Club; and
- All other relevant land owners.



## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

It was proposed that the existing PSPO regarding dog controls were extended for a further three years without alteration. The wording for the existing orders were contained in Appendix 2 to the report.

The PSPOs had a term of three years and as outlined in the previous reports, the legislation for PSPOs outlined that if orders were varied, extended or discharged, there were statutory requirements regarding publishing or publicising of this and that a consultation process was required.

In terms of alternatives, a decision could be taken to remove the existing orders in relation to the current dog controls. This would also require consultation with relevant stakeholders. However, the feedback received outlined overwhelming support for the extension of the existing orders.

The existing consultation could move on to a public consultation following a report to the Committee outlining the proposals for the PSPOs which were reflective of the stakeholder pre-engagement activities. However, as outlined previously, it was not believed that a fair public consultation could be conducted at this time.

In addition to the above, the timeline for such a consultation and report would still require the existing orders to be extended to allow the consolidation of the feedback from the pre-consultation process, a suitable public consultation period and the preparation of reports to Committee regarding the adoption and/ or amendments required to the revised PSPOs.

In answer to questions from Members, the Head of Health and Community Protection advised that:

- a further consultation had not been scheduled at the moment, but the intention was to plan one for later in 2021, to allow sufficient time for those being consulted to understand and review any proposed changes;
- whilst paragraph 4 of the regulation, which did not mention any specific play areas, if these were covered under the previous PSPO, these would remain covered by the new ones;
- whilst the list of **children's play areas** could be amended in the future, this could not be done at this stage because the consultation had been for an extension of the existing Order; and
- in relation to section 3.3, page 2 in the report, when changes to the PSPO were brought forward later in 2021, a wider consultation could take place, to include a wider range of organisations.

Following consideration of the report, it was proposed by Councillor Boad and seconded by Councillor Illingworth that the recommendations in the report be approved.

The Committee therefore

**Resolved** that the extension of the existing PSPO relating to Dog Controls for a further three years, be agreed.

## **LICENSING & REGULATORY COMMITTEE MINUTES (Continued)**

### **22. Public and Press**

**Resolved** that under Section 100A of the Local Government Act 1972 that the Public and Press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

### **23. Minutes of Licensing & Regulatory Panels**

The confidential minutes of the Licensing & Regulatory Panel held on 2 June 2020 were taken as read and signed by the Chairman as a correct record.

(The meeting ended at 7.39pm)

CHAIRMAN  
16 November 2020

# Licensing & Regulatory Panel

Minutes of the Licensing & Regulatory Panel held remotely, on Tuesday 25 August 2020, at 10.00am.

**Present:** Councillors C Gifford, Heath and Leigh-Hunt.

**Also Present:** Mrs Dury (Principal Committee Services Officer), Mrs Dudgeon (Licensing Enforcement Officer), and Mrs Amphlett (**Council's** Solicitor).

## 1. **Apologies and Substitutes**

There were no apologies for absence made.

## 2. **Appointment of Chairman**

**Resolved** that Councillor Leigh-Hunt be appointed as Chairman for the hearing.

## 3. **Declarations of Interest**

There were no declarations of interest made.

## 4. **Application for a Premises Licence under the Licensing Act 2003 for Deli on the Hill, 36 Castle Hill, Kenilworth**

The Panel considered a report from Health and Community Protection which sought a decision on an application for a new premises licence for Deli on the Hill, 36 Castle Hill, Kenilworth.

The Chairman asked the members of the Panel and officers present to introduce themselves. The other parties then introduced themselves as:

- Mr D and Mrs L Taylor, the applicants;
- Mr G Marsh, Chairman, Little Virginia Management Limited;
- Mr S Bowen, a local resident; and
- Mr S Toor, who lived next door to the Deli and whose property had a shared party wall.

The **Council's** Solicitor explained the procedure for the hearing and informed those present that the Panel would endeavour to make a final determination that day, which would be circulated to the applicant via email. A summary of the decision would be published on the **Council's** website and written copies of the decision would subsequently be posted to all those who had made representations in relation to the application. She further explained that at the end of the hearing, the Panel would consider its decision, during which time all parties would be asked to leave the meeting and a new meeting would be created for Members, herself and the Committee Services Officer. Her role was only to provide legal

advice, and not to make any recommendations as to the determination to be given.

The Licensing Enforcement Officer outlined the report and asked the Panel to consider all the information contained within it in order to determine if the application for a premises licence should be approved and, if so, whether the licence should be subject to any additional conditions.

Mr Taylor applied for a new premises licence for Deli on the Hill, 36 Castle Hill, Kenilworth on 14 July 2020.

The licensable hours and activity requested by the applicant were:

|           | Sale of Alcohol for consumption on and off the premises | Live music Indoors* | Recorded Music Indoors**          |
|-----------|---|---------------------|-----------------------------------|
| Monday    | 12:00 to 17:00  |                     | 09:00 to 16:00                    |
| Tuesday   | 12:00 to 17:00  |                     | 09:00 to 16:00                    |
| Wednesday | 12:00 to 17:00  |                     | 09:00 to 16:00                    |
| Thursday  | 12:00 to 17:00  |                     | 09:00 to 16:00                    |
| Friday    | 12:00 to 23:00  | 17:00 to 21:00      | 09:00 to 16:00 and 17:00 to 22:00 |
| Saturday  | 12:00 to 23:00  | 17:00 to 21:00      | 09:00 to 16:00 and 17:00 to 22:00 |
| Sunday    | 12:00 to 18:00  |                     | 09:00 to 16:00 and 17:00 to 21:00 |

\*Between the hours of 08:00 and 23:00, when amplified live 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; or when unamplified live music is taking place to any number of people on any premises, all licensing conditions applicable to the control of live music on this licence are deemed not to be in operation.

\*\*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.

The proposed operating schedule was attached as appendix 1 to the report.

Warwickshire Police and Warwickshire County Council Trading Standards had agreed conditions with the applicant and had subsequently withdrawn their representations. The conditions agreed would form part of any licence issued and were detailed at section 3.6 in the report.

The Licensing Department had received seven objections and a representation in support of the application from interested parties. These were attached as appendices 2 to 9 in the report.

The Licensing Enforcement Officer reminded those present that Planning and Licensing were separate regimes and that planning issues should not be considered. The Planning Authority had the power to make a representation if it had concerns but no such representation had been made.

A plan of the premises was attached as appendix 10, and a map and photographs of the area were attached as appendices 11 and 12.

Mr Taylor explained that they wished to be able to sell alcohol, including when they had **"pop-up"** events such as tapas nights. In respect of music, it would be nice to have live music playing, such as an acoustic guitar. There was no intention to amplify this loudly so there would be no noise pollution.

In respect of the objections submitted by Mr Marsh, smoking would only be allowed at a small bistro table outside with an accompanying sign that only a maximum of two people could sit at the table to smoke. He had spoken to Fortress about waste disposal and recycling and it was planned to store excess waste in a storage area at the back of the shop which Fortress would remove. He guaranteed that there would be no live bands, DJs or amplified music playing; the music would be quiet background.

Mrs Taylor added that the premises would have CCTV and signs asking patrons to keep noise levels down to respect the neighbours. The live music would be simply one guitarist and it would be kept quiet to avoid the sound spreading to neighbouring properties. They would operate Challenge 25 and people would only be served inside and would not be allowed to go outside with alcohol.

The applicant stressed that whilst parking was busy, patrons would be encouraged to park at the Queen & Castle public house, and the cost of the parking would be refunded to them as a deduction from their bill. A manager would always be on-site for pop-up events and exit from the premises would be staggered. A maximum of 30 people would be allowed into the shop. They had held a **"burger"** event at the premises previously and the 30 years old and 65 to 70 years old had been their target audience. They were aiming events at responsible people. They also wished to work with local residents and would try to be as accommodating as possible to their neighbours. They had been open for about two years and hoped that they had not been any trouble. There might have been an increase in traffic but had proactively addressed any issues with local residents.

In response to questions from Members, the applicant explained that:

- They opened at 9am and would close between 3pm and 4pm in autumn/winter months and between 5pm and 5.30pm in July and August. Their main custom base was dog walkers and locals. During

the Covid-19 pandemic, they could only accommodate 15 people and this probably allowed more than two metres spacing. Bookings were made via their website and they operated track and trace.

- Subsequent to renovations, they could only sit a maximum of 30 people for a meal.
- They planned to stagger exit times. Pop-up events were bookings only and near closing time, they would remind people about booking a taxi. They had an arrangement with a local taxi firm to pre-book taxis.
- They would not be serving food or alcohol outside but they may provide a few bistro tables and chairs where coffee would be served.

In response to questions from interested parties, the applicant explained that:

- No more than 30 people would be sat at tables and there would be no amplified or recorded music.
- Permission did not have to be sought from the Queen and Castle to park in their car park. He offered to have a condition imposed on the licence that amplified music was not allowed.
- Customers would only be received if they had pre-booked and paid a deposit, which would help ensure that once inside, they would stay and eat in the evenings. During the day, people did pop in and out for take-away food but the premises could only sit a maximum of 30 people.
- At the event held last Saturday, 20 people had pre-booked and paid a deposit.

The Licensing Enforcement Officer notified Members that if a premises had licence to sell alcohol, then because of deregulation, they could play live and recorded music without the need for a premises licence. This meant that for this application, Members should not consider the music, because this was automatically granted because the sale of alcohol was permissible up to 11.00pm. This also meant that a condition could not be placed on the licence in connection to live or recorded music.

Mr Marsh found the Licensing Enforcement **Officer's** clarification on deregulation helpful and noted that once an alcohol licence was granted then there would be no control on music. He pointed out that there were already three licensed premises in the vicinity, so questioned whether another one was required. He claimed that noise was already an issue at the three licensed premises and the Deli on the Hill would increase this problem. It was a small venue and patrons would spill out onto the street. He asked Members to note that the street had a narrow pavement making it impossible to socially distance. He felt that staggered exits would just extend the time of the disruption. Adjacent properties were not sound-proofed and could not be sound-proofed because they were Listed Buildings. He pointed out that residents held parking permits which they had to pay for and it was a frequent occurrence that residents could not find a parking spot. Taxis made it hard for cars to pass because the street was narrow, and this narrowness would be compounded by chairs and signs. He noted that it was not only the Deli causing these issues.

Mr Toor complained about the noise and the terrace that had been constructed meant that sound transmitted. He did not think that it met modern building regulations. He could often hear individual voices coming from neighbouring properties. People would talk above the music. The event held at the Deli on 22 August 2020 proved his case about noise transmission. This had been a private event held at the Deli, but even when he turned his TV in his lounge on, Mr Toor could not drown out the noise coming from the venue; it was the same in his bedroom. He was concerned that there was not any dedicated waste storage; bins were over-flowing. He understood that the waste contract would be renewed but the waste issue was particularly bad at weekends. He now wished to object to the application in its entirety subsequent to the event last Saturday, because he realised that even with a limited licence, it would be impossible for him to enjoy a quiet evening.

Mr Bowen reinforced the fact that the Deli was a mid-terraced property with shared walls and it had a clear negative effect on neighbouring properties: the noise from the Deli, coupled with the public nuisance caused by the smokers, cars, taxis, music, and people leaving late. He now amended his objection on the licence to sell alcohol because it allowed music to be played. There were already licensed venues in the vicinity and this application would add to the anti-social behaviour despite assertions made about the target age group of clientele because alcohol lowered inhibitions.

The **Council's** Solicitor advised Members that they could not refuse the licence on the grounds that music could be played as a result of the licence to sell alcohol. If the licence were to be granted and noise proved to a problem as a result of the music, then a review on the licence could be sought.

Mr Taylor voiced frustration that music and the sale of alcohol could not be separated because he would not be playing amplified music. Music would only be played between 6.30pm and 8.30pm; not 11pm.

Mr Toor repeated the issues he had suffered on the previous Saturday when only 20 people had attended. His daughters had to go to bed an hour later as a result of the disturbance and he had had to sleep in a different room. He emphasised the lack of sound insulation.

Mr Taylor emphasised that he had no wish to upset his neighbours and apologised. He stated that if his application was successful, then noise would be kept to a minimum.

The Licensing Enforcement Officer pointed out that if residents made a complaint about the noise, then Environmental Health had the power to review the complaint and the licence could be reviewed. She also pointed out that background music was not licensable.

Mr Taylor was asked for a final statement. He assured Members that he wanted to get along with neighbours and did not want to be a nuisance.

He respected the area. He had received a lot of positive feedback from local people and he would not be playing amplified music at all.

At 10.49am, the Chairman ended the remote meeting with the public present and a separate meeting was immediately started with the Members of the Panel, the **Council's** Solicitor, and the Committee Services Officer present, to enable the Panel to deliberate and determine the application.

**Resolved** that the licence be granted subject to conditions and changes to the times permitted for the sale of alcohol.

The Panel listened carefully to all of the representations made at the hearing today and determined to grant the licence subject to conditions. The conditions include those agreed with the Police and Trading Standards, as set out in the Licensing **Officer's** report. These conditions are agreed in pursuance of the prevention of crime and disorder, the promotion of public safety and the protection of children from harm. Further the Panel considered it appropriate, to impose conditions on the times for the sale of alcohol as follows:

1. sale of alcohol to be permitted Monday to Thursday between 12:00 and 17:00;
2. sale of alcohol to be permitted Friday and Saturday between 12:00 and 20:00; and
3. sale of alcohol to be permitted on a Sunday between 12:00 and 18:00.

In considering your application, the Panel were concerned by the noise generated by patrons whilst in the premises, which they noted is small and located between two residential neighbours. They were also concerned by the potential for noise generated by patrons when leaving the premises. The Panel heard evidence that a pop-up event last weekend, with approximately 20 customers in attendance had generated noise, resulting from customers talking, which affected neighbouring residents.

The Panel concluded that were alcohol sales to be permitted beyond 20:00 on Friday and Saturday nights, it would in their view, have a disproportionate and unreasonable impact on local residents. The Panel noted that when intoxicated patrons tend to be increasingly noisy and considered that limiting the sale of alcohol to 20:00 would limit the risk of noise escalating during the evening.



During the hearing you mentioned that you intend to have a table outside for use by smokers. The Panel consider it prudent for you to seek advice from the licensing authority on whether any licence is required to enable you to have such furniture on the pavement. Furthermore, you set out in your submissions the steps you are taking to ensure social distancing on the premises at the current time and the Panel trust that you will continue to observe any guidance issued by the Government on responding to the Covid-19 situation.

If you disagree with the Licensing **Panel's** decision, you can appeal to your local **magistrates'** court. You must do this within 21 days of being notified of the Licensing **Panel's** decision.

(The meeting ended at 11.55am)

CHAIRMAN  
16 November 2020

Licensing and Regulatory Committee  
16 November 2020

**Title:** Revision of Statement of Licensing Policy

**Lead Officer:** Kathleen Rose

**Portfolio Holder:** Cllr Judith Falp

**Public report**

**Wards of the District directly affected:** All

Contrary to the policy framework: No

Contrary to the budgetary framework: No

Key Decision: Yes

Included within the Forward Plan: Yes

Equality Impact Assessment Undertaken: Yes

Consultation & Community Engagement: Public consultation from 15<sup>th</sup> October 2020 to 5<sup>th</sup> November 2020. The consultation was wide ranging and included the Responsible Authorities, holders of existing licences, representatives of the trade and businesses (local, regional and national), Councillors, Town and Parish Councils, local bodies representing vulnerable persons and members of the public.

**There was also a social media campaign drawing members of the public's attention** to the consultation and inviting opinions on the draft policy.

Final Decision: Yes

Accessibility checked: Yes

**Officer/Councillor Approval**

| Officer Approval                       | Date       | Name             |
|--|------------|------------------|
| Chief Executive/Deputy Chief Executive | 05.11.2020 | Andrew Jones     |
| Head of Service                        | 05.11.2020 | Marianne Rolfe   |
| CMT                                    |            |                  |
| Section 151 Officer                    |            |                  |
| Monitoring Officer                     |            |                  |
| Finance                                |            |                  |
| Portfolio Holder(s)                    | 05.11.2020 | Cllr Judith Falp |

## 1. Summary

- 1.1. To present the reviewed Statement of Licensing Policy which is applicable to all Licenced Premises and request that it be forwarded to the Council for adoption.

## 2. Recommendation

- 2.1. That the Licensing and Regulatory Committee agrees the reviewed Statement of Licensing Policy at **Appendix 1** to this report and recommends adopting the reviewed Statement of Licensing Policy to Council.
- 2.2. That the Licensing and Regulatory Committee notes that a full and robust investigation in to the establishment of a Cumulative Impact Policy for Leamington Town Centre is now underway.

## 3. Reasons for the Recommendation

- 3.1. The Licensing Authority is required to review its Statement of Licensing Policy before it expires on 5<sup>th</sup> January 2021.
- 3.2. The amended policy has been consulted upon and is attached as **Appendix 1**.
- 3.3. In line with Government guidance and legislation work is currently underway, in partnership with Warwickshire Police, to gather and analyse crime and disorder and nuisance data for the town centre. When this process is completed the findings will be presented to the Licensing and Regulatory Committee.

## 4. Policy Framework

### 4.1. **Fit for the Future (FFF)**

- 4.1.1. 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.

### 4.2. **FFF Strands**

#### 4.2.1 **External impacts of proposal(s)**

**People - Health, Homes, Communities** - None.

**Services - Green, Clean, Safe** - The Licensing Authority recognises that residents within, and visitors to the District, need a safe environment to live, work and visit; and that safe and well run entertainment premises are important to the wellbeing of any person within the District.

**Money- Infrastructure, Enterprise, Employment** - The Licensing Authority recognises that entertainment premises within the District are an important source of local employment.

4.2.2. **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.

4.3. **Supporting Strategies**

4.3.1. Each strand of the FFF Strategy has several supporting strategies. The Statement of Licensing Policy, provide guidance, consistency, best practices, transparency, proportionality and promotes safety and wellbeing to the community. This contributes to the **Council's strategy of making Warwick District a great place to live, work and visit.**

4.4. **Changes to Existing Policies**

4.4.1. None.

4.5. **Impact Assessments**

4.5.1. An Equality Impact Assessment has been carried out. It is consistent with the **Council's duty under the Equality Act 2010.**

**5. Budgetary Framework**

5.1. There are no budgetary implications arising from this Policy review.

**6. Risks**

6.1. It is a legal requirement to review the Statement of Licensing Policy every five years, not to carry out the review could lead to legal challenge.

**7. Alternative Option(s) considered**

7.1. No alternative to reviewing the policy is available as this is a legal requirement.

**8. Background**

8.1 A public consultation on the proposed Statement of Licensing Policy was launched on 15<sup>th</sup> October 2020.

8.2 A summary of the responses received is attached as **Appendix 2.**



# 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.

| <b>CONTENTS</b>                                      | <b>Page</b> |
|--|-------------|
| Introduction   | 3           |
| Consultation   | 4           |
| Fundamental Rights                                   | 5           |
| Licensing Conditions                                 | 5           |
| Operating Hours                                      | 6           |
| Late Night Levy and Early Morning Restriction Order  | 6           |
| Cumulative Impact                                    | 6           |
| Promotion of the Licensing Objectives                | 7           |
| Mandatory Licensing Conditions                       | 12          |
| Other Considerations                                 | 12          |
| Best Practice Schemes                                | 13          |
| Integrating Strategies and Avoidance of Duplication  | 13          |
| Enforcement  | 15          |
| Administration, Exercise and Delegation of Functions | 16          |
| Comments on this policy                              | 18          |
| <b>Appendix</b>                                      |             |
| 1. Model Conditions                                  |             |
| 2. Responsible authorities List                      |             |

# STATEMENT OF LICENSING POLICY

## 1 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.

## **2 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



### **3 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.

### **4 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.

## **5 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.

## **6 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.

## **7 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.

## **8 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.

## **9 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.

## **10 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.

## **11 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.

## **12 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**

- 12.5 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.

### **13 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.

## **14 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:

| Matters to be dealt with  | Full Committee | Sub Committee                     | Officers                           |
|---|----------------|-----------------------------------|------------------------------------|
| 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.

## **15 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. Only plastic glasses / plastic bottles / toughened glass to be used in the outside areas of the premises.
24. Plastic or toughened polycarbonate (or similar) glasses / bottles will be used when requested by Warwickshire Police.
25. Drinks must only be served in polycarbonate/plastic 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 within 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 484226

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

### **FIRE AUTHORITY:**

County Fire Officer  
Warwickshire Fire & Rescue Service  
Warwick Street  
Leamington Spa  
CV32 5LH

Tel: 01926 423231

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

### **ENFORCEMENT AGENCIES FOR HEALTH AND SAFETY:**

Regulatory Manager  
Health and Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456707

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

### **HEALTH AND SAFETY EXECUTIVE – Birmingham Office**

19 Ridgeway  
9 Quinton Business Park  
Quinton  
Birmingham  
B32 1AL

### **AUTHORITY RESPONSIBLE FOR ENVIRONMENTAL HEALTH:**

Safer Communities Manager  
Health and Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456714

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

**THE LICENSING AUTHORITY:**

Licensing Team  
Health and Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456705

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

**AUTHORITY RESPONSIBLE FOR PLANNING:**

Manager, Development Services  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456541

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

**BODY RESPONSIBLE FOR THE PROTECTION OF CHILDREN FROM HARM:**

Strategic Commissioning People Group  
Building 2, Saltisford Office Park  
Ansell Way  
Warwick  
CV34 4UL

Tel: 01926 410410

E-mail: [licenseapplications@warwickshire.gov.uk](mailto:licenseapplications@warwickshire.gov.uk)

**WARWICKSHIRE COUNTY COUNCIL (WEIGHTS & MEASURES):**

Divisional Trading Standards Officer  
Warwickshire Trading Standards  
Old Budbrooke Road  
Warwick  
CV35 7DP

Tel: 01926 414040

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

**NATIONAL HEALTH SERVICE/PUBLIC HEALTH:**

Public Health Department (Licensing)  
NHS Warwickshire/Warwickshire County Council  
PO Box 43 – Shire Hall  
Warwick  
CV34 4SX

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

## PUBLIC CONSULTATION RESPONSES

### Alterations to Draft Statement of Licensing Policy:

1. Date: 14<sup>th</sup> October 2020 – Licensing and Regulatory Committee Meeting  
Comment: Cllr Syson requested that paragraph 10.12 (Public Space Protection Orders) be updated as she felt it was out of date.  
**Action: A new paragraph was provided by Lorna Hudson (Regulatory Manager) that summarises the current position.**
2. Date: 15<sup>th</sup> October 2020  
Comment: Cllr Redford requested that the CIZ data be reviewed as a matter of urgency.  
**Action: Data is being gathered with partner organisations.**
3. Date: 16<sup>th</sup> October 2020  
Comment: Warwickshire Police requested updates to items on Page 21 (Appendix 1, Prevention of Crime and Disorder) condition 17 – CCTV, amend (f) to Data Protection Act 2018 rather than DPA and amend (g) to Design Out Crime Officer.  
**Action: Changes made.**
4. Date: 23<sup>rd</sup> October 2020  
Comment: Warwickshire Trading Standards requested an update to Page 29 (Appendix 1, Protection of Children from Harm) to add a new condition at No.2 Challenge 25 policy to be promoted on business website. (Trading Standards feel that this is becoming more important with the rise in online traders and home delivery).  
**Action: Changes made.**
5. Date: 29<sup>th</sup> October 2020  
Comment: Questions raised about the removal of the CIZ and questions asked about the reason for this.  
**Action: Individual responded to directly with reasons for removal and assurances that evidence is being gathered for an assessment of the need for a Cumulative Impact Area (CIA) and that the finding will be presented to Licensing and Regulatory Committee in due course.**
6. Date: 30<sup>th</sup> October 2020  
Comment: Comments received about the value of the CIZ to residents of, and visitors to the town centre. Questions asked about why it has been removed.  
**Action: Individual responded to directly with assurances that evidence is being gathered for an assessment of the need for a Cumulative Impact Area (CIA) and that the finding will be presented to Licensing and Regulatory Committee in due course.**
7. Date: 3<sup>rd</sup> November 2020  
Comment: Leamington Spa Town Council have no comments to make on the proposed document.  
**Action: None required.**

8. Date: 3<sup>rd</sup> November 2020  
Comment: Warwick Town Council asked how does the use of plastic and polycarbonate glassware outside, fit with the WDC Climate Emergency Plan?  
[Page 21 (Appendix 1, Prevention of Crime and Disorder) conditions 23, 24 and 25 all suggest the use of plastic or polycarbonate containers.]  
**Action: For discussion by members**
9. Date: 5<sup>th</sup> November 2020  
Comment: Environmental Protection have asked for the first sentence in paragraph 4.4 to be removed as it is not necessary.  
**Action: For discussion by members.**
10. Date: 5<sup>th</sup> November 2020  
Comment: Environmental Protection have requested 'cooling' to be added to the items that applicants should when determining the suitability of a property for the activity they wish to undertake (paragraph 8.18).  
**Action: Changes made.**
11. Date: 5<sup>th</sup> November 2020  
Comment: Environmental Protection have requested the inclusion of a hyperlink or location where the mandatory conditions can be found (paragraph 9.1).  
**Action: For discussion by members.**
12. Date: 5<sup>th</sup> November 2020  
Comment: Environmental Protection have requested the inclusion of a sentence to emphasise that the deregulation act does not exempt the premises from their duties to ensure there is no statutory nuisance created by any entertainment (paragraph 10.11).  
**Action: For discussion by members.**

Licensing & Regulatory Committee  
16 November 2020

**Title: Footpath Diversion Order**  
**Lead Officer: Dan Charles**  
**Portfolio Holder: John Cooke**  
**Public report**  
**Wards of the District directly affected: Cubbington**

Contrary to the policy framework: N/A  
Contrary to the budgetary framework: N/A  
Key Decision: No  
Included within the Forward Plan: N/A  
Equality Impact Assessment Undertaken: N/A  
Consultation & Community Engagement: N/A  
Final Decision:  
Accessibility checked:

**Officer/Councillor Approval**

| <b>Officer Approval</b>                | <b>Date</b> | <b>Name</b>    |
|--|-------------|----------------|
| Chief Executive/Deputy Chief Executive |             |                |
| Head of Service                        | 6 Nov 2020  | Phillip Clarke |
| CMT                                    |             |                |
| Section 151 Officer                    |             |                |
| Monitoring Officer                     |             |                |
| Finance                                |             |                |
| Portfolio Holder(s)                    | 6 Nov 2020  | John Cooke     |

## **1. Summary**

- 1.1. This report seeks the authority of Licensing & Regulatory Committee agreement for the District Council to proceed with a making a Footpath Diversion Order under Section 257 of the Town and Country Planning Act 1990.
- 1.2. The Licensing & Regulatory Committee has been delegated the authority by the Council to authorise all matters relating to public footpaths and bridle ways.

## **2. Recommendation**

- 2.1. That Members grant authority to proceed with the Footpath Diversion Order under Section 257 of the Town and Country Planning Act 1990.

## **3. Reasons for the Recommendation**

- 3.1. Planning permission was granted for residential development on land at Rugby Road and Coventry Road, Cubbington. Footpath W137 crosses the site and was to be retained as part of the proposal.
- 3.2. Upon scrutiny of the definitive footpath maps, it became apparent that there was an inaccuracy with the route of the footpath that needs to be addressed through a formal submission. Under section 257 of the Town and Country Planning Act 1990 the District Council may by order authorise the stopping up or diversion of any footpath, bridleway or restricted byway if it is satisfied that it is necessary to do so in order to enable development to be carried out in accordance with a planning permission.
- 3.3. The proposal is to make a minor alteration to the line of the footpath so that it ties in with the line of the footpath indicated on the approved drawings.
- 3.4. The reason for the change is due to a discrepancy on the ordnance survey maps and the definitive footpaths map.
- 3.5. No other changes are proposed.

## **4. Policy Framework**

### **4.1. Fit for the Future (FFF)**

- 4.1.1. These are the words to use:
- 4.1.2. "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. This report is to ensure that the footpath remains through the development allowing access to the open countryside.
- 4.1.3. The FFF Strategy has 3 strands, People, Services and Money.
- 4.1.4. This change would relate to people insofar as it ensures that the public right of way is retained and available for use by people accessing the wider footpath network.



4.2. **FFF Strands**

4.2.1 **External and Internal impacts of the proposal(s)**

4.2.3 There are no impacts as a result of the proposal.

4.3. **Supporting Strategies**

4.3.1. *Each strand of the FFF strategy has a number of supporting Strategies – the next part of the Policy Framework should set them out. This might be the Local Plan; the People Strategy, the Playing Field Strategy and so on and the relevance of the report to them. So for example:*

4.3.2. "Each strand of the FFF Strategy has several supporting strategies and the relevant ones for this proposal are explained here [....]." The text should explain how the proposal is or is not consistent with the relevant supporting strategies.

4.4. **Changes to Existing Policies**

4.4.1. This report does not bring forward any changes to existing policies

4.5. **Impact Assessments**

4.5.1. This proposal does not result in any new or significant policy changes proposed in respect of Equalities.

4.5.2. No impact assessment is necessary.

**5. Budgetary Framework**

5.1. The proposal has no impact on the budgetary framework as all costs are borne by the applicants.

**6. Risks**

6.1. There are no identified risks as a result of this proposal.

**7. Alternative Option(s) considered**

7.1. An alternative option would be to redesign an entire housing development to address the minor alignment issue.

7.2. The scheme approved was a result of significant input and negotiation between officers and the applicants.

7.3. The scheme has been implemented and would result in significant costs and difficulties that would result if a redesign were required.

7.4. The nature of the change of the alignment is minor and so the Footpath Diversion Order was the most appropriate option.

7.5. All costs involved in making the order will be borne by the developer.

Appendix 1 – Plan

