

# Licensing & Regulatory Panel

Tuesday 22 August 2017

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A Licensing & Regulatory Panel will be held at the Town Hall, Royal Leamington Spa on Tuesday 22 August 2017 at **2.00pm**.

Membership: Councillors Mrs Cain, Gifford and Quinney.

## Emergency Procedure

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

## Agenda

### 1. **Appointment of Chair**

To appoint a Chair for the meeting.

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

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

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

### 3. **Application for a premises licence under the Licensing Act 2003 Hart & Co, 27 Augusta Place, Royal Leamington Spa**

To consider a report from Health & Community Protection **(Pages 1 to 62)**

4. **Public and Press**

To consider resolving that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following two items by reason of the likely disclosure of exempt information within the paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006.

5. **Application for a premises licence under the Licensing Act 2003 Hart & Co, 27 Augusta Place, Royal Leamington Spa**

To view DVD footage pertinent to the consideration of the application.

Published Wednesday 9 August 2017

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)

Enquiries about specific reports: Please contact the officer named in the report.

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

Please note that the majority of the meetings are held on the first floor at the Town Hall. If you feel that this may restrict you attending this meeting, please call (01926) 456114 prior to this meeting, so that we can assist you and make any necessary arrangements to help you attend the meeting.

The agenda is also available in large print, on request, prior to the meeting by calling 01926 456114.

 <b>Licensing &amp; Regulatory Committee</b> <b>22 August 2017</b>		<b>Agenda Item No. 3</b>
<b>Title</b>	Application for a premises licence under the Licensing Act 2003 for HART & CO, 27 Augusta Place, Royal Leamington Spa, CV32 5EL	
<b>For further information about this report please contact</b>	Emma Dudgeon, Licensing Enforcement Officer, Health and Community Protection. Tel: 01926 456113 Emma.dudgeon@warwickdc.gov.uk	
<b>Wards of the District directly affected</b>	None	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	N/A	
<b>Background Papers</b>	None	

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

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive		
Head of Service	8.8.2017	Marianne Rolfe
CMT		
Section 151 Officer		
Monitoring Officer		
Finance		
Portfolio Holder(s)		
Consultation & Community Engagement		
Final Decision?		Yes
Suggested next steps: N/A		

## 1. **Summary**

- 1.1 Warwick District Council Licensing Authority has received a valid application for a premises licence from Ms Louise Hart for HART & CO, 27 Augusta Place, Royal Leamington Spa.
- 1.2 Representations have been received in relation to this application for the consideration of the panel in the determination of the application.

## 2. **Recommendation**

- 2.1 Members are asked to consider the information contained in this report and decide whether the application for a premises licence for HART & CO, 27 Augusta Place, Royal Leamington Spa should be granted and, if so, whether the licence should be subject to any conditions.

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

- 3.1 Ms Hart applied for a premises licence for 27 Augusta Place, Royal Leamington Spa on 4 July 2017. The premises licence application is for Restaurant and Bar selling alcohol and providing regulated entertainment. Details of the application are set out in the table attached as appendix 1.
- 3.2 An operating schedule, which has been submitted by the applicant and will form part of any licence issued, has been supplied as follows:

### *General*

HART & CO is a friendly family run restaurant and bar situated in Augusta Place. We are looking to develop the business into a national chain whilst still holding onto our distinct family values.

We aim to create a loyal following of guests by creating a warm, relaxed and welcoming atmosphere. We are proposing a change in licence to allow guests the freedom to have an alcoholic drink whether they choose to dine with us or not.

We have a well-trained management team and a training programme to ensure all staff are briefed on the licensing objectives covering in particular no underage drinking, no drunkenness on the premises or outside of the premises, no use of drugs, no violent or anti-social behaviour and that there is a need to protect children from harm. The proposed DPS for the premises understands the responsibilities associated with all four of the licensing objectives and will take steps to ensure the objectives are met.

### *Prevention of Crime and Disorder*

- 1. A panic alarm will be installed within the property which will be easily accessible to staff.
- 2. External lighting will be installed to ensure that the property is well lit to deter burglars.
- 3. Clear signage throughout the property inside and out will be displayed to ensure criminals know there is CCTV and alarms installed.
- 4. The company will join and remain an active member of the local Pubwatch and radio scheme.

5. A noise limiter must be in place and used to the satisfaction of the Environmental Health Authority.
6. Staff training will be conducted to ensure we do our utmost to prevent crime.
7. Daily security briefings will be conducted between all team members to ensure that we are staying alert and aware.
8. Managers will conduct security reviews as part of their walk around once a week.
9. Staff induction training will heavily focus on our licensing procedures and the four licensing objectives.
10. All staff will undertake drug awareness training.
11. Management will ensure that staff have all resources and training to ensure crime is prevented.
12. No persons to enter the premises where they are believed to be drunk or in the possession of drugs.
13. No supply of alcohol if there is no Designated Premises Supervisor.
14. Door supervisors will be employed on Friday and Saturday evenings as well as on 'special occasions' such as New Year's Eve and Bank Holidays.
15. The premises licence holder will ensure standards are set and followed by staff with disciplinary consequences if not adhered to.
16. There will be a form of capacity management.
17. Rules within the bar and restaurant will be adhered to.
18. No glass vessels outdoors.
19. When employed effective search policies will be conducted by door supervisors.
20. Toilet areas will be supervised.
21. Intoxicated people will not be served or allowed onto the premises.
22. Locked storage area for alcohol.

### *Public Safety*

1. All staff will be trained to HART & CO standards.
2. There will be at least one first aid trained member of staff in the property during opening hours.
3. All staff to be trained in fire safety and fire drills to be carried out monthly.
4. Fire alarm to be tested weekly to ensure it is in good working order.
5. Entry to guests who are intoxicated will be prohibited.
6. Internal and External lighting to be installed to enhance public safety.
7. Emergency Lighting to be installed.
8. Glass collection policy in place.
9. Temperature levels to be kept at a safe standard otherwise we will not open for business.
10. Electric, Gas, Fire and relevant equipment checks to be maintained.
11. Risk assessments will be carried out.
12. All areas of the property are to be risk assessed before opening.
13. Weekly risk assessments to be reviewed.
14. First aid boxes will be kept on site which are to legal standard. The boxes will also be checked weekly to ensure that they are fully stocked.
15. Accident book to be kept, utilised and reviewed and noted in risk assessments.
16. Written policy in place on how to deal with accidents and emergencies.
17. Documented capacity levels throughout the shift and occupancy levels will be based on the premises ongoing risk assessments.
18. Fire risk assessments to be strictly adhered to.
19. Public Liability Insurance must be maintained in respect of the premises.

20. HART & CO staff to do their utmost to promote safety.
21. Discourage drink driving by displaying posters around the site using drink aware campaign materials.
22. Ensure all customers are aware that there are small measures of alcohol to be noted in the menu, on price lists and other printed material which is available to customers on the premises and where a customer does not in relation to the sale of alcohol state their specific measure, the customer will be made aware of the measures available.

#### *Protection of Children From Harm*

1. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
2. Those customers who appear to the responsible person to be under 25 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.
3. Access to the premises by persons under the age of 18 years is strictly allowed for those who are dining only and no person under 18 years may remain on the premises after 9pm.
4. Posters to be displayed on the premises promoting a strict no ID no sale rule.
5. Refusals book to be updated and stored behind the bar and reviewed by managers at the end of each shift.

#### *Prevention of Public Nuisance*

In order to run HART & CO in accordance with our values it is important to create a harmonious relationship with our neighbours may they be residents or businesses. We shall ensure this happens by keeping to the following standards.

1. Restrict the use of external areas after 9:30pm.
2. Display prominent exit notices.
3. Provide a free taxi phone service and indoor waiting area.
4. Door supervisors during weekends and other busy days.
5. Noise Policy.
6. Contact telephone numbers given to all residents within Augusta place.
7. Deliveries restricted to normal working hours.
8. All regulated entertainment that is permitted will take place inside the premises.
9. The DPS will implement a 30 minute 'drinking up' time to allow appropriate dispersal of customers.
10. All windows to be kept closed after 9:30pm.
11. Thirty minutes before closing, the style of music is to change to a slower tempo and quieter style as part of the rundown procedure.
12. Management must arrange for the front of the premises to be cleaned for the purpose of removing litter every morning and every evening.
13. Management to ensure that intoxication is not encouraged.
14. Carefully thought out drinks promotions.
15. Drinking games are not permitted.

- 3.3 The Licensing Department have received five representations in relation to this application. Objections have been received from residents within the vicinity, attached as appendices 2 to 5 and a local charity attached as appendix 6.
- 3.4 Representations were received from Warwick District Council Environmental Health and Warwickshire Police, however, following discussions taking place between Environmental Health, Warwickshire Police and the applicant, conditions have been agreed and subsequently the representations have been withdrawn. These conditions will form part of any premises licence issued. The conditions agreed are:
1. When door supervisors required they are to start no later than 21.00hrs and to be on duty until the premises is closed.
  2. 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.
    - g. Signed off by Warwickshire Police Architectural Liaison officer.
  3. 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.
  4. The licence holder or their 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.
  5. All external doors and windows shall be kept closed after 21:30 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.
  6. No open vessels shall be taken outside the curtilage of the premises at any time.
  7. The premises licence holder (or his/her nominees) shall ensure that any patrons using the outside areas do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.

3.5 No representations have been received from:

- Fire Authority
- Trading Standards
- Enforcement Agency for Health and Safety.
- The Licensing Authority
- Authority Responsible for Planning
- National Health Service/Public Health
- Body responsible for the protection of children from harm

3.6 A premises licence issued under the Licensing Act 2003 was in place from 2005 and the premises until 2011 were known as either Kasa, Barcode, Afterlife and then G's Bar. The premises licence lapsed in 2011 due to bankruptcy. Punch Taverns applied for a premises licence at this address in July 2016, this licence is still in place. However, this does not affect Ms Harts ability to apply for a new premises licence.

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

3.8 A plan of the premises provided by the applicant is attached as appendix 7, a map of the area is attached as appendix 8 and photographs of the area are attached as appendix 9.

#### 4. **Policy Framework**

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

- a) The representations received.
- b) Statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- c) The Council's Licensing Policy Statement (attached as appendix 10)
- d) The Licensing Objectives, which are:-
  - i) The Prevention of Crime and Disorder.
  - ii) Public Safety.
  - iii) The Prevention of Public Nuisance.
  - iv) The Protection of Children from Harm.

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

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



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

5. **Budgetary Framework**

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

6. **Risks**

- 6.1 Any decision made by the Panel may be appealed against at a Magistrates Court within 21 days of the decision. There would be costs associated with responding to an appeal and the Council could be ordered to pay the Appellants costs if it is deemed to have behaved unreasonably.

	Sale of Alcohol for Consumption Off the Premises	Live Music (Indoors)*	Recorded Music (Indoors)*	Opening Hours
Friday	09:00 to 23:00	18:00 to 22:00	09:00 to 22:30	09:00 to 23:00
Saturday	08:00 to 23:00	18:00 to 22:00	08:00 to 23:00	08:00 to 23:00
Sunday	12:00 to 22:00	12:00 to 21:00	08:00 to 22:30	08:00 to 23:00
Monday to Thursday	09:00 to 22:00	N/A	09:00 to 22:30	09:00 to 22:00

\* 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 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.

**For all the above, seasonal variations are as follows:**

Christmas Eve, Good Friday, May Bank Holiday and August Bank Holiday until 00:00am

Easter Monday until 22:00pm

Boxing Day until 23:00

New Year's Eve/ New Year's Day until 01:00am

## Appendix 2

Portland Street  
Leamington Spa  
CV32

20<sup>th</sup> July, 2017

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

Dear Sirs

WDCPREM00890  
Licence for 27 Augusta Place, Leamington.

I was very sorry to hear that these premises have applied to extend their licence to enable them to sell alcohol, without at same time supplying a proper restaurant meal, to some customers.

These premises have changed their name and changed their managers several times over the past years. There is always a problem just selling alcoholic drinks as sooner or later a public nuisance is caused, as the only outside space is the street. Groups tend to congregate outside on the street, and having consumed alcohol shriek happily, or simply chat very loudly, and this degenerates into arguments and unpleasantness, even fights, damage to property etc. All previous managers have failed to address these concerns of nearby residents and I have concluded that it is not possible to control this behaviour.

I am therefore objecting to the licensing of these premises for the  
PREVENTION OF PUBLIC NUISANCE

These premises are inappropriate and unsuitable to be anything other than a restaurant or a coffee bar, serving light snacks. It is saddening when premises fail and investment is lost.

I wish this lady every success with her business and I suggest she seeks more appropriate premises elsewhere in Leamington.

Yours sincerely

N C Alexander

**Emma Dudgeon**

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**From:** Andrew Cave [REDACTED]  
**Sent:** 21 July 2017 17:30  
**To:** Emma Dudgeon  
**Cc:** Licensing  
**Subject:** Licence Application WDCPREM00890 for 27 Augusta Place, Leamington Spa, Warwickshire, CV32 5EL  
**Attachments:** 27 Augusta Place LA2003 July 2017.doc; Copy of 27 Augusta Place.xlsx

Dear Ms Dudgeon,

Please find attached a letter and attachment objecting to Licence Application WDCPREM00890 for 27 Augusta Place, Leamington Spa, Warwickshire, CV32 5EL.

My concerns relate largely to the prevention of public nuisance and the prevention of public disorder.

Should the applicant be prepared to accept the conditions of alcohol served to table only, and the playing of no music other than soft incidental music, I would be prepared to withdraw my objection.

Best wishes,  
Andrew Cave

**Portland Street, Royal Leamington Spa, Warwickshire, CV32**

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

21<sup>st</sup> July 2017

Dear Ms Dudgeon,

**Licence Application WDCPREM00890 for 27 Augusta Place, Leamington Spa, Warwickshire, CV32 5EL**

As an interested party under the Licensing Act 2003 I wish to object to the Licence Application WDCPREM00890 for 27 Augusta Place, Leamington Spa, Warwickshire, CV32 5EL. My concerns are largely the prevention of public nuisance and the prevention of crime and disorder.

The application is by Hart & Co to operate the premises as a bar and restaurant. The premises currently enjoys a licence to operate as restaurant with service to table etc. In general, restaurants have caused local residents relatively few problems regarding adherence to the four LA 2003 Licensing Objectives. In contrast, bars have created a great number of very serious problems, as I am sure the Panel will be aware.

This application is for a **new** premises licence to operate as a **bar** within the Leamington Spa **Cumulative Impact Zone**, also known as the Bar Saturation Zone. This zone is a special part of WDC's Licensing Policy.

If an application is made for a premises licence within the cumulative impact zone, the Licensing Authority will expect the applicant to demonstrate in their operating schedule, the steps to be taken to prevent problems of nuisance and public safety and the steps to be taken to promote the reduction of crime and disorder. **The onus of proof will be on the applicant to show that the application will not impact on the four licensing objectives.** (WDC's bold type, not mine).

In the application, no mention is made of the WDC's Licensing Policy regarding the Cumulative Impact / bar Saturation Zone so presumably the applicant is unaware of the Special Policy.

Unfortunately, in our experience, 27 Augusta Place, when trading as a bar, has been the cause of persistent and distressing public nuisance to local residents by every one of four separate operators since we moved to Portland Street in 2002. The main problems have been loud music noise nuisance, particularly through the thin roof at the rear of the premises, but there have also been many recorded instances of anti-social behaviour and disorder in the street outside by customers and even by staff.

The applicant wishes to play both live and recorded music. Unfortunately, the premises are completely unsuitable for this due to the thin roof and, I understand, have been certified as such by WDC Environmental Health. Indeed, a Noise Abatement Notice was served on the premises in October 2010.

WDC Health and Community Protection have kindly prepared a summary of all the complaints received about 27 Augusta Place, and incidents investigated, since their records began in 2005. A copy of this report is attached.

There have been 9 public nuisance complaints, and 15 licence complaints, 24 complaints in total.

Action taken as a result of the 9 public nuisance complaints include the owner being interviewed by WDC Licensing and Environmental Health, and an Action Plan being agreed. However, the premises took little notice of all this and carried on being a nuisance, particularly by playing very loud music. Sometime later an application to renew the premises licence was refused by a WDC Licensing Panel.

Action taken as a result of the 15 licence complaints comprises:-

- 6 letters being sent to the premises
- 2 Officer visits to the premises
- An interview of the licence holder and the DPS
- An Action Plan being created for the premises, and
- 3 meetings being arranged with the premises

Again, the action had little or no effect on the behaviour of the premises until its licence lapsed in November 2011, and the business closed.

It is relatively straightforward for WDC to grant a premises licence but, as you can see, incredibly difficult for complainants to obtain a satisfactory outcome from their representations. Once cautioned, some premises just carry on as before, because they simply know they will get away with it. There is little effective sanction, check, or balance. I request that the Panel takes this unfortunate and unbalanced situation into account during their deliberations.

With such an appalling track record, it is difficult to see how any new bar operator of these premises can **prove** that their application will not impact negatively on the four licensing objectives, particularly the prevention of public nuisance and the prevention of crime and disorder.

In summary: -

- Hart & Co have applied for a bar premises licence for 27 Augusta Place
- The premises currently have a licence to operate as a restaurant.
- Restaurants create far fewer issues than bars for local residents regarding breaches of the four Licensing Objectives.
- 27 Augusta Place is within WDC's Cumulative Impact / Bar Saturation Zone.
- The applicant, who appears to be unaware of this, has to **prove** that they will not impact negatively with regard to the four Licensing Objectives that include the prevention of public nuisance and crime and disorder.

- The application includes the playing of both live and recorded music.
- The premises are completely unsuitable for music of any kind due to having a thin roof at the rear, Apparently WDC Environmental Health are aware of this and served a Noise Abatement Notice in October 2010.
- The four previous licensed bar operators of 27 Augusta Place have caused what seemed to nearby residents to be non-stop public nuisance and disorder.

In my view, the license should not be granted. The existing restaurant licence is the maximum the premises should be allowed.

I plan to attend the Licence Application hearing; please take this as **notification in writing** of my intention both to be there and also to speak.

Yours sincerely,

Dr Andrew Cave

Summary of Public Nuisance complaints that WDC Environmental Health have received about the 27 Augusta Place since May 2002 (last held record in 2007)

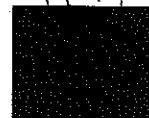
Complainant	Date	Complaint detail	Action
Local resident	12/11/2007	Noise from intruder alarm at Bar Code	
Local resident	23/03/2008	Friday 21st March disturbed at 11pm by live music from Barcode - would like to know whether they had a TEN for this	No action taken
Local resident	01/04/2008	Letter and DVD showing complaint about noise nuisance from Bar Code on the afternoon/evening of Sunday 23rd March. Noise from laughter, foul language & general noisy behaviour.	Licensing and EH interviewed owner, action plan produced.
Local resident	02/06/2008	Noise from bass beat and patrons standing outside during TEN on sat 31st May	incident report to police and licensing - letter to licensee - e-mail to enquirer
Local resident	02/03/2009	Noise from patrons outside premises	No action taken
Local resident	02/07/2009	Build up of rubbish from students and hair dressers	Referred to Waste Management
Local resident	04/01/2010	Complaint about behaviour of customers at Bar Code	Referred to licensing
Local resident	03/03/2010	Nuisance from loud music emanating from this premises until 12.50am on Friday nights.	No further action
Local resident	11/09/2010	very loud music, made worse by the fact that the doors are all open	Investigation, Noise Abatement Notice served October 2010

Summary Of Licensing Complaints since November 2007

Complainant	Date of complaint	Complaint detail	Action
Local Resident	29/11/2011	Possible underage and public nuisance	No action taken due to premises licence lapse
Local Resident	15/11/2011	Breaches of premises licence incl open vessels and public nuisance	Letter sent to the premises
Local Resident	17/09/2011	Breaches of the premises licence and public nuisance	Letter sent to the premises
Local Resident	18/10/2010	Public nuisance being caused at premises	Meeting arranged with premises
Local Resident	04/10/2010	Breaches of the premises licence and public nuisance	Meeting arranged with premises
Local Resident	28/09/2010	Breaches of premises licence and public nuisance	Meeting arranged with premises
Local Resident	16/09/2010	Breaches of the premises licence	No further details
Local Resident	14/09/2010	Breaches of premises licence and public nuisance	No further details



Local Resident	21/06/2010	Breach of licence and possible underage					Letter sent to premises
Local Resident	05/05/2010	Breach of premises licence , disorder outside premises,					Letter sent to premises
Local Resident	20/04/2010	Breach of premises licence, public disorder and public nuisance					Letter sent to premises
Local Resident	23/03/2008	Breach of premises licence and public nuisance					Action plan created for premises
Local Resident	08/09/2007	Breach of premises licence					Interview of licence holder and DPS
Local Resident	01/10/2006	Noise Nuisance					Officer visit to premises
Local Resident	26/05/2006	Unlicensed activity taking place					Officer visit and letter to premises



Portland Street  
Leamington Spa, CV32

24 July 2017

Warwick District Council  
Licensing Team,  
Health and Community Protection,  
Riverside House,  
Milverton Hill,  
Royal Leamington Spa.

CV32 5HZ

Dear Sirs,

I wish to object to the premises licence application by Ms Louise Hart on behalf of Hart & Co for 27 Augusta Place, Leamington Spa, CV32 5EL (WDCPREM00890).

The existing licence for this property is for a restaurant and specifically requires that alcohol be served to customers seated at tables, other than a small bar facility in an area while waiting to be seated. Please refer to WDCPREM00867.

It is not clear to me that the present application would honour the condition above. Indeed under General the applicant states that they "are proposing a change in licence to allow guests the freedom to have a drink whether they choose to dine with us or not." My concern is that then we would be in danger of a return to the very trying and difficult times up to 2011 when there were continuous complaints about noise, rowdy and drunken behaviour and poorly supervised drinking in the street outside the premises. This problem became a regular and regrettable aspect of Leamington life for myself and my wife from the time we moved into Portland St until the licence was not renewed.

I understand that the premises for which the application is made are within the Leamington cumulative impact zone and as such the applicant should demonstrate how her proposal will not have a negative impact on public order in the area and also what positive measures will be taken to secure this important aim. I can see very little in the application to meet this point. The premises have no outside area other than the public highway in front and customers gathering there to smoke and chat will not be easy to control, especially if they

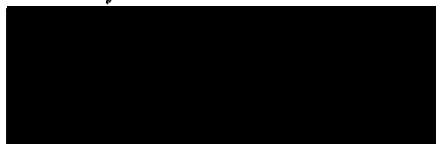
have been driven outside by the live music anticipated in the application. Furthermore, the premises seem unsuitable for anything other than soft, simple background music. The lack of appropriate soundproofing is another aspect of the noise pollution which was so upsetting to nearby residents prior to 2011.

The revised and reduced opening hours are a source of potential concern. While they appear to make the application more palatable a worry is that they are perhaps too limited to be economically viable. Thus, I am concerned that there will be a request to extend the hours further at some point in the near future.

I do not favour granting the licence as set out in the application because I am concerned about the impact of another drinking establishment in central Leamington and the lack of regard in the application to the demands of the cumulative impact zone. Previous attempts to make a success of such a venture from these premises have resulted in significant negative impact on the local residents particularly late in the evening and at weekends. By way of contrast, the two licensed restaurants virtually next door to the premises have functioned successfully and without incident – to my knowledge – for the past five years.

I hope to attend the licence application meeting. Please take this letter as notice in writing of my intention both to attend.

*Yours faithfully,*

A black rectangular box redacting the signature of Dr Hugo Petzsch.

Dr Hugo Petzsch

Licensing Team  
Warwick District Council  
Riverside House  
Church Hill  
Leamington Spa

Augusta Place  
Leamington Spa  
CV32

26th July 2017

### Licence Application WDCPREM00890: 27 Augusta Place, Leamington Spa

We have lived directly opposite these premises since 1999, and would like to register our objection to this application.

These premises operated as a bar from 2001 until 2011, under four changes of ownership, and a variety of offerings. Throughout this ten-year period, regardless of ownership, it caused a very high level of noise nuisance and anti-social behaviour, not just occasionally but every single week that it was operating. This resulted in a great deal of distress to residents, and we were compelled to send emails, letters and/or video footage to Licensing, Environmental Health and/or the Police on 25 occasions.

In January 2012, the tenant of the bar – G's Bar – was obliged to apply for a licence (WDCPREM00722) as it transpired that the previous one had lapsed in April 2011. As this was a *new* licence application, the onus was on the licensee to demonstrate that granting a licence would not have a detrimental impact on crime, disorder or anti-social behaviour. Together with other residents, we made representations against this, including CCTV evidence of the nuisance caused over the past 10 years. As a result, the Licensing Panel **refused** the licence application, because:

*The Panel have seen and heard evidence today that the operation of G's Bar has been the cause of public nuisance over the past few years. The Panel have seen video evidence, and received written evidence from neighbouring residents, that this nuisance continued whilst the current applicant was in control of the premises.*

*[...] the Panel is not satisfied that the conditions proposed will be sufficient to prevent the premises causing public nuisance. This is because much of the nuisance is caused by people standing outside the front of the premises.*

*[...] As well as public nuisance caused by people outside the premises, the Panel take the view that there is a likelihood of disturbance caused by sound escaping from inside the structure.*

*[...] This is a new application inside the Cumulative Impact Area, and [the Panel] consider that the grant of this licence would be likely to add to the cumulative effect of premises in the area on local residents, particularly in terms of public nuisance.*

A new application (WDCPREM00867) was then made in July 2016 by Punch Taverns, leaseholders of the building. Whilst we and other residents were happy to support the premises being a restaurant, we were concerned that safeguards were needed

to ensure that it could *only* be a restaurant, and again made representations to that effect. The licence was **granted**, with the following conditions:

*The premises shall operate as a restaurant, with a small reception/bar indicated on the plan where customers may drink alcohol whilst waiting for a table in the main restaurant.*

*Sales of alcohol shall be waiter/waitress service only*

*All sales of alcohol, with the exception of customers waiting to be seated in the main restaurant area, shall only be to persons seated and partaking in a substantial table meal.*

*[...]The Panel have decided to restrict the opening and licensable hours in view of the concerns expressed by the Interested Parties about late night noise and disturbance.*

This is the current premises licence, and it contains a number of conditions specifically to help prevent noise nuisance and anti-social behaviour. We are extremely sorry that Miss Hart finds those conditions unacceptable. It seems that, although she plans to open a restaurant, it is more important for her to operate as a bar.

We do not doubt that Miss Hart intends to manage the premises well – but it is the case that all four of the previous licensees also intended to manage the bar well. Unfortunately – and we believe there is overwhelming evidence to demonstrate this – all four licensees were unable to do so. There has been regular and persistent noise nuisance and anti-social behaviour under *all* of the previous licensees, and in spite of a large number of licensing conditions being imposed. Although the planned opening hours are shorter, we believe the premises themselves are totally unsuitable as a bar:

- It only has a single door, so any noise created inside the bar inevitably escapes every time the door is opened.
- Whilst Miss Hart refers to ‘external areas’, there are none – there is the pavement, the car park and the road, and patrons of the bar congregate there in large numbers.
- It is not appropriate for any music louder than background level:  
Environmental Health stated in 2007 that in spite of a false ceiling fitted at the rear to help prevent noise breakout through the large glass roof, there was still potential for noise nuisance, and the front bar area should be maintained ‘as a quiet area’. A Noise Abatement Notice was issued in October 2010.

The Panel will be aware that these premises are located in the Cumulative Impact Zone and, as this an application for a new licence, the onus is on Miss Hart to prove that granting her a bar licence would not have a detrimental impact. We believe that, because of its location, the inadequacy of the building, and the unchanging character of the clientele, granting a licence to these premises will inevitably result

in increased public disorder and public nuisance. We urge the Panel to reject this application outright.

We intend to attend any Panel hearing and present evidence (see below).

Yours sincerely,

Bill and Carolyn Gifford

**Attachments:**

DVD (17 minutes) and Video notes – please note this is a PC disc  
Brief History of Premises at 27 Augusta Place  
Record of complaints  
Paul Briggs re BarCode – Environmental Health recommendations  
(Item 16) Licensing Panel Minutes 31 January 2012  
Licensing Panel Decision\_Punch\_Sept16

## A Brief History of 27 Augusta Place as Licensed Premises

### Hintons and HobNobs

In the 1980s and early 1990s, 27 – 31 Augusta Place operated as one large bar with an entertainments licence trading first as Hintons and then as HobNobs. It was virtually a nightclub.

**Licence removed by Magistrates:** Due to very serious violence at the premises, the licence was removed by the Magistrates. The building was empty for some time. An application was made for a new licence in 1995 or 1996 but again refused by the Magistrates after Police objections and the use of CCTV footage.

**In 1998 Planning Permission** was sought and granted to turn 27–31 into three **restaurants** with four flats above. Two of the restaurants were set up and licensed by the Magistrates as restaurants. The third unit, 27 Augusta Place, was not let.

### Kasa

In 2001, Nigel Lake applied to the Magistrates for a licence as a **bar** for the third unit, 27 Augusta Place. We opposed this application only by letter as sadly we were unable to be there in person. From the start we had problems with noise from the bar as the insulation is very poor (the large rear area has a glass roof). Environmental Health served a noise abatement notice. Although it was not a commercial success, the bar continued to be a problem.

**Licence removed by Magistrates:** In November 2005 the Police sought the removal of Mr Lake's licence by the Magistrates because of the supplying of alcohol to under-age drinkers. This was due to complaints by parents but the Police asked us for help in providing evidence. We were able to provide video evidence of under-age drinking and anti-social behaviour.

Mr Lake's licence was removed – a licence granted under the old act (it was the last licence in the country to be removed under the old act).

Mr Lake had, however, already applied for an unchanged premises licence under the new 2003 Act and due to an oversight by the Police, that was not objected to and was therefore automatically granted.

### BarCode

In February 2006 the Premises Licence was transferred to Parvez Akhter, the then landlord for all of 27 – 31 Augusta Place and in May 2006 the licence for 27 Augusta Place was transferred to a new licensee, Matt Griffiths. In June 2006 Mr Griffiths applied for longer hours including music and dance, we objected and in fact extra conditions were put on the licence. The opening hours were set as 1:30am on Fridays and Saturdays and music had to stop at 11pm on all other nights of the week.

Problems continued, especially in large numbers of patrons congregating outside on the street. Noise from music was audible through the glass roof at the back of the building and through the front door, which was often propped open. Patrons often drank outside, even when door staff were on duty, contrary to Licensing conditions.

In July 2007 Mr Griffiths again applied for longer hours, including for music and dance. Again we (and other residents) objected. The Panel decided the opening hours should be kept as 1:30am on Fridays and Saturdays and that the music should stop at 11am on all nights of the week. This time the panel added extra conditions bringing the total number of conditions to 19, including a condition to try and solve the

problem of the street being used as the bar's unofficial garden. The bar continued with a licence that was unchanged till it lapsed in May 2011. The bar continued to be a major problem for us and some 20 specific complaints were made to Licensing, the Police and/or Environmental Health.

#### **Afterlife**

Mr Griffiths left the business in July 2010 and the Premises Licence was transferred in September 2010 to Mohammed Ifraz (we understand he lived in Coventry but we never to our knowledge met or saw him). Under Mr Ifraz's nominal control the bar ran as AfterLife for a couple of tempestuous months from September 2010, but those running it on a day-to-day basis never gave the impression that they were in the business for the long term. On 14<sup>th</sup> October 2010 we were informed that a Noise Abatement Notice had been served on Afterlife, and the bar closed in late November 2010.

#### **Mr Ifraz**

In April 2011, unknown to us (and presumably to Warwickshire Police and Licensing at Warwick District Council), Mr Mohammed Ifraz, the existing Premises Licence Holder, was declared bankrupt and no effort was made to transfer the Premises Licence, which therefore lapsed.

#### **Premised Licence Lapsed due to bankruptcy**

#### **G's Bar (trading without a Premises Licence)**

Ms Gowlett started trading as G's Bar on 17<sup>th</sup> September 2011 without a Premises Licence. There were problems from the start, again caused by large groups of drinkers outside and door staff unwilling or unable to control them. We looked to see who the new DPS (Designated Premises Supervisor) was for the premises and as none was listed, we queried this with the then Licensing Officer, David Davies. On September 20<sup>th</sup> we received an email from Warwick District Council saying: "I received a call from their solicitor to say the same people were in place for the moment at G's with written authorisation from the current DPS/Licence Holder to authorise the sale of alcohol until they submit their transfer forms".

We had further problems with G's Bar, with noise, anti-social behaviour and under-age drinkers until the end of November 2011, when we were informed by the then Licensing Officer, who had tried to arrange meetings with the Premises Licence Holder, that the premises no longer had a Premises Licence and had not had a Premises Licence since May 2011. It will be noted from the previous paragraph that notwithstanding the assurance given by G's Bar solicitor, the Premises Licence had in fact already lapsed several months earlier.

G's Bar continued operations under Temporary Event Notices, and applied for a new licence. As the premises are located in the Cumulative Impact Zone, the onus fell on the applicant to prove that granting a licence would not be detrimental. We and other residents objected, along with St Peter's Infant School, which is located around 50 yards away. A hearing took place on 31st January 2012, at which the Panel resolved that the licence be refused on the grounds that the evidence showed that to grant it would have an adverse effect on the licensing objective relating to the prevention of public nuisance.

#### **Licence refused because of adverse effect relating to public nuisance**

#### **Punch Taverns**

In July 2016 the owners of the building, Punch Taverns, again applied for a new licence. Again, the onus was on the applicant to prove there would be no detrimental impact, and we and other residents opposed



the application. Following negotiations between the applicant and Licensing, various conditions were agreed prior to the hearing, namely service to table, and all sales of alcohol restricted to persons seated and partaking of a substantial meal. Representations were made at the hearing, residents expressing concern that there was no current tenant and fearful that unless specifically granted a licence as a restaurant, the premises could again operate as bar. The Panel resolved to grant the licence, with earlier closing than requested (in line with the two neighbouring restaurants) and with various conditions, including:

- The premises shall operate as a restaurant, with a small reception/bar indicated on the plan where customers may drink alcohol whilst waiting for a table in the main restaurant.
- Sales of alcohol shall be waiter/waitress service only
- All sales of alcohol, with the exception of customers waiting to be seated in the area, shall only be to persons seated and partaking in a substantial table meal.
- A management plan will be drawn up and implemented to ensure that customers do not block the pavement outside the front of the premises either when going outside to smoke or leaving the premises.

This licence, with these and other conditions, is currently operational at the premises.

**September 2016: Licence granted as a restaurant**

**Record of complaints to relevant authorities re Premises at  
27 Augusta Place 2005–2010**

<i>Date</i>	<i>Subject of complaint</i>	<i>Sent to</i>
<b>Kasa opens, October 2001</b>		
15 October 2005	Email re large group of under-age drinkers causing disturbance and ejected from taxi for being drunk	Licensing and EH
November 2005	Licensee loses personal licence	
<b>BarCode opens May 2006</b>		
29 May 2006	Email re loud music and DJ, and a fight taking place outside	Licensing
1 October 2006	Email re music noise	Licensing
8 September 2007	Email re open vessels	Licensing
10 September 2007	Email re open vessels	Licensing
8 October 2007	Email re open vessels	Licensing
23 March 2008	Email and DVD re rowdy behaviour and open vessels (Easter Sunday)	Licensing and EH
30 March 2008	Letter re open vessels and under-age drinkers	Licensing
4 June 2008	Email re a 'Rave' held under a TEN which involved loud music until past midnight and 40+ customers outside	EH
1 March 2009	Sound file sent recording very loud altercation between customers outside	Licensing and EH
8 March 2009	Email re large numbers of customers outside BarCode causing serious disturbance	Licensing and EH
3 May 2009	Letter re noise and anti-social behaviour	Licensing and EH Sgt Calver
5 May 2009	Email re open vessels	Licensing
10 June 2009	Letter re very drunk girl who collapsed on the pavement and inactive door staff	Licensing

25 October 2009	Email re behaviour of football fans and loud music	Licensing
26 December 2009	Letter re music and anti-social behaviour	Licensing and EH
3 January 2010	Letter and DVD relating to behaviour on December 29th	Licensing and EH
27 February 2010	Letter re music noise up to 12.50am	EH
20 April 2010	Letter and DVD of behaviour on Easter Sunday (4th April), 10th and 16th April	EH
5 May 2010	Letter re incident where doorman pushed male customer out, knocking a female to the pavement. Police attended.	Licensing
21 June 2010	Letter re open vessels and under-age drinkers	Licensing
<b>BarCode/Caines closes July 2010 AfterLife opens September 2010</b>		
28 September 2010	Letter re music noise after 11.00pm. EH also called out at the time.	Licensing and EH
<b>AfterLife closes November 2010 G's Bar opens 17 September 2011</b>		
19 September 2011	Email re loud music and disturbance by customers outside. EH team called and attended.	Licensing and EH
15 November 2011	Email re numerous instances of drinkers taking out open vessels. DVD of anti-social behaviour	Licensing and Sgt Calver
28 November 2011	Letter re under-age drinkers and a male drinker ejected from the premises	Licensing and Sgt Calver
<b>G's Bar closes 28 November 2011</b>		

## **Video clips – points to note**

The video lasts just over 17 minutes and has 8 clips covering six years. Video was only recorded when noise from the bar was at an intrusive level, when behaviour was deemed to be anti-social or a threat to public safety, and/or when breaches of licensing conditions were taking place. The clips are illustrative and there were many similar examples that could have been included.

We accept, of course, that this behaviour is in no way the responsibility of Miss Hart since she was not the licensee at the time. What the video does show is that the character and behaviour of the clientele remains the same year on year. Also unchanging is the inability of door staff and licensees to control the behaviour of patrons, or to disperse them. Above all, unchanged year after year is the area in which patrons congregate – because these premises have no external area.

### **Clip 1: Kasa – 12th October 2005, 11.30 pm (approx.)**

This event was one of many occasions when Kasa held midweek parties for very young drinkers. Having closed the premises, the licensee had no concern for how his customers would get home, or the disturbance they might cause to neighbours. There are about 15 young people still outside the premises and the sound of someone smashing a glass or bottle. This is shortly followed by the sound of our milk bottles first being thrown off our doorstep, and then being smashed. A taxi arrives to take several of the girls home. Once they're inside the taxi, however, he refuses to drive them and orders them out. He describes them as "so drunk" and "all under age", and is heard to say that he "ought to get the police out to them". As you can hear, this results in hysterical shrieking from the girls, who eventually leave the area.

### **Clip 2: BarCode – 10th July 2006, 12.10am (approx.)**

On this occasion, around 30 of BarCode's customers had already been extremely noisy for around 40 minutes, so Bill went across to talk to the licensee to request that he ask his customers to disperse. The video illustrates the level of noise generated, the reluctance of customers to leave the area, and the inability of the licensee to disperse them. One of BarCode's customers repeatedly jumps on the bonnet of a parked car, which is presumably witnessed by the CCTV camera and the Police alerted. Within seconds of the Police arriving, virtually all the drinkers have dispersed.

### **Clip 3: BarCode – 6th June 2009, 11.15pm (approx.)**

This clip illustrates a frequent feature of drinking in the town centre. The poor girl propped against the wall outside is presumably very drunk and extremely unwell. Luckily she has friends concerned for her, and they go and fetch a taxi. You will see that there is a doorman on duty, along with the assistant manager. They are plainly unconcerned about her state, and make no attempt to help her up or into the taxi. When the taxi arrives, she is not only unable to walk, she cannot stand at all.

**Clip 4: BarCode – 24 October 2009, 22.15pm**

In spite of Licensing conditions that stipulated that music should cease at 11.00pm, and that the front room should be a 'quiet area' with background level music only, loud music was audible many times, and often beyond permitted hours. Music escapes in two ways: through the glass roof at the rear and obviously, through the single door at the front as customers go in and out. It was also frequently the case that the door was propped open, again breaching the bar's conditions. During the brief period in 2010 when the bar became AfterLife, a Noise Abatement Notice was issued.

**Clip 5: Caines – 10th April 2010, 12.50am**

This video clip shows the kind of heated argument that often takes place – in this case, it lasted over 20 minutes. Again, there is a doorman on duty as well as the licensee, both merely observing from the doorway. As is often the case, the fierceness of the argument rises and falls, nearly ends and then resumes – I think a skilled licensee or doorman should be intervening so they all calm down, rather than just watching to see how it develops.

**Clip 6: Caines – 1 May 2010, 11.55pm**

It is common for one or more drinkers to become aggressive inside, and outside, the bar. In this case, a customer, who is obviously drunk, is ejected from the bar by the doorman. The method used by the doorman is to push him with great force through the doorway and straight into the crowd of customers. This causes two customers (one female) to be thrown backwards on to the pavement, risking serious injury. Once the drunk male had been ejected, the doorman did not come out to see the impact of his actions, or whether the customer was still causing any nuisance. It's clear that other customers were obviously keen to avoid him.

**Clip 7: G's Bar – 12th November 2011, 11.30pm**

This clip does not show any particularly anti-social behaviour. It shows how on a busy night, a great many of the bar's customers are actually *outside*, even sitting on the edge of the car park. The noise caused by this large group is clear and is a public nuisance. Even with a constant flow of customers in and out of the entrance, the number outside remains at about 20 and they remained there for a long time. There is a doorman on duty, and the licensee and assistant manager. None of them attempts to control the noise or asks people to leave.

**Clip 8: G's Bar – 25th November 2011, 11.40pm (approx)**

All the licensees who have run this bar have asserted that they would enforce Licensing laws strictly and ensure that under-age drinkers would not be admitted. Over the years we have seen a number who were unlikely to be even 17, never mind 18. In this clip, the four very young boys (who had probably already been inside the bar) look significantly younger – teacher friends have had no doubt they were probably about 15. They were near the entrance at the point that a fracas was taking place inside. A large and noisy customer is forcibly pushed out of the premises pursued by another customer and leaves across the car park. Shortly after (in what is assumed to be an unrelated incident), there is

sustained screaming from a girl on the other side of the car park. The boys enter the bar and are in there for some time. As they come out of the bar, a female customer is evidently surprised at their young age and says, "Aw – how old are you, then?", to which one boy replies "18". Another female customer remarks to the doorman, "I hope you checked that", is told that he did and comments, "Give over!" as she enters the bar.

**Health and Community Protection  
Marianne Rolfe – Head of Service**

Warwick District Council, Riverside House  
Milverton Hill, Royal Leamington Spa, CV32 5HZ  
DX29123 Leamington Spa 1

Mr and Mrs Gifford  
Augusta Place  
Leamington Spa  
CV32

**direct line:** 01926 456113

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

**web:** [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk)

14 September 2016

our ref:  
your ref:

Dear Mr and Mrs Gifford,

Please find below the decision made at the Licensing Panel held on Wednesday 7 September 2016 for 27 Augusta Place, Leamington Spa.

*In reaching their decision the Members of the Licensing Panel have considered all of the evidence provided by the Applicant and the Interested Parties .*

*The Panel have also had regard to the statutory guidance under s182 of the Licensing Act 2003 and the Warwick District Council statement of Licensing Policy.*

*The Panel have to consider the application in the light of the licensing objectives. The two objectives that are particularly engaged are the prevention of crime and disorder and the prevention of public nuisance.*

*The Panel made the following findings in this case:*

- i) The premises are situated in the Leamington Spa Cumulative Impact Zone and it is for the Applicant to demonstrate that the grant of the licence will not impact on the licensing objectives.*
- ii) Warwickshire Police and Environmental Health have not objected to the application.*
- iii) The Panel have noted the history of the premises and the serious problems relating to crime and disorder and public nuisance that have, in the past, had an unacceptable impact upon local residents. The Panel fully understand residents' concerns about the grant of a further licence.*
- iv) The Panel note that the premises would operate as a restaurant and not as a bar.*
- v) Punch Taverns are the applicant and own the property. They do not yet have a tenant and are not yet able to give indication of who would operate the premises. The property has been empty for over 2 years and the only interest in the property has been as a licensed venue. Punch Taverns would not directly operate the premises but would lease the premises to the operator and the terms of the lease would require compliance with conditions of the licence. The Applicants has a system of partner development managers who work directly with leasehold operators.*

- vi) During the hearing the Applicant confirmed that they had no objection to the opening hours shown on the licence being restricted so that the premises would close at 00:30 hours and licensable activities would cease at 00:00 hours should the Panel believe that this would be appropriate.

The Panel have decided to grant the application with the following conditions:

1. The opening hours of the premises shall be from 10:00 to 00:30 Monday to Sunday. The sale of alcohol for consumption on and off the premises shall take place between 10:00 to 00:00 hours Monday to Sunday. The provision of late night refreshment (Indoors) shall take place between 23:00 hours to 00:00 hours.
2. The premises shall operate as a restaurant, with a small reception/bar indicated on the plan where customers may drink alcohol whilst waiting for a table in the main restaurant.
3. Sales of alcohol shall be waiter/waitress service only
4. All sales of alcohol, with the exception of customers waiting to be seated in the main restaurant area, shall only be to persons seated and partaking in a substantial table meal.
5. No open vessels to leave the premises at any time
6. CCTV shall be installed and operated at the premises. Notices to this effect shall be displayed as required to comply with data protection legislation. CCTV shall be capable of being stored and should be stored for a minimum of 31 days. The areas covered by CCTV to include the entrance/exit and at least one camera shall cover each public area (with the exception of the toilets and corridor staircase to the toilets) Images shall be capable of being downloaded onto a portable device such as a DVD or memory stick and shall be provided to Warwickshire Police on request.
7. At least one member of staff shall have received first aid training.
8. A challenge 21 policy shall be operated at the premises and all staff responsible for the sale of alcohol shall be trained in relation to the policy and in relation to the law relating to the sale of alcohol.
9. No persons under the age of 18 shall be admitted onto the premises after 21:00 hours unless accompanied by an adult.
10. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
11. All doors and windows shall be kept closed after 23:00 hours except for the immediate access and egress of persons.
12. A management plan will be drawn up and implemented to ensure that customers do not block the pavement outside the front of the premises either when going outside to smoke or leaving the premises.
13. A complaints log ("the log") will be maintained at the premises to record any complaints received from residents in relation to the operation of the premises. The log will record the date and time of the complaint, the name (if known) of the person complaining, the nature of the complaint and any action taken to deal with the complaint.



*The Panel considers that the conditions imposed are justified and proportionate in the particular individual circumstances of this application. The Panel have decided to restrict the opening and licensable hours in view of the concerns expressed by the Interested Parties about late night noise and disturbance. The Panel are satisfied that the Applicant has demonstrated that the grant of a licence with conditions would not be likely to impact on the licensing objectives.*

Any party involved may appeal the decision to the Magistrates' Court within 21 days of being notified of the decision.

Yours sincerely,

A black rectangular box redacting the signature of Emma Dudgeon.

Emma Dudgeon  
Licensing Enforcement Officer

# LICENSING PANEL HEARING

A record of a Licensing Panel hearing held on Tuesday 31 January 2012, at the Town Hall, Royal Leamington Spa at 10.00 am.

**PANEL MEMBERS:** Councillors Mrs Bromley, Coker and Guest

**ALSO PRESENT:** John Gregory (Council's Solicitor), David Davies (Licensing Services Manager) and Amy Carnall (Committee Services Officer).

## 1. APPOINTMENT OF CHAIRMAN

**RESOLVED** that Councillor Coker be appointed as Chairman for the hearing.

The Chairman introduced himself, other members of the Panel and Officers, and asked the other parties to introduce themselves.

They were; the applicant, Miss Signourney Gowlett, her barrister, Mr Evans and his colleague, Mr Andrew Potts both from Wright Hassall Solicitors.

The interested parties present were local residents Mr and Mrs Gifford, their representative Ms Sarah Clover and Dr Andrew Cave, local resident.

## 2. DECLARATIONS OF INTEREST

Minute Number 4 – Application for a Premises Licence under the Licensing Act 2003 for Signourney Gowlett, G's Bar, 27 Augusta Place, Royal Leamington Spa

Councillors Mrs Bromley, Coker and Guest declared personal interests because one of the interested parties, Mr Gifford was a fellow District Councillor.

The Council's Solicitor read out the procedure that would be followed at the meeting.

## 3. APPLICATION FOR A PREMISES LICENCE UNDER THE LICENSING ACT 2003 FOR SIGNOURNEY GOWLETT, G'S BAR, 27 AUGUSTA PLACE, ROYAL LEAMINGTON SPA

A report from Community Protection was submitted which sought a decision on a premises licence for Signourney Gowlett, G's Bar, 27 Augusta Place, Royal Leamington Spa.

The Licensing Services Manager, David Davies, outlined the report and asked the panel to consider all the information contained within the report and determine if the application for a premises licence should be approved.

Mr Davies apologized for the final page attached to the agenda which was distributed in error and had no relevance to the hearing. He also advised that officers from Environmental Health were present to provide

## **LICENSING PANEL HEARING MINUTES (Continued)**

clarification on issues if necessary and were not attending as interested parties.

The report referred to those matters to which the Panel had to give consideration, the statutory guidance issued by the Secretary of State, the Council's Licensing Policy Statement and the Licensing objectives.

The report from Community Protection which was submitted to the Panel presented an application to permit the following:

The sale of alcohol (on the premises)	Sunday to Thursday 10:00 to 00:00 (midnight) Friday and Saturday 10:00 to 01:00
The sale of alcohol (off the premises)	10:00 to 23:00 Seven days a week
Live Music, recorded music, performance of dance, anything similar to the previous; the provision of facilities for making music and dancing, anything similar to making music and dancing (all indoors only)	Sunday to Thursday 10:00 to 23:00 Friday and Saturday 10:00 to 01:00
Late night refreshment	Sunday to Thursday 23:00 to 00:00 (midnight) Friday and Saturday 23:00 to 01:00
Opening hours	Sunday to Thursday 10:00 to 00:30 Friday and Saturday 10:00 to 01:30
All above (except alcohol off sales and late night refreshment) to be extended from New Year's Eve until commencement of permitted hours New Year's Day.	

An operating schedule, which would form part of any licence issued was also submitted which explained any steps the applicant proposed to take to promote the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and Protection of Children.

Representations against the application had been received from Environmental Health and fifteen interested parties, mostly local residents. The premises had previously held a licence which had lapsed when the prior licence holder was made bankrupt. The report reminded members that this was therefore a new application and the previous hours and conditions of the lapsed licence were to be used for reference only.

The premises was located in the Council's Cumulative Impact Area and the burden of proof was with the applicant to convince members that the application would not increase any impact on the Cumulative Impact Area.

The Council's Licensing Policy Statement provided that the Authority would take an objective view on all applications and would seek to attach appropriate and proportionate conditions to licences, where necessary, in order to ensure compliance with the four licensing objectives. Each application would be judged on its individual merits.

Mr Davies advised the panel that a number of new conditions had been agreed with officers from Environmental Health including a change to the

## **LICENSING PANEL HEARING MINUTES (Continued)**

opening hours. The applicant had agreed to alter this to show a reduction in the opening hours Thursday to Sunday to close at 23:30 instead of 00:30.

Mr Evans addressed the panel and introduced members of the public also in attendance as Miss Gowlett's parents, family and Ian Hemingway who would be employed as the bar manager.

Mr Evans explained the circumstances surrounding the previous licence holder, who had been declared bankrupt in April 2011. He stated that in the time that followed, Miss Gowlett had operated the premises for a period of eight weeks without a licence. None of the parties involved in the business had realised that the premises no longer had a licence but when it was discovered, the premises was closed and this application was submitted.

Mr Evans explained that this was not a 'new' premises opening for the first time but the applicant appreciated that it was situated in a sensitive location and she had actively liaised with Environmental Health and the Police to agree minimum conditions.

He explained that Miss Gowlett was 22 years old with four years management experience in the licensing trade. In addition, he advised that the business was very much a family effort with her mum being heavily involved in the administrative side of the business and her father who also had experience of the licensing trade. He stated that Miss Gowlett had invested her own money in the premises, had made improvements to the interior and was determined to make a success of the business. He added that Miss Gowlett understood the concerns of the residents but had the advantage of being aware of the complaints and was aware that she could be called back for a review of the licence.

In the applicant's opinion, there were two significant issues to be taken into account. Firstly, that the area to the front of the premises was managed properly to reduce disturbance to the flats opposite. Secondly, Mr Evans requested that when members viewed the video evidence that they bear in mind that the door supervisors should have done their job better. He also stated that they had met with Mr Jenkins from the Council's Environmental Health department on 6<sup>th</sup> January and had discussed further improvements to the glass roof at the rear of the premises, to assist with containing any noise within the building.

Mr Evans concluded by proposing that Miss Gowlett would be drawing up guidelines for door staff to adhere to, had applied for Challenge 21 packs and would not open until the conditions were in place and all parties were satisfied.

The Panel asked questions regarding the cost implications of the work to the glass roof and in response were advised that this was hard to determine as precise plans had not yet been agreed. Access to the roof space had only been gained that week and further advice was needed from Environmental Health.

## **LICENSING PANEL HEARING MINUTES (Continued)**

Dr Cave, one of the interested parties present, asked if loud music had been played whilst the officer from Environmental Health was present and was the applicant aware that noise limiters were often overridden in premises in Leamington Spa. Mr Evans advised that loud music had not been played during the meeting but that the officer's opinion had been based on an informed hypothesis. With regard to noise limiters, Mr Evans agreed that conditions needed to be abided by or the applicant could have her licence reviewed.

Councillor Guest asked Miss Gowlett which premises she has previously worked at and if she had managed similar problems at them. She replied that she had worked in a supervisory capacity at the Willoughby, Evolve, KoKo's and Shades and that issues with door staff were common. When asked why this would be different at G's Bar, Miss Gowlett advised that she had a meeting arranged with a new security company, would be discussing her policy with them and would insist on a minimum of two door staff.

The Chairman asked Sarah Clover to outline her representation on behalf of Mr and Mrs Gifford.

Ms Clover reminded members that the premise was located in the Cumulative Impact Area and that the Policy on this had been based on evidence from the Police and must be observed. She did not feel that to apply the Policy 'lightly' was lawful and that any previous licences were irrelevant. The Policy applied consistently to any new application in the impact zone and she was disappointed that the Police had not focused on this issue.

Ms Clover made reference to a recent case involving Weatherspoons vs. Guildford, which made a clear distinction between the impact that a premise had on the Cumulative Impact Zone compared to the impact on the Licensing Objectives. This case highlighted the importance of the applicant persuading the objectors that a premises' business would not add detrimentally to the Cumulative Impact Zone.

She reminded the Panel that there was a clear ten year history to this premises and felt that it would not matter who operated the licence because the problems would remain. She stated that the building was not designed or built to contain sound and created a tunneling effect resulting in noise escaping through the front of the building when people entered or exited. In addition, Ms Clover felt that assurances regarding proposed work to the glass roof were insufficient because no technical report had been provided and 'suitable sound insulation' was not an acceptable condition.

Ms Clover stated that the business' demographic had been its failure over the past ten years, residents had complained but had given each operator the chance to turn the business around. She also referred to the issues that a recession causes which ultimately result in residents losing out. She reminded the Panel that the premises had been trading without a licence but had managed to operate by applying for Temporary Event Notices. The residents had had to suffer much of the same antisocial behaviour under Miss Gowlett's management, who had been called into the Licensing offices to discuss such problems in November 2011. However, to date Miss

## **LICENSING PANEL HEARING MINUTES (Continued)**

Gowlett had made no effort to approach residents to discuss the issues and no meeting had been called before or after the representations had been received.

Ms Clover then handed over to Mrs Gifford, one of the interested parties, to talk the Panel through the video clips which evidenced antisocial behaviour, resulting from the premises. The video contained 11 separate clips resulting in over 22 minutes of footage, taken from Mr & Mrs Gifford's home since October 2005 to November 2011.

Each clip was introduced by Mrs Gifford and summarised in the papers attached at appendix 11 to the report.

Following the viewing of the video, Ms Clover questioned the practicality of individuals approaching clientele and asking them to be quiet.

In response to questions from the Panel, Mrs Gifford confirmed that it was normal procedure on a Friday and Saturday night for a regular group to congregate outside the front of the premises. This was the only area available to smokers and did not appear to be same people who could be persuaded to go elsewhere.

Dr Cave asked Mrs Gifford if, in her opinion, many of the customers had been underage. She agreed that this did appear to be the case although she was not an expert. Mr Gifford confirmed that the first video clip had been used by the Police in the past as visual evidence of underage drinking at the premises, which had resulted in the magistrates removing the licence.

Dr Cave made his representation and reiterated the comments made regarding the premises location in the Cumulative Impact Zone. He was pleased that Miss Gowlett's family were supportive of her business venture but did not feel that either the building, or its location, were suitable as a licensed premises. Dr Cave objected mainly on the grounds of Preventing Children from Harm and made reference to the video clip of a young female who appeared to be "very much the worse for wear" and the failure of any door or bar staff to assist her. He also reminded the Panel that there had been many instances of trouble, antisocial behaviour and damage to vehicles in the area. Dr Cave then read out his wife's objection which focused on the premises being located in a 'family vicinity', with the cinema and family restaurants close by. Mrs Cave did not feel that this was a suitable location for this premises and had concerns about the impact of individuals' behaviour on family life.

Mr Evans then summed up the application and reminded the Panel of the additional conditions proposed. He stated that off licence sales could be abandoned and advised that Miss Gowlett would make a contact number and dedicated email address available to residents for any complaints, to ensure a fast response to arising issues. He stated that Miss Gowlett was aware that more effort was needed to satisfy residents' concerns and that this was a clear, well thought out and constructive application. He also reminded members that no representations had been received from the Police who were well aware of who would be in charge and the location of the premises.

## **LICENSING PANEL HEARING MINUTES (Continued)**

The Chairman asked the applicant, her representatives, the licensing manager and the interested parties to leave the room at 12.20 pm to enable the Panel to deliberate and reach its decision.

The Panel listened carefully to all the representations made and considered the written representations made in respect of the application. The Panel also considered the video evidence provided by Mr and Mrs Gifford.

They had regard to the provisions of the Licensing Act 2003, the guidance issued under section 182 of that Act and the Council's own Licensing Policy.

The Panel saw and heard evidence that the operation of G's Bar had been the cause of public nuisance over the past few years. The Panel saw video evidence, and received written evidence from neighbouring residents, that the nuisance had continued whilst the current applicant was in control of the premises.

The fact that there had been problems with public nuisance caused by the premises was conceded by the applicant, although it had been submitted on her behalf that she was now aware of the problems and would have measures in place which, along with the proposed conditions, would prevent similar problems in the future.

However, the Panel were not satisfied that the conditions proposed would be sufficient to prevent the premises causing public nuisance. This was because much of the nuisance seemed to be caused by people standing outside the front of the premises. Whilst a condition preventing re-entry may help to alleviate this late at night, the Panel took the view that there was still a likelihood that nuisance would be caused by people leaving the premises, and at earlier times of night when the re-entry condition would not apply.

As well as public nuisance caused by people outside the premises, the Panel took the view that there was a likelihood of disturbance caused by sound escaping from inside the structure. It had been provided with no detailed evidence as to how this could be prevented by sound insulation and so members were not satisfied on the evidence before it that this was achievable. Whilst Environmental Health withdrew their application on the basis of agreed conditions, they raised doubts at the hearing about how much appropriate sound insulation would cost, and the Panel had not seen any detailed evidence of how this would be implemented.

This was a new application inside the Cumulative Impact Area, and as such the Panel had regard to the Council's Cumulative Impact Policy. Whilst the Panel had considered the application on its individual merits, on the evidence before them, they considered that the grant of this licence would be likely to add to the cumulative effect of premises in the area on local residents, particularly in terms of public nuisance.

**RESOLVED** that the licence be refused on the grounds that the evidence before the Panel shows that to grant it would have an adverse effect on the

Item 16/Page 6

**LICENSING PANEL HEARING MINUTES (Continued)**

licensing objective relating to the prevention of public nuisance.

All parties were invited back in to the room so they could be informed of the decision and were reminded that they had 21 days to appeal this decision to the magistrates court.

(The meeting finished at 13.10 pm)





**WARWICK DISTRICT COUNCIL**  
Licensing Act 2003

**REPRESENTATION FORM FROM RESPONSIBLE  
AUTHORITIES**

**Responsible Authority** – Environmental Health, PO Box 2176,  
Riverside House, Milverton Hill,  
Leamington Spa CV32 5QF

<b>Your Name</b>	Paul Briggs
<b>Job Title</b>	Divisional Environmental Health Officer
<b>Postal and email address</b>	Warwick District Council, PO Box 2176, Leamington Spa CV31 5QF
<b>Contact telephone number</b>	01926 456714

<b>Name of the premises you are making a representation about</b>	Barcode
<b>Address of the premises you are making a representation about</b>	27 Augusta Place, Leamington Spa CV32 5EL

<b><i>Which of the four licensing Objectives does your representation relate to?</i></b>	<b><i>Yes Or No</i></b>	<b><i>Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary</i></b>
<b>To prevent crime and disorder</b>		
<b>Public safety</b>		
<b>To prevent public nuisance</b>	Yes	See attached
<b>To protect children from harm</b>		

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

Signed: Paul Briggs

Date: 14<sup>th</sup> August 2007

## **Representation Barcode, Augusta Place, Leamington Spa-**

### **My Comments with respect the similar application in 2006 was as follows.**

*The large front single glazed windows and single front glazed entrance door of Barcode face onto Augusta Place, almost directly opposite a domestic house – 22 Augusta Place. That dwelling may be affected as below.*

- 1) *Any loud music, whether live or recorded is likely to breakout through the glazed areas.*
- 2) *The front entrance is a single door, hence loud music is likely to breakout each time persons enter or leave the premises.*

*The “ceiling” to the middle part of one side of the lounge bar is the underside of the glass roof. Above the front part of 27 and the adjoining Restaurants are four flats with windows facing the glass roof. Loud music may breakout through this glass roof and affect the flats above.*

*It is likely that live or recorded music, other than background, would cause a nuisance to the nearby residential premises unless.*

- *the windows at the front of the premises are double glazed.*
- *An entrance lobby is created at the front of the premises by provision of suitable additional doors within the existing entrance.*
- *The sound insulation to the glass roof is increased*
- *A noise limiter is installed and set at a suitable level*
- *All windows and doors are kept closed except for access when live or recorded music, other than background, is played.*

*Complaints were received from the occupiers of 22 Augusta Place in October 2005 alleging noise nuisance from loud music ( the premises known at that time as Kasa Wine Bar and under different ownership) and in May 2006, again loud music. EH staff did not witness either incident.*

### *Recommendation*

*The variation for live or recorded music not be agreed*

### **Extensive alterations have been carried out to the premises since the previous application in 2006 without prior discussion with Environmental Health.**

A large front entrance lobby has been created by provision of secondary doors within the premises. The intention being to create a quiet area between the front of the premises facing Augusta Place and the main bar ( where music would be provided)

A new false ceiling has been provided under the original ceiling/glass roof in the main bar area the intension to protect the flats above.

### **There is still potential for noise nuisance arising from live or recorded music and I would recommend rejection of the application unless the following conditions are applied.**

- 1) - Music / Amplified voices shall not be intrusive one metre from the facade of any noise sensitive premises or within any adjoining residential premises when regulated entertainment takes place.
- 2) - The area formed between the main entrance off Augusta Place and the secondary doors into the bar area shall not be used for any live or recorded music or dance (regulated entertainment) - this area will be maintained as a quiet area. [ this area will need to be identified on the submitted plan]

3) - All windows and doors (including the internal secondary doors) shall be kept closed at all times that regulated entertainment takes place except for access and egress.

4)- the Internal secondary doors shall be maintained in position and in good working order at all times.

5) - All reference to "live music" will only apply to "Acoustic Live Music"

6) - A noise limiter will be installed to the satisfaction of Environmental Health prior to provision of any regulated entertainment and will be maintained in good working order.

**Note** The effect of the quiet area, in restricting noise breakout, will be undermined if the opening of the outer doors and inner doors coincides. The hours of provision of regulated music may therefore need to be restricted to 23.00 Sunday to Saturday to protect the residential premises opposite.

Premises Licence Applications,  
Warwick District Council,  
Riverside House,  
Milverton Hill,  
Leamington Spa.

27<sup>th</sup> July 2017

Re: - Licence Application WDCPREM00890 – Hart & Co, 27 Augusta Place, Leamington Spa.

Dear Sir,

The trustees of The Well Christian Healing Centre have requested that I write to you to object to the above licencing application on the grounds of Prevention of Public Nuisance. In particular the possible nuisance caused by loud music, people drinking in the street and drunken behaviour just outside our building at 20 Augusta Place opposite the restaurant.

The Well Christian Healing Centre has provided a place where sick, vulnerable and possibly emotionally upset people can come to receive ministry. Prayer, and the listening that happens before we pray, can help people in many ways. Prayer can lead to healing for some guests; for others, it may help alleviate symptoms and the emotional stress and exhaustion that accompany chronic and terminal illness.

Since 2003, this ministry has taken place in The Pump Rooms, Leamington Spa and last year we purchased the Christian Science building at 20 Augusta Place, which will provide a permanent home for the ministry. The building was purchased in October 2016 and we are commencing work to refurbish the building and plan to open it as a healing centre in Spring next year.

Currently we provide ministry sessions one day and one evening a week and during the last twelve months, 1,209 guests have come for a prayer appointment. We plan to open the centre 6 days a week to include evenings and weekends and expect the number of guest appointments to rise accordingly.

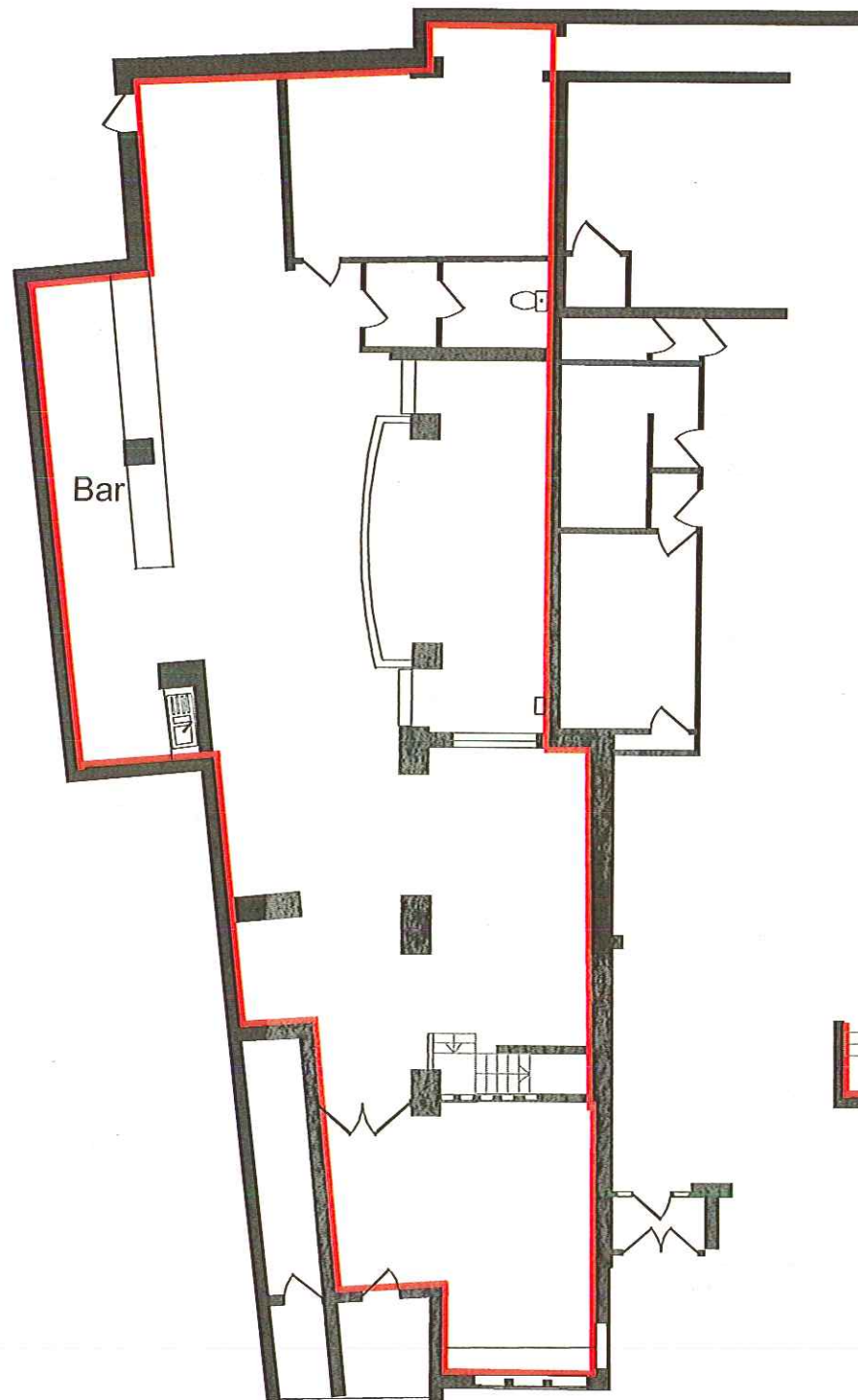
Our concern is that guests, often in an emotional state may be deterred or feel 'unsafe' if there are a large number of people drinking in the street. We did have a problem with inebriated people making a nuisance of themselves outside the Pump Rooms and do not want a repeat of this behaviour. In addition, we are concerned that soundproofing in the premises will be insufficient, especially during the summer when windows will be left open.

Of course, we have no problem with the premises continuing to be used as a restaurant.

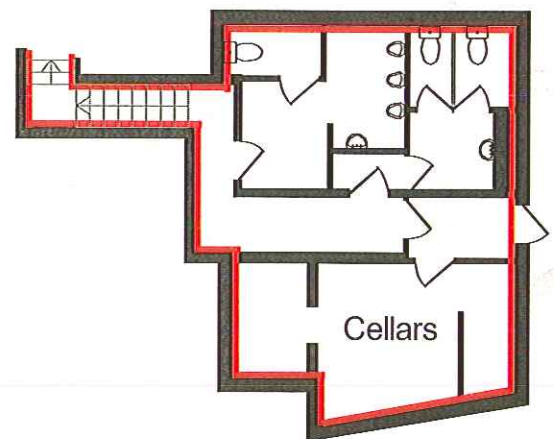
Yours sincerely,

Andy Lockyer

Manager The Well Christian Healing Centre



Ground Floor



Basement



Former Caines, 27 Augusta Place,  
Leamington Spa, CV32 5EL.

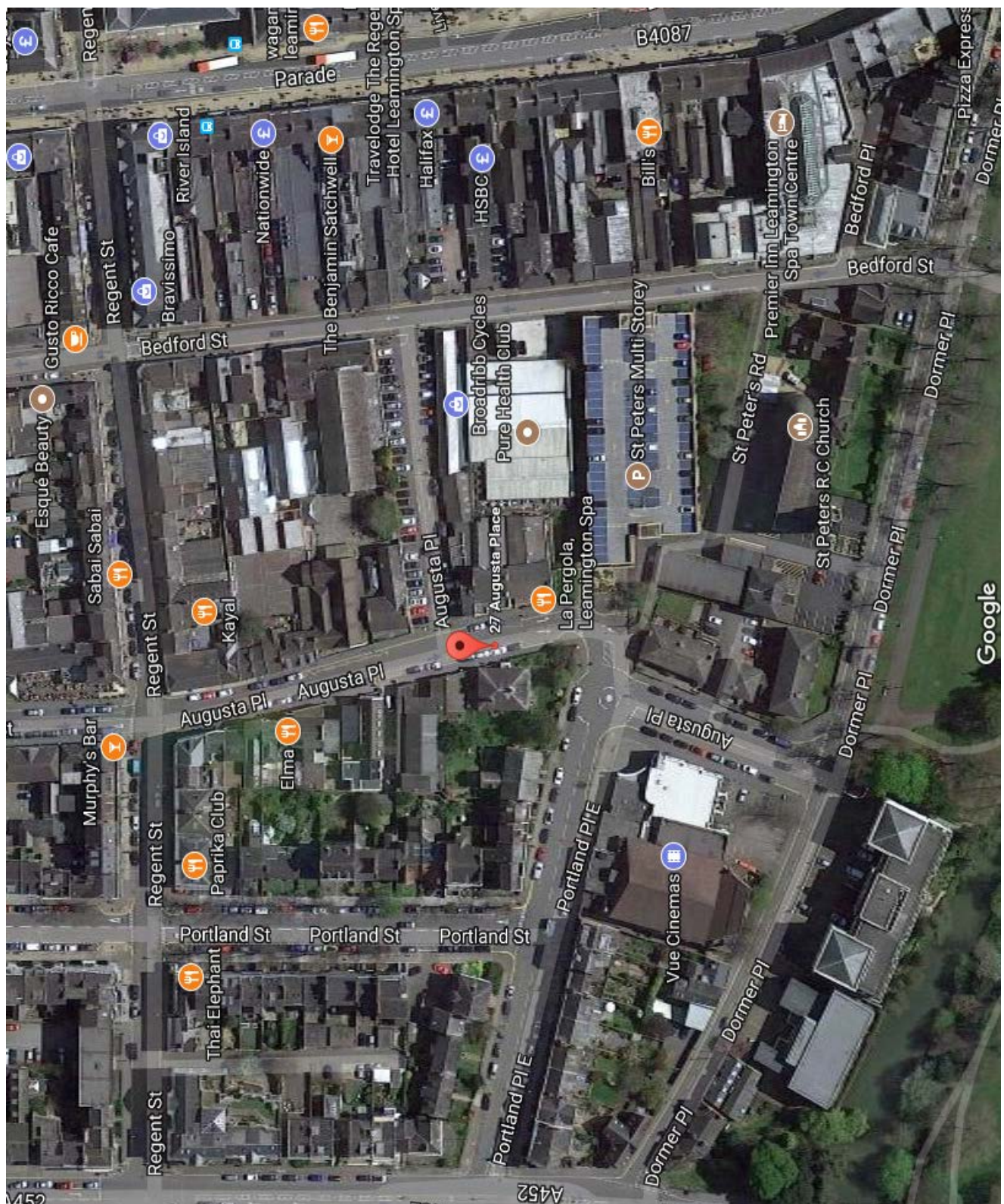
Scale 1 to 100

Date July 2014

[www.jemesis.co.uk](http://www.jemesis.co.uk)

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# **STATEMENT OF LICENSING POLICY**

**Reviewed May 2014 &  
Approved by Warwick District Council on 25 June 2014**

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## **1. Summary and purpose**

- 1.1 Warwick District Council (the Licensing Authority) makes this Statement of Licensing Policy in pursuance of its duties and powers under the Licensing Act 2003, (the Act) and the guidance issued under Section 182 of the Act.
- 1.2 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 138,000 people. The District covers four towns, Royal Leamington Spa, Warwick, Kenilworth and Whitnash as well as a large rural area with 18 Parish Councils. It is acknowledged that the town centres have a large proportion of residential premises.
- 1.3 The policy will relate to current legislation, and, where possible, to local factors, allowing flexibility and the potential to expand and augment the local economy and promote cultural issues.
- 1.4 The aim of this Policy is to demonstrate how WDC, will promote the four licensing objectives. These objectives are:
- prevention of crime and disorder;
  - public safety;
  - prevention of public nuisance; and
  - protection of children from harm.

WDC recognises that the promotion of the Licensing Objectives relies heavily on a partnership between license holders, authorised persons, responsible authorities and other persons in pursuit of common aims.

- 1.5 In making this Policy, the Licensing Authority recognises the following:-
- that residents within, and visitors to the District, need a safe and healthy environment to live, work and visit; and
  - that safe and well run entertainment premises are important to the local economy and vibrancy of the District.
- 1.6 This Statement provides guidance to Responsible Authorities, applicants for and holders of premises licences, objectors and residents on the general approach that the Licensing Authority will implement through its Licensing Committee
- 1.7 When making its decisions on licensing applications, the Licensing Authority will have regard to the matters contained in this Statement, the Act, the guidance issued under section 182 of the Act, the provisions of the Human Rights Act 1998 and in particular, Article 6 (right to a fair and public hearing); Article 8 (right to respect for home, private and family life) and Article 1 of the First Protocol (right to peaceful enjoyment of property and possessions), and the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000.
- 1.8 This Statement covers the period up to 30<sup>th</sup> August 2018 and will be kept under review and revised as required, following consultation where necessary.

## **2. Licensing Policy & South Warwickshire Community Safety Partnership**

- 2.1 The 1998 Crime and Disorder Act and subsequent amendments require the Police and local authorities to work together and with others to reduce crime and disorder. To this end, Crime & Disorder Reduction Partnerships were formed and are now called Community Safety Partnerships.
- 2.2 South Warwickshire Community Safety Partnership (SWCSP) was formed in September 2008 when the district crime and disorder partnerships for Stratford & Warwick districts merged following years of close collaboration. The vision statement for SWCSP is *'that the districts should be an attractive, environmentally sustainable, desirable area to live in, work and visit, with a sense of safety which reflects the low risk of becoming a victim of crime in the area'*.
- 2.3 Tackling violent crime has remained a priority in Warwick District since 1998 with Leamington Town Centre as the main focus of partnership activity. Tackling violent crime and specifically street violent crime is one of three SWCSP priorities. A 60 point partnership action plan is in place to reduce violent crime and rowdy behaviour in our town centres.
- 2.4 The policy of working with licensees in South Warwickshire has delivered national best performance and practice.
- 2.5 The age group most likely to be victims and perpetrators of violent crime is 18-30. A key initiative to engage with this group is Operation 'Your Town, Your Choice' which takes place on pay-day weekends in hot-spots at the busiest times of 9pm to 4am. An early intervention approach is used utilising direct to leave dispersal authorities together with designated public places powers and has a real impact on reducing violence and rowdy behaviour.
- 2.6 This best example of partnership working across all agencies in South Warwickshire illustrates the commitment to tackling on-street violent crime. In addition enhanced policing, Street Marshals, Street Pastors and CCTV control rooms support this approach.
- 2.7 Joint Licensing Enforcement visits are a key feature of these evenings ensuring that licensees are taking their responsibilities seriously. Engagement with 18 to 30 year olds is carried out on roads closed to traffic. Health related activities are offered in exchange for completing questionnaires on particular themes, for example, pre-loading. Results from these activities and questionnaires inform how and when the hot-spots are staffed and how young people can be assisted in having an enjoyable and safe night. A unique partnership pilot with St John Ambulance Service has provided a care and repair service on busy nights in Leamington called 'The Cabin' and staffed by up to 10 volunteers.
- 2.8 A further developing part of this approach is the Street Pastor Scheme introduced in 2013. The scheme provides a vital service, and integrates well into the overall multi-agency approach adopted. Further information about Street Pastors may be obtained on their website at [www.leamingtonspa.streetpastors.org.uk](http://www.leamingtonspa.streetpastors.org.uk)

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

- 3.1 The Council has established a Licensing Committee with delegated powers to deal with licensing matters
- 3.2 The Licensing Committee has delegated the decision making to Licensing Panels when a hearing is required. These Panels are sub-committees consisting of three members of the full Committee. All other matters that do not require hearings have, upon Home Office advice, been delegated to officers.

### **4 Further Strategies**

- 4.1 WDC has adopted the following strategies that it feels will help it to achieve its desired goals:
- It will work together with all partners as well as local businesses and residents to try to achieve an acceptable level of harmonisation between the two, accepting that this may not always be possible.
  - It accepts that an active and successful Crime and Disorder Partnership is one of the key factors in achieving its desired goals.
  - It recognises the importance of working with other agencies and holds and organises a Multi- Agency Licensing Group on a regular basis to discuss any problems that may arise within its district.
  - The value of action plans as a method of obtaining compliance from premises is recognised and used whenever they become necessary.
  - An Enforcement Policy which incorporates the Regulator's Compliance Code has been adopted. Both of these may be found on WDC's website,
  - In recognising the need to minimise late night noise nuisance, WDC would expect that after 23.00 all persons outside the premises would move indoors, and that any sound, amplified or unamplified, from within the premises should not disturb residents in neighbouring domestic properties. However, any conditions added to the premises licence to achieve this aim will be proportionate, enforceable and relevant to that particular premise.
  - WDC has adopted a special policy addressing the cumulative impact of the number of licensed premises in Leamington Spa Town Centre. Full information on this policy may be found at paragraph 10 below.

### **5. The four Licensing Objectives**

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

- 5.1.1 In addition to the requirement for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions, and to do all it reasonably can to prevent crime and disorder in the District.
- 5.1.2 The Licensing Authority will expect all licensed premises to be managed responsibly.

- 5.1.3 When considering applications for premises licences for late night refreshment the Licensing Authority will take into account the potential for high levels of disorder that this type of premises may cause to the night time environment.
- 5.1.4 The Licensing Authority will consider attaching conditions to licences and certificates to prevent crime and disorder. Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected to take place. Any conditions added will be precise and enforceable and will be unambiguous and clear in what they intend to achieve.
- 5.1.5 The Licensing Authority recognises that there are a number of mechanisms for addressing unlawful or anti-social behaviour that occurs away from licensed premises, qualifying clubs and temporary events. These include:–
- planning controls;
  - enforcement of Environmental Protection legislation (e.g. on noise nuisance);
  - positive measures to provide a safer and clean town centre;
  - environmental controls, in partnership with local businesses, transport operators and other departments of the Council;
  - powers to designate parts of the District as restricted alcohol areas
  - police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices;
  - dispersal of people quickly and safely from town centres to avoid concentrations which may produce disorder and disturbance;
  - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
  - confiscation of alcohol from adults and others in designated areas;
  - all current police and local authority powers of closure in force at the time
  - the power of police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

## **5.2 Public safety**

- 5.2.1 The Licensing Authority will consider attaching conditions to licences and certificates to promote public safety. Any such conditions will be tailored to the style and characteristics of the premises and the type of activities expected to take place there and will be precise and enforceable and will be unambiguous and clear in what they intend to achieve.

## **5.3 Prevention of public nuisance**

- 5.3.1 The Licensing Authority will take an objective view as to the potential for nuisance and will seek to attach appropriate and proportionate conditions to licences and certificates where necessary in order to prevent it. The conditions added will be precise and enforceable and will be unambiguous and clear in what they intend to achieve. Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected to take place there. In each individual case that arises following representation, the Licensing Authority will:
- consider the potential for nuisance associated with the style, characteristics and activities of the licensable activity involved;
  - examine the potential steps which could be taken to reduce the risk of nuisance, particularly in areas of dense residential accommodation; and

- consider restricting the hours of the licence or the licensable activity only as a last resort because of the potential impact on disorder and anti-social behaviour from fixed and artificially early closing times.

5.3.2 By way of guidance, the Licensing Authority would expect that after 23.00 all patrons of a licensed premises will move indoors, and any amplified sound to be inaudible in neighbouring domestic properties.

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

5.3.4 The Licensing Authority expects that premises should usually be closed within half an hour of the end of the last licensable activity.

5.3.5 The Live Music Act 2012 removed live music from the scope of the Licensing Authority, subject to the satisfaction of certain criteria, so it is recognised that its controls in this respect have been reduced. However, conditions may be added or reinstated at a review hearing which will bring live music for that particular premises into the licensing regime. This means that it would be within the licensing Authority's powers, at a review hearing, to place a condition on the premises licence prohibiting the playing of live music at any time. This may arise, for example, if the premises is not suitable for the live music being played; or if frequent disturbance is being caused by the music.

## **5.4 Prevention of Harm to Children**

5.4.1 Nothing in this statement of policy limits the access of children to licensed premises unless it is necessary for the prevention of harm to children. However, this authority does not consider that children should be encouraged to mix in areas that are frequented by the adult drinking public, such as busy town centres. For this reason, birthday parties, etc., for the 18 and under demographic will be actively discouraged in these area.

5.4.2 Areas that may give rise to particular concern in respect of children include premises:

- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises;
- Where entertainment of an adult or sexual nature may be provided (e.g. topless bar staff, striptease, lap/table/pole dancing, strong and offensive language).

5.4.3 It is acknowledged that complete exclusion of children will be rare but the options to be considered by the Council for limiting access of children, where regarded as necessary for the prevention of harm to children, may include any of the following:

- Limitations on the hours when children may be present;
- Age limitations (below 18);
- Limitations or exclusions when certain activities are taking place;
- Restrictions or exclusions in respect of parts of premises;

- Requirements for an accompanying adult;
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

- 5.4.4 The Licensing Authority cannot impose conditions requiring the admission of children to any premises. Where no licensing restriction is necessary, this will remain a matter for the discretion of the individual licensee or club.
- 5.4.5 In the case of premises giving film exhibitions, the Licensing Authority expects licensees or clubs to include in their operating schedules arrangements to ensure that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classifications.
- 5.4.6 Where a number of children are expected to attend regulated entertainment (e.g. theatre production, 'junior disco', film shows), the Licensing Authority may consider the need to require a specified number of adults to be present at the place of entertainment to control the access and egress of children and to assure their safety. The number of adults required will need to be calculated on the basis of a risk assessment by the applicant and will need to take into consideration the size of the venue, the number and ages and ability of the children present and the type of activity involved. These matters will need to be addressed by the applicant as part of the operating schedule.
- 5.4.7 The Licensing Authority will consider attaching conditions to licences and certificates to prevent harm to children. Such conditions will be appropriate to the premises and will be precise and enforceable and will be unambiguous and clear in what they intend to achieve.
- 5.4.8 The Licensing Authority expects all premises to comply with statutory conditions requiring that a policy must be adopted, laying out how they will address underage drinking. This must be shown in the operating schedule of any premises licence application or variation.

**NOTE:** In the event of any variation submitted to remove any conditions where a hearing is necessary, evidence would be expected to be submitted to the Licensing Panel by the applicant that the change would not impact on the licensing objectives

## 5.5 Health

- 5.5.1 The Licensing Authority recognises the role of Public Health England acting in its role as a Responsible Authority. Public Health England can make representations in response to either a full licence application or an application for a variation in the conditions of an existing licence. They can also call for the review of a licence if they feel it breaches a licensing objective. Any representation must relate specifically to the premises in question and cannot be a general objection.
- 5.5.1 Representations made by Public Health England must be evidence-based and must demonstrably refer to one or more of the licensing objectives. As there is currently no licensing objective directly relating to public health, Public Health England must ensure their representations are relevant to one of the four existing objectives.



## **5.6 The Licensing Authority as a Responsible Authority**

- 5.6.1 The Licensing Authority are empowered to make representations against new applications for and variations applications to premises licences, as well as call for a review.
- 5.6.2 A procedure has been put into place to ensure that any representation made by the Licensing Authority as a Responsible Authority will be made without prejudicing its ability to determine the application in a fair and objective manner.

## **6. Other Considerations**

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

- 6.1.1 This Policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues, the potential for disturbance to residents will try to be balanced with the wider cultural benefits to the wider population.

### **6.2 Integration of Strategies**

- 6.2.1 The Licensing Authority will secure the proper integration of this policy with local crime prevention, anti-social behaviour away from licensed premises, planning, transport, tourism and cultural strategies by:
- Liaising and consulting with Warwickshire Police, Community Safety Forum, and considering any guidance from the crime and disorder strategy document; and
  - Liaising and consulting with the appropriate Council Officers, the Planning Committee, the Executive, and considering guidance in the Local Plan.
- 6.2.2 Specific conditions may be attached to premises licences, where appropriate, to reflect local crime prevention strategies. Such conditions may include
- the correct use of well installed closed circuit television cameras;
  - the provision and use of shatterproof drinking receptacles;
  - a drugs and weapons search policy;
  - the use of ID scanners
  - the use of registered door supervisors;
  - specialised lighting requirements;
  - restrictions on hours of opening and licensable activities.
- 6.2.3 Certificates issued to club premises will reflect local crime prevention strategies and may include any or all of the requirements listed above. The Licensing Authority will have regard to any local orders and/or strategies relating to street drinking.

## **7 Other regulatory regimes**

- 7.1 This policy will avoid duplication with other regulatory regimes wherever possible. The following advice relates to specific regimes but is not exhaustive:-

## **7.2 Health and Safety**

- 7.2.1 Premises will normally have been visited by the Council's Health and Community Protection inspection staff with regard to health and safety enforcement at the premises. Certain premises will not fall under this regime and will be the subject of health and safety enforcement by the Health and Safety Executive (HSE). These regimes place a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Health and Safety at Work etc Act 1974 and associated Regulations should not be the subject of conditions that duplicate statutory H&S requirements.

## **7.3 Fire Safety**

- 7.3.1 Premises and their operators will have statutory duties under the current fire safety regime to ensure the safety of patrons visiting the premises. The operating schedule should state the precautions that will be taken to ensure the safety of the public.

## **7.4 Food Hygiene**

- 7.4.1 Premises selling alcohol and/or premises engaged in a food business must be registered with WDC and subject to risk-based food hygiene inspections at regular intervals. The inspections are carried out by the council's Health and Community Protection officers.

## **7.5 Noise**

- 7.5.1 Statutory and public nuisances are dealt with by the Council's Health and Community Safety Section under the Environmental Protection Act 1990 and associated legislation.

## **7.6 Planning**

- 7.6.1 Premises that apply for a licence or a variation of a licence should be aware that they may also need planning permission to carry out the activities applied for.

## **8 Standard Conditions**

- 8.1 The Licensing Authority does not support the use of blanket conditions which, if imposed, may be seen as disproportionate and overly burdensome. Conditions attached to licences will be tailored to the individual styles and characteristics of the premises and events concerned and will be precise and enforceable and will be unambiguous and clear in what they intend to achieve.

## **9 Enforcement**

- 9.1 Inspections of premises will be on a risk assessed basis, to be undertaken when and if judged necessary, assisted by information provided by the Multi Agency Licensing Group.

## **10 Special Policy Regarding Cumulative Impact**

- 10.1 The Licensing Authority recognises that there is a difference between the cumulative impact of premises and commercial need. The latter is a function of market forces and is not a factor the Council may take into account in the discharge of its licensing function.
- 10.2 The Licensing Authority adopted a special policy regarding cumulative impact in November 2005 at the commencement of the Licensing Act 2003 where it considered that a significant concentration of licensed premises would have an impact on the licensing objectives and granting of further licences in that area would add to this impact. When adopting the special policy reference to the steps outlined in the relevant part of the guidance issued under section 182 of the Act.
- 10.3 The Licensing Authority formed two saturation zones, based on information supplied in 2005 on crime and disorder and other related matters. The area and its necessity has been ratified by further figures supplied to the Licensing Authority in January 2009 as part of its review of the cumulative impact policy.
- 10.4 The two zones, when joined together, form the same area as the Leamington Safer Neighbourhood area. In the interest of clarity and transparency, the two zones have been amalgamated into one cumulative impact zone. Properties on both sides of any road which borders the zone are deemed to be included within the zone. A plan of the zone may be found at the end of this policy as Appendix 1.
- 10.5 It is considered that the cumulative impact of further new licences in this zone may lead to the area becoming further saturated with premises of a certain type, including pubs, clubs, takeaways and off licences, making the area a focal point for large groups of people, thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves.
- 10.6 The special policy regarding cumulative impact will not be used to try to revoke an existing licence or certificate when representations are made about the way the premises are being operated. However, the special policy may be a justification to refuse an application or to vary a licence or certificate.
- 10.7 The Licensing Authority will not operate a quota of any description including the special policy, that would pre determine an application. Each application will be considered on its individual merits. Proper regard will be given to the contrasting styles and individual characteristics of the premises concerned, and the differing impact they will have on the local community.
- 10.8 If an application for a premises licence within the cumulative impact zone is made, the Licensing Authority will expect the applicant to demonstrate in their operating schedule, the steps to be taken to prevent problems of nuisance and public safety and the steps to be taken to promote the reduction of crime and disorder. **The onus of proof will be on the applicant to show that the application will not impact on the four licensing objectives**

10.9 The Licensing Authority will consider the individual merits of all applications and where it feels to grant the application would be unlikely to add significantly to the cumulative impact in light of the licensing objectives, the Licensing Authority may grant the application.

10.10 The policy will be subject to review.

## **11 Responsible Authorities**

11.1 A list of contact details for Responsible Authorities authorised under the Act is attached to this policy as Appendix 2.

11.2 Responsible Authorities are able to make representations regarding new or variation applications for premises licences and also to seek a review of a current premises licence.

11.3 Representations will only be relevant if they relate to one or more of the licensing objectives referred to in paragraph 5.

## **12. Early Morning Restriction Orders (EMROs) and Late Night Levy (LNL)**

12.1 Following a report from officers, Warwick District Council's Licensing Committee recommended to full Council that it was felt, at the current time, the application of a LNL or EMROs was not appropriate for the council's area.

12.2 The Licensing Committee's recommendation was accepted by full Council during 2013.

12.3 However this Council, in March 2014, has requested officers to review the situation subsequent to Central Government's current consultation on licensing matters and to bring forward an updated report at the earliest possible time on the implications of introducing a late night levy in Warwick District.

## **13 Restricted Drinking Zone**

13.1 The Criminal Justice and Police Act 2001 includes a number of powers to combat crime and disorder, including measures to deal with alcohol related problems. The act gives local authorities the power to designate areas 'Restricted Drinking Zones' where it will become an offence for any person to drink alcohol after being requested not to do so by a police officer.

13.2 The entire area covered by Warwick District has been designated a Restricted Drinking Zone.

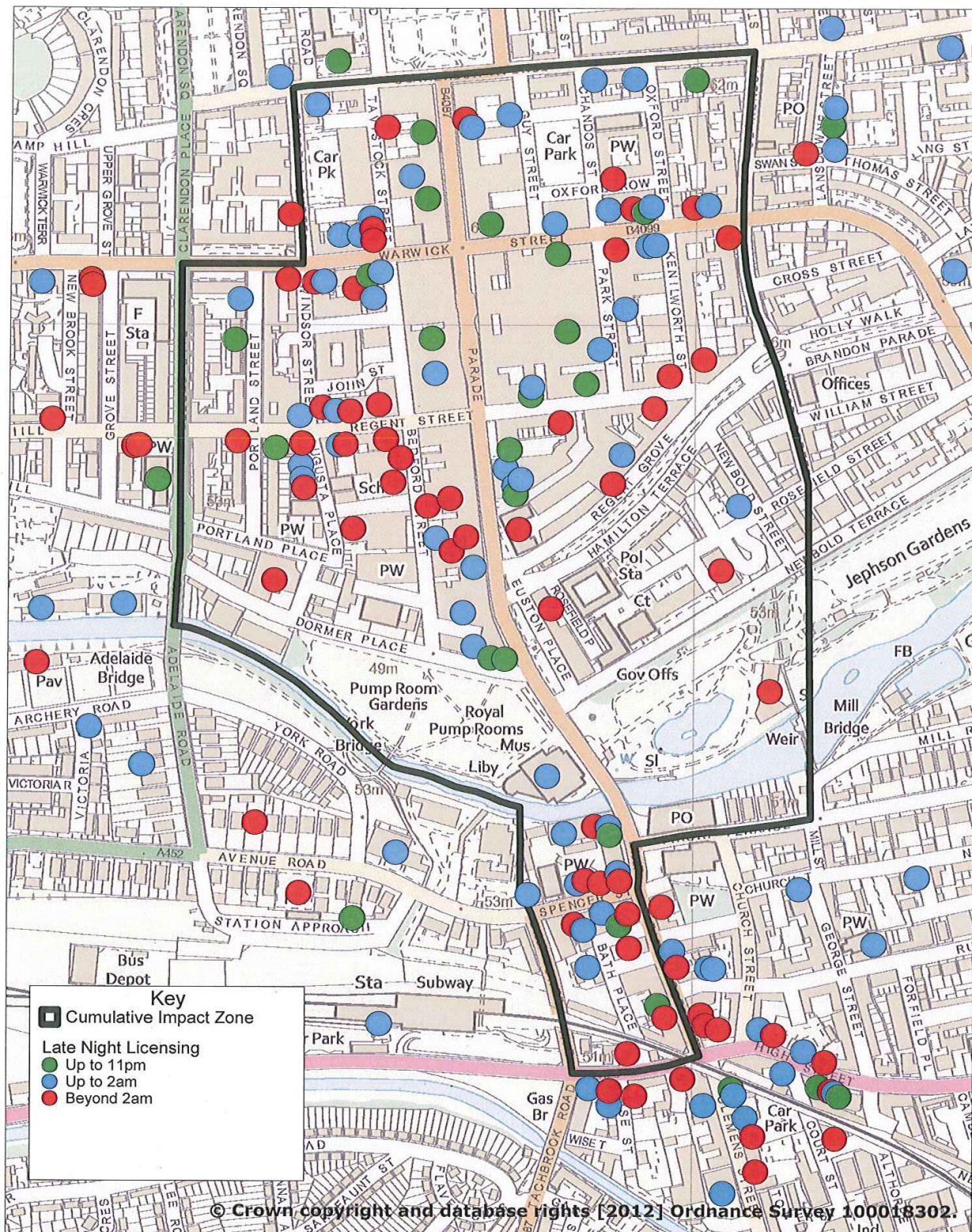
13.2 This means that, anywhere in the district, it is an arrestable offence to fail, without reasonable excuse, to comply with a police officer's request to cease drinking alcohol. The police also have the power to confiscate and dispose of any alcohol and containers in the person's possession.

## **14 Further Information**

- 14.1 The Licensing Authority has produced guidance documents for applicants.
- 14.2 The Council's Health and Community Protection Section offers advice on the process for, and, progress of, applications and as to whether particular activities need to be licensed. If detailed advice on the requirements of the legislation and how it affects you and your premises is required, independent legal advice should be sought.
- 14.3 The granting of a licence under the Licensing Act 2003 does not obviate the need for permissions or consents required under other legislation.



## Appendix 1 – Cumulative Impact Zone (current for 2013)



### Late Night Licences & Cumulative Impact Zone

Scale: 1:5000

Date: 16 October 2012

Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire. CV32 5HZ

Tel: 01926 410410





## **Appendix 2 – List of Responsible Authorities**

### **POLICE:**

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

Tel: 01926 684033

Fax: 01926 684038

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

### **FIRE AUTHORITY:**

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

Tel: 01926 423231

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

### **ENFORCEMENT AGENCY 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)

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

Environmental Sustainability 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:**

Safer Communities Manager  
Health and Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill

Royal Leamington Spa  
CV32 5HZ

Tel:  
Email:

**AUTHORITY RESPONSIBLE FOR PLANNING:**

Gary Fisher  
Group Leader Development Control  
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:**

Keith Edwards  
Assistant Head of Service  
Planning and Performance Children  
Young People and Families Directorate  
Saltisford Office Park,  
Ansell Way  
Warwick  
CV34 4UL

Tel: 01926 731139  
Email: [sslicensingapplications@warwickshire.gov.uk](mailto:sslicensingapplications@warwickshire.gov.uk)

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

Simon Coupe  
Divisional Trading Standards Officer  
Old Budbrooke Road  
Warwick  
CV35 7DP

Tel: 01926 414040  
Email: [simoncoupe@warwickshire.gov.uk](mailto:simoncoupe@warwickshire.gov.uk)

**PUBLIC HEALTH ENGLAND:**

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

Email:  
[PublicHealth5PMPUBLICHEALTHWARWICKSHIREPCT@warwickshire.nhs.uk](mailto:PublicHealth5PMPUBLICHEALTHWARWICKSHIREPCT@warwickshire.nhs.uk)