



Title	Application for a variation of the premises licence issued under the Licensing Act 2003 for Apollo Cinema, Portland Place, Leamington Spa
For further information about this report please contact	David Davies, Licensing Services Manager, Community Protection. Tel: 01926 456113. david.davies@warwickdc.gov.uk
Service Area	Community Protection
Wards of the District directly affected	None
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No
Date and meeting when issue was last considered and relevant minute number	N/A
Background Papers	None

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No

Officer/Councillor Approval

With regard to officer approval all reports *must* be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).

Officer Approval	Date	Name
Relevant Director	25/09/2012	Roger Jewsbury
Chief Executive		
CMT		
Section 151 Officer		
Legal		
Finance		
Portfolio Holder(s)	25/09/2012	Councillor Coker

Consultation Undertaken

N/A

Final Decision?	Yes
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1. **SUMMARY**

1.1 The holder of a premises licence issued under the Licensing Act 2003 (the Act) may apply for a variation of that licence.

2. **RECOMMENDATION**

2.1 Members are asked to consider all the relevant information contained in this report and consider a variation application for the Apollo Cinema by the premises licence holder, Apollo Cinemas Ltd.

3. **REASONS FOR THE RECOMMENDATION**

3.1 Under the provisions of the Act a premises that sells alcohol and provides regulated entertainment and late night refreshment requires a premises licence.

3.2 Apollo Cinemas has held a premises licence issued under the Act at Portland Place, Leamington Spa since the Act's commencement in 2005. Prior to this date the cinema held a Justices Licence permitting the sale of alcohol as well as a licence issued under the Cinema act 1985 permitting the showing of films.

3.3 Since the granting of the premises licence in 2005, two variations to the licence have been applied for and granted, resulting in the current premises licence.

3.4 The Apollo Cinemas has now submitted a further variation to their current premises licence. It was received on the 8th August 2012. Page 2 of the variation application shows a summary of the requested changes and the reasons for them. The page is attached as **Appendix 1**

3.5 The current hours of the premises are as follows:

	Alcohol	Films	Recorded Music	Live Music	Late Night Refreshment	Opening Hours
MON	10:00 - 23:00	09:00 - 00:30	09:00 - 23:00	None	23:00 - 00:30	09:00 - 01:00
TUES	10:00 - 23:00	09:00 - 00:30	09:00 - 23:00	None	23:00 - 00:30	09:00 - 01:00
WED	10:00 - 23:00	09:00 - 00:30	09:00 - 23:00	None	23:00 - 00:30	09:00 - 01:00
THUR	10:00 - 23:00	09:00 - 00:30	09:00 - 23:00	None	23:00 - 00:30	09:00 - 01:00
FRIDAY	10:00 - 23:00	09:00 - 01:00	09:00 - 01:00	None	23:00 - 01:00	09:00 - 01:00
SAT	10:00 - 23:00	09:00 - 01:00	09:00 - 01:00	None	23:00 - 01:00	09:00 - 01:00
SUN	12:00 - 22:30	09:00 - 00:30	10:00 - 23:00	None	23:00 - 00:30	09:00 - 01:00

3.6 The proposed varied hours/activities are below. However, following representations from Environmental Health, the following condition has now been agreed and will now apply to the proposed hours, should the variation be granted:

The premises may operate the extended hours on no more than 12 days in any calendar year.

The Environmental Health and Licensing Department of Warwick District Council must be notified in writing no less than 5 days prior to any proposed extension of opening hours.

	Alcohol	Films	Recorded Music	Live Music	Late Night Refreshment	Opening Hours
MON	09:00 - 00:30	09:00 - 02:00	09:00 - 02:00	09:00 - 02:00	23:00 - 02:00	08:30 - 02:30
TUES	09:00 - 00:30	09:00 - 02:00	09:00 - 02:00	09:00 - 02:00	23:00 - 02:00	08:30 - 02:30
WED	09:00 - 00:30	09:00 - 02:00	09:00 - 02:00	09:00 - 02:00	23:00 - 02:00	08:30 - 02:30
THUR	09:00 - 00:30	09:00 - 02:00	09:00 - 02:00	09:00 - 02:00	23:00 - 02:00	08:30 - 02:30
FRIDAY	09:00 - 00:30	09:00 - 02:00	09:00 - 02:00	09:00 - 02:00	23:00 - 02:00	08:30 - 02:30
SAT	09:00 - 00:30	09:00 - 02:00	09:00 - 02:00	09:00 - 02:00	23:00 - 02:00	08:30 - 02:30
SUN	09:00 - 00:30	09:00 - 02:00	09:00 - 02:00	09:00 - 02:00	23:00 - 02:00	08:30 - 02:30

All of the above extended by an additional hour on the day that British summertime commences; and from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day

- 3.7 An operating schedule has been submitted with the variation application which will form part of any premises licence issued:

Prevention of Crime and Disorder

Alcohol shall only be sold to persons who have purchased, or had purchased on their behalf a ticket entitling them to admission to a film showing at the premises or to persons attending a pre-booked event.

Each auditoria must be visited by a member of staff during film showings to monitor screens and the behaviour of customers. These staff must be issued with night vision goggles or equivalent.

Save for pre-booked functions alcohol sold in the auditoria will be sold only in plastic bottles or glasses.

The sale of alcohol must cease at 0030 or until 30 minutes before the end of the last film whichever is the earlier.

The premises must use their best endeavours to ensure that no patrons leave the premises with any alcohol products purchased in the premises.

The Designated Premises Supervisor must undertake regular risk assessments to identify any occasions that SIA registered door supervisors should be deployed on the premises.

The premises must agree a policy with Warwickshire Police for the seizure and handling of fraudulent or false documentation used for ID purposes.

The Premises must maintain a Refusals and Incident Register which shall be made available to the authorities upon request.

CCTV cameras must cover front entrance and bar and be used at all times that licesable activities are taking place.

Head and facial recognition coverage.

Recordable and retained for a minimum of 31 days.

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

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

The system must be signed off by Warwickshire Police Architectural Liaison Officer.

Public Safety

The occupancy capacity of the premises must be identified by way of risk assessment.

All staff must receive training in emergency evacuation procedures.

The Protection of Children from Harm

The premises must operate a proof of age scheme and Challenge 25 policy. Notices setting out this policy must be displayed within the premises.

All staff involved in the sale of alcohol must be properly trained (as per the premise licence holders own training programme) and retrained every 6 months. Records for such training must be made available to an authorised officer on request.

- 3.8 Representations have been received from two people and are attached as **Appendices 2 and 3**. Other representations were received but were withdrawn when the condition agreed with Environmental Health shown above in paragraph 3.6 was highlighted to the representors.
- 3.9 These premises are contained within the Council's Cumulative Impact Area which is contained within the Licensing Policy adopted by Warwick District Council. This being the case, the burden of proof is with the applicant to show that the application will not impact on the four licensing objectives; it is not for the representors to prove that it will.
- 3.10 **IMPORTANT NOTE:** From the 1st October 2012, the Live Music Act 2012 came into force. This means that the provision of facilities for making music and dancing are no longer licensable activities, so they have not been included in this report.

ALSO: Between the hours of 08:00 and 23:00, when amplified live music is taking place to an audience of less than 200 people; or when unamplified live music is taking place to any number people, all licensing conditions applicable to the control of live music on premises licences are deemed not to be in operation. This applies only to live music NOT recorded music.

- 3.11 A map of the area is attached as **Appendix 4**
- 3.12 When considering the application the panel must give appropriate weight to:-
- a) The variation applications 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 (**Appendix 5**).
 - d) The Licensing Objectives, which are the promotion of:-
 - The prevention of Crime and Disorder
 - Public Safety

- The Prevention of Public Nuisance
- The Protection of Children from Harm

3.13 The Council's Licensing Policy Statement provides that the authority will take an objective view on all applications and review applications and will seek to attach appropriate and proportionate conditions to licences in order to ensure compliance with the four licensing objectives shown earlier. Each application will be judged on its own individual merits.

3.14 Details of the procedure adopted by the Licensing Committee for Panel Hearings has 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.

4. ALTERNATIVE OPTION CONSIDERED

4.1 No alternatives may be considered.

5. BUDGETARY FRAMEWORK

5.1 This report has no budgetary considerations for the Council.

6. POLICY FRAMEWORK

6.1 None

7. BACKGROUND

7.1 None.

Part 3 - Variation

APP 1

Please tick yes

Do you want the proposed variation to have effect as soon as possible?

If not do you want the variation to take effect from

Day	Month	Year

Please describe briefly the nature of the proposed variation (Please see guidance note To permit the provision of regulated entertainment (showing of films, playing of recorded music, facilities for making music & live music) from 0900 until 0200 each day; to permit the sale of alcohol from 0900 until 0030 (or until 30 minutes before the end of the last film whichever is the earlier) each day; to permit the provision of late night refreshment from 2300 until 0200; to remove certain conditions attached to the Premises Licence and to permit the premises to open to the public from 0830 to 0230.

These premises operate as a multiplex cinema. The premises are now owned and operated by Vue Cinemas who already operates in excess of 60 cinemas throughout England, Wales and Scotland the vast majority of which are licensed for the sale of alcohol.

The provision of live and/or recorded music is ancillary to the use of the premises as a cinema for example to permit themed nights within the cinema

The applicant understands that these premises fall within the Cumulative impact policy for Leamington town centre and addressed the effect of the impact of this application upon the licensing objectives by undertaking a series of Temporary Event Notices over many years when extended trading hours have been required to accommodate later screenings of new release films to meet demand. This application is to formalise the premises ability to hold these later screenings when there is sufficient demand for them without the need to issue Temporary Event Notices. Notices have previously been issued and operated at the premises to demonstrate how the extended hours of operation at the premises will be conducted in such as way so as to ensure there is no undermining of the licensing objectives

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend

N/A


Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment

Please tick yes

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

Licensing Act 2003 Representation Form	
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Section 1 - Application Details

I object to the following Application:

Applicant's name (if known):

Apollo Cinema

Premises name and address:

Portland Place, Leamington Spa, CV32 5ET

Application for a	Premises Licence..... <input type="checkbox"/>
	Club Premises Certificate..... <input type="checkbox"/>
Application to vary an existing	Premises Licence..... <input checked="" type="checkbox"/>
	Club Premises Certificate..... <input type="checkbox"/>
Application Number	WDCPREM00358

Section 2 - Objector details

Individual Objectors Details:

If you are objecting as a representative go to the next section

Applicant Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Other <input type="checkbox"/>
Surname	[REDACTED]
First name(s)	[REDACTED]
Address (incl postcode):	
[REDACTED] Portland Place East Leamington Spa [REDACTED] [REDACTED]	

Section - Objection Details	
<p>My objection is relevant to the following licensing objective:</p> <p><i>You can tick more than one box</i></p>	<input checked="" type="checkbox"/> Prevention of crime and disorder. <input checked="" type="checkbox"/> Prevention of public nuisance. <input checked="" type="checkbox"/> Protection of children from harm. <input type="checkbox"/> Public safety

<input type="checkbox"/>	I object to the application being granted at all
<input checked="" type="checkbox"/>	I object to the application being granted in it's current form (If you choose this option remember to tell us in the next section what changes you would like to see)

Our objection is based on the following:

You need to complete this box as fully as possible. If you do not then the Committee may not understand why you have objected.

Please attach supporting documents / further pages as necessary - Please number all extra pages

PLEASE SEE ATTACHED
3-page document

Signed.....
Date..... September 5, 2012

Preamble:

I have been a resident and householder of Portland Place East for nearly ten years. I appreciate the Apollo Cinema as a valuable resource for the local community in its film programming.

However,

- 1) I believe that the proposed extension to the Apollo's opening hours will lead to increased noise and disruption in the early hours of the morning, every day of the week, in the surrounding residential area. Exacerbated by the proposed increase in licensing hours, there is a significantly increased likelihood of public nuisance, coupled with increasing pressure on local parking.
- 2) I am also concerned about the extension of alcohol consumption within the venue to include the auditoria. I do not think it appropriate that children may be in an environment where adults may drink alcohol over an extended period.
- 3) The proposal also includes two other new terms, (a) the introduction of 'pre-booked events' during which alcohol may be sold, and (b) the playing of live music and provision for making live music. Taken together, these and the proposed consumption of alcohol throughout the venue appear to imply a substantial change away from the Apollo's current primary role as a venue for cinemagoers. I believe the council should investigate the Apollo's intentions further.
- 4) In reading the text of the existing license (WDCPREM00358, issued 22/10/2010) and the present application for variation, (WDCPREM00368, dated 08/08/2012) I have identified a number of conflicting clauses; it is not clear exactly which parts of the present application, if granted, will replace which parts of the current license; and the overall license would benefit from a textual reorganization that would clarify its overall purpose.

Detail of objections:

A. Overall opening hours, and hours for showing films and selling alcohol

I object to the proposed extension of the normal closing time from 1.00am to 2.30am on every day of the week.

- The change is likely to increase significantly the noise on the surrounding residential streets both from people going to and coming from the cinema and from the parking and starting of cars. Extending this disruption into people's normal sleeping hours by a further 90 minutes every day is unreasonable. I think an earlier closing on Sundays should be maintained (as it is in most of the licenses of neighbouring establishments.)
- The extended hours for the showing of films will add more times at which people will congregate outside the cinema both before and after a showing, and more times of the night when the general traffic of groups of people along the nearby streets is significant.
- The extension of the hours during which alcohol may be sold, (by over 22% from 88.5 hours/week to 108.5 hours per week) will increase the likelihood of cinemagoers drinking more and leaving the cinema more inebriated.

- The related issue of cinemagoers' parking is also concerning. Car parking for non-residents on the surrounding streets is free after 10pm, St Peter's car park in Augusta Place closes at midnight, the Bedford St car park has a cheap overnight rate, but is small. Combined, this already means that many cinemagoers seek a parking place on the street, making it difficult for residents returning mid to late evening to find a parking space. On many occasions in the last year we have arrived home between around 9.30 and 11.00 pm to find that we cannot park on Portland Place East itself and have had to find a scarce space on one of the surrounding streets within the L0 boundary. The high volume of parking from cinemagoers is obvious from noting how the on-street parking clears when the cinema closes.
- At the change of showings and when the cinema closes, there is considerable car noise in the street from parking and cars starting up. Extension of the opening hours to 2.30am will only exacerbate these problems.

I contend that the noise and disruption from all the above is not acceptable in a residential area.

I suggest that the council could consider:

- (a) extending the opening hours of the St Peter's car park to allow all cinemagoers the option of parking there until at least 30 minutes after the closing of the cinema;
- (b) extending the time during which payment has to be made for on-street parking in the L0 area to around 1.00am every day, with a two-hour maximum stay.
- (c) encouraging the cinema to refund all or part of a cinemagoers payment for parking in St Peter's or Bedford St (as an incentive to encourage parking there).

Prevention of Public Nuisance

In the present application, under the heading 'Prevention of Public Nuisance' the Apollo states:

'Considering the nature of the application and the building the applicant does not consider any conditions are necessary to promote this licensing objective.'

I feel that this statement shows a lack of understanding of the present and potential future effects on the local neighbourhood of the Apollo's business. I note that several other nearby establishments commit in their licenses to efforts such as zero tolerance of drunkenness and anti-social behaviour, noise control, control of numbers of persons outside the establishment late at night, ensuring the quiet departure of patrons, etc. I would suggest that the license is revised with the Apollo making similar commitments.

B. Selling of alcohol outside the bar area

I am concerned about a phrase in the present application: (section on Prevention of Crime and Disorder):

'.....alcohol sold in the auditoria (my italics) will be sold only in plastic bottles or glasses.'

- This text implies that alcohol may in future be consumed in the auditoria themselves, not just in the bar area as at present.

- What particularly concerns me is that children, unaccompanied or not, will now be exposed to adults drinking alcohol throughout a film. Parents will not be able to choose to take their children to a film without exposure to alcohol in the auditorium. I do not think this is acceptable.
- As this will allow people to drink throughout a film, the change is highly likely to increase overall consumption.
- If alcohol consumption is allowed in the auditoria, it is difficult to see how the 'drinking up time' clause can be enforced if this expires while a film is in progress.

Sales and consumption of alcohol by filmgoers should, as now, be restricted to the designated bar area.

C. Extension of activities and related sales of alcohol

The proposal includes references to two new areas of activity at the Apollo – 'prebooked events' (mentioned in the Prevention of Crime and Disorder section in relation to allowing the sale of alcohol) and providing live music and the facilities to make live music every day from 9.00am to 2.00am.

Introducing a range of events other than film showings seems potentially to be a change in the nature of the venue as a whole.

These, together with the increased sales of alcohol, would potentially further increase the flow of people and traffic around the cinema, increasing all the attendant noise and potential for public nuisance.

The proposal gives no details of the Apollo's intent with respect to these activities. These aspects should, I believe, be the subject of further enquiry with the Apollo, followed by the opportunity for public comment on a more detailed proposal. If approved, the terms and conditions of any such changes should be made explicit within the license.

D. Inconsistencies and lack of clarity in the present license and this application.

I have identified various inconsistencies and errors in and between the existing license and the present application. It is particularly unclear as to which portions of the present application would be added to the existing license. For example, the sections on Supply of Alcohol and Films in the present proposal duplicate what is in the existing license. Redundant text should be removed.

The existing license, and any amendments approved from this application, would benefit from careful reading (to correct e.g. typographical errors), removing of conflicting clauses, and reorganization into logical sections. The style of the text should be similar throughout – for example, the section on cameras on the final page of the present application is in note form – it should be descriptive, as the current license. Examples to follow exist in the licenses of other local venues.

APP 3

[REDACTED]
From: [REDACTED]
Sent: 19 August 2012 19:22
To: Licensing
Subject: WDCPREM00358 - Objection to Longer opening Hours Apollo Cinema

Dear Sirs

I wish to object to the proposed longer opening hours of the Apollo Cinema per the above application.

I feel that Portland Street is a residential area and the current opening times are quite sufficient for the business to operate under, I do not want to be kept awake with cars leaving the cinema at 2.00 in the morning.

If the company feels that they need to operate until 2.00 am. I think they need to consider moving out of town onto the Shires Retail Park and taking over the old Focus Unit.

Regards

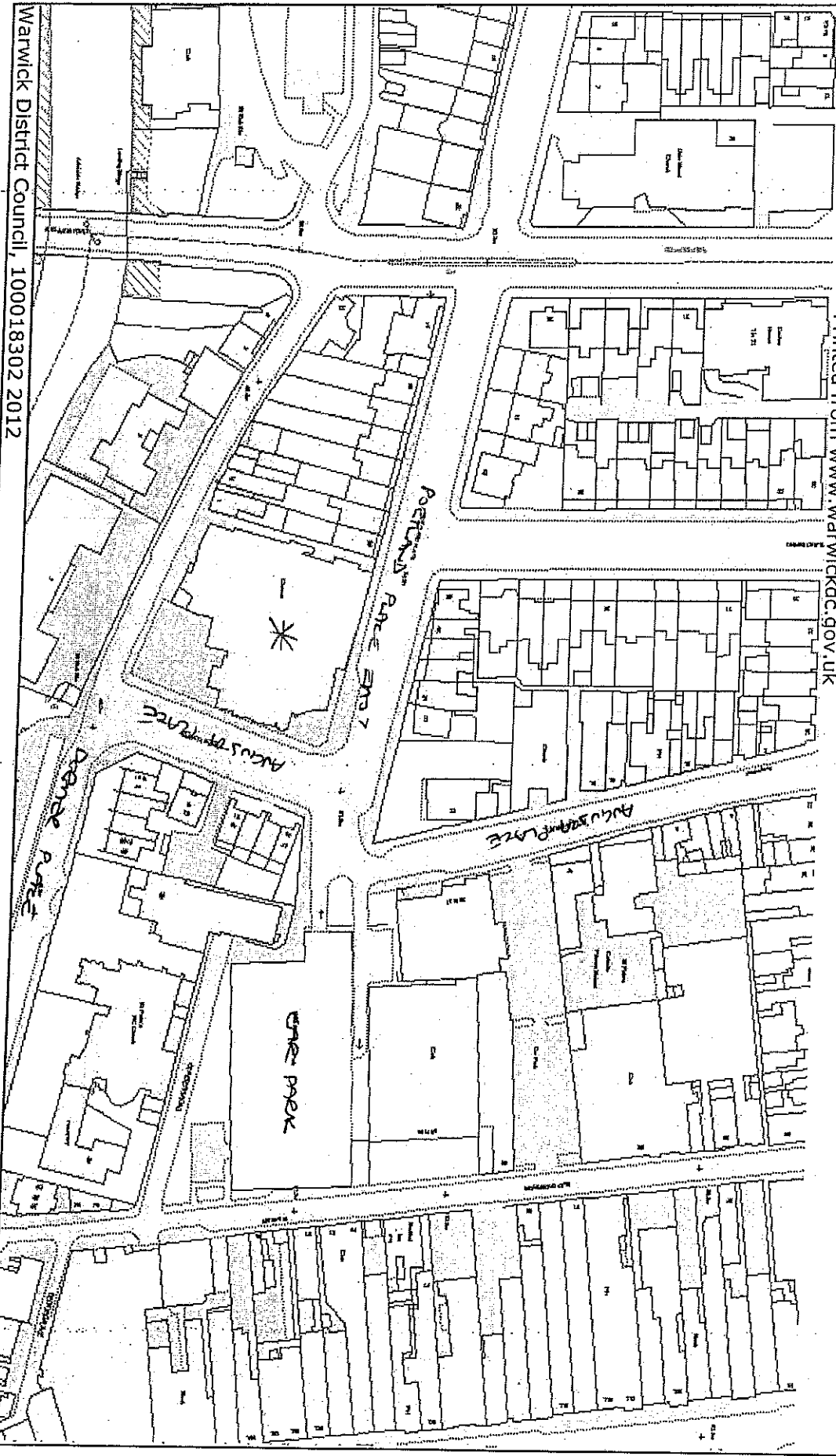
[REDACTED]
Portland Street



GGP e-Maps

Property Information (Scale 1:1500)

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APPENDIX 4



STATEMENT OF LICENSING POLICY

Reviewed 2009

(Changes to cumulative impact zone added)

9th July 2009

1. Introduction

- 1.1 Warwick District Council (the Licensing Authority) makes this Statement of Licensing Policy in pursuance of its duties and powers under the Licensing Act 2003, (the Act) and guidelines on its content issued under Section 182 of the Act.
- 1.2 Warwick District Council is situated in the south of Warwickshire in the centre of England. Appropriately for England's heartland, Warwick District Council's boundaries are roughly heart-shaped, embracing an area of some 28,253 hectares with a population of 126,000 people. The District covers four towns, Royal Leamington Spa, Warwick, Kenilworth and Whitnash as well as a large rural area with 18 Parish Councils. It is acknowledged that the town centres have a large proportion of residential premises.
- 1.3 The aim of this Policy is to:-
- promote the Licensing Objectives.
- 1.4 The following Licensing Objectives can be found in the Licensing Act 2003:-
- **prevention of crime and disorder;**
 - **public safety;**
 - **prevention of public nuisance; and**
 - **protection of children from harm.**
- 1.5 In making this Policy, the Licensing Authority recognises the following:-
- **that residents within, and visitors to the District need a safe and healthy environment to live, work and visit; and**
 - **that safe and well run entertainment premises are important to the local economy and vibrancy of the District.**
- 1.6 This Statement provides guidance to the police, applicants, objectors and residents on the general approach that the Licensing Authority (acting through its Licensing Committee) will take when making licensing decisions.
- The following, will guide that decision making process:-
- the Council as licensing authority must carry out its functions under the Act with a view to promoting the Licensing Objectives;
 - each licence application will be given individual consideration on its merits;
 - when making its decisions, the Licensing Authority will have regard to the matters contained in this Statement and to any government guidance that is issued from time to time; and
 - the Licensing Authority will have regard to the provisions of the Human Rights Act 1998 and in particular, Article 6 (right to a fair and public hearing); Article 8 (right to respect for home, private and family life) and Article 1 of the First Protocol (right to peaceful enjoyment of property and possessions).
- 1.7 This Statement covers the period 7 January 2008 to 6 January 2011 and will be kept under review and revised/amended as required, following consultation.

1.8 The Licensing Authority will carry out its licensing functions in accordance with the Licensing Act 2003 (as amended) and any relevant guidance issued under the Act.

1.9 The Licensing Authority will observe the principle of the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000.

2. Delegation of Functions for Regulatory Matters

2.1 In the interests of speed, efficiency and cost effectiveness the Licensing Committee will only decide matters that have not been delegated to a sub-committee or to an officer. A copy of the scheme of delegation is available on request.

3. General Statement of Guiding Principles

3.1 The Council as a licensing authority has adopted the following principles. These principles will serve as a **general** guide to the Council when it carries out its licensing functions:-

3.2 **Principle 1 -** The Licensing Authority will not normally fix pre-determined licensing 'quotas' in any given area but see paragraphs 7 and 8.

3.3 The purpose behind this Principle is to:

- promote the prevention of crime and disorder.

3.4 If there are problems in a particular area with nuisance, crime or disorder and those problems are associated with the number or proximity of licensed premises in that area, the Licensing Authority will normally use licence conditions to address those problems, but may impose 'quotas.' (see paragraphs 7 and 8)

3.5 **Principle 2 -** The Licensing Authority generally supports the use of longer opening hours as a means of reducing the concentration of people leaving licensed premises at the same time and of staggering their dispersal. However, there is no presumption in favour of longer hours and the Licensing Authority will take into account any evidence which shows that longer opening hours in any particular case undermines the licensing objectives.

3.6 The purpose behind this Principle is to:-

- promote the prevention of crime and disorder;
- promote public safety;
- promote the prevention of public nuisance; and
- address the issue of closing hours.

3.7 It is recognised by the Licensing Authority, following Government recommendations that, longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided.

- 3.8 Restrictions that undermine this Principle will normally be avoided and licence conditions used to address any problems which may arise.
- 3.9 **Principle 3 -** The Licensing Authority will not fix pre-determined closing times for particular areas but will take into account any objections received when dealing with individual applications.
- 3.10 The purpose behind this Principle is to:-
- promote the prevention of crime and disorder;
 - promote public safety; and
 - promote the prevention of public nuisance.
- 3.11 Restrictions that undermine this Principle will normally be avoided and licence conditions used to address any problems which may arise.
- 3.12 **Principle 4 -** As far as shops, stores and supermarkets are concerned, the Licensing Authority will normally permit the sale of alcohol during legal opening hours unless evidence is available that to do so would undermine the licensing objectives.
- 3.13 The purpose behind this Principle is to:-
- promote the prevention of crime and disorder;
 - promote the prevention of public nuisance; and
 - address the issue of alcohol sales in shops, stores and supermarkets.
- 3.14 Restrictions that undermine this Principle will normally be avoided and licence conditions used to address any problems which may arise.
- 3.15 **Principle 5 -** The Licensing Authority will not limit the access of children to licensed premises unless it is necessary for the prevention of harm.
- 3.16 The purpose behind this Principle is to:-
- promote the protection of children from harm; and
 - address the issue of children in licensed premises, including cinemas and other public entertainment.
- 3.17 Restrictions that undermine this Principle will normally be avoided and licence conditions used to address any problems which may arise.
- 3.18 **Principle 6 -** The Licensing Authority will only attach conditions that further the Licensing Objectives and relate to the operating schedule, relevant representations that have been received or mandatory conditions as prescribed in the Licensing Act 2003.

3.19 The purpose behind this Principle is to:-

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

4. Licensing Objectives

4.1 Prevention of Crime and Disorder

4.1.1 In addition to the requirement for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent crime and disorder in the District.

4.1.2 The Licensing Authority will expect all licensed premises to be managed responsibly.

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

4.1.4 The Licensing Authority will consider attaching conditions to licences and certificates to prevent crime and disorder. Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected to take place there.

4.1.5 The Licensing Authority recognises that there are a number of mechanisms for addressing unlawful or anti-social behaviour that occurs away from licensed premises, qualifying clubs and temporary events. These include:-

- planning controls;
- enforcement of Environmental Protection legislation (e.g. on noise nuisance);
- positive measures to provide a safer and clean town centre;
- environmental controls, in partnership with local businesses, transport operators and other departments of the Council;
- powers to designate parts of the District as places where alcohol may not be consumed publicly;
- police enforcement of the law with regard to disorder and anti-social behaviour, including the issue of fixed penalty notices;
- dispersal of people quickly and safely from town centres to avoid concentrations which may produce disorder and disturbance;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- confiscation of alcohol from adults and others in designated areas;
- police powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises; and
- the power of police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

4.2 Public safety

- 4.2.1 The Licensing Authority will consider attaching conditions to licences and certificates to promote public safety. Any such conditions will be tailored to the style and characteristics of the premises and the type of activities expected to take place there.
- 4.2.2 The Licensing Authority will consider attaching a 'safe capacity' to licences and certificates when it appears necessary to ensure public safety or to prevent crime and disorder.

4.3 Prevention of public nuisance

4.3.1 The Licensing Authority will take an objective view as to the potential for nuisance and will seek to attach appropriate and proportionate conditions to licences and certificates where necessary in order to prevent it. Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected to take place there. In each individual case that arises following representation, the Licensing Authority will:

- consider the potential for nuisance associated with the style, characteristics and activities of the licensable activity involved;
- examine the potential steps which could be taken to reduce the risk of nuisance, particularly in areas of dense residential accommodation; and
- consider restricting the hours of the licence or the licensable activity only as a last resort because of the potential impact on disorder and anti-social behaviour from fixed and artificially early closing times.

4.3.2 By way of guidance, the Licensing Authority would expect that after 23.00 all persons outside the premises would move indoors, and any amplified sound to be inaudible in neighbouring domestic properties.

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

4.3.4 In the event of a variation to remove this condition, and in the case of the necessity of a hearing, evidence would be expected to be submitted to the Licensing Panel that the change would not impact on the licensing objectives

4.3.5 It should also be noted that the Licensing Authority expects that the premises will usually close within half an hour of the end of the last licensable activity.

4.4 Prevention of Harm to Children

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

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

- 4.4.2 For the purposes of this Policy and for the making of representations in respect of any application, the Warwickshire Children and Young People's Joint Management Team have indicated that they will regard the term "children" to include any person between the ages of 0 – 18 years old.
- 4.4.3 Nothing in this statement of policy limits the access of children to licensed premises unless it is necessary for the prevention of harm to children.
- 4.4.4 Areas that may give rise to particular concern in respect of children include premises:
- Where there have been convictions of members of the current staff for serving alcohol to minors, with a reputation for underage drinking or where the Portman Group Code of Practice on Naming, Packaging and Promotion of Alcoholic Drinks is not being followed (the Portman Group's code is particularly commended to applicants for premises licences/ club registration certificates);
 - With a known association with drug taking or dealing;
 - Where there is a strong element of gambling on the premises;
 - Where entertainment of an adult or sexual nature is commonly provided (e.g. topless bar staff, striptease, lap/table/pole dancing, strong and offensive language).
- 4.4.5 It is acknowledged that complete exclusion of children will be rare but the options to be considered by the Council for limiting access of children, where regarded as necessary for the prevention of harm to children, may include any of the following:
- Limitations on the hours when children may be present;
 - Age limitations (below 18);
 - Limitations or exclusions when certain activities are taking place;
 - Restrictions or exclusions in respect of parts of premises;
 - Requirements for an accompanying adult;
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 4.4.6 The Licensing Authority cannot impose conditions requiring the admission of children to any premises. Where no licensing restriction is necessary, this will remain a matter for the discretion of the individual licensee or club.
- 4.4.7 In the case of premises giving film exhibitions, the Licensing Authority expects licensees or clubs to include in their operating schedules arrangements to ensure that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classifications.

4.4.8 Where a number of children are expected to attend regulated entertainment (e.g. theatre production, 'junior disco', film shows), the Licensing Authority may consider the need to require a specified number of adults to be present at the place of entertainment to control the access and egress of children and to assure their safety. The number of adults required will need to be calculated on the basis of a risk assessment by the applicant and will need to take into consideration the size of the venue, the number and ages and ability of the children present and the type of activity involved. These matters will need to be addressed by the applicant as part of the operating schedule.

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

5. Other Considerations

5.1 Live Music, Dancing & Theatre

5.1.1 This Policy recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues, the potential for disturbance in neighbourhoods will always be carefully balanced with these wider benefits.

5.2 Integration of Strategies

5.2.1 The Licensing Authority shall secure the proper integration of this policy with local crime prevention, anti-social behaviour away from licensed premises, planning, transport, tourism and cultural strategies by:

- Liaising and consulting with Warwickshire Police, Community Safety Forum, and considering any guidance from the crime and disorder strategy document; and
- Liaising and consulting with the appropriate Council Officers, the Planning Committee, the Executive, and considering guidance in the Local Plan.

5.2.2 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include

- the use of closed circuit television cameras;
- the provision and use of shatterproof drinking receptacles;
- a drugs and weapons search policy;
- the use of registered door supervisors;
- specialised lighting requirements;
- restrictions on hours of opening; and
- membership of an appropriate Pub-Watch scheme.

5.2.3 Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above. The Licensing Authority will have regard to any local orders and/or strategies relating to street drinking.

5.2.4 The Council's Licensing Committee shall receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that the Committee considers these matters.

5.2.5 The Council's Licensing Committee shall receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.

5.2.6 Unnecessary duplication or inefficiencies will be avoided by properly separating the planning and licensing regimes. Where appropriate, matters for consideration in licensing applications will not duplicate matters considered as part of any planning application. Licensing decisions will take into account any relevant planning decisions either by the Planning Committee or following appeals against decisions taken by that Committee and will not cut across such decisions.

5.2.7 The Council's Licensing Committee shall provide and receive regular reports to and from the Planning Committee on the situation regarding licensed premises in the area.

6. Other regulatory regimes

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

6.2 Health and Safety

6.2.1 Premises will normally have been visited by the Council's Environmental Health inspection staff with regard to health and safety enforcement at the premises. Certain premises will not fall under this regime and will be the subject of health and safety enforcement by the Health and Safety Executive (HSE). These regimes place a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Health and Safety at Work etc Act 1974 and associated Regulations should not be the subject of conditions unless they are necessary for the promotion of the licensing objectives.

6.3 Fire Safety

6.3.1 Premises and their operators will be under general duties under current fire safety regimes. The operating schedule should indicate the precautions that are taken to protect public safety.

6.4 Food Hygiene

6.4.1 Premises selling alcohol and/or premises engaged in a food business will be registered with the Licensing Authority and subject to risk-based food hygiene inspections at regular intervals.

6.5 Noise

6.5.1 Statutory and public nuisances are dealt with by the Council's Environmental Health Business Unit under the Environmental Protection Act 1990 and associated legislation.

6.6 Planning

6.6.1 Any premises that apply for a licence or a variation of a licence may also need planning permission.

6.7 Standard Conditions

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

6.8 Enforcement

6.8.1 The enforcement of licensing law and the inspection of licensed premises is detailed in the Protocol between Warwickshire Police and the Council, together with Warwickshire Fire Service and Trading Standards. This Protocol reflects the need for a more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement. A copy of the Protocol is available on request.

6.8.2 Attention is drawn to the targeting of agreed problem and high risk premises requiring greater attention as identified in the Protocol. Inspections of premises will be on a risk assessed basis, to be undertaken when and if judged necessary, assisted by information provided by the Multi Agency Enforcement Group. Information about this group is available separately

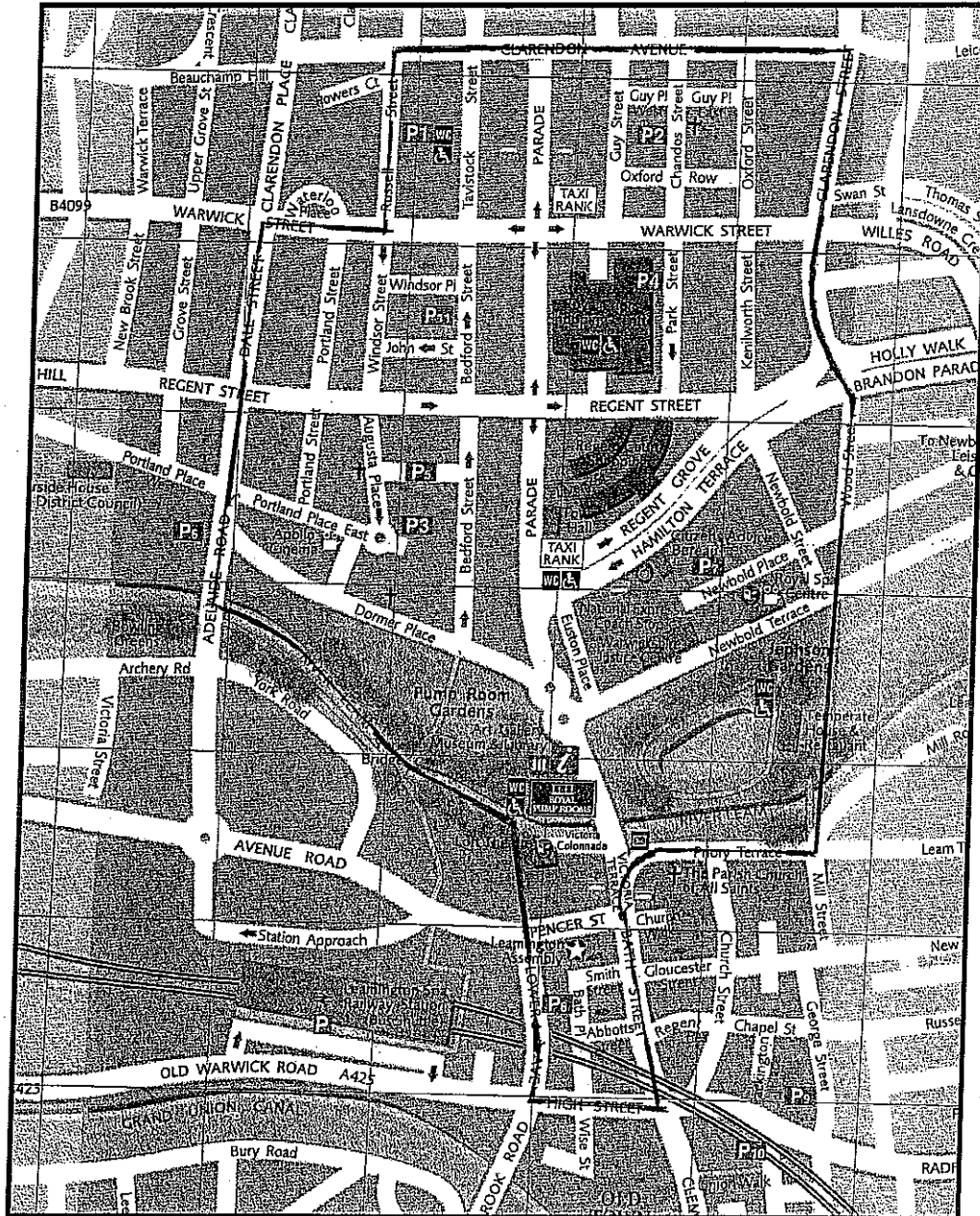
7. Special Policy Regarding Cumulative Impact

7.1 The Licensing Authority recognises that there is a difference between the cumulative impact of premises and commercial need. The latter is a function of market forces and is not a factor the Council may take into account in the discharge of its licensing function.

7.2 The Licensing Authority adopted a special policy regarding cumulative impact in November 2005 at the commencement of the Licensing Act 2003 where it considered that a significant concentration of licensed premises would have an impact on the licensing objectives and granting of further licences in that area would add to this impact. When adopting the special policy reference to the steps outlined in paragraph 13.26 of the Licensing Act Guidance were made.

7.3 The Licensing Authority formed two saturation zones, based on information supplied to it in 2005 on crime and disorder and other related matters. The area and its necessity has been ratified by further figures supplied to the Licensing Authority in January 2009 as part of its review of the cumulative impact policy.

7.3 The two zones, when joined together, form the same area as the Leamington Safer Neighbourhood area. In the interest of clarity and transparency, the two zones have been amalgamated into one cumulative impact zone. A map of the zone is shown below. Properties on both sides of any road which borders the zone are deemed to be included within the zone. (see plan below)



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

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

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

8. Further Information

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