

THE COUNTY OF HEREFORDSHIRE DISTRICT COUNCIL

DRAFT LICENSING POLICY

1. Introduction and Overview

- 1.1 The County of Herefordshire District Council (hereinafter “the Council”) is responsible for the licensing of licensable activities as defined in the Licensing Act 2003 (hereinafter “the Act”) within Herefordshire. This policy document sets out the policies that the Council will apply when making decisions upon applications received for:-
- a. The sale by retail of alcohol;
 - b. The supply of alcohol by or on behalf of a club to or to the order of member of the club;
 - c. The provision of regulated entertainment;
 - d. The provision of late night refreshment.
- 1.2 The policy takes into account DCMS guidance to Local Authorities, Central Government’s alcohol harm reduction strategy and is consistent with Section 17 of the Crime and Disorder Act 1998 which requires the Local Authority to do all that it reasonably can to prevent crime and disorder within its locality. The policy is consistent with the Human Rights Act 1998, the Environmental Protection Act 1992 and the Anti-social Behaviour Act 2003.
- 1.3 The Council has a duty under the Act to exercise its functions with a view to promoting the four licensing objections, which for the avoidance of doubt are:
- ◆ The prevention of crime and disorder
 - ◆ Public safety
 - ◆ The prevention of public nuisance
 - ◆ The protection of children from harm
- 1.4 This policy is made after consultation with;
- a. The Chief Officer of Police;
 - b. The Hereford and Worcester Combined Fire Authority;
 - c. Bodies representing local holders of premises licences;
 - d. Bodies representing local holders of club premises certificates;
 - e. Bodies representing local holders of personal licences;
 - f. Bodies representing bodies business and residents in the Council’s locality.
- 1.5 The purpose of this policy document is to assist both officers and members in arriving at decisions on particular applications, setting out those matters that will normally be taken into consideration. Additionally, the policy document seeks to provide clarity for applicants, residents and other persons interested in or occupying property to enable

them to make plans to move, remain or invest in the communities of Herefordshire with some measure of certainty. Whilst the Council has adopted this policy, this is the general approach that the Council will take in considering applications. However, the Council recognises that each application will always be considered on its individual merits.

- 1.6 The objective of the licensing process is to allow the carrying on of retail sales of alcohol and the provision of regulated entertainment in a way which ensures public safety and which is neither to the detriment of the residents, nor gives rise to loss of amenities. It is the Council's wish to facilitate well run and well managed premises with licence holders displaying sensitivity to the impact of their premises on local residents and the community.

2. Cumulative Impact

- 2.1 The Council will assess the cumulative impact of licensed premises on the promotion of the licensing objectives set out in 1.3. It is important however that this issue is not confused with the perceived "need" for the premises which is a judgement relating to commercial demand for a particular public house, restaurant or similar venture. The issue of "need" is therefore a matter for planning consideration or for market forces to decide and does not form part of the licensing policy statement.
- 2.2 The Council may refuse individual licenses if representations are received from either a responsible authority or an interested party as defined in the Act, or that the cumulative impact of new licenses is leading to an area becoming saturated with premises of a particular type, thereby making it a focal point for large groups of people to gather thereby creating exceptional problems of disorder and/or nuisance which out weights the impact from the individual premises themselves. In all such cases the issue of cumulative impact can be taken into account when considering the individual merits of any application.
- 2.3 Where representations are made by an interested party or responsible authority the Council will consider, inter alia:
- a. Identifying an area from which problems are arising and the boundaries of that area.
 - b. Adopting a policy about future applications for premises within that area;
 - c. Making an assessment of the causes;
 - d. Gathering evidence and identifying serious and chronic concern from a responsible authority or local residents about nuisance and disorder.
- 2.4 Where such representations are made, it shall be for the responsible authority or interested party making those representations to prove any assertion that the licensing of the premises concerned would cause the cumulative impact claimed.
- 2.5 The Council are cognisant of the fact that licensing is not to be the sole or only means of addressing problems caused by unruly or anti-social behaviour. Other mechanisms include:
- a. Planning controls;

- b. Powers of local authorities to pass bylaws controlling the consumption of alcohol in public places;
- c. Police powers to close premises or temporary events on grounds of disorder or likelihood of disorder or excessive noise;
- d. The prosecution of personal licence holders who sell alcohol to customers who are drunk;
- e. The powers of the police, local businesses or residents to demand a review of a licence.

3. Relationship with the Planning Process

- 3.1 All premises for which a licence is required must have a suitable authorised use under planning legislation. For example:
 - a. “Use for the sale of food and drink for consumption on the premises or of hot food for consumption off the premises” (use Class A3);
 - b. Retail shop licensed for the sale liquor (use Class A1);
 - c. A hotel which has a restaurant or bar included in its authorised use (use Class C1).
- 3.2 The Council's planning policies are set out in its UDP. Additionally, Government guidance in the form of planning policy guidance notes (PPG's) and regional planning policy guidance notes (RPG's) are relevant. The purpose of the policies is to ensure that the Council, as local planning authority gives considerable weight to the policies in order to cause consistency in decision making.
- 3.3 All applications for premises or club premises licences will normally only be considered where:
 - a. The activity to be authorised by the licence is a lawful planning use, and;
 - b. The hours sought in the licence do not exceed those authorised by any planning permission.

4. Licensing Hours

- 4.1 The Council recognises that fixed licensing hours can lead to disturbance and disorder when large numbers of people leave licensed premises at or about the same time. Longer and more flexible licensing hours regarding the sale of alcohol may therefore be considered as an important factor in reducing the possibility of disorder and friction at late night fast food outlets, taxi ranks, bus stops and other areas where incidents of disorder and disturbance have historically occurred. With regard to shops, stores and supermarkets these will be free to provide the sale of alcohol for consumption off the premises only when the retail outlet is open for shopping unless a responsible authority or interested party can show cause why more stringent conditions should be imposed.
- 4.2 The Council in deciding whether to issue a licence will consider each application on its merit, however stricter conditions are likely to be imposed with regard to noise control in the case of premises situated in predominantly residential areas. The Council does not intend any form of “zoning” to be introduced as research has shown this can lead to significant migration of people across zonal boundaries in search of premises which remain open for longer hours which can of itself put stress on town and city centres.

5. Licensed Premises and Children

- 5.1 The Council recognise that there are numerous and diverse premises for which licenses may be sought. Such premises may include cinemas, public houses, nightclubs, takeaway bars, community halls and restaurants. Access by children to all types of the premises will not be limited in any way unless it is considered necessary to do so in order to protect them from harm. Whilst the Council will decide each application on its own individual merits, examples which might give rise to concern would include premises;
- a. Where there has been a known association with drug taking or drug dealing;
 - b. Where there is a strong element of gambling taking place;
 - c. Where entertainment is provided of an adult or sexual nature;
 - d. Where there have been convictions for the serving of alcohol to persons under the age of 18;
 - e. Where there is a reputation for under age drinking.
- 5.2 In the case of premises which are used for film exhibitions (such as cinemas) conditions will be imposed restricting access only to those who meet the required age limit in which any certificate granted by the British Board of Film Classification. Where a large number of children are likely to present on any licensed premises (e.g. for the showing of a film predominantly aimed at children or a pantomime) then conditions will be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and the protection of children from harm. Suitable options for limiting access by children to licensed premises might include;
- a. A limit on the hours when children may be present;
 - b. A limitation or exclusion when certain activities take place;
 - c. The requirement to be accompanied by an adult;
 - d. Access limited to parts of the premises, but not the whole;
 - e. An age limitation (for under 18).
- 5.3 The Council will not impose any condition to the effect that children must be admitted to any given premises.

6. Conditions of Licence

- 6.1 The Council recognises that it may be necessary for conditions to be imposed on any licence which are tailored to the individual style and characteristics of the premises and events concerned. The Council does not propose to implement standard conditions of licence uniformly across its area, but instead will draw upon a model pool of conditions issued by the DCMS and attach conditions as appropriate given the circumstances of each individual application. The model conditions will include inter alia Guidance issued surrounding crime and disorder; public safety; cinemas and fire safety; public nuisance and the protection of children from harm.

7. Enforcement

- 7.1 The Council has already established joint inspections of premises together with the West Mercia Constabulary and the Hereford and Worcester Fire Service. It is proposed to

continue such inspections to ensure the prevention of crime of disorder and the safety of the public. Inspections will take place at the discretion of the Council and its partner agencies and resources will be concentrated on areas perceived as having the greatest need.

8. Films

- 8.1 No film shall be exhibited at any licensed premises, which is likely to;
- a. Lead to public disorder, or;
 - b. Stir up hatred or incite violence towards any section of the public on grounds of colour, race, ethnicity, or national origin, disability or religious beliefs, sexual orientation or gender.
- 8.2 If the Council decides that a particular film in the opinion of the Council falls into any of the above categories and may not be shown, the Council's decision is final in that respect.

9. Live Music, Dancing and Theatre

- 9.1 The Council recognises as part of implementing its cultural strategy, proper account shall be taken of the need to encourage and promote live music, dancing and theatre for the cultural benefit of the wider community. Conditions imposed on relevant licences will not discourage the promotion of such entertainment, but will relate solely to the promotion of the licensing objectives.

10. Terminal Hours

- 10.1 When considering applications for premises licences, the Council will take into account applicants requests for terminal hours in the light of:
- a. Environmental quality;
 - b. Residential impact and amenity;
 - c. The character and nature of a particular area;
 - d. The nature of the proposed activities to be provided at the premises.
- 10.2 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect any of the above matters. The Council may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area.

11. Capacity

- 11.1 Fire safety certificate should impose number restrictions for individual premises. The Council may impose conditions in relation to the maximum number of persons to attend premises where;
- a. It considers it to be necessary for the purpose of crime and disorder, and;
 - b. If the fire safety certificate was issued prior to any licence/activity taking place at the premises.

11.2 In those circumstances the Council may impose a maximum number of persons to be in the premises at any one time to ensure the safety of those persons at the premises and to ensure a safe means of escape in the event of fire or similar emergency. The Council will have regard to advice from the fire authority in this respect.

12. Fees

12.1 The Council will not issue any licence until the appropriate prescribed fee in respect of the same has been paid to the Council

13. Scheme of Delegated Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a representation made	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated personal licence holder	If a police representation		All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence	If a police representation		All other cases
Applications for Interim Authorities	If a police representation		All other cases
Application to review premises licence/club premises certificate	All cases		
Decision on whether a complaint is irrelevant frivolous vexations etc			All cases
Decision to object when local authority is a consultee and not the lead authority			All cases
Determination of a police representation to a temporary event notice	All cases		