



## Licensing Act 2003 Committee

<b>Date:</b>	<b>Monday, 8 November 2010</b>
<b>Time:</b>	<b>5.15 pm</b>
<b>Venue:</b>	<b>Committee Room 2 - Wallasey Town Hall</b>

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### AGENDA

**1. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members are asked to consider whether they have personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they are.

**2. MINUTES**

To receive the minutes of the meeting held on 28 July 2010.

**3. DRAFT STATEMENT OF LICENSING POLICY (Pages 1 - 66)**

**4. EXEMPT INFORMATION - EXCLUSION OF THE PRESS AND PUBLIC**

The following items contain exempt information.

RECOMMENDATION: That, under section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following items of business on the grounds that they involve the likely disclosure of exempt information as defined by the relevant paragraphs of Part I of Schedule 12A (as amended) to that Act. The Public Interest test has been applied and favours exclusion.

**5. ANY OTHER URGENT BUSINESS ACCEPTED BY THE CHAIR**

To consider any other business that the Chair accepts as being urgent.

WIRRAL COUNCIL

LICENSING ACT 2003 COMMITTEE – 8 NOVEMBER 2010

REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

## **DRAFT STATEMENT OF LICENSING POLICY**

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### **1.0 EXECUTIVE SUMMARY**

1.1 The purpose of this report is to seek Members approval of the Draft Statement of Licensing Policy in order that it may be presented to Council for approval on 13 December 2010.

### **2.0 BACKGROUND**

2.1 Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a statement of its Licensing Policy every three years.

2.2 The Council's Statement of Licensing Policy was first published in January 2005 and was reviewed and published in December 2007. The Policy is now due to be reviewed and published no later than December 2010.

2.3 Amendments have been made to the current Statement of Licensing Policy in accordance with updated Guidance issued under Section 182 of the Licensing Act 2003 and a revised Best Practice Framework produced by the Local Authorities Coordinators for Regulatory Services (LACORS) now known as Local Government Regulation. Additional information is also provided relating to the Temporary Event Notice procedure and the Licence Review process and an appendix provides a list of useful contacts. The draft also takes account of changes in legislation, including: the smoking restrictions that apply to premises and the change that provides that Members may make representations or request that the Licensing Authority review a Premises Licence or Club Premises Certificate.

2.4 The Draft Statement of Licensing Policy attached in Appendix 1 has been circulated for consultation. The consultation has included:

- The Chief Officer of Merseyside Police
- The Chief Fire Officer
- The Chief Officer of Mersey Regional Ambulance Service
- The Director of Technical Services
- Local Safeguarding Children Board
- Wirral Trading Standards
- Environmental Health (Health & Safety and Pollution Control)
- Residents of Wirral, through random selection and Local Area Forums
- Equity
- British Beer & Pub Assn, North West Region
- Musicians Union
- Guild of Master Victuallers
- Federation of Licensed Victuallers Associations
- Cinema Exhibitors Association
- British Retail Consortium
- British Institute of Innkeeping

- Bar, Entertainment and Dance Association
- Association of Licensed Multiple Retailers
- Alison McGovern, Member of Parliament for Wirral South
- Wirral Chamber of Commerce
- Pub Watch
- Members of the Council

- 2.5 Notification of the review was published in the co-ordinator's reports to the Area Forums during September and October and it was also published on the Council's Website.
- 2.6 The consultation period began on 4 August 2010 and closes on 1 November 2010. To date responses have been received from Equity, Merseyside Fire and Rescue Service, Alison McGovern, MP, Mrs Jackie Hall, Resident of Hoylake and Devonshire Park Residents Association.
- 2.7 Copies of the responses received are attached at Appendix 2.
- 2.8 A summary of the comments received that relate directly to the draft policy is shown in Table A below. A full response will be given to all those who have provided comments following consideration of the draft policy at full Council on 13 December 2010.

**Table A**

	<b>Summary of Comments</b>	<b>Response to Comments</b>
<b>Merseyside Fire and Rescue Service</b>	That all applicants complete a suitable and sufficient fire risk assessment.	The risk assessment relates to the likely impact of the application on the four licensing objectives. It would be a matter for the Fire Authority to make a requirement through a representation for a risk assessment to be undertaken.
<b>Alison McGovern, MP</b>	The policy should take into account local businesses as well as local residents being affected by customers of licensed premises.	The draft policy has been amended to take into consideration the comments made. The suggestions made are now incorporated into paragraphs 4.19 and 4.20 and for the purpose of this report are shown in bold type.
<b>Equity</b>	Requesting local authorities support for live entertainment in particular travelling entertainers, for example circuses.	Council land is licensed to accommodate circuses.

<p><b>Mrs Jackie Hall, Resident of Hoylake</b></p>	<p>Residents and Licence Holders do not want any more licences in Hoylake and a Cumulative impact policy should be in place in Hoylake.</p> <p>Premises in Hoylake should close at 12 midnight.</p>	<p>Consideration was given by this Committee on 28 September 2008, as to whether to amend the Licensing Policy to include a Special Cumulative Impact Policy for an area of Hoylake. At that time having considered the evidence presented it was resolved not to amend the Statement of Licensing Policy. It was further resolved that in the event that evidence is received from the Responsible Authorities to justify a Special Policy the matter should be referred back to this Committee. To date, no evidence has been brought forward by any of the Responsible Authorities. In response to this consultation no comments have been received from any of the Responsible Authorities in respect of the need to adopt a Cumulative Impact Policy in Hoylake.</p> <p>Guidance issued under Section 182 of the Licensing Act 2003 provides information in relation to a cumulative impact policy. An extract from this guidance is available at Appendix 3.</p> <p>Guidance issued under Section 182 of the Licensing Act 2003 provides information in relation to licensed hours. An extract from this guidance is available at Appendix 4.</p>
<p><b>Devonshire Park Residents Association</b></p>	<p>There are too many premises with licences which is having an impact on residential areas. A cumulative impact policy should be in place.</p>	<p>In response to this consultation no comments have been received from any of the Responsible Authorities in respect of the need to adopt a Cumulative Impact Policy</p>

	<p>Premises applying for a new licence should have the same hours as those who currently have a licence.</p>	<p>in this area.</p> <p>There are a number of steps to be followed in considering whether to adopt a special cumulative impact policy within the Licensing Policy. These steps are:</p> <ul style="list-style-type: none"> <li>• Identify concern about crime and disorder or public nuisance</li> <li>• Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by customers of licensed premises or that the risk of cumulative impact is imminent.</li> <li>• Undertake consultation</li> </ul> <p>Guidance issued under Section 182 of the Licensing Act 2003 provides information in relation to a cumulative impact policy. An extract from this Guidance is available at Appendix 3.</p> <p>Guidance issued under Section 182 of the Licensing Act 2003 provides information in relation to licensed hours. An extract from this Guidance is available at Appendix 4.</p>
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**3.0 FINANCIAL IMPLICATIONS**

3.1 There are no financial implications arising out of this report.

**4.0 STAFFING IMPLICATIONS**

4.1 There are no staffing implications arising out of this report.

## **5.0 EQUAL OPPORTUNITIES IMPLICATIONS**

5.1 The draft policy contains a clause (15.1) recognising the need to eliminate unlawful discrimination and promote equality of opportunities.

## **6.0 COMMUNITY SAFETY IMPLICATIONS**

6.1 Effective control of Licensing Legislation can assist in raising standards and improve the perception of community safety.

## **7.0 LOCAL AGENDA 21 IMPLICATIONS**

7.1 There are no Local Agenda 21 implications arising out of this report.

## **8.0 PLANNING IMPLICATIONS**

8.1 Section 10 of the draft policy refers to planning and building control issues and licensed premises.

## **9.0 ANTI-POVERTY IMPLICATIONS**

9.1 There are no anti-poverty implications arising out of this report.

## **10.0 SOCIAL INCLUSION IMPLICATIONS**

10.1 There are no social inclusion implications arising out of this report.

## **11.0 LOCAL MEMBER SUPPORT IMPLICATIONS**

11.1 The report affects the whole Borough.

## **12.0 BACKGROUND PAPERS**

12.1 There are no background papers.

## **13.0 RECOMMENDATIONS**

13.1 That the Draft Statement of Licensing Policy be approved as a Draft to be considered by Council on 13 December 2010 for approval as the Licensing Policy.

Bill Norman  
Director of Law, HR and Asset Management

This report was prepared by Margaret O'Donnell who can be contacted on 691 8606.

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# Draft Statement of Licensing Policy

July 2010

Wirral Licensing Authority  
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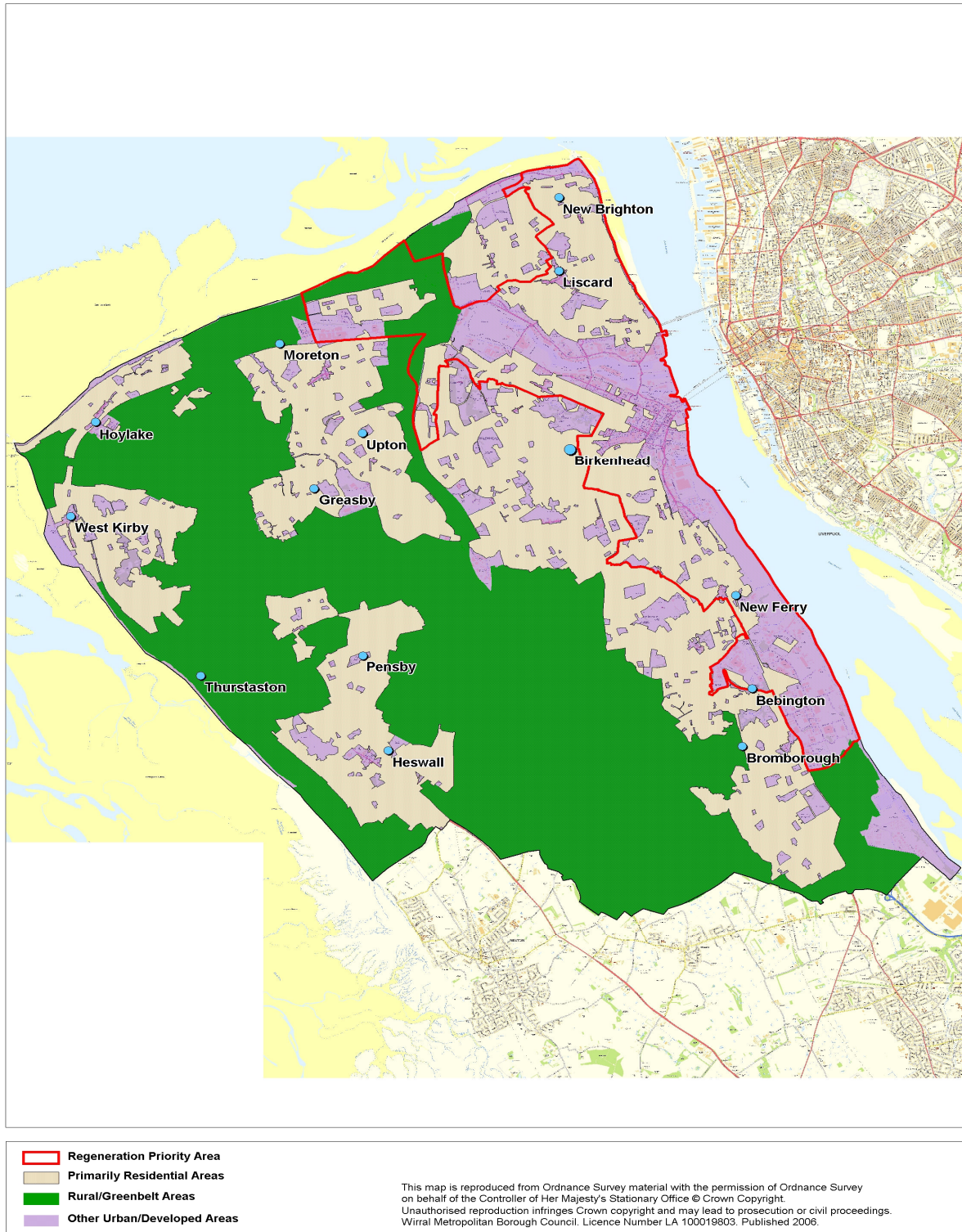
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# 1. BACKGROUND

1.1 Wirral Borough Council is situated in the County of Merseyside, which contains no district Councils, but 5 metropolitan councils: Knowsley, Liverpool, Sefton, St Helens and Wirral. The Council area has a population of 310,200 (ONS 2007 midyear population estimates) making it the second largest after Liverpool in the County in terms of population. In terms of area it is the largest in Merseyside, covering 60.1 square miles. The Borough is mainly urban in outlook, with 32.85 square miles (54.66% of the borough) covered in Residential, Industrial or Commercial buildings.



The key provided identifies the urban / rural areas as well as regeneration priority areas.

## **2. EXECUTIVE SUMMARY**

- 2.1 This policy sets out how the Licensing Authority will carry out its function in respect of individual applications made under the terms of the Licensing Act 2003.
- 2.2 The Licensing Authority aims to provide a transparent balanced, consistent, proportionate and fair licensing service for all service users including applicants, licence holders, interested parties and responsible authorities.
- 2.3 Holders of authorisations, be that a Premises Licence, Club Premises Certificate, Temporary Event Notice or Personal Licence will be expected to work proactively and positively with the Licensing Authority, Responsible Authorities and Interested Parties to promote the Licensing Objectives.
- 2.4 The policy aims to ensure a consistent approach to licensing within Wirral, promoting fairness and proportionality. The policy is to assist Officers and Members of the Licensing Act 2003 Committee in reaching decisions on particular applications, setting out those matters that will normally be taken into account.
- 2.5 The policy seeks to provide clarity for applicants and residents to enable them to understand the objectives being promoted and matters that will be considered in determination of the applications made under The Licensing Act 2003.
- 2.6 The policy will cover all applications for Premises Licences, Club Premises Certificates, notification of temporary events, together with applications for renewals, transfers and variations. The policy also provides details of the review process that provides a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a Premises Licence or Club Premises Certificate.
- 2.7 Wirral Borough Council is the Licensing Authority under the Licensing Act 2003 (the Act) and works closely with the Responsible Authorities, the licenced trade, local residents, local businesses and Ward Councillors to deliver the licensing objectives.
- 2.8 The Licensing Authority takes its responsibility and the Act seriously and actively works with Merseyside Police and Trading Standards to combat alcohol related crime and disorder and tackle the sale of alcohol to underage persons. Further details of this work can be identified in Wirral's Alcohol Harm Reduction Strategy.
- 2.9 The Licensing Authority works closely with residents to listen to their concerns and where appropriate act as a mediator between licence holders and residents to address issues, in particular relating to the prevention of public nuisance. We also work with licence holders both directly and through Pub Watch, to seek compliance with licence conditions and encourage discussion between all relevant parties to promote the Licensing Objectives. This work is undertaken in recognition that enforcement action will be taken when necessary and appropriate in accordance with the Authority's Enforcement Policy.

## **3. PURPOSE AND SCOPE OF THE LICENSING POLICY**

- 3.1 The Licensing Act 2003 requires that the Licensing Authority publish a Statement of Licensing Policy that sets out the principles the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act. In addition the Policy seeks to provide clarity for applicants and residents to enable them to understand the objectives being promoted and the matters



that will be considered in the determination of licences. This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and having regard to the Guidance issued under Section 182.

The Policy relates to all those activities identified as falling within the provisions of the Act, namely:

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of 'regulated entertainment' - to the public, to club members or with a view to profit
- A performance of a play
- An exhibition of a film
- An indoor sporting event
- Boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance
- Provision of facilities for making music
- Provision of facilities for dancing
- The supply of hot food and/or drink from any premises between 11.00 pm and 5.00 am

3.2 In accordance with Section 5(3) of the 2003 Act, the policy has been prepared in consultation with:

- The Chief Officer of Police for the area
- The Fire and Rescue Authority for the area
- Persons/Bodies representative of local holders of premises licences
- Persons/Bodies representative of local holders of club certificates
- Persons/Bodies representative of local holders of personal licences
- Persons/Bodies representative of businesses and residents in its area

#### 4. LICENSING OBJECTIVES

4.1 In carrying out its various licensing functions the Licensing Authority will promote the Licensing Objectives which are:

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

These objectives will be considered of equal importance and paramount at all times.

4.2 In addition to the Licensing Objectives, this Authority is also bound by Section 17 of the Crime and Disorder Act 1988 which requires the Authority to do all that it reasonably can to prevent crime and disorder within the locality. The Licensing Authority will work in partnership with the Police and other relevant agencies and local residents towards the promotion of the Licensing Objectives.

4.3 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act.

- 4.4 In determining a licence application the overriding principle adopted by the Licensing Authority will be to determine each application on its individual merits.

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

- 4.5 The Licensing Authority expects individual licence holders, new applicants and temporary event organisers to regularly review their arrangements in addressing crime and disorder issues pertinent to their particular licensable activities and/or premises. Information and advice can be obtained from regulatory agencies, business network groups and other sources. The Licensing Authority also encourages local residents and other businesses to discuss issues of concern directly with individual businesses or, to contact the Police and Licensing Service if they believe that a particular licensed premises is failing to achieve this objective.
- 4.6 The Authority will through its Crime and Disorder Reduction Partnerships, devise and help deliver strategies to tackle the misuse of alcohol, identified in the Cabinet Office's Alcohol Harm Reduction Strategy as being a precursor to crime and anti-social behaviour. The Licensing Authority expects existing licence holders, new applicants and the organisers of temporary events, to be able to demonstrate the measures they use, or propose to adopt, to prevent and actively discourage underage retail and hospitality sales/supply of alcohol. In general, conditions will reflect local crime prevention strategies.
- 4.7 The risk assessment approach remains fundamental. Licence holders and applicants are strongly recommended to work closely with the Police and Licensing Service in particular, in bringing into effect appropriate control measures to either overcome established or potential problems. A combination of short and longer-term strategies may need to be deployed by the licence holder to sustain and promote the prevention of crime and disorder.
- 4.8 The Licensing Authority encourages relevant businesses to participate in local Pub Watch schemes or similar forums where it is set up, and where this helps secure and/or promotes the Licensing Objective(s).
- 4.9 The Licensing Authority will encourage small businesses to network locally with other businesses and to seek advice from regulatory agencies.
- 4.10 The Council has specific duties under Section 17 of the Crime and Disorder Act 1998 that underpins any control strategy that is employed. The Council will continue to work in partnership with the Police in addressing crime and disorder issue.

### **Promotion of Public Safety**

- 4.11 Public safety is not defined within the Act, but is concerned with the physical safety of people, not specifically with public health matters, which are covered by other legislation such as the Health and Safety at Work etc, Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.
- 4.12 Applicants and event organisers will be expected to assess not only the physical environment of the premises (or site) but also operational practices, in order to protect the safety of members of the public visiting the site, those who are permanently employed in the business, those who are engaged in running an event or anyone else that could be affected by site activities.

- 4.13 Holders of Premises Licences, and Club Premises Certificates Certificates, or those organising temporary events, should interpret safety widely to include freedom from immediate danger or physical harm, and a sense of personal security e.g. freedom from personal abuse.
- 4.14 For licensed or certificated premises and for temporary events, public safety must be kept under review and where changes to operational practices occur, a review of risk assessment must be undertaken.
- 4.15 Fire safety and means of escape remain an essential consideration to the Licensing Authority when determining applications. The Licensing Service will work in partnership with the Fire Authority and other Council departments (e.g. Building Control and Environmental Health) to ensure that appropriate standards are applied and maintained. Applicants are encouraged and reminded to consult with all relevant parties prior to submission.
- 4.16 In the context of providing safe access to licensed premises for disabled members of the community, the Licensing Authority urges all licensees to familiarise themselves with The Disability Discrimination Act 1995.

### **Prevention of Public Nuisance**

- 4.17 Public nuisance is not narrowly defined within the context of the Act. The Licensing Authority will take a broad approach to its meaning. In effect, any nuisance arising from a licensable activity – ranging from major noise from an outdoor pop concert affecting a wide area, to a low-level nuisance affecting only a few people (e.g. vibrations from a poorly mounted extraction duct serving a night café), could be included.
- 4.18 The Licensing Authority remains sensitive to the expectations and needs of different parts of the community in respect of leisure and cultural pursuits, and will view applications accordingly. The Licensing Authority will consider the impact of those activities on people who have to live, work and sleep within the local vicinity of a licensed premises.
- 4.19 The Licensing Authority will always consider whether other legislation already provides sufficient protection of the rights of local people. For example, the Environmental Protection Act 1990, the Noise Act 1996 and the Antisocial Behaviour Act 2003 can be utilised to address noise nuisance issues. The Licensing Authority considers that the potential for public nuisance can be prevented or much reduced by good design and planning during new or ancillary construction works, and by the provision of good facilities. This will require appropriate advice at the planning and development stages of new projects. The Licensing Authority's Licensing Service and the Environmental Health Department and other regulatory agencies such as the Police, should be viewed as being instrumental in this respect. Applicants should consider carefully the suitability of the premises for the type of activity to be undertaken, particularly in terms of ventilation, noise breakout and noise/vibration transmission to adjoining premises. **Applicants should ensure they have measures in place to prevent public nuisance within the vicinity of the premises that might affect other businesses as well as residents.**
- 4.20 The Licensing Authority expects licence holders to use their risk assessments and Operating Schedules to review and, if need be, to make necessary improvements to the premises, or to operational practices, in order to prevent public nuisance. The matter of persons congregating in outside areas including beer gardens can cause

disturbance and be a public nuisance to residents living in close proximity to licensed premises. This congregation may be connected to the manner in which the smoke free legislation is managed at the premises. The Licensing Authority will expect such matters to have been demonstratively assessed and addressed in the Operating Schedule. In cases where there appears to be a likelihood of residents living around licensed premises **or businesses within the vicinity** being disturbed by customers leaving venues, or there being an impact on crime and disorder from customers leaving venues, applicants may consider putting in place a dispersal policy such a policy would set out the steps that would be put in place to minimise disorder or disturbance that may be caused as customers leave.

- 4.21 Where the provision of existing legislation proves inadequate or inappropriate for control purposes, if its discretion is engaged through the submission of representations the Licensing Authority will consider imposing licence conditions, any condition deemed appropriate and imposed by the Licensing Authority to promote the prevention of public nuisance will focus on measures within the direct control of the licence holder, and designated premises supervisor.

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

- 4.22 The Licensing Authority recognises the Local Safe Guarding Children Board as being competent to advise on matters relating to the protection of children from harm.
- 4.23 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.
- 4.24 The Licensing Authority is committed to tackling the issue of under-age drinking and has developed a comprehensive package of measures in partnership with other stakeholders and will seek support from licence holders to implement these measures.
- 4.25 Licensing conditions will usually only restrict access to children in order to protect those children from harm. Applicants will be expected to pay particular attention to safety issues within their operating schedule where regulated entertainment is specially presented for children.
- 4.26 The Licensing Authority recognises the great variety of premises for which licences may be sought, including theatre, cinemas, public houses, concert halls as well as 'night-clubs'. The Licensing Authority will consider the individual merits of each of these applications. Examples of premises where restrictions on access to children may be imposed include:
- Where there have been convictions of current staff for serving alcohol to minors
  - Where there is 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
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

4.27 The options available for limiting access to children can include:

- A limit on the hours when children may be present
- Age limitations (below 18)
- Limitation or exclusions when certain activities are taking place
- The requirement to be accompanied by an adult
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

4.28 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issues of access will remain a matter for the discretion of the individual licensee or club.

4.29 Where children are expected to attend public entertainment, appropriate adult supervision will be required to control the access and egress of children and to protect them from harm.

4.30 The type of entertainment and the nature of the premises will determine the appropriate level of adult supervision. If considered appropriate, the Licensing Authority may require that adult supervisors be subject to a Criminal Records Bureau check.

4.31 Where cinemas are concerned, the Licensing Authority would expect licensees to impose conditions that children will be restricted from viewing age-restricted films according to the recommendations of the British Board of Film Classification. Licensees will be expected to include in their operating schedule arrangements for restricting children from viewing age restricted films.

## 5. **CONDITIONS**

5.1 The Licensing Authority cannot impose conditions unless it has received a relevant representation from a responsible authority, such as the Police or an Environmental Health officer or an interested party, such as a local resident, local business or a local Ward Councillor. The Licensing Authority will determine whether or not a representation qualifies as a “relevant representation” and therefore whether or not the representations may be taken into account by the Licensing Authority when it makes its decision. In determining whether or not a representation is a “relevant” representation, the Licensing Authority will have regard to Government guidance. The Licensing Authority then needs to be satisfied that it is necessary to impose conditions or refuse an application in order to promote one or more of the Licensing Objectives.

5.2 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises. Standard conditions, other than mandatory conditions, will therefore be avoided and no condition will be imposed that is disproportionate or cannot be shown to be necessary for the promotion of the Licensing Objectives. However the Licensing Authority may seek to develop a pool of conditions in line with the Department of Culture, Media and Sport (DCMS) Guidance.

- 5.3 Applicants for Premises Licences or Club Premises Certificates or for variations to such licences or certificates are expected to conduct a thorough risk assessment with regard to the Licensing Objectives when preparing their applications. The risk assessment should cover the premises, events, activities and the customers expected to attend and will inform any necessary steps to be set out in the operating schedule to promote the Licensing Objectives. It would be sensible for applicants and clubs to consult with responsible authorities when operating schedules are being prepared. This would allow for proper liaison before representations prove necessary. The level of detail to be provided should be proportional to the scale and nature of the application to allow Responsible Authorities and Interested Parties to consider whether the Licensing Objectives are being/can be fully met.
- 5.4 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined it is appropriate, such prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable.
- 5.5 The Guidance issued under Section 182 provides pools of model conditions at Annexe D.
- 5.6 Where necessary for the promotion of the Licensing Objectives, the Licensing Authority will attach conditions in accordance with these model pool of conditions.
- 5.7 Conditions deemed necessary to achieve the Licensing Objectives will be applied following Relevant Representations. Terms and conditions attached to licences will be proportionate and will focus on matters that are within the control of individual licensees and others granted relevant permissions. The focus of these conditions will be on the direct impact that activities taking place at the licensed premises could have on persons attending the venue as well as members of the public living, working or engaged in normal activity in the area concerned and will seek to ensure the protection of children from harm.
- 5.8 It is recognised by this policy that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. This policy is able to address such behaviour “in the vicinity” of premises used for licensable activities. Whether or not incidents can be regarded as “in the vicinity” of licensed premises or places is ultimately a matter of fact to be determined by the courts in cases of dispute. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 5.9 The Licensing Authority will work in partnership with the Police and other relevant agencies to promote the Licensing Objectives and will develop licensing conditions for individual premises in order to meet these objectives and conditions will be tailored to the specific premises concerned. Licensing Law is not the primary mechanism for the general control of nuisance and anti-social behaviour once they are beyond the direct control of the individual, club or business holding the licence, however the Licensing Authority recognises that it is a key aspect of such control and Licensing Law will always be part of a holistic approach to the management of the evening and night time economy in town and city centres.
- 5.10 Other mechanisms available for addressing issues when individuals behave badly away from licensed premises include:

- Planning control
- Town centre initiatives
- The provision of CCTV surveillance in town centres
- Designation of defined areas within this Authority where alcohol may not be consumed publicly
- Police enforcement of the normal law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk or who are underage
- The confiscation of alcohol from adults and children in designated areas
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question

## 6. ENFORCEMENT

- 6.1 It is essential that Licensed Premises are maintained and operated to ensure the continued promotion of the Licensing Objectives and compliance with the specific requirements of the Act. The Licensing Authority will monitor premises and take appropriate enforcement action in line with the Licensing Authority's Enforcement Policy. A copy of the Enforcement Policy is available on request.
- 6.2 The Licensing Authority recognises the interests of both citizens and businesses and will work closely with partners to assist licence holders to comply with the law and the Licensing Objectives. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.
- 6.3 The Licensing Authority will continue to work with Merseyside Police on joint inspections of premises to reduce the level of crime and disorder and ensure the safety of the public. Protocols will continue to be developed to avoid duplication and ensure the best use of resources to promote the Licensing Objectives.
- 6.4 Protocols continue to be developed in accordance with the Licensing Authority's Enforcement Policy and the principles of better regulation. The principles of risk assessment and targeting will prevail and inspections planned accordingly.

## 7. CUMULATIVE IMPACT

- 7.1 Cumulative impact means the potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area. Cumulative impact of licensed premises on the promotion of the Licensing Objectives is a proper matter for a Licensing Authority to consider and the Licensing Authority may adopt a special policy.
- 7.2 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

- 7.3 However, a special policy does not relieve responsible authorities or interested parties of the need to make a relevant representation, referring to information which had been before the licensing authority when it developed its statement of licensing policy, before a licensing authority may lawfully consider giving effect to its special policy. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 7.4 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 7.5 It is for any person making such representations to provide evidence to the Licensing Committee that the addition of the premises concerned would cause the cumulative impact claimed. When considering such representations, the committee will:
- Identify any serious and chronic concern
  - Identify the area from which problems are arising and the boundaries of that area
  - Make an assessment of the causes
  - Consider adopting a policy about future licence applications from that area
- 7.6 The cumulative impact of licensed premises on the promotion of the Licensing Objectives is a matter the Licensing Authority can take into account. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises e.g. a public house, restaurant or hotel. The issue of 'need' is therefore a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 7.7 The Licensing Authority recognises that public houses, 'night clubs', restaurants, theatres, concert halls and cinemas all provide their services of selling alcohol, serving food and providing entertainment with contrasting styles and characteristics. Proper regard will therefore be given to these differences and the differing impact they will have on the local community and each application will be considered on its individual merits.

## **8. LICENSING HOURS**

- 8.1 The Licensing Authority recognises that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously is avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and private hire offices as well as other sources of transport that might be a focus of disorder and disturbance. The Licensing Authority will, however, have regard to the location of the premises in question and the surrounding area, considering each application on its individual merits.
- 8.2 Fixed trading hours within designated areas will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later.
- 8.3 Stricter conditions with regard to noise control will be demanded in certain areas, for example, premises in close proximity to residential accommodation.
- 8.4 The Licensing Authority will usually permit the sale of alcohol for consumption off trade premises at any time the retail outlet is open for shopping unless there are very



good reasons for restricting these hours, for example, following Police representation that a particular shop is known to be the focus of disorder and disturbance.

## **9. INTEGRATING STRATEGIES**

9.1 The Licensing Authority will seek to ensure proper integration with the local Crime and Disorder Reduction Partnership, Planning, Tourism and Cultural Strategies when dealing with licence applications and through partnership working. The Licensing Authority will work with other partners such as the Police and the Primary Care Trust to develop initiatives that support the Licensing Objectives. The following strategies are examples of such strategies:

- Alcohol Harm Reduction Strategy
- Tourism Strategy
- Crime and Disorder Reduction Partnership Strategy
- Wirral's Partnership Agreement

9.2 The Licensing Authority recognises that there are many stakeholders in the leisure industry covering a wide range of disciplines.

9.3 The Licensing Authority shall secure the proper integration of this policy with local crime prevention, planning, transport, tourism and cultural strategies by:

- Liaising and consulting with the Police, Community Safety
- Liaising and consulting with the Local Strategic Partnership
- Liaising and consulting with the Planning authority
- Liaising and consulting with the Trading Standards Team, for example, with regard to test purchasing codes of practice

9.4 Licences issued to premises shall reflect local crime prevention strategies. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.

9.5 The Licensing Authority shall have regard to the need to disperse people quickly and safely from the town centre to avoid concentrations that may produce disorder and disturbance. The policy shall reflect any protocols agreed between the local police and other licensing enforcement officers and the need to report to other council committees.

## **10.0 PLANNING AND BUILDING CONTROL**

10.1 Applications for Premises Licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing considers public nuisance whereas planning considers amenity.

10.2 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. Similarly, the granting by the Licensing Authority of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building consent.

10.3 There are also circumstances when as a conclusion of planning permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Applicants are strongly recommended to consider whether their application conflicts with a relevant planning permission for a particular premises. If the applicant is unsure whether this is the case or where they are aware of such a conflict, they should contact the planning department. Contact details are provided in Appendix 2

## **11.0 LIVE MUSIC, DANCING AND THEATRE**

11.1 Where possible, the Licensing Authority will encourage and promote live music, dancing and theatre for the wider cultural benefit of the Borough and its communities. The Licensing Authority will balance carefully the potential for limited disturbance in particular neighbourhoods against the benefit for a wider area. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the Licensing Authority is aware of the need to avoid measures which deter live music, dancing and theatre by impairing indirect costs of a disproportionate nature.

## **12.0 TEMPORARY EVENT NOTICE**

12.1 A permitted temporary activity is an event lasting for no more than 96 hours where the number of people attending the event is no more than 499.

12.2 Temporary events do not involve the Licensing Authority giving permission for the event to take place but the Police must be served with the Temporary Event Notice (TEN). This is a notification procedure in which only the police may intervene to prevent such an event taking place or to modify the arrangements for such an event. The Police may only do so where they believe it may undermine the promotion of the crime prevention licensing objective.

12.3 The event organiser must give the Licensing Authority and the police a minimum of 10 clear working days notice. This does not include the application date, the day of the event, weekends and bank holidays. The Licensing Authority recommends that TEN's are received by this Authority and Merseyside Police at least 28 days before the event, to allow any necessary discussions to take place with the Police.

12.4 It is not a requirement for a TEN to be served on other Responsible Authorities, however the Licensing Authority will notify the Responsible Authorities of all TEN's received. In addition Ward Councillors will be made aware of the TEN'S received relating to the premises in their ward so they are up to date with activities taking place in their area and are therefore able to respond to enquiries from local residents.

12.5 As started in paragraph 12.2 it is only the Police who can object to a TEN and providing details to other Responsible Authorities and Ward Councillors is purely to assist them in undertaking their duties.

## **13.0 LICENCE REVIEWS**

13.1 At any stage following the grant of a Premises Licence or Club Premises Certificate a Responsible Authority, Interested Party or an elected member of the Licensing Authority may ask the Licensing Authority to review the Licence or Club Premises

Certificate because of a matter at a particular premises in connection with any of the four licensing objectives.

- 13.2 Where a person or body is considering making an application for a review they are advised to contact the licensing office, contact details are provided in Appendix 2. This is so that an officer may provide some initial feedback on the matter and then if appropriate attempt to facilitate a meeting or a series of meetings between relevant persons to discuss the review process and identify any possible solutions.
- 13.3 Applicants for a review should make all efforts to set out their concerns clearly and ensure that these concerns are relevant to a failure to promote the licensing objectives.
- 13.4 In considering an application from an interested party the licensing Authority must first consider whether the applicant is relevant, vexatious, frivolous or repetitions.
- 13.5 The promotion of the licensing objectives relies heavily on a partnership between license holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is important therefore that authorities, persons and responsible authorities give license holders early warnings of their concerns and of the need for improvement.
- 13.6 The Licensing Authority cannot initiate the review process. The Authority's role is to administrate the process and determine its outcome at a hearing where an evidential basis for the allegations made will need to be submitted.
- 13.7 The Licensing Authority is considering the review may take such of the following steps:
  - modification of the conditions of the premises licence;
  - the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
  - removal of the designated premises supervisor from the licence
  - suspension of the licence.
  - revoke the Licence.

The Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives.

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

- 14.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Act 2003 Committee, by a Sub-Committee or, instead, by one or more officers acting under delegated authority.
- 14.2 The Licensing Authority recognises its responsibilities under the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000 in the exercise of its functions under the 2003 Act.
- 14.3 It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

- 14.4 Where there are relevant representations applications will be dealt with by a Sub-Committee of the Licensing Authority, as will any application for the Review of a licence.
- 14.5 The Licensing Authority will expect individual applicants to address the Licensing Objectives in their operational plan having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 14.6 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate when formulating their operating plan. The Licensing Authority also expects applicants to have regard to other national strategies and guidance, such as the Alcohol Harm Reduction Strategy, again where these are relevant.
- 14.7 When determining applications, the Licensing Authority will have regard to any guidance issued by the Department of Culture, Media and Sport (DCMS). If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.
- 14.8 In the interests of speed, efficiency and cost effectiveness, the Licensing Authority have determined which decisions and functions should be carried out by the full Licensing Committee, or delegated to a Sub-Committee or Council officer. Appendix 1 to this statement of policy sets out how the Council will approach and carry out its different functions.

## **15.0 PROMOTION OF RACIAL EQUALITY**

- 15.1 The Licensing Authority recognises that the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunities and good relations between persons of different racial groups. The Licensing Authority will therefore assess the likely impact of the policy and publish the results of such assessment in accordance with an impact equality assessment.

**DELEGATION OF FUNCTIONS**

<b>Matters to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representative made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	

<b>Matters to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Decision on whether a complaint is irrelevant frivolous vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

## LIST OF CONTACTS

Name and Address	Telephone Number	Email Address	Fax Number
Licensing Authority Wallasey Town Hall Brighton Street Wallasey CH44 8ED	0151 691 8043	<a href="mailto:licensing@wirral.gov.uk">licensing@wirral.gov.uk</a>	0151 691 8215
Police Licensing Section Manor Road Police Station Manor Road Wallasey CH44 1DA	0151 777 2944	<a href="mailto:A.BCU.Licensing@merseyside.police.uk">A.BCU.Licensing@merseyside.police.uk</a>	0151 777 2939
Environmental Health Town Hall Brighton Street Wallasey CH44 8ED	0151 691 8318	<a href="mailto:environmentalhealth@wirral.gov.uk">environmentalhealth@wirral.gov.uk</a>	0151 691 8444
Planning Authority Cheshire Lines Building Canning Street Birkenhead CH41 1ND	0151 606 2536	<a href="mailto:planningapplications@wirral.gov.uk">planningapplications@wirral.gov.uk</a>	0151 606 2268
Wirral Area Child Protection Committee Hamilton Building Conway Street Birkenhead CH41 4FD	0151 666 4291	N/A	0151 666 4580
Trading Standards Town Hall Brighton Street Wallasey CH44 8ED	0151 691 8020	<a href="mailto:tradingstandards@wirral.gov.uk">tradingstandards@wirral.gov.uk</a>	0151 691 8098

Merseyside Fire & Rescue Service Wirral District Fire Safety The Fire Station Mill Lane Wallasey CH44 5UE	0151 296 4932	<a href="mailto:WirralAdmin@merseyfire.gov.uk">WirralAdmin@merseyfire.gov.uk</a>	0151 296 6222
Guidance issued under section 182 of the Licensing Act 2003 can be obtained from:			
Department for Culture Media and Sport 2-4 Cockspur Street London SW1Y 5DH	020 7211 6000	<a href="mailto:enquiries@culture.gov.uk">enquiries@culture.gov.uk</a>	N/A



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# APPENDIX 2

# Statement of Licensing Policy

**LICENSING**  
18 AUG 2010

## Consultation - 2010

Your name:

AVANT LEAPS

Name of Company/Organisation:

MERSEYSIDE FIRE & RESCUE SERVICE

Contact Details:

Address:

MERSEYSIDE FIRE & RESCUE SERVICE

BLAUGRAN. BOOTH LIVERPOOL L30 4TD

Telephone Number:

0151 296 4639

Do you wish to receive feed back on the consultation? Yes  No

Do you wish to receive a copy of the final Statement of Licensing Policy? Yes  No

Please provide Comments relating to the headings below using the attachments.

- Purpose and Scope of the Licensing Policy
- Licensing Objectives
- Conditions
- Enforcement
- Cumulative Impact
- Licensing Hours
- Integrated Strategies
- Planning and Building Control
- Live Music, Dancing & Theatre
- Temporary Event Notices
- Licence Reviews
- Administration Exercise & Delegation of Functions
- Promotion of Racial Equality
- General

## Purpose and Scope of the Licensing Policy

### Licensing Objectives

Within part 5.3 the 1st paragraph specifies that "the level of detail provided should be proportional to the risk scale and nature of the application to allow Responsible authorities to consider whether the licensing objectives have been met"

Any guidance of the level of detail required by the licensing authority will include the completion of a suitable and sufficient fire risk assessment

### Conditions

## Enforcement

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## Cumulative Impact

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## Licensing Hours

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## Integrated Strategies

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## Planning and Building Control

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## Live Music, Dancing & Theatre

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## Temporary Event Notices

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## Licence Reviews

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## Administration Exercise & Delegation of Functions

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## Promotion of Racial Equality

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## General

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# Alison McGovern MP

Member of Parliament for Wirral South

[www.alisonmcgovern.org.uk](http://www.alisonmcgovern.org.uk)



Mrs Margaret O'Donnell  
Head of Licensing  
Metropolitan Borough of Wirral  
Town Hall  
Brighton Street  
Wallasey  
Wirral Merseyside  
CH44 8ED

19 October 2010

*Dear Mrs O'Donnell*

Further to receipt of Wirral Borough Council's licensing policy review document I have enclosed a copy of the response proforma containing some comments that I feel merit further consideration.

Receipt of feedback on the consultation exercise would be appreciated as would a copy of the final statement of licensing policy.

Best wishes,

*Rob Buckle*

*P/P*

Alison McGovern MP  
Member of Parliament for Wirral South



## Statement of Licensing Policy

### Consultation - 2010

Your name: Alison McGovern MP

Name of Company/Organisation: Member of Parliament

Contact Details: Constituency Office

Address: 99 New Chester Road  
New Ferry, Wirral, Merseyside CH62 4RA

Telephone Number: 0151 645 6590

Do you wish to receive feed back on the consultation? Yes  No

Do you wish to receive a copy of the final Statement of Licensing Policy? Yes  No

Please provide Comments relating to the headings below using the attachments.

- Purpose and Scope of the Licensing Policy
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- Temporary Event Notices
- Licence Reviews
- Administration Exercise & Delegation of Functions
- Promotion of Racial Equality
- General

## Purpose and Scope of the Licensing Policy

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## Licensing Objectives

4.19 Should take account of nuisance to public on the highway and effect on other retailers.

4.20 (After) In cases where there appears to be a likelihood of residents (Add) or other businesses around licensed premises being disturbed by customers.....

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## Conditions

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## Enforcement

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## Cumulative Impact

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## Live Music, Dancing & Theatre

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## Administration Exercise & Delegation of Functions

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## Promotion of Racial Equality

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## General

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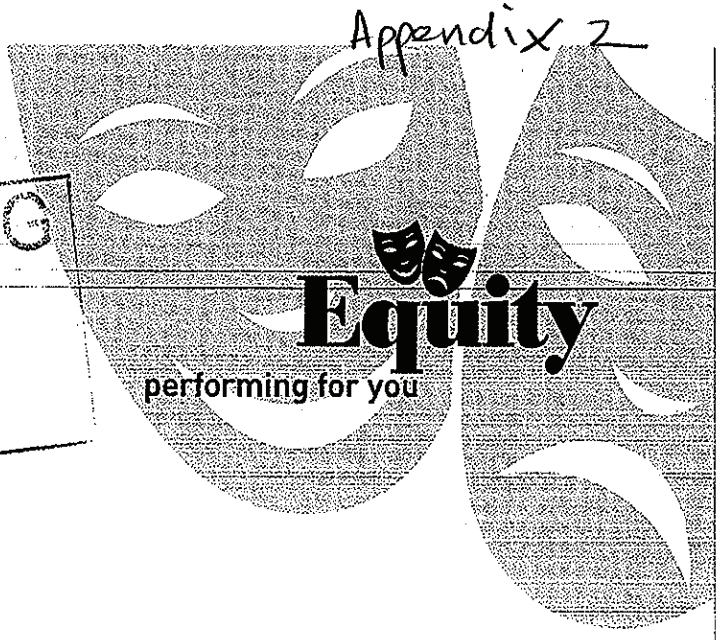
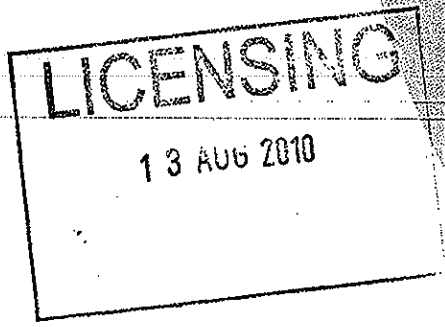
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Licensing Office  
Town Hall  
Wallasey  
Wirral  
Merseyside  
CH44 8ED

10th August 2010

**Re: Review of Licensing Policy**

I am writing to you on behalf of Equity, the trade union representing 37,000 performers and other creative professionals working in the entertainment industry, in response to the consultation exercise currently being undertaken to review your local authority licensing policy. Equity was closely involved in the Licensing Act 2003 both during its progression through the parliamentary process, and during and after its implementation.

We remain of the opinion that the inclusion of regulated entertainment in the Licensing Act 2003 is not necessary and has greatly increased bureaucracy for very little benefit to the licensing objectives. However, we are committed to working with central Government and local authorities to ensure that the Act meets the interests of performers as best as possible.

It is unfortunate that entertainment is regulated by legislation that is principally designed to deal with the sale of alcohol and public order issues. The Act includes all forms of "regulated entertainment", which includes live music, theatre and circus performances, street performances and Punch and Judy shows. Whilst there is no evidence to support such a link, we are aware that there are perceptions that live entertainment is associated with possible public order problems.

Since the new licensing regime came into force in November 2005 performers, and especially those working as variety artists, have raised major concerns about the negative impact the Act has had on their working lives and have called for important changes to the regulations. Furthermore, in recent years, many pubs and clubs have been forced to close due to falling disposable incomes. This has had a considerable knock-on effect for the employment of performers. We believe the restrictions brought about by the provisions of the Licensing Act are exacerbating this situation.

Together with the Musicians Union, Equity has recently been campaigning to secure reform of the regulation of live entertainment. We are very pleased to note that the Government is considering an exemption from the Act for live music venues with capacity for fewer than 200 people and would encourage your local authority to support such a change. Live music in small venues provides much needed

employment for musicians and singers starting out in their careers and can help small venues such as pubs and clubs diversify their business and avoid closure.

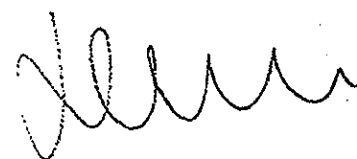
As stated above 'regulated entertainment' is a broad category. Many forms of travelling entertainment that for many years did not require a licence are covered by the provisions of the Licensing Act 2003. Consequently circuses have to get a separate licence for every single new site they go to – which can be as many as 40 each season. They also have problems if a site becomes unavailable at the last minute, as alternative sites will not ordinarily have a licence and it takes at least a further 28 days to arrange one.

In 2009 the Culture, Media and Sport Select Committee's Report into the Licensing Act contained a number of proposals which would have lifted some significant barriers to work faced by entertainers. The Report recommended the creation of portable licenses for travelling entertainment and circuses which would reduce the need for multiple applications and would provide greater freedom to perform on a basis agreed with local authorities. Equity supported these recommendations and would encourage your local authority to look into the possibility of streamlining the process of approving licences for travelling entertainment.

The Report also recommended that simplification of the Licensing Act is necessary in order to reduce bureaucracy and better meet the licensing objectives. In particular, the Committee stated that better consistency between local authorities would aid travelling performers. We would also encourage your local authority to work alongside other authorities in order to achieve this much needed consistency and to establish best practice in terms of licensing policy.

If you would like to discuss this issue further or if you require any clarification or additional information please contact Louise McMullan, Equity's Policy Development Officer & Assistant to the General Secretary at [lmcmullan@equity.org.uk](mailto:lmcmullan@equity.org.uk) or on 02076700260.

Yours sincerely,



**Christine Payne**  
**General Secretary**



## Statement of Licensing Policy

### Consultation - 2010

Your name:

JACKIE HALL

Name of Company/Organisation:

HOYLAKE RESIDENTS NETWORK

Contact Details:

Address:

90 45, CABLE RD,  
HOYLAKE. CH472AT

Telephone Number:

0151-632-2152

Do you wish to receive feed back on the consultation?

Yes

No

Do you wish to receive a copy of the final Statement of Licensing Policy?

Yes

No

Please provide Comments relating to the headings below using the attachments.

- Purpose and Scope of the Licensing Policy
- Licensing Objectives
- Conditions
- Enforcement
- Cumulative Impact
- Licensing Hours
- Integrated Strategies
- Planning and Building Control
- Live Music, Dancing & Theatre
- Temporary Event Notices
- Licence Reviews
- Administration Exercise & Delegation of Functions
- Promotion of Racial Equality
- General

## Purpose and Scope of the Licensing Policy

Take Residents Views 1st

## Licensing Objectives

To protect the peaceful enjoyment  
of Residents Property as in  
W.B Council UDP.

## Conditions

Strict behaviour conditions  
need to be attached to licenses

## Enforcement

Insufficient officers to ensure full enforcement, after hours drinking in Hoyleake.

## Cumulative Impact

We have worked on this Policy and it is left unopened. The Residents, licensees and Bar Owners, Restaurantiers do not want any more licences in Hoyleake. We should call the tune.

## Licensing Hours

Midnight Closure requested in Hoyleake due to the Proximity of Residential Property.

## Integrated Strategies

Licensing, Planning and Police  
and environmental health  
do not work together.

## Planning and Building Control

Residents views are ignored for  
planning ideas to the detriment  
of the district

## Live Music, Dancing & Theatre

We do not support any activity  
after midnight in Haylake.

## Temporary Event Notices

These should be for special events for non-licence holders not an excuse for Bar Owners to have late drinks. Residents should be able to object

## Licence Reviews

When a licensee defaults and is a nuisance greater importance should be paid to Residents Views.

## Administration Exercise & Delegation of Functions

Promotion of Racial Equality

No problems

General

Hoylelake wants a Cumulative Policy to stop further Bars + Licenses in a Residential Area.

# D.P.R.A.

## DEVONSHIRE PARK RESIDENTS ASSOCIATION

Robbie Bell  
**Chair**  
26 Rocky Bank Road  
Devonshire Park  
Wirral CH42 7LB  
0151 652 4544  
07710 399 366

Dave Pearson  
**Vice Chair**  
10 Rocky Bank Road  
Devonshire Park  
Wirral CH42 7LB  
0151 651 2544  
07974 937 407

Wednesday, 27 October 2010

Copied to Ann Bridson - Ward Councillor  
Copied to; Denise Realy - Ward Councillor  
Copied to Simon Holbrook - Ward Councillor

Mr R Leyland,  
Wirral Borough Council Licensing Authority,  
Town Hall,  
Brighton Street,  
Wallasey,  
Wirral,  
CH44 8ED,

### Wirral Borough Council Licensing Review.

Dear Mr Leyland,

I am contacting you on behalf of the residents from the Devonshire Park area, namely the Devonshire Park Residents Association, regarding the review you are undertaking of the Licensing Act 2003.

Devonshire Park has nearly 500 dwellings, comprising of a typical mix of housing stock usually found in mature well established locations, ranging from one bed roomed flats to

very large Victorian seven or more bed roomed family homes, with a popular of circa 1000 residents. We as a community team have been established since 2006, and primarily formed our Association to ensure we maintained the " Balance of our Community ", this encompasses a number of topics, the Sale of Alcohol being one of them. This follows our recent opposition to another outlet being granted a license to sell alcohol in the locality. Therefore may I request you consider the following points in your review as we strive to ensure our community remains a desirable place to live:

1. Too many outlets are being granted licences to sell alcohol in the same area, which must have an accumulative impact on the ease of availability of alcohol, therefore potentially impacting on all surrounding residential areas. This should be given higher consideration by WBC, especially when objections are supported by the local community, such as a Resident Assoc such as ours.
2. A bench mark must be set by WBC for an acceptable level of outlets that are granted a premises licence, ie no more than 1 in 20 shops/units per location, or whatever is deemed acceptable. These measureable procedures would then prevent an excess of licensed outlets in any one area.
3. Advertising the sale of alcohol on premises before a licence has been granted should render the application void. The assumption is that a licence from WBC is a mere formality. i.e. KK Food & Wine Application for a licence on Borough Road recently , was preceded by their shop signage advertising Alcohol Sales for some time prior to being granted a licence, this cannot be acceptable.
4. The hours of operation of any new potential outlet should be the same as those outlets already selling alcohol in the same vicinity and not extended, therefore not adding to any more disturbance than is currently experienced. If extended hours are allowed beyond existing ones, this may encourage additional footfall to purchase alcohol and might result in ASB or disturbances for the local residents.
5. The increase of outlets selling alcohol for extended hours puts more pressure on the stretched resources of services such as the police and weights and measures at a time when emergency services are being reviewed by government.
6. The implementation of a Wirral Strategy concerning alcohol abuse should be a major consideration

R.J.Bell.

Yours truly,

Robbie Bell,

Chairperson of Devonshire Park Residents Association.



13.23 There can be confusion about the difference between "need" and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. "Need" is a matter for planning committees and for the market.

## **THE CUMULATIVE IMPACT OF A CONCENTRATION OF LICENSED PREMISES**

### **What is cumulative impact?**

13.24 "Cumulative impact" is not mentioned specifically in the 2003 Act but means in this Guidance the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.

13.25 In some areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises. These conditions are more likely to occur in town and city centres, but may also arise in other urban centres and the suburbs.

### **Evidence of cumulative impact**

13.26 There should be an evidential basis for the decision to include a special policy within the statement of licensing policy. For example, Crime and Disorder Reduction Partnerships will often have collated information which demonstrates cumulative impact as part of their general role on anti-social behaviour; and crime prevention strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance. The open meetings recommended at paragraph 1.22 of this Guidance should also assist licensing authorities in keeping the situation as to whether an area is nearing this point under review.

13.27 After considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a licensing authority may be satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement. In this case, it should indicate in the statement that it is adopting a special policy of refusing new licences whenever it receives relevant representations about the cumulative impact

on the licensing objectives which it concludes after hearing those representations should lead to refusal (see paragraphs 13.29 – 13.32 below).

13.28 The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below.

### **STEPS TO A SPECIAL POLICY**

- Identify concern about crime and disorder or public nuisance
- Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
- Identify the boundaries of the area where problems are occurring
- Consult with those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation
- Include and publish details of special policy in licensing policy statement

### **Effect of special policies**

13.29 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

13.30 However, a special policy must stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation, referring to information which had been before the licensing authority when it developed its statement of licensing policy, before a licensing authority may lawfully consider giving effect to its special policy. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.

13.31 Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or need expanding.

13.32 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant, or variation, of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

### **LIMITATIONS ON SPECIAL POLICIES RELATING TO CUMULATIVE IMPACT**

13.33 It would normally not be justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Special policies will usually address the impact of a concentration of licensed premises selling alcohol for consumption on the premises.

13.34 A special policy should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.

13.35 Special policies should never be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises. The “cumulative impact” on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review must relate specifically to individual premises, and by its nature, “cumulative impact” relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary.

13.36 Special policies can also not be used to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives.

13.37 A special policy relating to cumulative impact cannot justify and should not include provisions for a terminal hour in a particular area. For example, it would be wrong not to apply the special policy to applications that include provision to open no later than, for example, midnight, but to apply the policy to any other premises that propose opening later.

The effect would be to impose a fixed closing time akin to that under the “permitted hours” provisions of the Licensing Act 1964. Terminal hours dictated by the Licensing Act 1964 were abolished to avoid the serious problems that arise when customers exit licensed premises simultaneously. Attempting to fix a terminal hour in any area would therefore directly undermine a key purpose of the 2003 Act.

13.38 Special policies must not impose quotas – based on either the number of premises or the capacity of those premises – that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. Quotas that indirectly have the effect of predetermining the outcome of any application should not be used because they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all could sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard should be given to those differences and the differing impact they will have on the promotion of the licensing objectives.

## **OTHER MECHANISMS FOR CONTROLLING CUMULATIVE IMPACT**

13.39 Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. To enable the general public to appreciate the breadth of the strategy for addressing these problems, statements of policy should also indicate the other mechanisms both within and outside the licensing regime that are available for addressing such issues. For example:

### **OTHER MEASURES TO CONTROL CUMULATIVE IMPACT**

- Planning controls.
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority.
- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly.
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
- The confiscation of alcohol from adults and children in designated areas.
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- Other local initiatives that similarly address these problems.

13.40 With regard to licensing hours, the statement of policy should generally emphasise the consideration which will be given to the individual merits of an application. The Government recommends that statements of policy should recognise that, in some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.

13.41 The Government also wants to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists. Providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.

13.42 Statements of licensing policy should indicate that shops, stores and supermarkets, are free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there. Statements of licensing policy should therefore reflect this general approach.

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13.23 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. “Need” is a matter for planning committees and for the market.

### **THE CUMULATIVE IMPACT OF A CONCENTRATION OF LICENSED PREMISES**

#### **What is cumulative impact?**

13.24 “Cumulative impact” is not mentioned specifically in the 2003 Act but means in this Guidance the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.

13.25 In some areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises. These conditions are more likely to occur in town and city centres, but may also arise in other urban centres and the suburbs.

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