

Caerphilly County Borough Council Licensing Policy Relevant Extracts

8.2 The licensing regime places a great responsibility on applicants themselves to actively engage in the application process. It also places responsibilities on defined consultees to make relevant representations (either positive or negative) relating to applications within the prescribed timescales. Where representations are not received within the timescales an authorisation may be granted with only those conditions that are in line with an applicant's operating schedule. Operating schedule conditions can only be modified where relevant representations are received and where they need to be modified to promote the licensing objectives.

8.3 The following fundamental principles will apply:

□□ The right of any individual or body to apply for a variety of permissions is not undermined and that each application will be determined on its merits;

□□ The statutory rights of any person to make appropriate representations in respect of any application or to seek a review of any premises / club premises certificate.

□□ The statutory function of licensing is primarily concerned with the regulation of persons, premises and temporary events within the legislation and that any conditions that may be attached to licences and certificates will focus on:

o Matters within the control of premises licence/club premises certificate holders and others who are granted relevant permissions;

The premises and places being used for licensable activities and their immediate vicinity; and

o The direct impact of the activities taking place at the relevant premises on members of the public living, working or otherwise engaged in normal activity in the area concerned.

8.4 Each application will be considered on its individual merits, and in the light of this Policy.

10.5 The Licensing Authority will monitor premises to ensure that all conditions are adhered to by authorisation holders.

12.1 Applicants are required by law to set out in their operating schedules the steps they intend to take to promote the licensing objectives. Responsible applicants will give proper regard in the schedules to the location, character and condition of the premises, the nature and extent of the proposed use, the demography of the area and the person likely to be attracted to the premises.

13.2 The Licensing Authority will expect operating schedules to satisfactorily address these issues from the design of the premises through to the day-to-day operation of the business. Applicants are recommended to seek advice from the Licensing Authority's licensing officers and the police, as well as taking into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their plans and operating schedules.

13.3 It is expected that authorisation holders will take steps to control excessive consumption and drunkenness on their premises. Proper management will reduce the risk of anti-social behaviour occurring both on the premises and outside after customers have left. They must also demonstrate a general duty of care to customers using their premises and others that may be affected by the activities.

13.5 Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual premises, which are known to be a focus or cause of disorder and disturbance then, subject to representations from the police, a limitation on licensing hours may be appropriate.

14.1 Licensed premises can have significant potential to impact adversely on persons in the vicinity and further afield through public nuisances that arise from their operation.

14.2 Subject to case law the Licensing Authority interprets 'public nuisance' in its widest sense, to include such issues as noise, light, odour, litter and antisocial behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the vicinity of a licensed premises.

14.3 Applicants will be encouraged to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance.

14.4 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:

- they are situated in a residential or noise sensitive area; or
- extended opening hours are proposed.

14.5 The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence-holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable in their own right.

14.6 When addressing the issue of prevention of public nuisance in their operating schedule, the applicant may identify steps to show that those factors that impact on the prevention of public nuisance objective have been considered. The following issues that should be considered are set out below to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, and are not to be regarded in any way as standard requirements, but include:

- a) Demonstrate effective and responsible management of premises;
- b) Evidence appropriate staff instruction, training and supervision to prevent incidents of public nuisance;
- c) Indicate how the operating hours for the whole or parts of premises are to be controlled so as to reduce the potential noise impact on neighbouring properties.

This should include control of external areas such as beer gardens and smoking areas, and such matters as deliveries, disposal of glassware and waste collections.

- d) Adoption of best practice guidance (Such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics, Safer Clubbing the National Harm Reduction Strategy Toolkit

and other industry codes of practice).

- e) Installation and effective maintenance of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- f) Management of people including staff and customers arriving and leaving premises (including the potential for queuing outside of the premises);
- g) Liaison with public transport / taxi and private hire service providers to encourage customers to leave the area quickly;
- h) Siting of external lighting including security lighting and consideration of the potential for light pollution nuisance;
- i) Management arrangements for collection and disposal of litter in the vicinity of the premises;
- j) Effective ventilation systems to prevent nuisance from odour;
- k) Demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers;
- l) Dispersal policy / arrangements
- m) Adverse noise created by any ventilation or air conditioning system or other associated machinery positioned outside the building.
- n) Appropriate signage requesting patrons to respect the rights of local residents when leaving the premises.

16.4 When addressing the protection of children, an applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule and these may include:

- Effective and responsible management of premises;
 - Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm. Details of the content of any training, preferably to be maintained in a written form, along with dates and frequency of any training or instruction given. A written policy in respect of "proof of age".
 - Requiring the production of age identification documentation: Proof of Age Standards Scheme (PASS) accredited "proof of age" cards, passports/photo driving licences;
 - Measures to ensure that children do not purchase, acquire or consume alcohol;
 - Measures to ensure that adults do not purchase/acquire or supply alcohol for consumption by children;
 - Adoption of best practice guidance;
 - Provision of sufficient numbers of people employed or engaged to secure the protection of children, including child performers, from harm;
 - Limitations on the hours when children will be present in all or parts of the premises;
 - Limitations or exclusions by age when certain activities are taking place;
 - Imposition of requirements for children to be accompanied by an adult;
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- Measures to ensure that children are not exposed to incidences of violence or disorder.

18.1 The Licensing Authority will expect applicants to address the licensing objectives in their operating schedule 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, in order that those with a right to make representations or objections are able to fully assess the factors that may affect them.

18.4 Representations that are not about the likely impact on the licensing objectives may be considered as not being relevant and may be rejected.

23.1 The Licensing Act does not prescribe fixed hours for trading, applicants are required to identify the hours that they propose to operate. The Licensing Authority, through the exercise of its licensing functions shall not seek to restrict the trading hours of any particular premises unless it is considered appropriate for the promotion of one or more of the licensing objectives. It is proposed that the Licensing committee when considering each application on its merits following receipt of relevant representations should have regard to the following factors:

23.1.1 Whether the licensed activities are likely to cause an adverse impact, especially on local residents, and what, if any, appropriate measures are proposed to prevent it.

23.1.2 Whether there will be a substantial increase in the cumulative adverse impact on any adjacent residential area.

23.2 In the absence of any specific reasons linked to the licensing objectives, the Licensing Authority will not seek to restrict licensed retail outlets ability to sell alcohol for consumption off the premises throughout their general trading hours, unless it is satisfied, following the statutory process prompted by receipt of relevant representations, that there are good reasons based on evidence for restricting those hours.

23.6 Where there are relevant representations in respect of an application and the Licensing Committee believes that granting the licensing hours proposed would undermine the licensing objectives, then it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

24.4 The Council recognises that licensing law is not a mechanism for the general control of antisocial behaviour by people once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. However the Council must consider the potential detrimental impact on the surrounding areas from the operation of either individual or accumulations of premises, where the premises are the predominant cause of resultant anti-social behaviour arising from drunkenness etc.

32.1 Where an application for the grant, variation or review of an authorisation is considered by a committee the Council will give comprehensive reasons for its decisions. On making findings of fact in its reasons, the Council will ensure that they address the standard of proof and the burden of proof that they have adopted. The Council will also address the extent to which decisions have been made with regard to its statement of licensing policy and the Guidance issued by the Secretary under section 182.