

Appendix 3

Section 182 Advice from the Department for Media, Culture and Sport on Planning

Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Similarly, the granting by the licensing committee 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 control⁴ where appropriate. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap. However, there are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

Appendix 4

Current licensing policy statement for LBTH on planning

The Licensing Authority recognises that there should be a clear separation of the planning and licensing regimes and licensing applications should not be a re-run of planning applications. In particular applications for a licence will normally only be considered where;

- The activity seeking to be authorised is a lawful planning use
- The hours sought do not exceed those authorised by any planning permission

Appendix 5

Licensing Authority Policy statement on striptease (See 3.7 of main report).

The Licensing Authority will only seek to attach conditions that are reasonable, proportionate and necessary for the promotion of the licensing objectives.

The Licensing Authority confirms that, if its discretion is engaged and where appropriate and necessary for the promotion of the licensing objectives it will use the Government's suggested model pool of conditions in S.182 of the Licensing Act 2003. In addition standard conditions required by the Licensing Act 2003, its regulations or guidance will be attached as relevant.

The licensing authority when its discretion is engaged will always consider all applications on their individual merits, however all applications involving adult entertainment of nudity or semi-nudity are unlikely to be successful where the premises is in the vicinity of:

- residential accommodation;
- schools;
- places of worship;
- other premises where entertainment of a similar nature takes place;
- community centres; and
- youth clubs.

Only nudity or semi-nudity which is predominantly the performance of dance to music is permitted by this policy. Sex Encounter establishments are controlled by the Local Government (Miscellaneous Provisions) Act 1982 as amended by Part 111 of the Greater London Council (General Powers) Act 1986, and the London Borough of Tower Hamlets has set a limit of zero on such establishments.

The licensing authority will appropriately monitor the premises it has licensed to ensure that all performances involving nudity or semi-nudity are dance to music or a like entertainment, and take appropriate enforcement action if they are not.

Where its discretion is engaged the licensing authority will make enquiries to ensure that the proposed application is indeed for music and dance and not an activity which is caught by the Sex Encounter establishment legislation.

All applications for adult entertainment involving nudity or semi-nudity will be scrutinised to ensure they meet the licensing objectives.

All applications that do not specifically request nudity or semi-nudity will have a condition imposed which forbids it. This will be the case for both opposed and unopposed applications.

Where applications involving nudity or semi-nudity are made and its discretion is engaged the Licensing Authority will expect Operating Schedules to address the following matters and to include such conditions as are necessary to promote the licensing objectives:

- A.** A code of conduct for dancers and appropriate disciplinary procedures, developed in consultation with the police and the council.
- B.** Rules of conduct for customers, developed in consultation with the police and the council.
- C.** Procedures to ensure that all staff employed in the premises have pre-employment checks including suitable proof of identity, age and (where required) permission to work.
- D.** The exclusion of persons under 18 from the premises when such activities are taking place.
- E.** That publicity and advertising does not cause offence to members of the local community
- F,** CCTV, which should be agreed with the police, kept for at least 28 days and made available to both the Police and authorised officers from the Council
- G.** Time restrictions when close to schools, playgroups or other educational establishments, such as museums and places of worship
- H.** Appropriate levels of stewarding and registered door supervisors, as agreed with the police

Appendix 6

Hours

This Part of the Statement details the Licensing Authority's approach to licensing hours. It states the reasons for the policy and identifies the issues the Licensing Authority will take into account when considering applications during the framework hours.

General

The policy set out in this Part applies to applications for:

- a new premises licence;
- a new club premises certificate;
- variation of a converted premises licence;
- variation of an existing premises licence;
- variation of a converted club registration certificate; and
- variation of an existing club premises certificate where relevant representations are made.

The policies set out in this Part may, depending on the circumstances of the application, apply to applications for a provisional statement.

Any condition setting out the hours of premises refers to the hours during which alcohol may be sold or supplied or (as appropriate) the hours during which other licensable activities may take place pursuant to the premises licence or club premises certificate. In attaching conditions on hours the Licensing Authority will generally require that customers should not be allowed to remain on the premises later than half an hour after the cessation of licensable activities.

Reasons for the Policy Approach

Tower Hamlets has a number of licensed venues that already have extended licensing hours. It also borders other London councils that have high concentrations of licensed premises including premises with extended licensing hours. The Licensing Authority considers that the possibility of disturbance to residents late at night and in the early hours of the morning, and the effect that any such disturbance may have, is a proper matter for it to consider when addressing the hours during which licensable activities may be undertaken.

The Licensing Authority is concerned to ensure that extended licensing hours do not result in alcohol-related antisocial behaviour persisting into the night and early hours of the morning. For these reasons, applications to carry on licensable activities at any time during the framework hours will be considered on their own merits with particular regard to the matters set out in the Policy section below.

The Licensing Authority has had regard to the Guidance to the Act when determining this policy. The start times set out in the policy are not (and should not be regarded as) the 'usual' or 'normal' terminal hour for licensable activities in the Borough. Instead, the 'framework hours' serve to identify cases where the Licensing Authority will pay particular regard to the likely effect on the local neighbourhood of carrying out the proposed licensable activities during the hours applied for. Applications for hours up to the commencement of the Framework Hours will not automatically be granted. This policy will be applied only where relevant representations are made. Each case will be considered on its merits.

The Policy

The framework hours are:

Sunday - 10.30pm-6am

Monday to Thursday - 11.30pm-6am

Friday and Saturday - 12.00 midnight-6am

Applications in respect of premises licences and club premises certificates to authorise licensable activities during the framework hours, and in respect of which relevant representations are made, will be decided on their own merits and with particular regard to the following.

- The location of the premises and the general character of the area in which the premises are situated. (i.e. does the area include residential or business premises likely to be adversely affected).
- The proposed hours during which licensable activities will be take place and the proposed hours during which customers will be permitted to remain on the premises.
- The adequacy of the applicant's proposals to address the issues of (a) the prevention of crime and disorder and (b) the prevention of public nuisance.
- Where the premises have been previously licensed, the past operation of the premises.
- Whether customers have access to public transport when arriving at or leaving the premises at night time and in the early hours of the morning.
- The proximity of the premises to other licensed premises in the vicinity and the hours of those other premises.

Observations

Applicants who apply for authorisation to carry on licensable activities, throughout the entirety of the framework hours, when they do not intend to

operate at these times run a risk that responsible authorities and interested parties may be more inclined, than they might otherwise be, to make relevant representations about the application.

Although this policy applies to all licensable activities, the Licensing Authority will have regard to the proposed use of the premises when considering applications to carry on licensable activities during the framework hours.

Subject to any relevant representations that may be made to the contrary in individual cases, premises where the following licensable activities are authorised are not considered to make a significant contribution to the problems of late-night antisocial behaviour, and as such these premises will generally have greater freedom to operate during the framework hours.

- Theatres.
- Cinemas.
- Premises with a club premises certificate.
- Premises licensed for the sale of alcohol for consumption off the premises only.

Licensing Hours

The Licensing Authority recognises that longer licensing hours for the sale of alcohol can avoid large numbers of people leaving premises at the same time, which in turn may help reduce the friction at late night fast food outlets, taxi ranks, minicab offices and other sources of transport that can lead to disorder and disturbance.

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, with the attendant concentration of disturbance and noise. This would treat residents in one area less favourably than those in another, as well as causing the peaks of disorder and disturbance the Act is trying to avoid.

Where its discretion is engaged, the Licensing Authority will generally deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents. Where a negative impact is likely on local residents or businesses it is expected that the applicants' operating schedule will describe how this impact will be minimised.

Appendix 7

Temporary Event Notices

The Licensing Act 2003 allows small scale events (for less than 500 people at a time and lasting for no longer than 96 hours) which include any licensable activities to be held without the need for a premises licence. However advance notice must be given to the Licensing Authority and the Metropolitan Police of at least ten full working days.

Under the Licensing Act 2003, the number of temporary events notices that a personal licence holder can give is limited to 50 a year. People who are not personal licence holders can only give notice of 5 events in any one year. The number of times a premises can be used in one year is limited to 12. In any other circumstances, a full premises licence or club premises certificate would be required for the period of the event involved.

The Licensing authority, with other partners will assist organisers to plan their events safely, check that the limitations set down in the Act are being observed and that there are no limitations or restrictions under other legislation.

The Police must also be notified of an application. This allows the Police to intervene if necessary in order to prevent crime and disorder.

Organisers of outdoor events are strongly advised to contact the Council's Arts and Leisure section, Environmental Health and Health and Safety as well as the emergency services for advice.

Appendix 8

Reviews of Premises Licences

Working in partnership

The promotion of the licensing objectives and achieving common aims relies on a partnership between licence holders, authorised persons, interested parties, the Police, Fire Authority and the licensing authority. The licensing authority will try to give licence holders early warning of any concerns about problems identified at any licensed premises and identify the need for improvement.

Purpose of reviews

The review process is integral to the operation of the Licensing Act 2003. The Government's intention is for a light touch regulatory regime with regard to the granting of new licences and variations. Only when there have been representations will the Licensing Authority have the discretion not to grant licences. If problems arise in connection with a premises licence, it is for the responsible authorities and the interested parties to apply for a review of the licence. Without such representations, the Licensing Authority cannot review a licence. Proceedings under the Licensing Act 2003 for reviewing a premises licence are provided as protection for the community, where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.

Initiating Reviews

At any stage, following the grant of a premises licence, any of the responsible authorities or any interested party, such as a resident living in the vicinity of the premises, or local Councillors may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The Police can take action to close premises for up to 24 hours on grounds of disorder and noise nuisance under the terms of the Licensing Act 2003. There are powers under Sections 40 and 41 of the Anti Social Behaviour Act 2003 for Environmental Health officers to close premises for 24 hours on grounds that noise from a licensed premises is causing a public nuisance. The licensing authority cannot initiate its own reviews of premises licences, however, officers of the Council who are specified as responsible authorities under the Act may request reviews. In every review case an evidential basis for the allegations made will need to be submitted to the Licensing Authority.

When a request for a review is initiated from an interested party, the licensing authority is required to first consider whether the representation made is irrelevant to the licensing objectives, or is vexatious or frivolous. In addition, the Secretary of State recommends that more than one review on similar grounds originating from interested parties should not be permitted within a

period of twelve months except in exceptional and compelling circumstances or where it arises following a closure order.

Where the licensing authority receives a request for a review in accordance with the closure procedures described in Part 8 of the Act, the licensing authority will arrange a hearing in accordance with the regulations set out by the Secretary of State

Powers following determination of review

The licensing authority in determining a review may exercise the range of powers given to them to promote the licensing objectives.

The Licensing Authority must take the following steps it considers necessary to promote the licensing objectives:

- Modifying the conditions of the premises licence (which includes adding a new condition or any alteration or omission of an existing condition temporarily or permanently);
- Excluding a licensable activity from the scope of the licence;
- Removing the designated supervisor;
- Suspending the licence for a period not exceeding three months;
- Revoking the licence.

Steps that can be taken by the licensing authority include:

- Taking no action;
- Issuing an informal warning;
- Recommending improvements within a particular time;
- Monitoring by regular inspection and invite to seek a further review if problems persist.

Offences

Offences under the Licensing Act 2003 include the serving of alcohol to unaccompanied persons under 18. The consumption of alcohol by minors impacts on the health, educational attainment, employment prospects and propensity for crime of young people. The admitting or serving of persons who are intoxicated is also an offence under the Licensing Act 2003; the licensing authority will treat representations that these offences have occurred seriously when they arise in connection with the granting or review of a premises licence. It will also have regard to other criminal activities which may take place in some types of licensed premises:

- Sale or distribution of drugs;
- Sale or distribution of stolen or counterfeit goods or weapons ;
- Sale of smuggled tobacco and alcohol;
- Prostitution, pimping or procuring;
- Use as a base for criminal activity, particularly gangs;
- Organisation of racist activity;
- Unlawful gaming and gambling.

Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, the revocation of the licence will be seriously considered. However, revocation remains an option if other licensing objectives are being undermined.

Appendix 9

Mandatory Conditions

From 6th Aril 2010

(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

- (i)** drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii)** drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

- (i)** the outcome of a race, competition or other event or process, or
- (ii)** the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

In addition From 10th October 2010:

4.(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.