

Spelthorne Borough Council Statement of Licensing Policy 2024-2029

8 Premises Licences & Club Premises Certificates

- 8.1 A premises licence is required for the sale of alcohol, provision of regulated entertainment or the provision of late night refreshment (sale of hot food and drink to the public between 11.00pm and 5.00am).
- 8.2 Some activities carried out by clubs need to be licensed under the Act but generally clubs are treated differently to commercial premises. A club is an organisation where members have joined together for a particular reason i.e. social, sporting or political and have combined to buy alcohol in bulk as members of the organisation for supply to their members. In order to apply for a Club Premises Certificate the club needs to be a 'Qualifying Club' as outlined in the Licensing Act 2003.
- 8.3 In determining applications for Premises Licences and Club Premises Certificates the Licensing Authority will have regard to the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 and any secondary legislation.
- 8.4 It is important that applications for Premises Licences and Club Premises Certificates properly address the four licensing objectives by providing as much detail as possible on the application form.
- 8.5 The application must be supported by a comprehensive operating schedule. This schedule must specify the steps which the applicant proposes to take in order to promote each of the licensing objectives.
- 8.6 Measures offered by applicants on their operating schedule will normally become licence conditions. It is essential that conditions on the licence or certificate
- a) must be appropriate for the promotion of the licensing objectives;
 - b) must be precise and enforceable;
 - c) must be unambiguous and clear in what they intend to achieve;

In this regard, we may where necessary reword meaningless, unenforceable, or ambiguous conditions proposed in operating schedules, in order to ensure the licensing objectives are upheld.

- 8.7 Where applications for premises licences or club premises certificates have attracted representations from a Responsible Authority or any other person, the application will be scheduled for a hearing before a Licensing Sub Committee where the applicant and those making representations may be heard.

- 8.8 The Licensing Sub-Committee will give full and written reasons for the decision made for each application that proceeds to a hearing.
- 8.9 Applicants should be aware that breaching the conditions of a premises licence or club premises certificate is a criminal offence. Therefore, applicants should only volunteer conditions in their operating schedule that they can comply with and are willing to do so.

9 Electronic Applications

- 9.1 The Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009 came into force in December 2009. This amendment was required to ensure that all licensing applications, with the exception of reviews and personal licences, are able to be made online. The applicant only needs to submit one application to the local authority. Once the fee has been paid then the local authority has the responsibility to ensure that all the other statutory recipients receive a copy.
- 9.2 Paper applications will still have to be copied to all of the responsible authorities by post by the applicant.

10 Application Consultation

- 10.1 The consultation process required for applications for Premises Licences, Club Premises Certificates and Full Variations of existing licences or certificates allows for representations to be made by various bodies and individuals. Responsibility for undertaking the advertisement of the application in accordance with the requirements lies with the applicant.
- 10.2 The Council will publish details of all new applications on its website.
- 10.3 **Making Representations**
- 10.4 Representations about an application must be made in writing to the Council's Licensing Team within the time period prescribed. Written representations may include letters whether posted or emailed. Any representations received after the end of the public consultation period cannot legally be accepted, unless shown to have been submitted within the time limit.
- 10.5 When making a Representation, the Council request that a contact phone number and email address are provided. These help the Council to quickly contact respondents if the details of the application are altered as a result of the representations received in connection with arrangements for the hearing.
- 10.6 Representations should contain;
 - The name, full address & post code of the person making them.

- The reasons for their representation and
 - Which of the four Licensing Objectives the representations relate to;
 - Crime and disorder
 - Public Nuisance
 - Public safety
 - Protection of children from harm
- 10.7 A representation would be 'irrelevant' if it is not about the likely effect of the grant of the application on the promotion of the licensing objectives. Irrelevant representations cannot be accepted.
- 10.8 A representation made by a person other than a responsible authority will not be accepted if the Licensing Authority decides that it is frivolous or vexatious.
- 10.9 Vexation may arise where, for example, there is a dispute between rival businesses, or a repetitive complaint from another person which has already been subject of investigation and no new evidence provided.
- 10.10 Frivolous representations would be categorised by a lack of seriousness.
- 10.11 Such judgments will be made by officers following such enquiries as may be necessary.
- 10.12 Where a representation is found to be irrelevant, vexatious or frivolous, the person making it will be informed in writing that the representation will be disregarded. All valid representations will form part of a committee report that will become a public document. It will be provided to the applicant, his agent and persons who have made representations as well as the Licensing Subcommittee 10 days prior to the hearing.
- 10.13 Whilst representations may not be made anonymously, in exceptional circumstances, such as when the objector has a genuine and well-founded fear of intimidation or violence, some or all of the objectors personal details may be removed from the representation before it is given to the applicant.
- 10.14 Where there is opposition to an application, the sub-committee may:
- a) amend the conditions volunteered in the operating schedule
 - b) restrict the hours during which licensable activities may take place
 - c) limit the type of licensed activities that may be carried out
 - d) impose further conditions on the licence or certificate
 - e) refuse the application
- 10.15 **Negotiation and compromise**
We strongly encourage a spirit of negotiation and compromise between parties. Where an application attracts representations, these can often be fully or partially, addressed through an applicant engaging in dialogue with the parties raising the representations prior to the Licensing Sub-

Committee hearing. Licensing issues can sometimes be emotive, so when an applicant does seek to negotiate, it is imperative that such negotiations are conducted in a courteous, sensitive and respectful way.

- 10.16 As negotiation can lead to parties withdrawing representations or agreeing to conditions to address concerns, we encourage applicants to engage in 'positive' negotiations with other parties. This may help to demonstrate that the applicant is a reasonable and responsible person or body and has sought to listen to and address concerns. Where negotiations would clearly have been helpful and an applicant has not sought to initiate them, the Licensing SubCommittee may have regard to this in their determination.
- 10.17 We expect the applicant to ensure that negotiations take place as far in advance as possible of the Sub-Committee hearing. The applicant should seek to involve all (and not just some) of the parties who have made representations in the negotiations, or at the very least keep all parties informed in writing of progress and outcomes. To allow the sub-committee to consider negotiations, the applicant must inform us in writing of the outcome of any negotiations at least two working days before the scheduled sub committee hearing takes place.

16 Promoting the Four Licensing Objectives

- 16.1 The promotion of the four objectives is fundamental to the Act. Every applicant for a premises licence must provide a fully completed and detailed operating schedule. This schedule must be in the prescribed format.
 - 16.2 The most effective means for an applicant to assess what measures are needed to promote the licensing objectives is by risk assessment, which can then be used to form the basis of the operating schedule.
 - 16.3 Providing as much information as possible in the operating schedule demonstrates that the applicant has seriously considered the issues, is aware of their duty to promote the licensing objectives at all times and is aware of how this may be best achieved.
 - 16.4 The operating schedule forms the basis of any conditions placed on a licence other than those which are mandatory. It provides valuable information to interested parties and responsible authorities assisting their assessment of the impact of the licensed activity on the licensing objectives and provides information about how the applicant will address these issues. It is likely to form the basis of any decision to submit a representation against the application.
 - 16.5 The Licensing Authority considers the effective and responsible management of the premises, including instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of the licensing objectives. For this reason, these measures should be specifically considered, detailed and addressed within an applicant's operating schedule.
 - 16.6 Failure to comply with licence conditions can lead to formal enforcement action or an application for a review of the licence, or both.
- 16.7 Prevention of Crime and Disorder**
- 16.8 Licensed premises of any description, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people can be a source of crime and disorder. The Licensing Authority expect operating schedules to satisfactorily address these and any other potential issues, from the design of the premises through to the daily operation of the business.

- 16.9 Applicants are recommended to engage with and seek advice from the Police and other Responsible Authorities taking into account, as appropriate, local planning and transport policies in addition to tourism and crime prevention strategies when preparing their operating plans and schedules prior to submission.
- 16.10 It is recognised that late night takeaways can be the focus of anti-social behaviour, and in Staines Town Centre the use of CCTV, licensed door supervisors at peak times, and signing up to the town centre radio may be considered necessary to address this.
- 16.11 Where objections are received and the Licensing Sub Committee considers it appropriate to do so, conditions may be attached to licences to prevent crime and disorder both inside and in the vicinity of the premises.
- 16.12 The Licensing Authority considers the orderly dispersal of customers from licensed premises to be an important factor in promoting the licensing objectives. In considering applications for the grant or variation of a licence, serious consideration will be given to the dispersal arrangements, the potential effect that granting the licence might have on dispersal arrangements from other licensed premises or the cumulative impact in the area.
- 16.13 In addition to the requirement for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.
- 16.14 Consideration will be given where appropriate to the powers available under the Violent Crimes Reduction Act 2006 and the use of Public Spaces Protection Orders.
- 16.24 Public Safety**
- 16.25 The Licensing Authority is committed to ensuring, as far as practicably possible that the safety of any person visiting or working in licensed premises is not compromised. Applicants must demonstrate in their operating schedule that suitable and sufficient measures have been identified, implemented and maintained to ensure public safety specific to the characteristics of their premises and events.
- 16.26 Applicants are encouraged to contact the Council's Environmental Health Services with draft proposals including plans and operating schedules. Where applicable applicants should consider safe capacity, the safety of those with special needs and the first aid requirements of customers.
- 16.27 Licence holders should have clear documented policies and procedures in place which identify all public safety risks associated with the premises and the measures to prevent, manage, mitigate and respond to those risks.

16.28 Where representations are received and the Licensing Sub-Committee considers it appropriate to do so, they may attach conditions to licences and certificates to ensure public safety.

16.29 Although existing health and safety legislation will primarily be used it may be necessary to apply for the responsible authorities to apply for the review of a premises licence in the following circumstances:

- Serious or regular contraventions of health and safety legislation
- Failure to comply with Improvement or Prohibition Notices
- Service of a Prohibition Notice where a significant risk to public safety exists
- Prosecution for failure to comply with health and safety legislation

16.41 Protection of Children from Harm

16.42 The Council is committed to the safeguarding of children and vulnerable persons. The Licensing Act 2003 places legal responsibilities on holders of Premises Licences and Club Premises Certificates, and those who work in licensed premises to ensure that children are protected from harm at all times when on licensed premises.

16.43 In exercising the Council's powers under Section 182 of the Act to designate a body which is competent to advise the Council about the protection of children from harm, the following principles have been applied:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

16.44 Having regard to the above principles and the guidance issued by the Home Office, the Council designates the Surrey County Council Children's Service for this purpose.

16.45 The wide range of different premises that require licensing under the Act means that children may be expected to visit many of these, often on their own, for food and / or entertainment. Where no representations are received and an applicant's operating schedule details restrictions in relation to the admission of children, these may become conditions attached to the licence. Apart from the specific restrictions set out in the Licensing Act 2003, there is no presumption of either permitting or refusing access to licensed premises. Each application and its unique circumstances must be considered on its own merits.

16.46 The Authority is committed to protecting children from harm. Local authorities have an overarching responsibility for safeguarding and promoting the welfare of all children and young people in their area. While local authorities play a lead role, safeguarding children and protecting them from harm is everyone's responsibility. Everyone who comes into contact with children and families has a role to play.

16.47 The Licensing Authority will only seek to limit the access of children to licensed premises where it is necessary for the prevention of physical, moral or psychological harm. The Licensing Authority will consult the Surrey Safeguarding Children Board for advice on any application that indicates there may be concerns over access for children. In the event of representations, the Licensing Sub-Committee will consider the merits of each application before deciding whether to impose conditions limiting the access of children.

16.48 The following are examples of premises that are likely to raise concern;

- Where entertainment or services of an adult or sexual nature are commonly provided.
- Where there have been convictions of the current staff at the premises for serving alcohol to minors or premises with a reputation for underage drinking.
- Where a remote delivery service for alcohol is offered, with the potential for minors to order/be delivered alcohol
- Where age restricted films are shown
- A known association with drug taking or drug dealing
- Where there is a strong element of gambling on the premises
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

16.49 Examples of entertainment or services of an adult or sexual nature might include;

- Topless bar staff, striptease, lap, table or pole dancing
- Performances involving feigned violence or horrific incidents
- Feigned or actual sexual acts or fetishism
- Entertainment involving strong or offensive language.

16.50 The Licensing Sub-Committee may consider any of the following options when dealing with a licence application where limiting the access of children is considered appropriate to prevent harm to children;

- Limitations on the hours when children may be present
- Limitations on the presence of children under certain ages when particular specified activities are taking place
- Limitations on the parts of premises to which children might be given access
- Limitations on ages below 18
- Requirements for an accompanying adult
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

16.51 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee. The 2003 Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the Police to ensure the appropriate compliance with the law, especially relating to the sale and supply of alcohol to children.

16.52 Consideration will be given to promoting initiatives which may assist in preventing the sale of alcohol to children such as Home Office campaigns. The Licensing Authority is supportive of and actively encourages recognised proof of age schemes and 'Challenge 25'

polices in all licensed premises as a fundamental means of preventing under age sales. The Licensing Authority has an expectation that all licence holders will maintain accurate record keeping of refusals and ensure that all staff are suitably trained.

- 16.53 Applicants seeking a licence that would enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:
- the person they are selling alcohol to is over 18;
 - that alcohol is only delivered to a person over 18;
 - that a clear document trail of the order process from order to delivery is maintained (with times and signatures) and available for inspection by an authorised officer;
 - the time that alcohol is sold on the website / over the phone and the time; and
 - that the alcohol is delivered is within the hours stated on the licence for the sale of alcohols.
- 16.54 Many children go to see and/or take part in entertainment arranged especially for them, for example children's film shows, discos, dance or drama school productions and additional arrangements are required to safeguard them while at the premises.
- 16.55 Where an application for a Premises Licence or Club Premises Certificate includes the provision of entertainment for children or by children, the Licensing Authority will expect the operating schedule to include arrangements for protecting children.
- 16.56 Where representations are made and the Licensing Sub-Committee consider it appropriate to do so, they may make full use of Licensing Conditions to secure the protection of children from harm.
- 16.57 The Licensing Authority is committed to protecting children from harm and supports the programme of underage test purchases arranged by the Surrey Trading Standards Service, the Licensing Team and Police. Where underage sales are found, the Licensing Authority supports the appropriate and proportionate use of warnings, fixed penalty notices, reviews and prosecution as a means of promoting the licensing objectives and enforcing the Licensing Act proportionately.
- 16.58 In keeping with the s.182 Guidance the Licensing Sub-Committee will treat underage sales as serious criminal activity and will give consideration to the suspension or revocation of a licence if a review is brought in respect of underage sales.

17 Large Scale Events

- 17.1 This Chapter relates to applications for large events that are temporary in nature but cannot be authorised under a temporary event notice (TEN) because of the number of persons who will be present or because the event spans more days than permitted by a TEN.
- 17.2 Special issues and considerations may arise where large-scale, outdoor and/or specialised events are proposed. Large scale open air events require significant planning and organisation with potential to impact on the licensing objectives. The Licensing Authority and other Responsible Authorities expect to be satisfied well in advance of any such event that appropriate measures are in place to safeguard the licensing objectives.
- 17.3 It is expected that all other appropriate authorisations will be in place prior to an application and organisers must be mindful that a premises licence application may take up to two months to be determined should representations be received.
- 17.4 We may license these events under a time limited premises licence lasting for the duration of the event. We advise persons wishing to hold such events (event organisers) to contact us for advice prior to making

an application. Depending on the scale and complexity of the event, we recommend contacting us 6 to 12 months ahead of the proposed event.

- 17.5 We also advise event organisers to read “The Purple Guide to Health, Safety and Welfare at Music and Other Events” which replaces “The Event Safety Guide” (HSG195) published by the Health and Safety Executive.
- 17.6 Usually, and if one is available, we will ask event organisers seeking a premises licence for a large event to attend a meeting of the Safety Advisory Group (SAG).
- 17.7 The SAG consists of officers from responsible authorities such as the police, our pollution and health and safety teams, the fire authority. Officers from other relevant departments and agencies such as the ambulance service, and the highways authority may also attend from time to time, where it is considered appropriate in the circumstances.
- 17.8 In cases where we consider a SAG meeting is necessary, we will contact the event organiser to advise them of the requirement for a meeting and arrange a suitable date, and time for the meeting.
- 17.9 We will invite event organisers to present their application and details of their event to the SAG. We expect the applicant to send us a draft event management plan (EMP) at least 10 working days before the meeting so the members can consider whether the event would be run safely and cause minimum disruption to the environment in terms of nuisance, traffic management etc.
- 17.10 The SAG does not determine licence applications or impose conditions, but its members will advise event organisers on producing an acceptable EMP for their event.
- 17.11 An EMP is a statement of how an event organiser will run their event. It incorporates such areas as risk assessment, traffic and transport planning, first aid, stewarding, site layout, emergency planning and evacuation plans, noise management, litter disposal, and communication protocols etc.
- 17.12 We strongly urge event organisers to consult the SAG and produce a comprehensive draft EMP prior to submitting their licence application. Where a responsible authority considers an EMP is inadequate to promote the licensing objectives, it may make a representation to us about the application.
- 17.13 If an event organisers does not attend a SAG, we will still expect them to submit a comprehensive EMP with their licence application.
- 17.14 Generally, we advise applicants to offer only the following conditions in their operating schedule:

- a) The Licensee shall comply with the event management plan submitted to the licensing authority and no changes shall be made to the event management plan without the prior written consent of the licensing authority.
 - b) The Event shall be run in accordance with the site plan submitted to the licensing authority. No changes shall be made to the site plan without the prior written consent of the licensing authority.
- 17.15 This approach allows the event organiser flexibility to make changes to the layout of the event or to specific activities without the need to make a fresh application for a premises licence or an application to vary the existing premises licence. Without this approach, any changes made could be unauthorised and possibly result in enforcement action.
- 17.16 We also advise applicants to refer to the Purple Guide for guidance on producing an EMP.
- 17.17 Safety advisory group (SAG)**
As special considerations may apply, it is the policy and role of the Licensing Authority to facilitate and, where appropriate, help co-ordinate a safety advisory group (SAG) in connection with relevant proposals, applications and authorisations concerning large / outdoor / special events.
- 17.18 The SAG is a unique forum convened to consider the necessary policies, plans, procedures and/or risk assessments for relevant events. It may comprise of a mix of Responsible Authorities and other relevant agencies with an interest in the management and organisation of such events. SAG membership will vary according to the circumstances.
- 17.19 Whilst SAGs are a useful means to help identify the relevant considerations and steps necessary to promote the licensing objectives in respect of large / outdoor / special events and therefore help develop relevant application proposals, they are not responsible for 'sign off' or approval of such steps. This is a matter for the applicant.
- 17.20 A SAG may be convened at an applicant's request or at the request of any relevant agency.
- 17.21 It should be noted that SAGs are not responsible for the content of applications, which remains the sole responsibility of the applicant. The applicant must consider if and how to address the issues raised by the SAG and/or those matters outlined in this document. However, experience shows that applicants that go through the SAG process are less likely to attract representations in respect of their proposals.
- 17.22 It is also important to note that SAGs do not relieve Responsible Authorities or other persons of the need to make relevant representations where they believe this is appropriate.

17.23 After an event a follow up meeting may be arranged if there were complaints or concerns raised by the public or Responsible Authorities.

17.24 'Martyns Law'

The Licensing Authority is also aware that in January 2020 the Government announced its backing of the 'Martyn's Law' campaign to improve security at venues and public spaces in light of the terrorist attacks in Manchester and London in 2017.

17.25 The paradigm shift in the nature of terrorism means that the security agencies primary responsibility of protecting its citizens is no longer achievable through the existing, and very limited, provision of state-owned protective security resources. The spaces and places in which people live, work and enjoy democratic freedoms are the very places that terrorists wish to attack.

17.26 The Authority would expect that those who operate the places and spaces in which people live, work and socialise must take greater steps to ensure the security of their users.

17.27 However, the solution is not just about tangible materials, it is also about being prepared. Consequently, the Licensing Authority would expect large capacity venues and organisers of large events to consider the following measures:

- A requirement that spaces and places to which the public have access engage with freely available counter-terrorism advice and training,
- A requirement for those places to conduct vulnerability assessments of their operating places and spaces
- A requirement for those places to mitigate the risks created by the vulnerabilities
- A requirement for those places to have a counter-terrorism plan.

19 Licence Conditions

19.1 The authority wishes to encourage high quality, well managed premises. The operating schedule should describe how these high management standards will be achieved. In particular applicants will be expected to demonstrate:

- knowledge of best practice;
- that they understand the legal requirements of operating a licensed business; and
- a knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Licensing Act 2003.

- 19.2 There is a mandatory condition on all premises licences that permit the sale of alcohol that all such sales must be authorised by a person who holds a personal licence. It is recommended that this authorisation be given in writing and that this written authorisation be available for inspection by Responsible Authorities.
- 19.3 Measures offered by applicants on their operating schedule will normally become licence conditions. They therefore must be enforceable and the meaning must be clear and unambiguous. The authority may alter the wording of a condition to achieve this. The context or meaning of the condition will not be changed.
- 19.4 Where responsible authorities or other persons do not make any representations about an application, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions prescribed by the Act.
- 19.5 The Licensing Authority must avoid attaching conditions that duplicate other regulatory regimes as far as possible and may not impose conditions unless its discretion has been engaged following the making of relevant representations and the Licensing Sub-Committee has been satisfied at a hearing that it is appropriate to impose them.
- 19.6 It may then impose only those conditions appropriate to promote the licensing objectives arising out of the consideration of the representations.
- 19.7 To minimise problems and the necessity for hearings, the Licensing Authority would encourage applicants to consult with the 'Responsible Authorities' when preparing their operating schedules so that they can offer appropriate conditions as part of their applications.
- 19.8 The Licensing Authority recognises that it is important to ensure that any conditions attached to a licence or certificate achieve the licensing objectives but are not disproportionate or overly burdensome. Therefore, where conditions are necessary they will be tailored to the individual style and characteristics of the particular premises and event concerned. Where appropriate, following a hearing the Licensing Sub-Committee will consider attaching conditions provided that they are proportionate, justifiable and capable of being met.
- 19.9 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 came into force on 6th April 2010 (with the exception of paragraphs 4 & 5 of the Schedule which came into force on 1st October 2010).