

PLEASE NOTE VENUE

LICENSING COMMITTEE AGENDA



Thursday 27 September 2007

at 10.00am

**in the Throston Room,
The Grand Hotel, Swainston Street, Hartlepool**

MEMBERS: LICENSING COMMITTEE:

Councillors Atkinson, Brash, R W Cook, Fleming, Griffin, Hall, Jackson, Johnson, Kaiser, Laffey, G Lilley, London, Dr Morris, Richardson, Rogan

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 27 JUNE 2007**
- 4. ITEMS FOR DECISION**
 - 4.1 Licensing Policy - Licensing Act 2003 – *Head of Public Protection*
 - 4.2 Sub-Committee Hearings – *Head of Public Protection*
 - 4.3 Hackney Carriage/Private Hire Policy – *Head of Public Protection*
 - 4.4 Avenue Road/ Victoria Road Taxi Ranks - *Head of Technical Services*
- 5. ITEMS FOR INFORMATION**
 - 5.1 Quarterly Report on Licensing Act Sub-Committees and Hackney Carriage and Private Hire Sub Committees Activity – *Assistant Chief Executive (To Follow)*
- 5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

27 June 2007

The meeting commenced at 10.00 a.m. in the Belle Vue Community Sports and Youth Centre, Kendal Road, Hartlepool

Present:

Councillor Stan Kaiser (In the Chair)

Councillors: Reuben Atkinson, Jonathan Brash, Rob Cook, Sheila Griffin
Gerard Hall and Frances London

Also Present: In accordance with the Council Procedure Rule 4.2: Councillor Mary Fleet as substitute for Councillor Carl Richardson and Councillor Victor Tumilty as substitute for Dr George Morris

Officers: Ralph Harrison, Head of Public Protection
Ian Harrison, Principal Licensing Officer
Tony MacNab, Solicitor
Alison Mawson, Head of Community Safety and Prevention
Phil Hepburn, Parking Services Manager
Peter Frost, Traffic Team Leader
Alec Gough, Local Transport Plan Co-ordinator
Denise Wimpenny, Principal Democratic Services Officer

Also Present:

Sgt Peter Suggitt, Cleveland Police
Brian Neil, Safer Hartlepool Partnership
Mike Whitfield, Safer Hartlepool Partnership

1. Apologies for Absence

Apologies for absence were received on behalf of Councillors Tim Fleming, Pauline Laffey, Geoff Lilley, Dr George Morris and Carl Richardson.

2. Declarations of interest by Members

None.

3. Confirmation of the minutes of the meeting held on 14 March 2007

Confirmed.

4. Quarterly Report on Licensing Act Sub-Committees and Hackney Carriage and Private Hire Sub Committees Activity *(Assistant Chief Executive)*

Purpose of report

To update Members on the work undertaken by the five Licensing Act Sub-Committees and the three Hackney Carriage and Private Hire Licensing Sub-Committees

Issue(s) for consideration by the Committee

At the meeting on 15 March 2006, the Licensing Committee had agreed to receive regular reports on the work of the Sub-Committees. Tables, attached as appendices to the report gave a brief outline of the work undertaken by the Sub-Committees since last reported on 13 December 2006. Members were advised that the Licensing Sub-Committee had considered nine applications whilst the Hackney Carriage and Private Hire Licensing Sub-Committees had considered 19 driver applications in the same period.

A Member suggested that the current policy be reviewed due to the limited action that could be taken by the Licensing Act Sub-Committees when considering applications. Following discussion, Members requested that the Head of Public Protection provide a report to the next meeting outlining the options available to review the current policy in relation to the Licensing Act Sub-Committees and Hackney Carriage and Private Hire Sub-Committees.

Decision

- (i) That the contents of the report, be noted.
- (ii) That the Head of Public Protection provide a report to the next meeting outlining the options available to the Committee to review the current policy in relation to the Licensing Act Sub-Committees and Hackney Carriage and Private Hire Sub-Committees.

5. Licensing Committee Sub-Committee Memberships *(Assistant Chief Executive)*

Purpose of report

To re-appoint and fill vacancies in the Licensing Act Sub-Committees and Hackney Carriage and Private Hire Sub-Committees.

Issue(s) for consideration by the Committee

Following the recent elections and changes to the membership of the Licensing Committee some amendments to the sub-committee memberships were required. There were five Licensing Act Sub-Committees comprising of

three members on each and three Hackney Carriage and Private Hire Licensing Sub-Committees comprising of five members on each. Whilst it was accepted that political balance was difficult to maintain on sub-committees of three, there should be at least two political parties represented on each Sub-Committee. Details of the proposed Sub-Committee memberships were tabled at the meeting of which amendments were agreed as outlined in the following decision.

The Chair reported that due to the recent resignation of Councillor Steve Gibbon, Councillor Geoff Lilley had been appointed to this Committee.

Decision

- (a) That the chairs and memberships of the Licensing Act Sub-Committees be confirmed as follows:

Licensing Act Sub Committee 1 – Councillors Hall (Ch.), Laffey and Fleming

Licensing Act Sub Committee 2 – Councillors R. Cook (Ch.), Atkinson and Rogan

Licensing Act Sub Committee 3 – Councillors Griffin (Ch.), Johnson and London

Licensing Act Sub Committee 4 – Councillors G Lilley (Ch.), Kaiser and Jackson

Licensing Act Sub Committee 5 – Councillors Brash (Ch.), Morris and Richardson

- (b) That the chairs and memberships of the Hackney Carriage and Private Hire Licensing Sub-Committees be confirmed as follows:

Hackney Carriage and Private Hire Licensing Sub Committee 1 – Councillors Kaiser (Ch.), Hall, Fleming, London and Rogan

Hackney Carriage and Private Hire Licensing Sub Committee 2 – Councillors Morris (Ch.), Griffin, Brash, Richardson and G Lilley

Hackney Carriage and Private Hire Licensing Sub Committee 3 – Councillors R. Cook (Ch.), Johnson, Laffey, Atkinson and Jackson

6. The Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 – Prohibition of the Consumption of Alcohol in Designated Public Places *(Head of Community Safety and Prevention)*

Purpose of report

1. To advise Members of the outcome of consultation and publicity in respect of prohibiting consumption of alcohol in areas proposed to

become designated public places.

2. To seek approval to designate areas in Hartlepool as designated public places for the purposes of Sections 12-16 of the Criminal Justice and Police Act 2001.

Issue(s) for consideration by the Committee

The Head of Community Safety and Prevention reported that sections 12-16 of the Police and Criminal Justice Act 2001 allowed local authorities to adopt powers contained in the Local Authorities (Alcohol Consumption in Designated Public Places) Regulations 2001 to designate areas, which had known anti-social drinking and nuisance associated with them. In designated places the police were provided with powers to enforce restrictions on public drinking.

At the Regeneration, Liveability and Housing Portfolio meeting on 21 July 2006, the areas covered by the now obsolete 'consumption of intoxicating liquor in designated places byelaws' were considered for consultation under the Local Authority (Alcohol Consumption in Designated Public Places) Regulations 2001. The regulations specified that making an Order was a "Non-Executive" function and therefore proposals to designate areas would be delegated to the Licensing Committee.

Public consultation had been undertaken in accordance with the requirements of the regulations, details of which were outlined in the report. The proposed areas to be covered were detailed in Appendix 1. Four replies had been received with one objection relating to the Heugh Battery, a copy of which was attached at Appendix 2.

With regard to enforcement in public places covered by a Designation Order, the Police were provided with powers to enforce restrictions on public drinking, details of which were included in the report.

In relation to the proposed signage related to no drinking zones, a Member highlighted that some residents at a recent Forum meeting had raised objections to this proposal. In response to Members queries, the Head of Community Safety and Prevention provided clarification in relation to the circumstances in which it was an offence to consume alcohol in public places.

Members supported the police powers to deal with disorder associated with the consumption of alcohol and pointed out a number of additional areas that should be included on the list. Members were advised that the report was simply trying to put back in place the areas covered with previous byelaws and the team had already started to identify new areas. Members went on the debate the advantages of extending these powers across the entire town, following which the police representative pointed out the implications of a town-wide ban and the role of the Neighbourhood Policing Teams. Following discussion in relation to the legislation issues, the Council's Solicitor clarified that the current legislation did not allow for a town-wide ban.

Further discussion ensued following which the Head of Community Safety and Prevention agreed to take on the board the comments of the Committee for inclusion in a future report for consideration by this Committee.

Decision

- (i) That the designation of public places identified on the lists at Appendices 3 and 4 attached to the report be approved and the additional comments as outlined above be included in a report for consideration at a future meeting of this Committee.
- (ii) that the draft Order, attached at Appendix 6, be approved and the Chief Solicitor be authorised to seal, date and insert the date of commencement of the Order on behalf of the Council.

7. Taxi Watch *(Head of Public Protection)*

Purpose of report

To consider a request by the Safer Hartlepool Partnership for an amendment to the current hackney carriage/private hire licensing policy in order to allow the advertisement of a 'Taxi Watch' logo.

Issue(s) for consideration by the Committee

The Head of Public Protection referred to the requirements of the current hackney carriage/private hire licensing policy. At present the only external signage permitted was the Council 'roundel' that displayed the Council's logo and vehicle licence number and the vehicle owner's name and phone number. The Safer Hartlepool Partnership had submitted a request that the policy be amended to permit further signage to be added to the exterior of both hackney carriages and private hire vehicles. The proposed logo, a copy of which was circulated at the meeting, promoted the Taxi Watch Scheme which was a new initiative to promote various principles which included community, driver and passenger safety, to encourage the free flow of information and liaison between all relevant members and to provide a forum for relevant issues to be discussed. Membership of the 'Taxi Watch' scheme and display of the logo was voluntary.

The Head of Public Protection advised that Members had previously restricted the amount of external signage permitted on hackney carriages to ensure that they remained easily identifiable to members of the public. Over recent years a number of enquires had been made by members of the taxi trade requesting a relaxation of the current signage restrictions in order to carry advertising of goods and services as a means of revenue which had been denied in favour of retaining the current high level of public protection through the retention and maintenance of a highly visible colour scheme. Members were requested to consider whether giving approval for a Taxi Watch logo would undermine the Council's current approach and whether it

may make it more difficult to deny advertising requests. There was a legal prohibition on private hire vehicles using the words 'taxi' or 'cab' on a roof sign. Whilst the proposal was not in the form of a roof sign, Members were advised to consider whether the word taxi in the context of a Taxi Watch logo on a private hire vehicle was appropriate.

The Taxi and Private Hire Owners Working Group were consulted on the proposal in May 2007 and the majority of representatives were not in favour of carrying logos. Streamline Taxis, Twenty Three Taxis and Hudsons' Taxis had indicated their support for the scheme, however, could not speak on behalf of the private vehicle owners who were under no obligation to carry the logo.

A representative from the Safer Hartlepool Partnership advised that the scheme was a community safety initiative and highlighted the principles and advantages of the scheme. Letters had been sent to all vehicle owners to determine their views, of which 10 replies had been received. In response to a Member question in relation to the level of support for the scheme, the Safer Hartlepool representative advised that the responses received to date had indicated support for the scheme with only one objection. A lengthy discussion ensued in relation to the advantages and disadvantages of the scheme, the design of the logo and the implications to the Council if the policy was amended.

Following a Member's request for clarification, the Principal Licensing Officer reported that representatives from the Taxi and Private Hire Owners Working Group had indicated that they did not wish to carry the sign for several reasons. The Council's Solicitor also provided clarification on the legal process if the policy was amended. Whilst some Members expressed their support for the scheme, others expressed concerns relating to the implications for the Council in amending the policy as well as the drivers.

Following further discussion Members suggested that no action be taken at this stage, however, alternative proposals would be welcomed in future.

Decision

That the request by the Safer Hartlepool Partnership for an amendment to the current hackney carriage/private hire licensing policy to allow the advertisement of a 'Taxi Watch' logo, be refused.

8. Avenue Road/Victoria Road Taxi Ranks *(Head of Public Protection)*

Purpose of report

To provide Members with an opportunity to discuss a number of issues concerning taxi ranks in Avenue Road and Victoria Road.

Issue(s) for consideration by the Committee

At the previous meeting on 14 March 2007 officers had been requested to invite representatives of the Highways Section, Parking Enforcement and Cleveland Police to a future meeting of this Committee to discuss matters of concern relating to the taxi rank on Avenue Road and the use of bus stops by taxis on Victoria Road.

In relation to Avenue Road, Members had expressed concern about the congestion in and around Avenue Road, particularly around the vehicular exit from the rear of the Civic Centre onto Avenue Road and in front of the Partco building. As the Avenue Road rank was the busiest and most popular rank in the town, the current rank could not accommodate demand. It was not uncommon for a number of other taxis to be parked in the immediate area waiting to join the rank as soon as a space appeared. It was this waiting that caused the congestion in this confined area. It was likely that any enforcement action taken against taxis waiting in this area would result in their continual driving in the immediate area as they waited for a rank space to appear. Such actions would have a diverse impact on traffic flow in the area and would have a detrimental environmental impact. Provisional enquiries have highlighted that Cleveland Police may object to any extension of the rank to include the front of the Police station. The Taxi Owners Working Group has indicated that there would be no benefit in considering the utilisation of the disabled car parking bays that were immediately opposite the existing rank on Avenue Road.

In relation to the area on Victoria Road, directly outside Loons, Bar Paris and Yates' was also identified by Members as a concern with taxis using the bus stops as an unofficial rank during busy evenings. As part of a broader examination of town centre violence and disorder, the Safer Hartlepool Partnership had endeavoured to have these bus stops designated as taxi ranks after 9.00 p.m. on weekends. Protracted negotiations, including representations from the Safer Hartlepool Partnership, Cleveland Police and Public Protection had proved unsuccessful and no agreement had been reached.

A failure to have this area designated as a taxi rank after 9.00 pm would result in the current situation continuing with a large number of taxis using the bus stops as an unofficial waiting area. Any enforcement activity was likely to have a short term preventative effect as drivers would not stop if there was an official in sight. However, it was likely that as soon as the official moved, the problem would reappear. Previous enforcement initiatives by Cleveland Police had proved ineffective for this reason.

As taxi drivers parked in this area because it was popular with members of the public it may be considered that a more sustainable approach would be to allow taxis to park in this area legally rather than adopt expensive, unsustainable and ineffective enforcement measures.

A lengthy discussion ensued on how to address the congestion in and around

Avenue Road and the benefits of camera enforcement. The police representative expressed concern relating to the security implications of parking outside the station and stated that a shared facility was the preferred option with 'no waiting cones' being displayed by the police when necessary.

In relation to Victoria Road, Members pointed out that the additional bays allocated for taxis had not addressed the problem.

A Member reiterated concerns regarding the safety of pedestrians as well as the vehicular exit from the rear of the Civic Centre onto Avenue Road. Whilst Members felt that some sort of enforcement was necessary to address this problem, the possibility of making it legal to park there was also considered. The implications of an accident occurring as a result of illegal parking were discussed and the possibility of creating a rank in front of the police station was highlighted. Members expressed their support for an additional rank in front of the police station on Avenue Road with dispensation for it to be utilised by the police whenever necessary.

Decision

The Committee supported the proposal for an additional rank in front of the police station on Avenue Road.

9. Adoption of New Petrol Filling Station Licence Conditions *(Head of Public Protection)*

Purpose of report

To approve the adoption of new model conditions to be attached to all petrol filling station licences.

Issue(s) for consideration by the Committee

The Head of Public Protection advised that under the Petroleum (Consolidation) Act 1928, the Council were the Petroleum Licensing Authority (PLA), responsible for issuing petroleum storage licences to petrol filling stations within the Borough. Appendix I outlined the standard conditions of each petroleum storage licence and Appendix II detailed the new model licensing conditions which had been approved by the Health and Safety Executive/Local Authorities Enforcement Liaison Committee (HELA).

It was noted that the new model conditions reduced burden on operators and would supersede and replace the old standards conditions of licence. Failure to adopt the new model conditions could subject the PLA to appeals from national operators and would be contrary to the Government's recommendations and direction to achieve consistency of enforcement.

Decision

That the adoption of the new model conditions, attached at Appendix II to the report, be approved with immediate effect.

CHAIRMAN

STAN KAISER

Report of: Head of Public Protection

Subject: LICENSING POLICY - LICENSING ACT 2003

1. PURPOSE OF REPORT

- 1.1 To provide Members with an opportunity to consider the adoption of a revised Licensing Policy as required by the Licensing Act 2003.

2. BACKGROUND

- 2.1 Section 5 of the Licensing Act 2003 states that each licensing authority must determine and publish a Licensing Policy every three years.
- 2.2 The current Licensing Policy was approved by full Council on 16th December 2004 and as such a new or revised policy must be published in order to satisfy the Council's statutory obligations.
- 2.3 The current Licensing Policy is attached as Appendix I and details how the Council, as licensing authority, discharges its licensing functions.
- 2.4 Licensing Policy's must be published every three years but may be reviewed more frequently should it be considered necessary.
- 2.5 The current Licensing Policy was published following extensive consultation with local and national licensing bodies, community groups and parish councils and follows a template provided by the Local Authorities Co-ordinating Body for Regulatory Services (LACORS).
- 2.6 Since the Policy's adoption in 2004 some 320 premises licences, 50 club certificates and 350 personal licences have been issued and during this time the Policy has not been legally challenged.
- 2.7 Whilst the Policy itself has not been challenged the 'Special Policy' contained within it was the subject of detailed consideration during the determination of an application for a late night licence for 2 Victoria Road (the old gas showroom) that was ultimately approved by Members.
- 2.8 A 'Special Policy' is a statement that a specific geographical area experiences 'Cumulative Impact'. This is defined as the potential impact on the licensing objectives caused by a significant number of licensed premises in one area.
- 2.9 Adopting a Special Policy reverses the presumption that a licence must be granted and instead places an obligation on a licence applicant to

demonstrate that granting the licence will not add to the cumulative impact in that area.

- 2.10 The area currently covered by the Special Policy was adopted following the provision of statistics by Cleveland Police that highlighted that the town centre experienced high levels of alcohol related crime and disorder.
- 2.11 Although also experiencing high levels of crime and disorder, Church Street was not included in the Special Policy area as the Council's Local Plan identifies Church Street as an area suitable for further late night development. Adopting a policy effectively restricting further licences in this area would therefore have contradicted an existing Council policy.
- 2.12 Cleveland Police have indicated that they believe the current Special Policy area should remain and have indicated that this will be supported by Crime and Disorder statistics that may be presented at the Committee meeting.
- 2.13 A proposed draft policy that is essentially an updated copy of the current policy and which retains the current Special Policy has been circulated for consultation with trade bodies, local businesses, parish councils and community groups. Two responses have been received – one from the British Beer and Pub Association (Appendix II) and one from local solicitor John Ellwood (Appendix III).

3. ISSUES FOR CONSIDERATION

- 3.1 As detailed above, the current Licensing Policy has been successful in communicating the Council's licensing principles and has not been legally challenged.
- 3.2 It is therefore proposed that the current Policy be renewed with only minor changes necessary to keep it up to date. A copy of the proposed Policy is attached as Appendix IV.
- 3.3 The comments received from the British Beer and Pub Association (BBPA) are general comments no doubt being made to every licensing authority. Many of these comments are as a result of a successful judicial review brought by the Association against Canterbury City Council whose licensing policy was found to be too prescriptive.
- 3.4 None of the comments made by the BBPA are directly relevant to Hartlepool's Licensing Policy which is in line with the national template promoted by the Local Authorities Co-ordinating Body for Regulatory Services (LACORS).
- 3.5 In relation to the Special Policy area, Members must decide whether it is appropriate for the current area to remain in place having considered the comments received from Mr John Ellwood and Cleveland Police.
- 3.6 Whilst the current Special Policy has only been referred to on one occasion Members may feel that it is nonetheless appropriate to retain it as it alerts

potential applicants to the concerns held by the Council about the cumulative impact being experienced in the town centre area.

- 3.7 Members may also feel that it is appropriate that in such circumstances it should be for the applicant to prove that another licensed premises will not make the current situation worse.
- 3.8 Formal adoption of the Licensing Policy must be made by full Council.
- 3.9 It is therefore proposed that Licensing Committee agree and endorse the proposed policy as detailed in Appendix IV and recommend its adoption to full Council at its meeting on 25th October 2007. This will ensure that the Council's obligation to have a new Licensing Policy in place before 1st January 2008 is discharged.

4. **RECOMMENDATIONS**

- 4.1 That Members endorse the proposed Licensing Policy as detailed in Appendix IV and recommend it to full Council for approval and adoption.

Appendix I



HARTLEPOOL BOROUGH COUNCIL

STATEMENT OF LICENSING POLICY

2004

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1. INTRODUCTION

- 1.1 **This policy statement is based on the provisions of the Licensing Act 2003 and has taken full account of the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State for the Department of Culture, Media and Sport (DCMS).**
- 1.2 This policy will apply for a period of three years from the 7th February 2005. It will be kept under review and revised/amended if considered appropriate to support the licensing objectives. Any policy changes or revisions will be subject to consultation.

The Borough of Hartlepool

- 1.3 Much of the borough is residential in nature although there are predominantly commercial areas in parts of the town centre that contain a large number of entertainment and leisure venues. The number of public houses, nightclubs, restaurants and takeaways, particularly in the town centre area, has increased in recent years. Part of this increase has been due to the tourism/entertainment based uses arising from the regeneration initiatives for the town centre and the Marina.
- 1.4 Hartlepool Borough Council, acting as the licensing authority for the Licensing Act, recognises the benefits to Hartlepool of a thriving service economy and wishes to promote, wherever possible, a town that meets and exceeds the requirements of its residents and visitors. However, the licensing authority recognises that certain types of licensed premises, particularly those offering alcohol and/or music, may have a detrimental impact on those who live nearby through the escape of noise or the actions of patrons both on and off the premises.
- 1.5 The licensing authority intends to seek a balance between the needs of residents and local businesses by using this Licensing Policy, and other strategies, to promote and encourage well-managed, neighbour friendly licensed premises that represent a positive addition to life in Hartlepool.

Legal Background to this Policy Statement

- 1.6 The Licensing Act 2003 (hereafter referred to as the Act) repealed most of the existing legislation relating to liquor, entertainment and late night refreshment licensing and replaced it with a totally new licensing regime. In respect of liquor licensing responsibility was transferred from the Magistrates Court (Licensing Justices) to local authorities, such as Hartlepool Borough Council (HBC).

- 1.7 Hartlepool Borough Council, acting as the licensing authority, is therefore able to grant or reject applications for the sale of alcohol, the provision of entertainment or late night refreshment. Conditions designed to ensure safety, protect children from harm, prevent crime, disorder and public nuisance will be attached to licences where appropriate. However, the ability of licensing authorities to grant licences and attach conditions is limited by provisions in the Act, Regulations made under the Act and by guidance from the Secretary of State. The licensing authority must have regard to the guidance and will deviate only where there are justifiable reasons for doing so.
- 1.8 In formulating this policy document the licensing authority has had regard to the provisions of the European Convention on Human Rights, recognising that everyone has the right to respect for his/her home and private life and that every person is entitled to the peaceful enjoyment of his/her possessions (including a licence).
- 1.9 The Human Rights Act 1998 makes it unlawful for a public authority to act in a way which will be incompatible with a convention right. The licensing authority will endeavour to ensure that any licensing decision does not cause a breach of a convention right.
- 1.10 The Licensing authority in taking into account the provisions of the Crime & Disorder Act 1998 will also have regard to the likely effect of the exercise of their functions on crime and order in their area and do all they can to prevent such crime and disorder.

2. PURPOSE AND SCOPE OF THE LICENSING POLICY

Purpose

2.1 The licensing policy has four main purposes:

- To reinforce to elected Members on the Licensing Committee, the boundaries and powers of the local authority, and to provide them with parameters under which to make their decisions.
- To inform the licence applicants of the parameters under which the authority will make licence decisions, and therefore how a licensed premises is likely to be able to operate within the area. (Note however that each case will be examined on an individual basis.)

- To inform residents and businesses of the parameters under which the authority will make licence decisions, and therefore how their needs will be addressed.
- To support decisions made by the licensing authority when these decisions are challenged in a court of law.

Scope

- 2.2 The Act is concerned about the supply and sale of alcohol, the provision of certain entertainment and late night refreshment.
- 2.3 Activities that require a licence under the Licensing Act 2003 and covered by this policy include:
- Retail sale of alcohol
 - Supply of hot food or drink from a premise from 23.00 to 05.00 hours
 - Supply of alcohol or provision of regulated entertainment to club members or guests
 - Provision of entertainment listed below (known as regulated entertainment) to the public or section of the public or club members or with a view to profit:
 - Performances of a play
 - Exhibition of a film
 - Indoor sporting events
 - A boxing or wrestling entertainment
 - Live music performances
 - Playing of recorded music
 - Dance performances
 - Provision of facilities for making music
 - Provision of dancing facilities
- 2.4 The scope of the policy covers new applications, renewals where appropriate, transfers and variations of licences and certificates including where applicable temporary premises licences. It will also include review of licences and certificates which may lead to the revocation of a licence or certificate.

3. TYPES OF LICENCES

Personal Licences

3.1 *A personal licence will be granted where an applicant:*

- a) is aged 18 or over*
- b) possesses a licensing qualification*
- c) has not forfeited a personal licence in the last 5 years*
- d) has not been convicted of a relevant offence*

3.2 *The Licensing authority will, however, reject any application where the applicant fails to meet a), b) or c).*

3.3 *Where an applicant has an “unspent” relevant conviction, the police may oppose the application. If such an objection is lodged a licensing hearing will be held. Where no such application is received from the police, the Licensing authority will grant the licence.*

3.4 *At a hearing the Licensing authority will consider carefully whether the granting of a licence will be in keeping with the promotion of the crime and disorder objective. Considerations will include the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The Licensing authority will only grant the application if it is satisfied that doing so will promote this objective.*

3.5 *Reason(s): Prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. The holder of a personal licence should be a person who is not only properly qualified but a person who will assist the fight against crime. Granting a licence to a known criminal will, in many cases, undermine rather than promote the crime and disorder objective.*

Premises Licences and Club Premises Certificates

- 3.6 *An application for a premises licence or club premises certificate must consist of:*
- *an application form, in the prescribed format, detailing the licensable activities and proposed operating hours*
 - *an operating schedule*
 - *a plan of the premises to which the application relates*
 - *the appropriate fee*
- 3.7 *If the licensable activities include the sale of alcohol a consent form from the individual agreeing to be the premises supervisor will also be required (not required for club premises certificates).*
- 3.8 *The application must be advertised in the prescribed manner.*

4. LICENSING PRINCIPLES**General**

- 4.1 In carrying out its licensing functions the authority will promote the licensing objectives set out in the Act. These are:
- **the prevention of crime and disorder ;**
 - **public safety;**
 - **the prevention of public nuisance; and**
 - **the protection of children from harm.**
- 4.2 To achieve these objectives the authority will use its full range of powers and consider all relevant responsibilities including its planning controls, transport controls and crime and disorder policies. The authority will enter into appropriate partnership arrangements, working closely with the police, the fire authority, local businesses, community representatives and local people in meeting these objectives.
- 4.3 In determining a licence application the overriding principle adopted by the Licensing authority will be that each application will be determined on its individual merits.

- 4.4 The Act covers the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment (premises licences), the supply of alcohol and/or the provision of regulated entertainment from certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notices).
- 4.5 In general a reference in this policy to a licence will include a club premises certificate.
- 4.6 The Licensing authority recognises in following the Guidance and Regulations, that discretion in deciding licence applications is very limited.

Duplication

- 4.7 So far as possible, this Policy is not intended to duplicate existing legislation and regulatory regimes that are already placed on employers and operators, e.g. Health and Safety at Work etc. Act 1974. Conditions in respect of public safety will be attached to licences only if they are considered necessary for the promotion of the licensing objectives. However, it is likely that there may be duplication with regard to the imposition of some planning conditions.

Licence Conditions

- 4.8 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act, and conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others granted relevant authorisations.

Conditions should be specifically tailored to the premises and activities to be undertaken, with a view to ensuring the the licensing objectives are achieved. 'Standard' conditions may be inappropriate in respect of certain premises.

- 4.9 Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 4.10 The Licensing authority will not impose blanket standard conditions. Licence conditions will be tailored to the individual application to help promote the licensing objectives. Where appropriate, conditions from the DCMS standard “pool” of conditions will be used. Licence conditions will not be imposed where it is considered that other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.
- 4.11 In the spirit of openness, transparency and reasonableness, Licensing authority officers will seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving a mutually agreeable level of protection to the public and fulfilment of the licensing objectives.

Alcohol Harm Reduction

- 4.12 The Licensing authority recognises that for most people alcohol represents an enjoyable addition to well-balanced social activities. However, there is increasing concern that for some people alcohol misuse is leading to self harm and social nuisance.
- 4.13 In determining licence applications, the Licensing authority will have regard to the Government's Alcohol Harm Reduction Strategy and commends to all applicants the Portman Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.

Protection of Children

- 4.14 Whilst the protection of children from harm is a primary licence objective, the Licensing authority will not normally impose conditions restricting or prohibiting the admission of children to licensed premises, believing this should remain a matter of discretion for the licence holder and has taken account of the view of DCMS that the use of licensed premises by children should be encouraged. However, conditions designed to protect children will be imposed where necessary.
- 4.15 The Licensing authority will not impose any licence conditions requiring the admission of children to licensed premises.

4.16 Examples of premises where the introduction of additional controls are likely to be necessary are:

- Where entertainment or services of an adult or sexual nature are commonly provided.
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or premises with a reputation for underage drinking.
- Where there is a known association with drug taking or 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.

4.17 In such circumstances, additional conditions may be imposed where considered necessary for the prevention of harm to children. These may include: -

- Limitations on the hours when children may be present
- Age limitations
- Limitations on the parts of premises to which children will be given access
- Requirements for accompanying adults
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

4.18 Where the exhibition of films is permitted, the licensing authority will impose a condition requiring the exhibition of films to be limited to only those age groups recommended by either the British Board of Film Classification or the licensing authority. For such films, licensees must indicate in their operating schedules how such action will be assured. Only in exceptional cases will variations of this general rule be granted by the Licensing authority and then only with appropriate safeguards.

4.19 In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Licensing authority will, provided adequate notice has been given, classify the films concerned. Information regarding such classifications will be available for inspection at the Civic Centre, Victoria Road, Hartlepool. To achieve consistency and the protection of children the Licensing authority will use the guidelines published by the BBFC.

4.20 In connection with the protection of children from harm, the licensing authority will provide details of which body is responsible for such matters. Details of licence applications, where relevant, should be forwarded to this nominated body for examination.

4.21 Where there is provision of entertainment specifically for children (e.g. a children's disco) the Licensing authority will require the presence of sufficient adults to control the entertainment and the access and egress of the children to ensure their safety.

- 4.22 Where it is the intention of the licensee to offer responsibility for the supervision of children as part of a licensable activity, the licensing authority may require licensees to take appropriate measures to ensure the suitability of employees for such purposes – this may involve employees providing a Criminal Records Bureau Disclosure. Even where not specifically required by the licensing authority, all licensees are encouraged to ensure that only suitable staff are allowed to work with children.

Designated Premises Supervisors

- 4.23 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment.
- 4.24 Because of this the Licensing authority expects that the designated premises supervisor (DPS) for a licensed premise will be able to demonstrate that they are in day to day control of the premises, playing an active role in its operation through a regular personal presence.
- 4.25 Where the DPS is not personally present on licensed premises, the Licensing authority will expect a written record to be maintained and kept available for inspection, of the person or persons authorised by the DPS to sell or supply alcohol on those premises.

Licensing Hours

- 4.26 The Licensing authority recognises that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance. Shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are very good reasons for restricting those hours.
- 4.27 Whilst zoning will not be adopted, the Licensing authority will impose stricter conditions with regard to noise control in areas which have denser residential accommodation.

Live Music, Dancing & Theatre

- 4.28 The Licensing authority recognises that traditional cultural activities such as music and dancing should be encouraged as part of a wider cultural strategy. Account should be taken of the need to encourage and promote entertainment

such as live music, dancing and theatre for the wider cultural benefits of communities generally.

- 4.29 Only conditions considered necessary, proportionate and reasonable for the promotion of the licensing objectives will be attached to licences for activities of this nature. The authority will avoid measures that may deter live music, dancing and theatre by imposing unjustified indirect substantial costs. The Licensing authority will closely monitor the impact of licensing on such activities and, where a negative impact can be identified, will re-visit the Licensing Policy with a view to investigating how the situation might be reversed.

Enforcement

- 4.30 Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat and the Council's Licensing Enforcement Policy.
- 4.31 In particular, regard will be had to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:
- Targeting - i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled.
 - Consistency - i.e. similar approaches in similar circumstances to achieve similar ends.
 - Transparency - i.e. helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance.
 - Proportionality - i.e. action taken should be proportional to the risk presented.
- 4.32 The authority will establish protocols with the local police and the fire brigade on enforcement issues to avoid duplication and to provide for the most efficient deployment of council, police and fire officers in respect of inspection of licensed premises and the enforcement of licensing law.
- 4.33 Furthermore the policy of the Council will be a light touch inspection regime for well managed and maintained premises with a targeted and increased inspection and enforcement regime for "high-risk" premises and those suspected of not being operated within the terms and conditions of the licence.

Integration of Strategies and Other Policies

- 4.34 Hartlepool Borough Council fully recognises and endorses the value of good relations between persons of different racial groups. The Licensing authority recognises the obligations placed upon it by the Race Relations Act 1976 (as amended) and will ensure that this Policy promotes race equality and the elimination of unlawful discrimination.
- 4.35 The Council will integrate its various strategies to achieve consistency and transparency in the achievement of the licensing objectives.
- 4.36 Arrangements for reporting to local authority transport committees will be made to ensure transport strategies take account of the need to quickly disperse people from busy town centre areas to reduce the potential for nuisance and disturbance.
- 4.37 Arrangements will be made for the reporting of Hartlepool's employment situation and the needs of the local tourist economy to the licensing committee to ensure that these issues are taken into account when licensing matters are being considered.
- 4.38 Licence conditions will reflect local crime prevention strategies and input from the local Crime and Disorder Reduction Partnership.

Cumulative Impact

- 4.39 'Need' which concerns the commercial demand for another premises such as a pub, restaurant or hotel, is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. However, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority and its licensing committee to consider.
- 4.40 In determining an application the licensing authority will take into account, in the interests of public safety and the avoidance of nuisance, the cumulative effect that the existence of a saturation of premises in one area may have. A saturation of licensed premises can attract customers to the area that has an impact on the surrounding area beyond the control of individual licence holders. In this respect, the DCMS advocates consideration of a Special Policy to respond to the unique circumstances that can be caused by a concentration of licensed premises.

The Adoption of a Special Policy

- 4.41 Where, due to the volume of licensed premises in one area, it may be ineffective to impose conditions in respect of individual premises licences, it may be necessary for the Licensing authority to adopt a Special Policy. Such a policy would create a rebuttable presumption that applications for new licensed premises in a designated area would be refused. The effect of this would place the burden of proof on the applicant to demonstrate in their operating schedule that the new premises will not add to the cumulative impact in the area.
- 4.42 Such a presumption would only apply if one or more responsible authorities or interested parties made relevant representations to the licensing authority regarding a new application.
- 4.43 In all circumstances the licensing authority will consider each application on its own merits and such a policy should not be considered as absolute. A Special Policy will not be used to control opening hours in a particular area.
- 4.44 For the authority to introduce a Special Policy for any area, the following steps will be considered:-
- Identification of serious and chronic concerns from a responsible authority or representatives of residents about crime and disorder or nuisance taking account of the Crime & Disorder Act 1998.
 - Assessment of the causes.
 - Consideration of whether it can be demonstrated that crime and disorder and nuisance is arising and is caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area.
 - Adoption of a policy about future applications from that area within the terms of the DCMS guidance.
- 4.45 Following the receipt of evidence from Cleveland Police, the Licensing authority has adopted a special policy for the area identified in Appendix I. This matter is discussed in more detail in Section Six of this Policy.

Additional Measures to Tackle Cumulative Effect

- 4.46 The Licensing authority recognises that, in addition to the adoption of a Special Policy there are a number of other mechanisms for addressing anti-social behaviour and nuisance once customers are away from the vicinity of licensed premises. These include:
- Planning Controls

- Positive measures to create a safe and clean town centre environment in partnerships with local businesses, transport operators and other departments of the local authority.
- Powers of local authorities to designate parts of the local authority areas as places where alcohol may not be consumed publicly.
- Police enforcement of the normal law concerning disorder and antisocial 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 excessive noise emanating from the premises.
- 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.

4.47 The authority supports and encourages the implementation of all such measures to help reduce anti-social and nuisance behaviour.

5. CONSIDERATIONS

General Requirements

- 5.1 The Licensing authority will expect individual applicants to address the licensing objectives in their operating schedule, (as required under the Act). The operating schedule will have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, the times during which it is proposed that relevant licensable activities are to take place and details of other times during which it is proposed that the premises are to be open to the public.
- 5.2 In many cases it may be helpful to all concerned for Council officers to discuss with applicants and/or their advisers a draft operating schedule before it is formally submitted, e.g. as happens with the existing One Stop Shop approach. This will help ensure it properly addresses all the issues of concern to the council. Where licensable activities include the supply of alcohol, specified information on the individual identified as premises supervisor shall be supplied as well as whether the supply of alcohol is proposed for consumption on and/or off the premises and operational procedures.

Nuisance

- 5.3 The Licensing authority will expect the operating schedule to clearly demonstrate actions intended to ensure the operation will be “neighbour friendly”. In particular, the applicant shall propose adequate practical steps to prevent disturbance to local residents. In relation to noise from within the building the Licensing authority will expect the applicant to have carried out

acoustic tests to ascertain whether there is sound leakage. This noise could relate not only to entertainment but also from air handling equipment or patrons. The Licensing authority will expect potential noise breakout to have been addressed in practical ways such as:

- Keeping doors and windows closed and providing suitable mechanical ventilation
- Reducing sound levels and installing a suitable noise limiting device, calibrated and set at a limit approved by Council officers, to prevent sound exceeding an appropriate level
- Installing soundproofing measures to control noise breakout and vibration to a level acceptable to the Council.

5.4 The Licensing authority will expect venues that attract queues to formulate a scheme to avoid disturbance to nearby residents. In some cases this may be achieved by simply ensuring that the direction of the queue is away from residential accommodation.

5.5 However, possible excessive noise generated by customers and/or disorder requires more rigorous action. It is important that queues formed later in the evening or in early morning are adequately supervised to keep noise/disorder to a minimum. Such action can also help stop drug dealing during the queuing process but the prime purpose will be to prevent noise and disturbance. Door supervisors will generally be expected to carry out this role, but they must be adequately trained and given clear instructions as to their duties and responsibilities – where necessary they should be adequately supervised by a suitably nominated person or persons.

5.6 In terms of patrons leaving the premises, particularly late at night or early in the morning, the Licensing authority will expect the applicant to indicate in their operating schedule that consideration has been given to, and included where appropriate, such practical steps as:

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors, etc
- At appropriate times making announcements to the same effect.
- Instructing door staff to ask customers leaving the premises to leave the area quietly
- Reducing the volume of music towards closing time and where appropriate playing quieter, more soothing music.
- The availability of licensed taxis or private hire vehicles to take patrons from the premises
- In appropriate cases door supervisors or a premises manager patrolling nearby streets periodically to assess for themselves whether there is a noise or disorder problem and how best to deal with it
- Banning from the premises people who regularly leave in a noisy fashion.
- Increasing outside lighting levels
- Where there is a private forecourt, yard, etc, preventing patrons from using it for eating and drinking etc after a certain time. Planning conditions are usually imposed to restrict use after 8.00 pm or at sunset where adjacent to residential properties.

- 5.7 Reason(s): It is extremely irritating to residents disturbed by the sound of music escaping from licensed premises. Noise breakout may preclude the grant of a licence or if one has already been granted, for it to be reviewed with a view to possible revocation. It may also lead to a noise abatement notice being issued under the Environmental Protection Act. Responsible applicants and licensees will be expected to avoid the need for such action and promote the licensing objective of preventing public nuisance.
- 5.8 There can be little doubt that a well-managed licensed venue can benefit the local community. However, there is clearly a risk of local residents being disturbed particularly if the venue is open late at night. People leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem. Customers may be less inhibited about their behaviour and may be unaware of the noise they are creating.
- 5.9 A responsible applicant or licensee will wish to further the licensing objective of preventing public nuisance by introducing practical measures such as those referred to above to prevent such nuisance.

Prevention of Crime and Disorder

- 5.10 The Licensing authority will expect an applicant to indicate in their operating schedule the steps proposed to prevent crime and disorder such as:
- *Use of CCTV both within and outside the premises*
 - *Metal detection and search facilities*
 - *Procedures for risk assessing promotions and events such as “happy hours” for the potential to cause crime and disorder, and plans for minimising such risks*
 - *Measures to prevent the use or supply of illegal drugs*
 - *Employment of licensed door supervisors and other appropriately trained staff*
 - *Participation in an appropriate scheme designed to ensure effective liaison with the local community*
- 5.11 Reason(s): Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. It is important, therefore, that the applicant is able to demonstrate to the Licensing authority the practical steps that will be taken to further this objective.

Construction/Maintenance and Safety

- 5.12 The Licensing authority will expect licensed premises to meet all legal safety requirements, but in addition wishes to promote the highest possible standards of safety for patrons and others who may be affected by a licensed

premise. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and, where appropriate, other technical standards that may be appropriate for the premises concerned.

- 5.13 The Licensing authority will also expect the operating schedule to detail how the premises will be properly managed and maintained to ensure public safety at all times.

- 5.14 **Reason(s): Public safety is a fundamental licensing objective. Anyone visiting a licensed venue within the Borough of Hartlepool should expect to be visiting premises that have been constructed with high standards of safety in mind and that are well managed and maintained.**

Access for Persons with Disabilities

- 5.15 All premises are expected to provide adequate facilities and access for people with disabilities. The needs of disabled people must therefore be addressed in the operating schedule.

- 5.16 **Reason(s): Wherever practicable, persons with disabilities should not be treated in a less advantageous way. In addition, responsibilities under the Disability Discrimination Act 1995 come fully into effect in October 2004.**

Publicity

- 5.17 All those affected by an application should be made aware of its existence and of the opportunity to make representations. In an attempt to ensure this is achieved, applications for a premises licence will be advertised in accordance with statutory requirements.

- 5.18 **Reason(s): The grant of a licence can have a significant impact on the lives or businesses of those living or working in the vicinity of premises for which a licence is sought. Therefore, all those likely to be affected by an application have the right to be made aware of it and of the opportunity to make representations.**

Other Policies, Objectives and Guidance

- 5.19 Applicants for licences will be expected to have taken into account relevant strategies and policies such as the local crime prevention strategies, planning and transportation policies, tourism and cultural strategies in determining their operating schedules.
- 5.20 In addition to the above, applicants will also be expected to address the impact of their premises on the local community and demonstrate that matters such as the prevention and clearance of litter and other waste materials arising from the use of their premises have been considered.

Planning

- 5.21 Premises for which a licence is required must have a suitable, appropriate authorised use under planning legislation.
- 5.22 The Licensing authority will not normally entertain an application for a licence unless the applicant can demonstrate that the premises have either an appropriate (in terms of the activity and hours sought) planning consent, or an appropriate certificate of lawful use or development. Exceptions may be made where the applicant can demonstrate compelling reasons why the application should not be refused and the planning status of the premises has not yet been finalised.
- 5.23 *Reason(s):* 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. Proper integration will be assured by the Licensing Committees, where appropriate, by 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 will enable the Planning Committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 5.24 There is effective consultation between licensing and planning authorities with regard to their respective applications. It is important that there is consistency of approach.

Drug Awareness

- 5.25 The Licensing authority recognises that drug use by young people in a club environment is not something that is relevant to all licensed premises. However, it is recognised that special conditions may need to be imposed on certain venues where drug use is, or has been, taking place in order to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. Such conditions, if imposed, will take

account those issues discussed in the 'Safer Clubbing Guide' issued by the Home Office. Advice will be taken from the Police and the local drugs action team before any action is taken under this paragraph.

- 5.26 The Licensing authority will expect licensees of venues to take all reasonable steps to prevent the entry of drugs into their premises, to take appropriate steps to prevent drugs changing hands within the premises and to otherwise adopt precautionary measures to address the consequences of drug misuse.
- 5.27 In particular the Licensing authority will expect licensees of such venues to be familiar with the contents of Chapter 4 (drug awareness) of the British Institute of Inn-keeping Awarding Body (BIIAB) Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook. The Licensing authority will also expect licensees to be following the recommendations of the book "Safer Clubbing" issued by London Drug Policy Forum and endorsed by the Home Office.
- 5.28 It is hoped that licensees will follow these recommendations on a voluntary basis as failure to do so could lead to the licence being reviewed with the possibility of revocation. In appropriate cases the Licensing authority will consider imposing licence conditions to address these recommendations.
- 5.29 Reason: The purpose of this policy is to further the crime prevention objective and to ensure public safety by preventing a tragic loss of life caused by drug abuse, overheating and other factors.

Door Supervisors

- 5.30 Whenever any persons are employed at licensed premises to carry out any regulated security activity, all such persons must be licensed with the Security Industry Authority.
- 5.31 The Licensing authority may consider that certain premises require stricter supervision for the purpose of promoting the reduction of crime and disorder or other licensing objectives. In such cases, the Licensing authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.
- 5.32 Reason: Door supervisors, and others placed in a similar position, are often those first called upon to respond to issues of safety and disorder on licensed premises. The Licensing authority intends to ensure that such people are equipped with the skills necessary for the discharge of this important role.

6. SPECIAL POLICY

- 6.1 The licensing authority has carefully considered the issues of alcohol related crime, disorder and nuisance in Hartlepool and is committed to working with licensees, responsible authorities and residents to reduce these incidents wherever possible. This licensing policy indicates a number of ways in which relevant bodies can work together to promote a safe and 'neighbour friendly' night time economy.
- 6.2 The licensing authority does recognise however, that there may be instances where problems of crime, disorder and nuisance do not arise because of the failings of one particular premise but rather are caused by the cumulative effect of a number of licensed premises operating within a small area.
- 6.3 Guidance published by the Secretary of State for Culture, Media and Sport allows licensing authorities to consider the issue of 'cumulative impact' and, where appropriate, to introduce a special policy to control such matters.
- 6.4 **Following the receipt of evidence of crime, disorder and nuisance from Cleveland Police the licensing authority has chosen to adopt a special policy to ensure the promotion of the licensing objectives in a specific designated area.**
- 6.5 The area to which the special policy applies can be found detailed in Appendix One.
- 6.6 The authority believes that there is sufficient relevant evidence to support the adoption of a special policy that is both appropriate and proportionate for the promotion of the licensing objectives in the area concerned.
- 6.7 A special policy creates a rebuttable presumption that applications for new premises licences, club premises certificates or material variations will normally be refused, if relevant representations to that effect are received.
- 6.8 Applications for premises licences or club certificates for premises situated within the identified special policy area will be required to demonstrate in their operating schedules how the operation of their business will not add to the cumulative impact already being experienced in this area.
- 6.9 This special policy must not be regarded as absolute and the licensing authority will consider every licence application on its own merits.
- 6.10 The licensing authority may only give effect to this special policy if one or more responsible authorities or interested parties make a relevant representation concerning an application.
- 6.11 Consideration of a special policy formed part of the draft licensing policy that was subject to comprehensive consultation in 2004. In addition, current and potential licence holders located in the identified special policy area were

asked for their views before the Policy was adopted in December 2004. No adverse comments were received.

- 6.12 The licensing authority will regularly review the effect of this special policy and will amend or remove it where considered necessary.
- 6.13 Anyone considering making an application for either a premises licence or a club premises certificate for a premise situated within the area identified in Appendix One is advised to contact the Licensing Team at Hartlepool Borough Council for advice before making an application.

7. ADMINISTRATION, EXERCISE & DELEGATION OF FUNCTIONS

- 7.1 The Licensing authority will delegate its decision-making functions to the Licensing Committee, Sub-Committees and officers in accordance with the guidance issued by the Secretary of State.
- 7.2 Many decisions and functions are purely administrative in nature and these will be delegated to officers in the interests of speed, efficiency and cost-effectiveness.
- 7.3 Detailed information regarding the delegation of functions can be found in Appendix two.

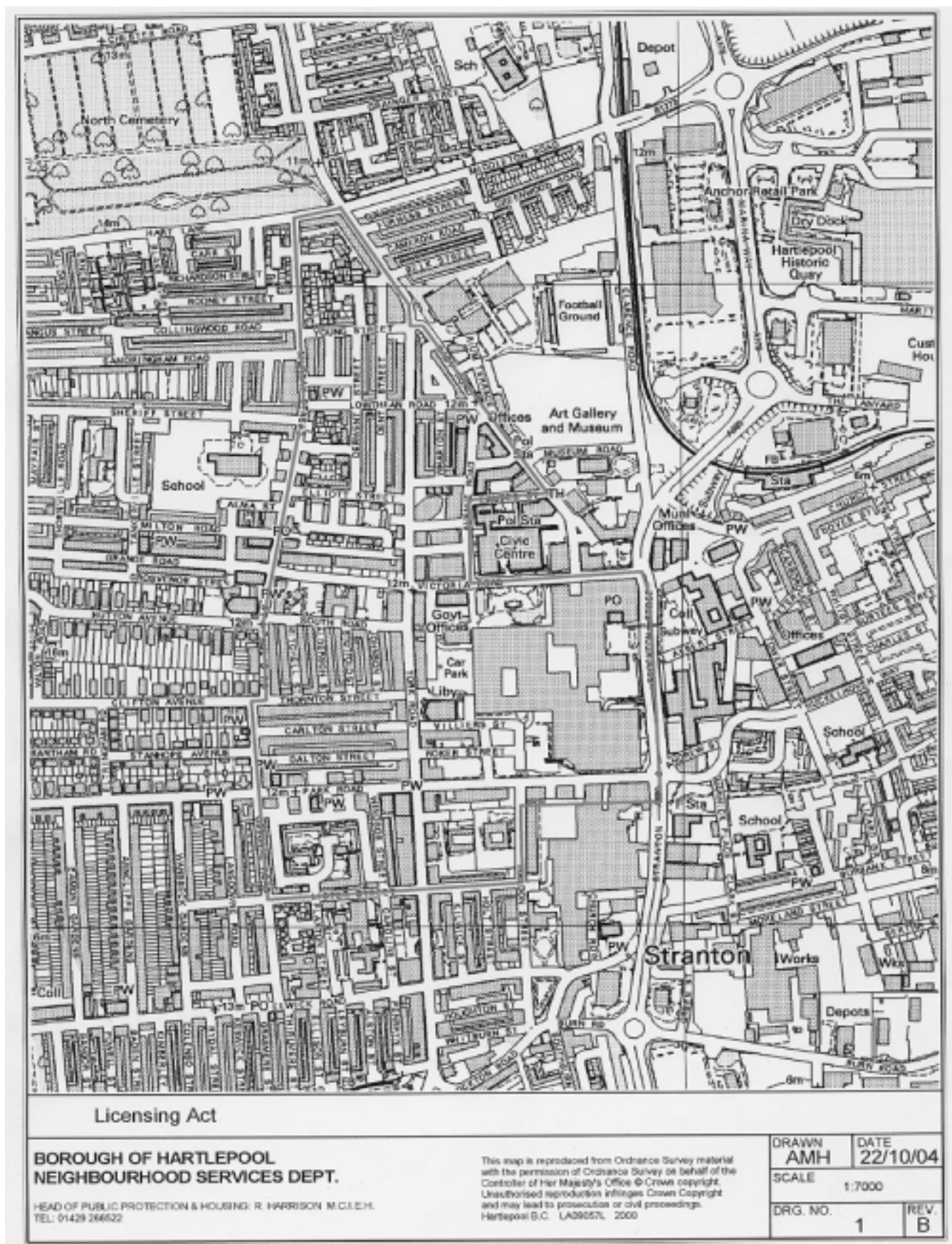
8. CONTACT DETAILS

- 8.1 Further details regarding the licensing application process, including application forms can be obtained from:

The Licensing Team
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Tel No: 01429 523354
Fax No: 01429 523308
Email: licensing@hartlepool.gov.uk

APPENDIX ONE – Designated Area for Special Policy



APPENDIX TWO

Delegation of Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If an objection made	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated 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	
Decision on whether a complaint is relevant 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	

Appendix II



From: **Dr Martin Rawlings MBE, Director Pub & Leisure**
 Direct Line: 020 7627 9141
 E-mail: mrawlings@beerandpub.com

29th August 2007

The Senior Licensing Officer
 Hartlepool Borough Council
 Civic Centre
 Victoria Road
 Hartlepool
 TS24 8AY

Dear Sir/Madam,

RE: LICENSING ACT 2003 - REVIEW OF LICENSING POLICY

The British Beer & Pub Association (BBPA) represents brewing companies and their pub interests, and pub owning companies, accounting for 98% of beer production and around two thirds of the 60,000 pubs in the UK. Many of our members own and run pubs in the Hartlepool area. The Association promotes the responsible sale of alcohol and management of licensed premises. It has a range of good practice information and guidance for member companies, which includes security in design, drugs, drinks promotions, noise control and health and safety.

The BBPA believes that the implementation of the Licensing Act 2003 has been successful to date and is encouraged by reports of decreased levels of disorder associated with licensed premises. We welcome this opportunity to provide comments as part of this licensing policy review. This response is also supported by BII, the professional body for the licensed retail sector and the Federation of Licensed Victuallers Associations.

The Association assumes that the Council is generally content with the Licensing Policy as it stands, since there is no indication of any changes that the Council is minded to make in the light of its experience of the new licensing regime, or the recently published revised Government Guidance to the Licensing Act 2003. We are concerned, however, that the Council may receive representations for change to which we will be unable to respond until after the policy is approved by the Council. We would take this opportunity to highlight the following, which we would not support being included in the final policy document as they are beyond the provisions of the Licensing Act:

Market Towers
 1 Nine Elms Lane
 London
 SW8 5NQ
 telephone: 020 7627 9181
 fax/mobile: 020 7627 9123
 enquiries@beerandpub.com
 www.beerandpub.com



Registered in London
 No. 1152734
 Registered Office
 Market Towers
 1 Nine Elms Lane
 London SW8 5NQ
 A company limited
 by guarantee

- applications to be completed in a specific manner, other than that prescribed in regulations. There is a danger that the licensing authorities 'expectations' could be construed as requiring applicants to offer a significant number of restrictions in their operating schedules. Licensing authorities should never mislead applicants into believing that they must meet certain requirements.
- any blanket or standard conditions on licences eg. CCTV, hours, use of polycarbonate/plastic glasses, capacity limits, membership and attendance at Pubwatch meetings, minimum pricing requirements etc.
- the Designated Premises Supervisor to be on the premises at all times, or to have a specific level of experience, training or qualification in addition to the personal licence qualification etc.
- written authorisation for the sale of alcohol
- more than one personal licence holder on the premises
- measures that duplicate existing legislation, eg. health and safety (eg. smoking, fire etc.) or disability provisions

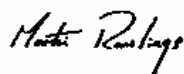
Enforcement

We would welcome recognition of the Hampton principles of inspection and enforcement in this section, which include the following:

- No inspection should take place without a reason
- Regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection

We trust that you will find these comments helpful and look forward to any response you may have. We would also appreciate being listed as a consultee in any further licensing related consultations.

Yours faithfully,



Dr Martin Rawlings

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Appendix III

Our Ref: JRE/ MJC.

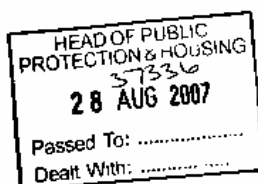
Date: 23rd August 2007

tbi

Your Ref: IH/JPB Criminal Defence Team: Mr J R Ellwood

Mr R N Taylor tilly bailey irvine
 Mrs K V Parkinson
 Ms S Burton
 Mr I Baron
 Mr S Haywood

Mr I Harrison
 Principal Licensing Officer
 Hartlepool Borough Council
 Civic Centre
 Hartlepool
 TS24 8AY



Dear Mr Harrison

Re: Statement of Licensing Policy – Licensing Act 2003 (Special Policy)

I think that the Special Policy should be removed. At the time of its creation, we were uncertain as to whether there would be a presumption that longer hours or new premises with longer hours would operate so as to reduce binge drinking. Councillors were rightly concerned that if such a presumption existed they would have difficulty in refusing any application.

The effect of a Special Policy was a mechanism by which a reversal of the burden of proof or perhaps more accurately a reversal of the presumption could be achieved. The position has now been clarified, there is no such presumption. The Council have to decide the case on the four licensing objectives on the basis of available evidence and there is no real burden of proof.

The special policy operates in a very broad-brush way. Therefore an application one foot outside the special policy in theory would be decided on different grounds to what was in. I invite the Council to recognise that the policy is unnecessary.

Yours sincerely

Mr J R Ellwood
TILLY BAILEY & IRVINE LLP

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 Telephone: (01429) 264101 Fax: (01429) 274796 DX: 60650 Hartlepool Web: www.tbilaw.co.uk
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Appendix IV



HARTLEPOOL BOROUGH COUNCIL

STATEMENT OF LICENSING POLICY

2008

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2. INTRODUCTION

1.1 This policy statement is based on the provisions of the Licensing Act 2003 and has taken full account of the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State for the Department of Culture, Media and Sport (DCMS).

1.2 This policy will apply for a period of three years from *(date to be inserted)*. It will be kept under review and revised/amended if considered appropriate to support the licensing objectives. Any policy changes or revisions will be subject to consultation.

The Borough of Hartlepool

1.3 Much of the borough is residential in nature although there are predominantly commercial areas in parts of the town centre that contain a large number of entertainment and leisure venues. The number of public houses, nightclubs, restaurants and takeaways, particularly in the town centre area, has increased in recent years. Part of this increase has been due to the tourism/entertainment based uses arising from the regeneration initiatives for the town centre and the Marina.

1.4 Hartlepool Borough Council, acting as the licensing authority for the Licensing Act, recognises the benefits to Hartlepool of a thriving service economy and wishes to promote, wherever possible, a town that meets and exceeds the requirements of its residents and visitors. However, the licensing authority recognises that certain types of licensed premises, particularly those offering alcohol and/or music, may have a detrimental impact on those who live nearby through the escape of noise or the actions of patrons both on and off the premises.

1.5 The licensing authority intends to seek a balance between the needs of residents and local businesses by using this Licensing Policy, and other strategies, to promote and encourage well-managed, neighbour friendly licensed premises that represent a positive addition to life in Hartlepool.

Legal Background to this Policy Statement

- 1.6 Hartlepool Borough Council, acting as the licensing authority, is able to grant or reject applications for the sale of alcohol, the provision of entertainment or late night refreshment. Conditions designed to ensure safety, protect children from harm, prevent crime, disorder and public nuisance will be attached to licences where appropriate. However, the ability of licensing authorities to grant licences and attach conditions is limited by provisions in the Act, Regulations made under the Act and by guidance from the Secretary of State. The licensing authority must have regard to the guidance and will deviate only where there are justifiable reasons for doing so.
- 1.7 In formulating this policy document the licensing authority has had regard to the provisions of the European Convention on Human Rights, recognising that everyone has the right to respect for his/her home and private life and that every person is entitled to the peaceful enjoyment of his/her possessions (including a licence).
- 1.8 The Human Rights Act 1998 makes it unlawful for a public authority to act in a way which will be incompatible with a convention right. The licensing authority will endeavour to ensure that any licensing decision does not cause a breach of a convention right.
- 1.9 The licensing authority in taking into account the provisions of the Crime & Disorder Act 1998 will also have regard to the likely effect of the exercise of their functions on crime and order in their area and do all they can to prevent such crime and disorder.

2. PURPOSE AND SCOPE OF THE LICENSING POLICY

Purpose

- 2.1 The licensing policy has four main purposes:
 - To reinforce to elected Members on the Licensing Committee, the boundaries and powers of the local authority, and to provide them with parameters under which to make their decisions.
 - To inform the licence applicants of the parameters under which the authority will make licence decisions, and therefore how a licensed premises is likely to be able to operate within the area. (Note however that each case will be examined on an individual basis.)
 - To inform residents and businesses of the parameters under which the authority will make licence decisions, and therefore how their needs will be addressed.
 - To support decisions made by the licensing authority when these decisions are challenged in a court of law.

Scope

- 2.2 The Act is concerned about the supply and sale of alcohol, the provision of certain entertainment and late night refreshment.
- 2.3 Activities that require a licence under the Licensing Act 2003 and covered by this policy include:
- Retail sale of alcohol
 - Supply of hot food or drink from a premise from 23.00 to 05.00 hours
 - Supply of alcohol or provision of regulated entertainment to club members or guests
 - Provision of entertainment listed below (known as regulated entertainment) to the public or section of the public or club members or with a view to profit:
 - Performances of a play
 - Exhibition of a film
 - Indoor sporting events
 - A boxing or wrestling entertainment
 - Live music performances
 - Playing of recorded music
 - Dance performances
 - Provision of facilities for making music
 - Provision of dancing facilities
- 2.4 The scope of the policy covers new applications, renewals where appropriate, transfers and variations of licences and certificates including where applicable temporary events notices. It will also include review of licences and certificates which may lead to the revocation of a licence or certificate.

3. TYPES OF LICENCES

Personal Licences

- 3.1 A personal licence will be granted where an applicant:
- e) is aged 18 or over
 - f) possesses an accredited licensing qualification
 - g) has not forfeited a personal licence in the last 5 years
 - h) has not been convicted of a relevant offence

- 3.2 The licensing authority will, however, reject any application where the applicant fails to meet a), b) or c).
- 3.3 Where an applicant has an “unspent” relevant conviction, the police may oppose the application. If such an objection is lodged a licensing hearing will be held. Where no such application is received from the police, the licensing authority will grant the licence.
- 3.4 At a hearing the licensing authority will consider carefully whether the granting of a licence will be in keeping with the promotion of the crime and disorder objective. Considerations will include the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The licensing authority will only grant the application if it is satisfied that doing so will promote this objective.
- 3.5 Reason(s): Prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. The holder of a personal licence should be a person who is not only properly qualified but a person who will assist the fight against crime. Granting a licence to a known criminal will, in many cases, undermine rather than promote the crime and disorder objective.

Premises Licences and Club Premises Certificates

- 3.6 An application for a premises licence or club premises certificate must consist of:
- an application form, in the prescribed format, detailing the licensable activities and proposed operating hours
 - an operating schedule
 - a plan of the premises to which the application relates
 - the appropriate fee
- 3.7 If the licensable activities include the sale of alcohol a consent form from the individual agreeing to be the premises supervisor will also be required (not required for club premises certificates).
- 3.8 The application must be advertised in the prescribed manner.

4. LICENSING PRINCIPLES

General

- 4.1 In carrying out its licensing functions the authority will promote the licensing objectives set out in the Act. These are:
- **the prevention of crime and disorder ;**
 - **public safety;**
 - **the prevention of public nuisance; and**
 - **the protection of children from harm.**
- 4.2 To achieve these objectives the authority will use its full range of powers and consider all relevant responsibilities including its planning controls, transport controls and crime and disorder policies. The authority will enter into appropriate partnership arrangements, working closely with the police, the fire authority, local businesses, community representatives and local people in meeting these objectives.
- 4.3 In determining a licence application the overriding principle adopted by the licensing authority will be that each application will be determined on its individual merits.
- 4.4 The Act covers the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment (premises licences), the supply of alcohol and/or the provision of regulated entertainment from certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notices).
- 4.5 In general a reference in this policy to a licence will include a club premises certificate.
- 4.6 The licensing authority recognises in following the Guidance and Regulations, that discretion in deciding licence applications is very limited.

Duplication

- 4.7 So far as possible, this Policy is not intended to duplicate existing legislation and regulatory regimes that are already placed on employers and operators, e.g. Health and Safety at Work etc. Act 1974. Conditions in respect of public safety will be attached to licences only if they are considered necessary for the promotion of the licensing objectives. However, it is likely that there may be duplication with regard to the imposition of some planning conditions.

Licence Conditions

- 4.8 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act, and conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others granted relevant authorisations.

Conditions should be specifically tailored to the premises and activities to be undertaken, with a view to ensuring the the licensing objectives are achieved. 'Standard' conditions may be inappropriate in respect of certain premises.

- 4.9 Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 4.10 The licensing authority will not impose blanket standard conditions. Licence conditions will be tailored to the individual application to help promote the licensing objectives. Where appropriate, conditions from the DCMS standard "pool" of conditions will be used. Licence conditions will not be imposed where it is considered that other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.
- 4.11 In the spirit of openness, transparency and reasonableness, licensing authority officers will seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving a mutually agreeable level of protection to the public and fulfilment of the licensing objectives.

Alcohol Harm Reduction

- 4.12 The licensing authority recognises that for most people alcohol represents an enjoyable addition to well-balanced social activities. However, there is increasing concern that for some people alcohol misuse is leading to self harm and social nuisance.
- 4.13 In determining licence applications, the licensing authority will have regard to the Government's Alcohol Harm Reduction Strategy and commends to all applicants the Portman Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.

Protection of Children

- 4.14 Whilst the protection of children from harm is a primary licence objective, the licensing authority will not normally impose conditions restricting or prohibiting the admission of children to licensed premises, believing this should remain a matter of discretion for the licence holder and has taken account of the view of DCMS that the use of licensed premises by children should be encouraged. However, conditions designed to protect children will be imposed where necessary.
- 4.15 The licensing authority will not impose any licence conditions requiring the admission of children to licensed premises.
- 4.16 Examples of premises where the introduction of additional controls are likely to be necessary are:
- Where entertainment or services of an adult or sexual nature are commonly provided.
 - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or premises with a reputation for underage drinking.
 - Where there is a known association with drug taking or 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.
- 4.17 In such circumstances, additional conditions may be imposed where considered necessary for the prevention of harm to children. These may include: -
- Limitations on the hours when children may be present
 - Age limitations
 - Limitations on the parts of premises to which children will be given access
 - Requirements for accompanying adults
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 4.18 Where the exhibition of films is permitted, the licensing authority will impose a condition requiring the exhibition of films to be limited to only those age groups recommended by either the British Board of Film Classification or the licensing authority. For such films, licensees must indicate in their operating schedules how such action will be assured. Only in exceptional cases will variations of this general rule be granted by the licensing authority and then only with appropriate safeguards.

- 4.19 In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Licensing authority will, provided adequate notice has been given, classify the films concerned. Information regarding such classifications will be available for inspection at the Civic Centre, Victoria Road, Hartlepool. To achieve consistency and the protection of children the licensing authority will use the guidelines published by the BBFC.
- 4.20 In connection with the protection of children from harm, the licensing authority will provide details of which body is responsible for such matters. Details of licence applications, where relevant, should be forwarded to this nominated body for examination.
- 4.21 Where there is provision of entertainment specifically for children (e.g. a children's disco) the licensing authority will require the presence of sufficient adults to control the entertainment and the access and egress of the children to ensure their safety.
- 4.22 Where it is the intention of the licensee to offer responsibility for the supervision of children as part of a licensable activity, the licensing authority may require licensees to take appropriate measures to ensure the suitability of employees for such purposes – this may involve employees providing a Criminal Records Bureau Disclosure. Even where not specifically required by the licensing authority, all licensees are encouraged to ensure that only suitable staff are allowed to work with children.

Designated Premises Supervisors

- 4.23 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment.
- 4.24 Because of this the licensing authority expects that the designated premises supervisor (DPS) for a licensed premise will be able to demonstrate that they are in day to day control of the premises, playing an active role in its operation through a regular personal presence.

Licensing Hours

- 4.25 The licensing authority recognises that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance. Shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there are very good reasons for restricting those hours.

- 4.26 Whilst zoning will not be adopted, the licensing authority will impose stricter conditions with regard to noise control in areas which have denser residential accommodation.

Live Music, Dancing & Theatre

- 4.27 The licensing authority recognises that traditional cultural activities such as music and dancing should be encouraged as part of a wider cultural strategy. Account should be taken of the need to encourage and promote entertainment such as live music, dancing and theatre for the wider cultural benefits of communities generally.
- 4.28 Only conditions considered necessary, proportionate and reasonable for the promotion of the licensing objectives will be attached to licences for activities of this nature. The authority will avoid measures that may deter live music, dancing and theatre by imposing unjustified indirect substantial costs. The licensing authority will closely monitor the impact of licensing on such activities and, where a negative impact can be identified, will re-visit the Licensing Policy with a view to investigating how the situation might be reversed.

Enforcement

- 4.29 Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat and the Council's Licensing Enforcement Policy.
- 4.30 In particular, regard will be had to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:
- Targeting - i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled.
 - Consistency - i.e. similar approaches in similar circumstances to achieve similar ends.
 - Transparency - i.e. helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance.
 - Proportionality - i.e. action taken should be proportional to the risk presented.
- 4.31 The authority will establish protocols with the local police and the fire brigade on enforcement issues to avoid duplication and to provide for the most efficient deployment of council, police and fire officers in respect of inspection of licensed premises and the enforcement of licensing law.

- 4.32 Furthermore the policy of the Council will be a light touch inspection regime for well managed and maintained premises with a targeted and increased inspection and enforcement regime for “high-risk” premises and those suspected of not being operated within the terms and conditions of the licence.

Integration of Strategies and Other Policies

- 4.33 Hartlepool Borough Council fully recognises and endorses the value of good relations between persons of different racial groups. The licensing authority recognises the obligations placed upon it by the Race Relations Act 1976 (as amended) and will ensure that this Policy promotes race equality and the elimination of unlawful discrimination.
- 4.34 The Council will integrate its various strategies to achieve consistency and transparency in the achievement of the licensing objectives.
- 4.35 Arrangements for reporting to local authority transport committees will be made to ensure transport strategies take account of the need to quickly disperse people from busy town centre areas to reduce the potential for nuisance and disturbance.
- 4.36 Arrangements will be made for the reporting of Hartlepool’s employment situation and the needs of the local tourist economy to the licensing committee to ensure that these issues are taken into account when licensing matters are being considered.
- 4.37 Licence conditions will reflect local crime prevention strategies and input from the local Crime and Disorder Reduction Partnership.

Cumulative Impact

- 4.38 ‘Need’ which concerns the commercial demand for another premises such as a pub, restaurant or hotel, is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. However, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority and its licensing committee to consider.
- 4.39 In determining an application the licensing authority will take into account, in the interests of public safety and the avoidance of nuisance, the cumulative effect that the existence of a saturation of premises in one area may have. A saturation of licensed premises can attract customers to the area that has an impact on the surrounding area beyond the control of individual licence holders. In this respect, the DCMS advocates consideration of a Special Policy to respond to the unique circumstances that can be caused by a concentration of licensed premises.

The Adoption of a Special Policy

- 4.40 Where, due to the volume of licensed premises in one area, it may be ineffective to impose conditions in respect of individual premises licences, it may be necessary for the licensing authority to adopt a Special Policy. Such a policy would create a rebuttable presumption that applications for new licensed premises in a designated area would be refused. The effect of this would place the burden of proof on the applicant to demonstrate in their operating schedule that the new premises will not add to the cumulative impact in the area.
- 4.41 Such a presumption would only apply if one or more responsible authorities or interested parties made relevant representations to the licensing authority regarding a new application.
- 4.42 In all circumstances the licensing authority will consider each application on its own merits and such a policy should not be considered as absolute. A Special Policy will not be used to control opening hours in a particular area.
- 4.43 For the authority to introduce a Special Policy for any area, the following steps will be considered:-
- Identification of serious and chronic concerns from a responsible authority or representatives of residents about crime and disorder or nuisance taking account of the Crime & Disorder Act 1998.
 - Assessment of the causes.
 - Consideration of whether it can be demonstrated that crime and disorder and nuisance is arising and is caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area.
 - Adoption of a policy about future applications from that area within the terms of the DCMS guidance.
- 4.44 Following the receipt of evidence from Cleveland Police, the licensing authority has adopted a special policy for the area identified in Appendix I. This matter is discussed in more detail in Section Six of this Policy.

Additional Measures to Tackle Cumulative Effect

4.45 The licensing authority recognises that, in addition to the adoption of a Special Policy there are a number of other mechanisms for addressing anti-social behaviour and nuisance once customers are away from the vicinity of licensed premises. These include:

- Planning Controls
- Positive measures to create a safe and clean town centre environment in partnerships with local businesses, transport operators and other departments of the local authority.
- Powers of local authorities to designate parts of the local authority areas as places where alcohol may not be consumed publicly.
- Police enforcement of the normal law concerning disorder and antisocial 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 excessive noise emanating from the premises.
- 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.

4.46 The authority supports and encourages the implementation of all such measures to help reduce anti-social and nuisance behaviour.

5. CONSIDERATIONS

General Requirements

5.1 The licensing authority will expect individual applicants to address the licensing objectives in their operating schedule, (as required under the Act). The operating schedule will have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, the times during which it is proposed that relevant licensable activities are to take place and details of other times during which it is proposed that the premises are to be open to the public.

5.2 In many cases it may be helpful to all concerned for Council officers to discuss with applicants and/or their advisers a draft operating schedule before it is formally submitted, e.g. as happens with the existing One Stop Shop approach. This will help ensure it properly addresses all the issues of concern to the council. Where licensable activities include the supply of alcohol, specified information on the individual identified as premises supervisor shall be supplied as well as whether the supply of alcohol is

proposed for consumption on and/or off the premises and operational procedures.

Nuisance

- 5.3 The licensing authority will expect the operating schedule to clearly demonstrate actions intended to ensure the operation will be “neighbour friendly”. In particular, the applicant shall propose adequate practical steps to prevent disturbance to local residents. In relation to noise from within the building the licensing authority will expect the applicant to have carried out acoustic tests to ascertain whether there is sound leakage. This noise could relate not only to entertainment but also from air handling equipment or patrons. The licensing authority will expect potential noise breakout to have been addressed in practical ways such as:
- Keeping doors and windows closed and providing suitable mechanical ventilation
 - Reducing sound levels and installing a suitable noise limiting device, calibrated and set at a limit approved by Council officers, to prevent sound exceeding an appropriate level
 - Installing soundproofing measures to control noise breakout and vibration to a level acceptable to the Council.
- 5.4 The licensing authority will expect venues that attract queues to formulate a scheme to avoid disturbance to nearby residents. In some cases this may be achieved by simply ensuring that the direction of the queue is away from residential accommodation.
- 5.5 However, possible excessive noise generated by customers and/or disorder requires more rigorous action. It is important that queues formed later in the evening or in early morning are adequately supervised to keep noise/disorder to a minimum. Such action can also help stop drug dealing during the queuing process but the prime purpose will be to prevent noise and disturbance. Door supervisors will generally be expected to carry out this role, but they must be adequately trained and given clear instructions as to their duties and responsibilities – where necessary they should be adequately supervised by a suitably nominated person or persons.
- 5.6 In terms of patrons leaving the premises, particularly late at night or early in the morning, the licensing authority will expect the applicant to indicate in their operating schedule that consideration has been given to, and included where appropriate, such practical steps as:
- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors, etc
 - At appropriate times making announcements to the same effect.
 - Instructing door staff to ask customers leaving the premises to leave the area quietly
 - Reducing the volume of music towards closing time and where appropriate playing quieter, more soothing music.

- The availability of licensed taxis or private hire vehicles to take patrons from the premises
 - In appropriate cases door supervisors or a premises manager patrolling nearby streets periodically to assess for themselves whether there is a noise or disorder problem and how best to deal with it
 - Banning from the premises people who regularly leave in a noisy fashion.
 - Increasing outside lighting levels
 - Where there is a private forecourt, yard, etc, preventing patrons from using it for eating and drinking etc after a certain time. Planning conditions are usually imposed to restrict use after 8.00 pm or at sunset where adjacent to residential properties.
- 5.7 Reason(s): It is extremely irritating to residents disturbed by the sound of music escaping from licensed premises. Noise breakout may preclude the grant of a licence or if one has already been granted, for it to be reviewed with a view to possible revocation. It may also lead to a noise abatement notice being issued under the Environmental Protection Act. Responsible applicants and licensees will be expected to avoid the need for such action and promote the licensing objective of preventing public nuisance.
- 5.9 There can be little doubt that a well-managed licensed venue can benefit the local community. However, there is clearly a risk of local residents being disturbed particularly if the venue is open late at night. People leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem. Customers may be less inhibited about their behaviour and may be unaware of the noise they are creating.
- 5.9 A responsible applicant or licensee will wish to further the licensing objective of preventing public nuisance by introducing practical measures such as those referred to above to prevent such nuisance.

Prevention of Crime and Disorder

- 5.10 The licensing authority will expect an applicant to indicate in their operating schedule the steps proposed to prevent crime and disorder such as:
- Use of CCTV both within and outside the premises
 - Metal detection and search facilities
 - Procedures for risk assessing promotions and events such as “happy hours” for the potential to cause crime and disorder, and plans for minimising such risks
 - Measures to prevent the use or supply of illegal drugs
 - Employment of licensed door supervisors and other appropriately trained staff
 - Participation in an appropriate scheme designed to ensure effective liaison with the local community

- 5.11 Reason(s): *Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. It is important, therefore, that the applicant is able to demonstrate to the licensing authority the practical steps that will be taken to further this objective.*

Construction/Maintenance and Safety

- 5.12 The licensing authority will expect licensed premises to meet all legal safety requirements, but in addition wishes to promote the highest possible standards of safety for patrons and others who may be affected by a licensed premise. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and, where appropriate, other technical standards that may be appropriate for the premises concerned.
- 5.13 The licensing authority will also expect the operating schedule to detail how the premises will be properly managed and maintained to ensure public safety at all times.
- 5.14 **Reason(s): Public safety is a fundamental licensing objective. Anyone visiting a licensed venue within the Borough of Hartlepool should expect to be visiting premises that have been constructed with high standards of safety in mind and that are well managed and maintained.**

Access for Persons with Disabilities

- 5.15 All premises are expected to provide adequate facilities and access for people with disabilities. The needs of disabled people must therefore be addressed in the operating schedule.
- 5.16 **Reason(s): Wherever practicable, persons with disabilities should not be treated in a less advantageous way. In addition, responsibilities under the Disability Discrimination Act 1995 will need to be considered and adequate facilities provided in premises where necessary.**

Publicity

- 5.17 All those affected by an application should be made aware of its existence and of the opportunity to make representations. In an attempt to ensure this is achieved, applications for a premises licence will be advertised in accordance with statutory requirements.

- 5.18 Reason(s):** The grant of a licence can have a significant impact on the lives or businesses of those living or working in the vicinity of premises for which a licence is sought. Therefore, all those likely to be affected by an application have the right to be made aware of it and of the opportunity to make representations.

Other Policies, Objectives and Guidance

- 5.19 Applicants for licences will be expected to have taken into account relevant strategies and policies such as the local crime prevention strategies, planning and transportation policies, tourism and cultural strategies in determining their operating schedules.
- 5.20 In addition to the above, applicants will also be expected to address the impact of their premises on the local community and demonstrate that matters such as the prevention and clearance of litter and other waste materials arising from the use of their premises have been considered.

Planning

- 5.21 Premises for which a licence is required must have a suitable, appropriate authorised use under planning legislation.
- 5.22 The licensing authority will not normally entertain an application for a licence unless the applicant can demonstrate that the premises have either an appropriate (in terms of the activity and hours sought) planning consent, or an appropriate certificate of lawful use or development. Exceptions may be made where the applicant can demonstrate compelling reasons why the application should not be refused and the planning status of the premises has not yet been finalised.
- 5.24 Reason(s): 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. Proper integration will be assured by the Licensing Committees, where appropriate, by 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 will enable the Planning Committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 5.24 There is effective consultation between licensing and planning authorities with regard to their respective applications. It is important that there is consistency of approach.

Drug Awareness

- 5.25 The licensing authority recognises that drug use by young people in a club environment is not something that is relevant to all licensed premises. However, it is recognised that special conditions may need to be imposed on certain venues where drug use is, or has been, taking place in order to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. Such conditions, if imposed, will take account those issues discussed in the 'Safer Clubbing Guide' issued by the Home Office. Advice will be taken from the Police and the local drugs action team before any action is taken under this paragraph.
- 5.26 The licensing authority will expect licensees of venues to take all reasonable steps to prevent the entry of drugs into their premises, to take appropriate steps to prevent drugs changing hands within the premises and to otherwise adopt precautionary measures to address the consequences of drug misuse.
- 5.27 In particular the licensing authority will expect licensees of such venues to be familiar with the contents of Chapter 4 (drug awareness) of the British Institute of Inn-keeping Awarding Body (BIAB) Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook. The licensing authority will also expect licensees to be following the recommendations of the book "Safer Clubbing" issued by London Drug Policy Forum and endorsed by the Home Office.
- 5.28 It is hoped that licensees will follow these recommendations on a voluntary basis as failure to do so could lead to the licence being reviewed with the possibility of revocation. In appropriate cases the licensing authority will consider imposing licence conditions to address these recommendations.
- 5.29 Reason: The purpose of this policy is to further the crime prevention objective and to ensure public safety by preventing a tragic loss of life caused by drug abuse, overheating and other factors.

Door Supervisors

- 5.30 Whenever any persons are employed at licensed premises to carry out any regulated security activity, all such persons must be licensed with the Security Industry Authority.
- 5.31 The licensing authority may consider that certain premises require stricter supervision for the purpose of promoting the reduction of crime and disorder or other licensing objectives. In such cases, the licensing authority may

impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

- 5.32 Reason: Door supervisors, and others placed in a similar position, are often those first called upon to respond to issues of safety and disorder on licensed premises. The licensing authority intends to ensure that such people are equipped with the skills necessary for the discharge of this important role.

6. SPECIAL POLICY

- 6.3 The licensing authority has carefully considered the issues of alcohol related crime, disorder and nuisance in Hartlepool and is committed to working with licensees, responsible authorities and residents to reduce these incidents wherever possible. This licensing policy indicates a number of ways in which relevant bodies can work together to promote a safe and 'neighbour friendly' night time economy.
- 6.4 The licensing authority does recognise however, that there may be instances where problems of crime, disorder and nuisance do not arise because of the failings of one particular premise but rather are caused by the cumulative effect of a number of licensed premises operating within a small area.
- 6.3 Guidance published by the Secretary of State for Culture, Media and Sport allows licensing authorities to consider the issue of 'cumulative impact' and, where appropriate, to introduce a special policy to control such matters.
- 6.4 **Following the receipt of evidence of crime, disorder and nuisance from Cleveland Police the licensing authority has chosen to adopt a special policy to ensure the promotion of the licensing objectives in a specific designated area.**
- 6.5 The area to which the special policy applies can be found detailed in Appendix One.
- 6.6 The authority believes that there is sufficient relevant evidence to support the adoption of a special policy that is both appropriate and proportionate for the promotion of the licensing objectives in the area concerned.
- 6.7 A special policy creates a rebuttable presumption that applications for new premises licences, club premises certificates or material variations will normally be refused, if relevant representations to that effect are received.
- 6.8 Applications for premises licences or club certificates for premises situated within the identified special policy area will be required to demonstrate in their operating schedules how the operation of their business will not add to the cumulative impact already being experienced in this area.

- 6.9 This special policy must not be regarded as absolute and the licensing authority will consider every licence application on its own merits.
- 6.10 The licensing authority may only give effect to this special policy if one or more responsible authorities or interested parties make a relevant representation concerning an application.
- 6.11 The licensing authority will regularly review the effect of this special policy and will amend or remove it where considered necessary.
- 6.14 Anyone considering making an application for either a premises licence or a club premises certificate for a premise situated within the area identified in Appendix One is advised to contact the Licensing Team at Hartlepool Borough Council for advice before making an application.

7. ADMINISTRATION, EXERCISE & DELEGATION OF FUNCTIONS

- 7.1 The licensing authority has delegated its decision-making functions to the Licensing Committee, Sub-Committees and officers in accordance with the guidance issued by the Secretary of State.
 - a. Many decisions and functions are purely administrative in nature and these will be delegated to officers in the interests of speed, efficiency and cost-effectiveness.
 - b. Detailed information regarding the delegation of functions can be found in Appendix Two.

8. CONTACT DETAILS

- 8.1 Further details regarding the licensing application process, including application forms can be obtained from:

The Licensing Team
Hartlepool Borough Council
Civic Centre
Victoria Road
Hartlepool
TS24 8AY

Tel No: 01429 523354
Fax No: 01429 523308
Email: licensing@hartlepool.gov.uk

APPENDIX ONE – Designated Area for Special Policy



APPENDIX TWO

Delegation of Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If an objection made	If no objection made
Application for premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated 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	
Decision on whether a complaint is relevant 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	

Report of: Head of Public Protection

Subject: SUB-COMMITTEE HEARINGS

1. PURPOSE OF REPORT

- 1.1 To consider the options available regarding future Sub-Committee hearings concerning Licensing Act licence reviews and contentious applications for Hackney Carriage/Private Hire driver's licences.

2. BACKGROUND

- 2.1 At your meeting of 7th June 2007 officers were instructed to prepare a report detailing the options available concerning future Licensing Act licence reviews and contentious applications for Hackney Carriage/Private Hire driver's licences.

- 2.2 Several Members have previously expressed their concern at the number of Licensing Act reviews being brought before them where it was felt that the circumstances surrounding the review were such that there was no opportunity for any substantive action to be taken by Members.

- 2.3 Some Members also commented that the current policy for the consideration of previous criminal convictions was resulting in too many Hackney Carriage/Private Hire driver's applications being referred to them.

2.4 Licensing Act 2003 – Licence Reviews

- 2.5 Sections 51 and 87 of the Licensing Act 2003 state that a Responsible Authority or Interested Party may apply to the relevant licensing authority for a review of a premises licence or club premises certificate.

- 2.6 Following an application for a review the licensing authority must arrange a hearing before a Licensing Sub-Committee.

- 2.7 The options available to the Sub-Committee following the hearing are: -

- To take no action;
- To modify the conditions of the licence;
- To exclude a licensable activity from the scope of the licence;
- To suspend the licence for a period not exceeding three months;
- To revoke the licence

- 2.8 Since the implementation of the Licensing Act in November 2005 a total of 14 licences have been called in for review – all but one by Trading Standards following successful prosecutions for underage sales of alcohol.
- 2.9 On those occasions where Trading Standards have requested the review they have previously obtained a successful prosecution relating to the original illegal sale of alcohol. This prosecution may have been against the licence holder or a member of staff i.e. the sales assistant. The decision about who should be prosecuted is taken by Trading Standards officers based on the evidence available and following a formal interview carried out under caution.
- 2.10 If it is considered that the licence holder has taken 'reasonable precautions and exercised due diligence' to prevent a sale taking place i.e. through the provision of robust staff training etc. a prosecution is not brought against them as it is unlikely that a conviction would be secured.
- 2.11 In such circumstances it is usual for the sales assistant to be prosecuted as they have failed to act in accordance with the training provided by their employer.
- 2.12 On those occasions where Trading Standards considered the licence holder responsible for the illegal sale, Members took a similar view at the subsequent review hearing and revoked the licence.
- 2.13 On those occasions where Trading Standards believed that the licence holder had taken all reasonable steps in trying to avoid an offence taking place, Members appear to have upheld this view and have not revoked the premises licence. Members have instead chosen to take no action on six occasions and have applied conditions to the premises licence on four occasions.
- 2.14 Hackney Carriage/Private Hire Driver Applications
- 2.15 The number of Hackney Carriage/Private Hire driver applications being brought before Licensing Sub-Committees has been raised as a matter of concern by some Members of the Licensing Committee.
- 2.16 Officers currently follow a policy approved by Committee on 2nd March 2005 (Appendix I) that indicates the appropriate action to be taken against a licence applicant based on the relevance of each type of offence and the time that has elapsed since its occurrence.
- 2.17 If there are no offences considered relevant under the policy, the licence is granted by officers using delegated powers. If there is any offence that is determined by the policy to be relevant the matter is brought before Members at a Hackney Carriage/Private Hire Sub-Committee.
- 2.18 Whilst the protection of the public remains of primary importance it is recognised that a robust policy can allow officers to approve applications that would, in all likelihood, be approved by Members sitting at Committee.

- 2.19 If Members believe that too many licence applications are being referred to Sub-Committee it is possible to review the current policy in order to amend the criteria that determines whether the matter should be brought before them. A reappraisal of the current policy will allow Members to consider whether some broader issues should be incorporated into the licensing decision process.
- 2.20 At present, all new drivers must obtain an enhanced Criminal Records Bureau (CRB) disclosure prior to their licence being issued. Once issued, a Hackney Carriage/Private Hire drivers licence allows the driver to carry all passengers, regardless of their age. However, if the driver intends to obtain a contract to transport children to and from school, the Children's Services Department currently require the driver to carry out a further enhanced CRB check (arranged through Human Resources and at the Council's expense).
- 2.21 Children's Services use their own policy to consider the relevance of any offences and to determine whether a licensed driver is suitable to carry school children.
- 2.22 If a driver is considered unsuitable a school contract will not be offered.
- 2.23 This is obviously an unsatisfactory situation as it is possible that Members (or officers following current policy guidelines) grant a licence to a driver who is then considered by Children's Services to be unsuitable to carry schoolchildren.
- 2.24 Provisional discussions with Children's Services have indicated that they consider it both essential, and a statutory responsibility, that they satisfy themselves as to the suitability of anyone contracted to carry schoolchildren.
- 2.25 As they currently play no role in the current licensing process they consider it essential that they conduct their own checks, including a CRB check, to discharge their obligations.

3. ISSUES FOR CONSIDERATION

3.1 Licensing Act 2003 – Licence Reviews

- 3.2 As detailed above, it is the responsibility of the licensing authority to hold a hearing if a review application is made by a Responsible Authority. It is therefore not within the power of the Licensing Committee to determine whether a hearing is appropriate if a review is applied for.
- 3.3 Whilst there have been a number of instances where Members have decided that no action was required against a premises licence, Members may wish to consider whether it is nonetheless appropriate that those who have a controlling influence over a business to be called to account for themselves at a Sub-Committee hearing.

- 3.4 Whilst the Licensing Committee cannot instruct a Responsible Authority on how to discharge its responsibilities, Members may wish to advise Trading Standards whether the current arrangements are unsatisfactory and if it may be more appropriate that a licence is only reviewed if the licence holder, or Designated Premises Supervisor, is prosecuted.

3.5 Hackney Carriage/Private Hire Driver Applications

- 3.6 Hartlepool Borough Council's primary licensing concern is the protection of the public. This is achieved through the consideration of the fitness of every applicant by means of a Criminal Records Bureau check and proof of medical fitness.
- 3.7 The relevance of any previous criminal conviction is determined by reference to a policy that was previously approved by Licensing Committee in 2005.
- 3.8 The current policy and licensing procedure do not include any input from either Children's Services or Adult Services and it may be argued that their professional judgement and expertise are crucial in the determination of the relevance of any criminal conviction.
- 3.9 Members may wish to consider whether it would be appropriate to invite representatives of the Council's Children's Services and Adult Services Departments to future Sub-Committee meetings in order to assist with any questions Members may have about the relevance of any conviction.
- 3.10 Whilst it may be argued that involving Children's Services and Adult Services in the decision making process will affect the autonomy of the Licensing Committee and may, in some instances, slow the licensing process down the primary consideration should be to ensure that every decision is a correct one and based on the best advice available.
- 3.11 In addition to the above, adopting a policy that involves Children's Services in the decision making process may result in that Department removing its current requirement for licensed drivers to carry out a further CRB check at the Council's expense. It would also remove the possibility of there being a driver approved by Sub-Committee who is subsequently considered unfit to carry children by Children's Services.

4. **RECOMMENDATIONS**

4.1 That Members: -

4.2 Licensing Act reviews

4.3 Instruct officers to advise Trading Standards that it considers licence reviews should normally only be requested following the prosecution of a licence holder or designated premises supervisor.

4.4 Hackney Carriage/Private Hire Drivers Licences

4.5 Instruct officers to begin negotiations with the Children's Services Department and Adult Services Department with a view to the development of a new policy for the consideration of previous criminal convictions and for their possible attendance at future Sub-Committee meetings.

Report of: Head of Public Protection

Subject: HACKNEY CARRIAGE/PRIVATE HIRE POLICY

1. PURPOSE OF REPORT

- 1.1 To consider possible amendments to the current hackney carriage/private hire licensing policy in the light of recommendations of good practice published by the Department for Transport.

2. BACKGROUND

- 2.1 Members were advised in October 2005 that the Department for Transport had begun consulting on a Best Practice Guidance document for taxi and private hire licensing authorities.
- 2.2 This document has now been published and its recommendations provide an opportunity for the current policy, which was approved in 1998, to be re-evaluated and revised where necessary.
- 2.3 Appendix I details areas of the current policy that are considered appropriate for further review and consideration. Some issues have been highlighted because of their inclusion in the Department for Transport's Best Practice Guidance whilst others have been suggested by the local taxi trade. Areas where the current policy fails to meet a recognised problem or the policy simply needs updating have also been included.

3. ISSUES FOR CONSIDERATION

- 3.1 Hartlepool Borough Council's licensing responsibilities are detailed in the Town and Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 The primary concern when licensing vehicles, drivers and operators is the protection of the public. It is also appropriate to recognise that the general public require reasonable access to taxi and private hire vehicles and therefore it is essential that licensing requirements are not unduly stringent or place unreasonable burdens on the taxi trade.
- 3.3 The Department for Transport has argued in its Best Practice Guidance that too restrictive an approach can work against the public interest by reducing the number of licensed vehicles available therefore increasing the length of time that a member of the public may have to wait for a vehicle to arrive or

indeed increase the likelihood that they be tempted to use an unlicensed vehicle.

- 3.4 Whilst the responsibility for the determination of the licensing policy lies solely with the licensing authority, Members should be aware that any policy decision that differs from the Best Practice Guidance may be challenged – especially where such differences result in increased expenditure for the trade.
- 3.5 It is proposed that the various issues detailed in Appendix I and determine are suitable for further evaluation and submission for consultation to the taxi trade (hackney carriage and private hire) and general public. Following consultation it is proposed that a further report be submitted to Committee for detailed consideration.
- 3.6 It is further proposed that a new hackney carriage/private hire licensing policy be published, incorporating any new additions or amendments, and to have effect from 1st April 2008.

4. **RECOMMENDATIONS**

4.1 That: -

- i) Licensing Committee Members agree to a process of consultation and review of the existing Hackney Carriage/Private Hire Licensing Policy; and
- ii) a further report be produced at a future meeting of the Licensing Committee detailing the outcomes of the consultation process

Hackney Carriage/Private Hire Licensing

4.3

Options for Policy Amendments

<u>Current Requirement</u>	<u>Option for Consideration</u>	<u>Reasons</u>	<u>Consequential Considerations</u>
1. Drivers licences are required to be renewed every year	Option should be given to drivers to purchase a 3 year licence	Best practice advice. CRB's are currently carried out every 3 years. Current licence renewals during intervening years are essentially 'rubber stamping'.	Discount for 3 year licence? Need to coordinate licence renewals with CRB disclosures and medicals
2. All licensed vehicles require 2 mechanical tests to be carried out at the Lynn Street Depot each year – irrespective of whether it has a current MOT.	Annual test for vehicles up to 3 years old (this could be MOT if one was legally required). Two tests per year due thereafter	Best practice advice. 'Current testing requirements are arbitrary and disproportionate'	Impact on SLA with depot More reliance placed on independence and honesty of MOT testing stations Meter checks still needed
3. Rear loading disabled access vehicles are permitted	Rear loading vehicles should be prohibited	Recommendations received from Spinal Injuries Assn, National Taxi Assn. Rear loading vehicles considered a danger	Currently one rear loading vehicle on fleet but not used for disabled passengers
4. Hackney Carriage tariffs – currently the same for every type of vehicle regardless of number of passengers.	1. Remove from policy 2. Allow an additional charge per person for 5 th passenger and above	1. Not a policy matter 2. Allows greater income generation for larger vehicles i.e. purpose built taxis that cost more to purchase and can carry more passengers	Confusion for passengers?

Hackney Carriage/Private Hire Licensing

4.3

Options for Policy Amendments

<u>Current Requirement</u>	<u>Option for Consideration</u>	<u>Reasons</u>	<u>Consequential Considerations</u>
5. Engine size must be minimum of 1600 cc	Remove	Modern engines are more powerful. Protection of the environment.	None
6. Knowledge test required for all new applicants	Include requirement for all applicants to demonstrate 'good communication skills' – this may be in the form of an appropriate English test	There is an increase in the number of applications being received from people who have English as a second language. The need to communicate effectively is an important aspect of licensed driving	If an English test was required it would have to be undertaken by all applicants – it would be discriminatory to pick only some applicants. How could an English test be carried out objectively?
7. CRB disclosure is required for all new driver applications and three years thereafter	Include requirement for applicant to provide 'Certificate of Good Conduct' from appropriate Embassy if applicant has resided in UK for less than five years (plus a CRB)	CRB disclosures only relate to time spent in UK and therefore will not disclose any offences committed overseas	What happens if an applicant comes from a country where Certificates of Good Conduct are not available? Do we refuse their application?
8. Operators licences expire annually	Operators licences should expire after 5 years	Best Practice advice.	Public safety concern?
9. External advertising limited to 'London style cabs'	Limited additional advertising permitted on all purpose built taxis	Purpose built vehicles typically cost £10,000 more than a standard saloon. Current tariffs do not differentiate between type of vehicle therefore no incentive to purchase purpose built vehicle	Current yellow colour coding scheme works well to protect the public. – Any dilution of colour scheme may impact on this.

Hackney Carriage/Private Hire Licensing

4.3

Options for Policy Amendments

<u>Current Requirement</u>	<u>Option for Consideration</u>	<u>Reasons</u>	<u>Consequential Considerations</u>
10. Current dimensions for luggage space exclude number of otherwise acceptable vehicles	Reduce/remove dimensions	Current policy forces some purpose built 7 seat taxis to be licensed for only 6 by Hartlepool. Most journeys are town journeys required for carrying shopping not holiday luggage.	(Remote) possibility of vehicle turning up for job without sufficient luggage space – however, unlikely that anyone would book a taxi without explaining that they wanted to go to an airport
11. ADDITIONAL REQUIREMENT	Add requirement that all drivers undertake formal training on carrying disabled passengers	Not legal requirement but would increase trader awareness of disabled issues	Cost – MIDAS course currently costs approx £200. Very small percentage of disabled vehicles on fleet – would training be a requirement for all drivers? Disabled vehicle owners already pay a premium to purchase a disabled access vehicle – extra costs may actually discourage more vehicles being purchased
12. ADDITIONAL REQUIREMENT	Private Hire Operators be required to retain vehicle and private hire drivers licence of everyone they operate	Assists with prevention of employment of unlicensed drivers/vehicles	Not a legal requirement – is it a fair and reasonable step? Will it achieve its aim?
13. Medical Certificates required for all new applicants that do not have HGV exemption.	Accept lower standard of proof of medical capability	Previous requests from trade to reduce their costs – current medicals cost approx £100.	Best Practice guidance suggests the current approach is retained

LICENSING COMMITTEE

27 September 2007



Report of: Head of Technical Services

Subject: Avenue Road/ Victoria Road Taxi Ranks

1. PURPOSE OF REPORT

- 1.1 To provide an update on operational taxi issues in Avenue Road and Victoria Road.

2. BACKGROUND

- 2.1 A number of issues concerning taxi operations at the above locations were discussed at the meeting of 27 June 2007.
- 2.2 Members had expressed concern over demand for the Avenue Road rank exceeding the available spaces. Previous discussions with the Police had indicated that they would be unwilling to support the provision of an additional rank adjacent to the Police Station on safety/ security grounds. However, at the meeting the Police stated that they would be prepared to accept a new rank, but would wish to retain the right to cone off the area for their use when necessary (Police horse box use, etc).
- 2.3 The provision of a new rank at this location has now been formally approved and sent to the Council's Legal Section in order to be advertised. The new rank will be set back from the Civic Centre exit road to ensure a reasonable level of visibility for vehicles leaving this road, which has also been highlighted as a problem.
- 2.4 Taxis occupying bus stops in Victoria Road on a Friday and Saturday night has long been a cause of some concern. Enforcement has taken place from time to time, however the effect is limited as the presence of Parking Enforcement Officers tends to prevent taxis parking in the first place, with them returning once the enforcement exercise has finished. Work has also been done in conjunction with the licensed premises, including signs and DJ announcements, to encourage the public to leave via the rear to access the ranks in Lucan Street.

- 2.5 Additional ranks have also been provided in the area in recent years at the taxi drivers' request. These include 2 spaces on Victoria Road itself in front of Loons, a feeder rank in the side street next to Loons and a rank along Lucan Street, the full length of the various licensed premises. This in addition to the evening rank on the west side of Avenue Road, next to the former gas showrooms, means that apart from the bus stop the whole block around the pubs is covered by taxi ranks.
- 2.6 The additional ranks were requested by the taxi drivers' representative at the Councils' Traffic Liaison Group, to allow taxis to feed around the block and be visible by having the front of the rank on Victoria Road itself.
- 2.7 On the south side of Victoria Road, a rank was added in recent years in the open market area adjacent to the King John's Tavern, and consultation has taken place with York Road businesses regarding the possibility of introducing a rank to the rear of York Road on the market access road (opposite Loons).
- 2.8 Taxi drivers have previously requested use of the bus stops after 9.00pm, however this has been strongly opposed by the bus companies. Investigations have determined that 20 buses use this route after 9.00pm and require access to these stops.

3. PROPOSALS

- 3.1 At the previous meeting the possibility of camera enforcement was discussed, and the Traffic Management Act is expected to allow local authorities to apply to use these powers from April 2008.
- 3.2 The Council is in the process of submitting a bid to purchase a dedicated camera enforcement vehicle, which would enable parking enforcement to be far easier. There would not be the effect of an enforcement officer merely deterring taxis from parking for short periods until they leave site. It would also vastly reduce the likelihood of confrontations occurring while enforcement takes place, with both taxi drivers and their customers who may be under the influence of alcohol.
- 3.3 The Traffic Management Act will also allow the enforcement of certain moving traffic offences, which are expected to become the responsibility of local authorities under the new powers. These include the enforcement of box junctions, banned turns, restricted turns, U turns, weight restrictions and one way streets.

4. RECOMMENDATION

- 4.1 That the Committee note the report and the enforcement proposals contained within.