



LICENSING ACT 2003
PREMISES LICENCES AND CLUB PREMISES
CERTIFICATES
PREVENTION OF PUBLIC NUISANCE
GUIDANCE FROM THE ENVIRONMENTAL
HEALTH SERVICE

1.0 Introduction

- Eastleigh Borough Council's Environmental Health service is a statutory consultee under the provisions of the Licensing Act 2003 for applications concerning new premises licences or club registration certificates or variations to them.
- One of the four key licensing objectives is the prevention of public nuisance and this guidance note has been produced to give applicants information on the issues which may need to be addressed in the operating schedule and the expectations of the Environmental Health service.
- The "operating schedule" is the part of the application form, which must include information that is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote licensing objectives are satisfactory.
- "Public nuisance" is given a statutory meaning in many pieces of legislation. However, it is not narrowly defined in the Licensing Act 2003 and retains its broad common law meaning for the Act's purposes. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined in the Licensing Act 2003) in the vicinity of licensed premises.

2.0 Prior consultation

- It is strongly recommended that applicants and/or their legal advisors discuss with officers from the Environmental Health service their draft operating schedule before it is formally submitted. This will help ensure it properly addresses any issues that might give rise to concern and may also be a means to avoid representations being made on issues that can be resolved prior to the formal application.

3.0 The application

- When an application is made for a new premises licence or club premises certificate or a variation to either then an applicant must provide the Environmental Health service with a copy of the application and accompanying documents on the same day as the day on which the application is given to the licensing authority.
- The Environmental Health service will consider each application on its own merits, with a view to ensuring the prevention of public nuisance.
- The public nuisance issues will depend on individual circumstances and will therefore vary according to a range of factors including the following: -
 - Proximity of residential and/or commercial accommodation;
 - Proposed licensable activities;
 - Likely numbers of customers;

- Proposed hours of operation;
- Frequency of activities.
- The applicant has a duty to carry out a risk assessment of the proposed licensable activities and submit an operating schedule containing information to enable the Environmental Health service to determine whether or not they believe adequate steps have been taken to promote the four licensing objectives, public nuisance being one of them.
- Any proposed conditions necessary to prevent public nuisance should be tailored to the style and characteristics of premises and the type of activities expected to take place. The onus is on the applicant to volunteer necessary conditions and clearly state them in the operating schedule.
- In considering the prevention of public nuisance, the Environmental Health service will focus on the applicants risk assessment. This must identify the impacts of the proposed licensable activities at the specific premises on persons living or working in the vicinity.
- The history of any previous complaints of nuisance against the premises, particularly where statutory notices have been served on the present licence holders, will also be a factor when the application is being assessed.

4.0 Public nuisance

- The issues to be considered by the applicant in relation to public nuisance may concern: -
 - Noise nuisance;
 - Light pollution;
 - Noxious smells;
 - Litter;
 - Any other relevant activity likely to give rise to nuisance.
- Detailed below are some of the causes of various types of public nuisance, together with possible remedial measures that can be taken if it is determined from the risk assessment that they are needed.

Noise nuisance

Applicants should determine and implement steps to prevent any noise and vibration escaping both from sources within the premises and from external sources under the control of the applicant.

Causes

- Music, singing and speech, both amplified and non-amplified, originating from inside buildings;
- Music, singing and speech, both amplified and non-amplified, originating from outside buildings;
- Activities within gardens, play areas and other open air areas;
- Rowdy behaviour by patrons entering or leaving the premises (This will usually be of greater importance between 11.00 pm and 7.00 am than at other times of the day);
- Queuing outside the premises (either by pedestrian or vehicular traffic).
- Noise from staff leaving the premises;

- Use of car parks and access roads;
- Delivery/collection/storage activities;
- Disposal to waste and bottle bins;
- Plant and machinery (including extraction systems).

Remedies

Examples of measures that can be developed by applicants and included in the operating schedule as possible licence conditions include: -

- ✓ Installation of soundproofing including double glazing and sound insulation;
- ✓ Commissioning reports by acoustic consultants for preventing noise nuisance and implementing their recommendations;
- ✓ Setting conditions of inaudibility inside the nearest noise sensitive property or at a particular distance from the premises: (See “Good Practice Guide on the Control of Noise from Pubs and Clubs” Section 7.0);
- ✓ Installation of acoustic lobbies;
- ✓ Provision of sound limitation devices;
- ✓ Ensuring that doors and windows are kept closed after a particular time in the evening;
- ✓ Provision of air conditioning to enable doors and windows to be kept closed during warm weather;
- ✓ Diverting queues away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
- ✓ Parking management schemes including the provision for public transport in the locality (including taxis and private hire vehicles) for patrons;
- ✓ A dispersal policy to minimise the potential for disturbance as customers leave the premises;
- ✓ The provision of prominent, clear and legible notices displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- ✓ Restricting the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas;
- ✓ Placing of refuse and bottles, into receptacles outside the premises at times that will minimise the disturbance to nearby properties;
- ✓ Cooling down period with reduced music levels at the end of the night;
- ✓ Adopting hours of operation appropriate to the activities in question and the location;
- ✓ Adopting a schedule for the deliveries, disposal and collection of waste at times appropriate for the locality.

Light pollution

Causes

Local residents and businesses can suffer from light pollution originating from lights installed inside or outside licensable premises.

Remedies

- ✓ Applicants should determine and implement steps to prevent excessive or ill designed internal or external lighting to premises, outdoor areas and car parks (including lighting intended specifically for public safety and security) intruding upon the comfort and amenity of nearby residents to such an extent as to be a nuisance.

Noxious Smells

Causes

- Nuisance by smell from commercial preparation of hot food in kitchens with no, inadequate or poorly maintained filtration and extraction equipment can cause a public nuisance.
- Existing legislation may not adequately prevent public nuisance and in these circumstances the applicant will be expected to provide control measures.

Remedies

- ✓ Determine and implement steps to prevent smells from causing a nuisance to local residents e.g. filter replacement and maintenance programmes.
- ✓ Discharge above the ridge height of nearby dwellings.

Litter

Causes

- The provision of hot food at and from premises after 11pm is often associated with the litter including food containers and food discarded onto the streets and onto private property in the vicinity of premises.

Remedies

- ✓ Applicants should determine and implement steps to prevent additional litter (e.g. food waste and food packaging, cans, bottles) in the vicinity of the premises. Such steps may include an agreed cleaning schedule in respect of litter in the vicinity of the premises. (including fly posters and illegal placards);
- ✓ Provision of litter bins

5.0 Outcomes of the Environmental Health service consultation

- If it is decided that adequate steps have been taken to promote the prevention public nuisance then the Environmental Health service will make no representations.
- If the Environmental Health service considers that adequate steps have not been taken to prevent public nuisance then representations will be made to Licensing services.
- The Environmental Health service representations may include: -
 - Recommending additional conditions to promote the prevention of public nuisance; and/or
 - Objections to proposals outlined in the operating schedule, which may lead to public nuisance.

6.0 Contact information for the Environmental Health service

- Correspondence address:

Environmental Health
Eastleigh House,
Upper Market Street,
Eastleigh
SO50 9YN

Tel: 023 8068 8329 Fax: 023 8061 5224

E-mail: mailto: eh@eastleigh.gov.uk

7.0 Bibliography

- “Guidance issued under section 182 of the Licensing Act 2003”

Department for Culture Media & Sport
2-4 Cockspur Street
London SW1Y 5DH

Tel: 020 7211 6200

E-mail: enquiries@culture.gov.uk Website: www.culture.gov.uk

- “Good Practice Guide on the Control of Noise from Pubs and Clubs”

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