

## Consultation on revised guidance under s 182 of the Licensing Act 2003

### Q1 & 2 Vicinity

It would be useful for Guidance to indicate how an interested party can validate a concern about an application when not living close to the particular premises involved but where affected by the group of licensed premises in the neighbourhood as a whole. This is often the case with concentrations of pubs and restaurants in a town centre where it is normal to visit friends there, make use of the facilities and walk to and from home. This situation affects many people where there is a large and growing population living in and close to the centre.

In the St Albans Statement of Licensing Policy para 3.4 "The Council intends to interpret public nuisance in its widest sense, and takes it to include such issues as noise, light, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area". This would seem to extend the right to make representations under the above circumstances. However in practice the Council's licensing lawyer does not accept that this clause means that people engaged in normal activity in an area can be regarded as an interested party.

This approach seems particularly restrictive where there is a high concentration of licensed premises and breaches of licensing objectives are not easily traceable to an individual establishment. Applicants do in fact argue that cumulative impact absolves them from responsibility for adding to public nuisance where there are other sources nearby. Where the licensing authority is reluctant to define a stress area the assumption must be that they dismiss the risk of intensification of disorder and nuisance as a factor in considering applications. Under such circumstances Guidance could be improved if the concept of vicinity was related to the density of licensed premises locally. The centre of such a concentration would set a marker from which residents and businesses could be accepted as "in the vicinity" for all applications in the cluster.

### Q3 & 4 Incidental music

3.21 of Guidance refers to "whether or not ...the addition of music will create the potential to undermine the four licensing objectives" and asks "does the volume of the music disrupt or predominate over other activities". One further consideration worth noting is whether such music is played or transmitted to the outside of the premises where any nuisance may be especially intrusive to neighbours.

### Q5 & 6 Cumulative impact

Consider that the Guidance should be amended so that vicinity relates to the location of the concentration of premises where the applicant's premises is situated, to give interested parties over a wider area the chance to make representations opposing the intensification of cumulative impact.

### Q7 & 8 Conditions

Consider that Annexes D-H should be retained, updating/expanding as necessary, for example when the full effect of smoking bans is felt.

### Q11 & 12 Role of councillors in the licensing process

Agree that the current guidance should be further clarified and expanded.

### Q17 & 18 Nature of evidence required to support representations

Agree that the Guidance should be amended as proposed. Guidance for interested parties could expand on the relevance of evidence about the surroundings of a premises to their vulnerability to crime and disorder and public nuisance.

Q19 & 20 Representations: disclosure of names and addresses

Agree that Guidance should be amended to protect people who might otherwise feel unable to make their concerns known.

Q21 & 22 Control of nuisance/crime and disorder outside licensed premises

Agree that the Guidance should be amended, as pressures on areas around premises may well be intensified after the smoking ban. Under DPPOs it would be an offence to take drink outside when going for a smoke.

Q 23 & 24 Paragraphs on longer hours

Agree with the amendment as the Secretary of State's letter has not been regarded as part of the guidance.

Q 25 & 26 Police powers to close premises

Agree but are concerned that police decisions have been markedly delayed by congestion in the magistrates' court.

Q31 Other issues

Applications from a Council itself

Where the Council is the owner of a premises for which it seeks to obtain a premises licence the question arises as to how impartiality is to be assured in determining the application. If the full council is the licensing authority any licensing sub-committee could be unacceptable as arbiters of an opposed application. It would seem that the hearing would need to be taken by the licensing justices to ensure public confidence in the process.

There is a need for guidance both when the council is the direct applicant (e.g. St Albans Town Hall) and when it is the owner of land subject to another's application.

While the Code of Conduct - Guidance for Members' Standards Board Sept 2004 stated that "you should not sit on decision-making bodies, such as planning and licensing committees, when they decide applications from an authority on which you also serve", LACORS' view is "that Members who are clearly part of the authority's decision to apply for the licence, or to express a view in respect of such an application, should not also be part of the licensing sub-committee in that situation."

Clearly there is a paramount need to avoid bias or the potential appearance of bias, where the Council is acting as developer whether or not financial considerations are involved.

Framework/proforma for Notice of Determination

There is frequently some difficulty in conveying the details of the application granted verbally, especially when changes have been made to the application in the course of the hearing. Items thought to have been agreed do not appear on the written document.

It could be helpful in transcribing the decisions to have a framework prompting points that have been accepted or rejected such as non-standard timings and seasonal variations, temporary events notices; door staff details; capacity of premises inside and outside; access of customers to the area in front of premises; conditions as to noise control inside and outside the premises, closure of doors and windows and times of last entry; times of disposal and collection of rubbish. This should help to avoid omission and make it easier to follow up points that still remain uncertain.

Yours sincerely

J A & K R COOK

