

Essential Reference Paper “B”

Extracts from the draft ‘Licensing Decision Making relating to the Night Time Economy: Position Statement’

NOTE: All members will be invited to comment on the entire Position Document at the consultation stage. The extracts contained here are particularly pertinent to the discussion of how to tackle alcohol misuse

2. Who has a stake in licensing matters?

2.1 The council, as the licensing authority, has a duty to ensure that various parties are aware of an application for a new premises licence or a variation to an existing one. The table below lists these parties and how they are made aware of an application.

Table 1: Parties which the council has a duty to make aware of applications	
Party	Made aware by
Responsible authorities: <ul style="list-style-type: none"> • Licensing Authority – East Herts Council • Hertfordshire Police • Environmental Health – East Herts Council • Planning Service – East Herts Council • Fire Authority – Hertfordshire Fire & Rescue Service • Hertfordshire Safeguarding Children Board • Trading Standards – Hertfordshire County Council • Home Office – Alcohol Licensing Team • Public Health – Hertfordshire County Council • Health and Safety Executive <i>(only need to be consulted if they are the enforcing authority for Health and Safety at the premises)</i> 	<ul style="list-style-type: none"> • Applicant will submit copies of application documents directly to them at the same time as the documents are sent to the licensing authority • In the case of applications made online through the licensing portal, the council’s licensing team will send the application documents electronically to the responsible authorities immediately upon receipt
Residents and businesses, notably those living/working in the vicinity of the premises	<ul style="list-style-type: none"> • Written notices will be put up by the applicant (in a statutorily prescribed format), attached to

	<p>or near the premises concerned and displayed for not less than 28 days</p> <ul style="list-style-type: none"> • A public notice (in a statutorily prescribed format) submitted by the applicant will be published in a locally circulated newspaper • Information about pending applications will be displayed on the council's website
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2.3 The council wishes to take a broad and inclusive view of who constitutes stakeholders in the development of and proper operation of a successful night time economy in East Herts and the licensing decisions related to this. So, in addition to the parties listed above, the council sees the following as having a stake in night time economy related matters:

- residents across the town centre concerned
- residents in East Herts area generally
- local businesses in the town centre concerned
- local businesses in East Herts area generally
- local chambers of commerce
- local transport undertakings – (bus and coach operators; taxis and local rail companies)
- Hertfordshire County Council as highway authority
- patrons and prospective patrons of late night venues in East Herts
- owners, managers and staff of late night venues in East Herts
- the local health services
- elected and non-elected community representatives
- the local media
- other enforcing authorities
 - the Security Industry Authority as regulators for door supervisors
 - HM Revenue and Customs.

- 2.3 Each of the stakeholders in the table and the list above has influence over the night time economy in different ways. They can affect the direction the NTE takes as consumers, patrons, investors, suppliers and landlords. The licensing process is only one of the ways.
- 2.4 To ensure as wide a range of stakeholders as possible can participate in discussions about the NTE, the council will publicise applications for new or varied licences on its website and make it clear to whom representations can be made.
- 2.6 All stakeholders have an ability to engage with the licensing process by making representations during the application consultation period for new licences and variations to existing licences.
- 2.7 Stakeholders will also be able to express their views by applying for a review of a particular premises licence where they have evidence that the licensing objectives are not being addressed.
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How members of the public can make their views known

- 3.7 In order to make informed decisions, the council is keen to hear from those with a view on a particular application.
- 3.8 ... the legislation and guidance dictates that members of the public have a specific time period during which to raise issues. Of note, the Licensing Act 2003 established a very prescriptive procedure for the way in which applications are made and determined. Of note:
- the requirements concerning advertising of applications are set out in the Licensing Act 2003 (Premises Licences and Club Premises Certificates Regulations) 2005
 - Regulation 25 provides that the applicant shall advertise the application for a period of no less than 28 consecutive days

starting on the day after the day on which the application was given to the relevant licensing authority by displaying a notice that complies with prescribed requirements

- the applicant must also publish a notice at least once in a local newsletter or similar document circulating in the vicinity of the premises
- these regulations dictate the notice period during which members of the public can raise issues or concerns
- the Regulations oblige the council, as the licensing authority, to also advertise the application on its website for a period of no less than 28 consecutive days starting on the day after the day on which the application was given. The content of the advertisement is prescribed.

3.13 When deciding on applications, it would be particularly helpful if members of the public making representations could provide the following:

- whether the representation is for or against the application
- reference to concerns over the undermining or potential undermining of the Licensing Objectives (as determined by legislation and listed in the council's Licensing Policy)
- evidence to support the above.

How comments made by members of the public feed into the decision making process

3.14 So long as comments from members of the public are received by the council within the 28 day consultation period, they will be fed into the decision-making process. Thus, comments from members of the public have a significant role to play in the decision making process. The council will share comments with other responsible authorities where the comments relate to that authority's remit. This will:

- provide information which the responsible authority can draw on when considering what representations, if any, it wishes to make
- assist the responsible authority in determining what conditions, if any, it would wish to see attached to a grant approval
- enable the responsible authority to assess whether it needs to carry out any further investigations itself.

3.15 The council will also share comments with the applicant as required by law. This will:

- assist the applicant to better understand how the proposal could impact on local people
- enable the applicant to make amendments to, or withdraw, the application to mitigate or allay concerns raised
- provide the applicant with the opportunity to better explain what is proposed and/or address any misunderstandings; this in itself may mitigate or allay concerns