

TEWKESBURY BOROUGH COUNCIL

Report to:	Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005)
Date of Meeting:	12 December 2023
Subject:	Premises Licence Review - 22/02043/LIQVAR- Ye Olde Black Bear, High Street, Tewkesbury GL20 5BJ
Report of:	Licensing Team Leader
Head of Service/Director:	Director: Communities
Lead Member:	Lead Member for Clean and Green Environment
Number of Appendices:	15

Executive Summary:

To consider an application for a review of the premises licence for Ye Olde Black Bear, High Street, Tewkesbury GL20 5BJ. The application was submitted under the Public Nuisance objective by Tewkesbury Borough Council's Environmental Health team.

Recommendation:

To DETERMINE the application by:

- making no changes to the current premises licence;
- modifying the conditions of the premises licence;
- excluding a licensable activity from the scope of the licence;
- removing the designated premises supervisor;
- suspending the licence for a period not exceeding three months; or
- revoking the licence.

Financial Implications:

There are no financial implications arising directly from the consideration of this application. However, any appeal to the Magistrates' Court regarding the Licensing Sub Committee's decision could result in the Council having to bear the legal costs of defending its decision.

Legal Implications:

The hearing must be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005.

The Licensing Sub-Committee are required to have regard to;

- the representations (including supporting information) presented by all the parties;
- the Official Guidance issued under section 182 of the Licensing Act 2003 revised August 2023;
- the Licensing Authorities Statement of Licensing Policy.

In determining a licence application, the Licensing Sub-Committee will consider each application on its merits.

Environmental and Sustainability Implications:

None.

Resource Implications (including impact on equalities):

If any party to the hearing were successful in appealing any decision taken by the Sub-Committee at a Magistrates Court, the Licensing Authority may be liable to having costs awarded against it.

The decision of the Licensing Sub Committee must be given in writing to all parties within 5 working days of the meeting.

Safeguarding Implications:

None.

Impact on the Customer:

None.

1.0 INTRODUCTION/BACKGROUND

1.1 Ye Olde Black Bear is a public house that is located at the top of the High Street, Tewkesbury and the premises also runs alongside Mythe Road.

1.2 The premises reopened in June 2023 after being closed for a considerable amount of time for renovation works.

1.3 The premises offer wet sales, entertainment and currently have pop up food traders in the garden area offering various cuisines.

1.4 The public house is renowned for being the oldest pub in Gloucestershire.

Premises Licence

1.5 The premises are currently licensed for the following:

Sale by Retail of Alcohol	Friday and Saturday 09:00 - 01:00
Sale by Retail of Alcohol	Sunday to Thursday 10:00 - 00:00
Performance of Live Music	Friday and Saturday 09:00 - 01:00
Performance of Live Music	Sunday to Thursday 10:00 - 00:00
Performance of Recorded Music	Friday and Saturday 09:00 - 01:00
Performance of Recorded Music	Sunday to Thursday 10:00 - 00:00
Entertainment similar to Live Music, Recorded Music	Friday and Saturday 09:00 - 01:00
Entertainment similar to Live Music, Recorded Music	Sunday to Thursday 10:00 - 00:00
Late Night Refreshment	Sunday to Wednesday 23:00 - 01:00
Late Night Refreshment	Thursday to Saturday 23:00 - 02:00
Opening hours to the public	Sunday to Wednesday 07:00 - 01:00
Opening hours to the public	Thursday to Saturday 07:00 - 02:00

1.6 A copy of the premises licence showing all non-standard timings and current premises licence conditions is attached at **Appendix A**.

1.7 A plan showing the licensed area is attached at **Appendix B**.

1.8 A location plan showing the location of the premises is attached at **Appendix C**.

Live Music Act 2012/Deregulation Act 2015

1.9 The garden area is not licensed for use for live music/recorded music. However, as a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

Live music: no licence permission is required for:

- a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises
- a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

Recorded Music: no licence permission is required for:

any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

- 1.10 Any conditions imposed on a premises licence relating to live/recorded music are also unenforceable before 23.00 hours due to the deregulation.
- 1.11 The deregulation can be removed by reviewing the premises licence.

Licensing

- 1.12 Prior to reopening, the Licensing Team Leader visited the premises in August 2022 and met with the premises licence holder. The licence conditions were explained along with the scope of the licensed area. Advice was also given regarding holding music in the outside areas and that it was advisable to contact the Environmental Health (EH) team for advice.
- 1.13 In December 2022, a variation application was submitted to include the sale by retail of alcohol in the garden area.
- 1.14 After reopening, the Licensing and EH teams received complaints with regards to the use of the outside area, namely music and the use of the outside seating area.
- 1.15 Licensing conducted a compliance visit on 24 July 2023 along with Gloucestershire Police to check that licence conditions were in place. A copy of the email sent to the premises licence holder with outstanding conditions and advice can be viewed at **Appendix D**.
- 1.16 A follow up visit was held on 10 August 2023. Licence conditions were still outstanding, and the email sent to the premises licence holder can be viewed at **Appendix E**.
- 1.17 A final visit was undertaken on 17 August 2023 and the email sent to the premises licence holder can be viewed at **Appendix F**.
- 1.18 The Licensing team continued to be copied into nuisance complaints to the EH team. A written warning was issued on 15 August 2023 (copy at **Appendix G**) which the premises licence holder disputed and stated that the premises was compliant with the conditions.

2.0 APPLICATION FOR REVIEW

- 2.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 2.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 2.3 The licensing objectives are:
- The prevention of crime and disorder,
 - public safety,
 - prevention of public nuisance, and
 - the protection of children from harm

- 2.4 On 19 October 2023, an application to review the premises licence under the Public Nuisance licensing objective was submitted by the Council's Environmental Health Officer (EHO).
- 2.5 A copy of the application can be found at **Appendix H**.
- 2.6 The exhibits outlined in the EHO's application are attached at **Appendix I**.
- 2.7 The audio exhibits will be played at the Licensing Sub Committee meeting.
- 2.8 As part of the EHO's application, to negate nuisance emanating from the premises, the following conditions have been proposed:
1. Regulated entertainment taking place in any outdoor area, including the terrace/patio area, must be limited to 6 days per calendar year and cease at 2230 hours. Local residents, the licensing authority and Tewkesbury Borough Council's Environmental Health Department must be given at least 14 days written notice of these events. The local residents must be provided with a contact telephone number in case of any issues.
 2. The premises licence holder must submit a written noise management plan (NMP) to include the preventative measures that will be implemented at the premises. The NMP shall be produced by a competent person who is a member of the Institute of Acoustics (IOA). The NMP must be submitted to the Environmental Health Department and must be agreed prior to any regulated entertainment taking place at the premises (internally or externally). The NMP must also state the area of local residents that will be included in any event notification. The NMP must be adhered to at all times.
 3. A noise limiting device must be installed and must operate at all times regulated entertainment takes place internally at the premises. This includes the installation of a tamper-proof noise limiting device, set to levels agreed with Tewkesbury Borough Council's Environmental Health Department. All live and recorded music played must be limited by the noise-limiting device. No live or recorded music (except background music) can take place until this device has been fitted and the levels set with Tewkesbury Borough Council's Environmental Health Department.
 4. The Premises Licence holder must ensure that all external doors and windows are closed when regulated entertainment is taking place internally, except to allow entry and egress. These must be on a self-closure fitting so that they cannot remain open.
 5. The rear external garden, including the terrace/patio area, must be cleared of customers and secured by 2230hrs each night. Customers and staff that wish to smoke must use the front area (High Street side) of the pub after 2230 hours. The front area of the pub must be monitored by at least one SIA registered member of staff at all times after 2230 hours and ensure that customers and staff do not congregate in this area. No seating shall be provided to the front of the premises.
 6. There must be no deliveries or collections relating to licensable activities at the premises between the hours of 2000 hours and 0800 hours on any day.
 7. There must be no emptying of recycling (including bottle bins) or waste bins between the hours of 2000 hours and 0800 hours on any day.

8. The premises licence holder or a responsible person nominated by the premises licence holder must maintain a log of complaints in respect to nuisance. The log must be kept for a continuous 12-month period and must be made available for inspection by officers of Tewkesbury Borough Council or the Police. (The complaint log must include the name and address of complainant, date/ time, nature of complaint and any action to remedy where applicable).

And the following current premises licence conditions be removed:

1. 12. Additional patrols will take place by members of staff, internally and externally, to limit any noise pollution when entertainment is being offered within the premises.
2. 14. Where currently in use text/radio pagers will continue to be used for the additional hours of trading and will be monitored by a responsible member of staff.
3. 16. The outside drinking area will not be used by customers consuming food and/or drink after 23:00.
4. 17. The gardens of the public house, except of the Designated Smoking Area identified on the site plan, to be closed at 23:00 with no food or alcohol being consumed outside after this time.
5. 18. That use of external areas after 23:00 shall be restricted to the Designated Smoking Area as identified on the site plan.
6. 19. Access to the Designated Smoking Area shall be monitored to ensure no food or drink is taken into the area after 23:00.
7. 20. The Designated Smoking Area shall be regularly patrolled during opening hours to monitor noise levels from patrons.
8. 21. Signage shall be erected to direct patrons to the Designated Smoking Area, to advise on restrictions on food and alcohol after 23:00 and to request patrons to have consideration for local residents. All signage to be agreed with the Licensing Officer at Tewkesbury Borough Council.
9. 31. On any evening when the premises are open for entertainment/music, other than low level background music, beyond 23:00 hours, all windows and doors shall remain closed, other than when persons are actually entering or leaving the premises, in order to reduce noise escape.
10. 32. The designated premises supervisor will ensure the effective overall management of live or recorded entertainment, such as by monitoring noise levels outside the premises to ensure that noise from such activities is effectively inaudible inside neighbouring premises after 23:00 hours.

3.0 CONSULTATION

3.1 A 28-day consultation was carried out in accordance with the regulations. The last date for representation being the 16 November 2023.

3.2 Public notices were displayed at the premises, at the Council Offices and on the Council's website. It should be noted that the email address for representations to be submitted to was spelt incorrectly (licensing@tewkesbury.gov.uk). Following discussions between One Legal and Licensing, the consultation period was not extended due to representations being received. Revised notices were displayed on 10 November for the remainder of the consultation.

3.3 Responsible Authorities

3.3.1 The EHO circulated (as well as the licensing authority) a copy of the application to the following Responsible Authorities specified under the Act:

- Gloucestershire Constabulary – No comment made.
- Fire and Rescue Authority – No comment made.
- Health and Safety Enforcing Authority – No comment made.
- Planning Authority – No comment made.
- Body with responsibility for child protection – No comment made.
- Public Health Authority – No comment made.
- Trading Standards – No comment made.
- Home Office Immigration Enforcement – No comment made.

3.4 Other Persons

3.4.1 During the 28-day consultation, 332 representations were received.

3.4.2 32 representations were made by residents who live in close proximity and are affected by the operations of the premises. Copies of these can be viewed at **Appendix J**.

3.4.3 21 representations were received by residents who live close by and are not affected by the operations of the premises. Copies of these can be viewed at **Appendix K**.

3.4.4 Nine representations were received by parties who were against the review and offered relevant information. Copies of these can be viewed at **Appendix L**. One of these was submitted by Tewkesbury Town Council and offers proposed conditions.

3.4.5 A representation was received by County Councillor Cate Cody. This was a neutral representation and can be viewed at **Appendix M**.

3.4.6 267 representations were made by parties who are supportive of the operations of the business. These are not relevant representations under the Licensing Act 2003. To be a relevant representation the content must apply to one or more of the licensing objectives. Business and economic benefits are a matter for the planning regime. However, these submissions have been included for all parties to understand the community asset of the premises. These can be viewed at **Appendix N**.

3.4.7 There have been comments made in relation to parking. These concerns are not relevant under the licensing process and would relate to planning and the highways/police teams for enforcement. Therefore, these should not be considered when making a decision.

4.0 MEETING PROCEDURE

4.1 A copy of the meeting procedure is attached at **Appendix O**.

5.0 GUIDANCE AND POLICY

5.1 Statutory guidance

5.1.1 The Licensing Act 2003 states that, in carrying out its functions, a Licensing Authority must 'have regard to' guidance issued by the Secretary of State under section 182 of the Act. The guidance is therefore binding on all licensing authorities to that extent; however, it is recognised that each case must be decided on its own merits and the guidance should not fetter the discretion of the Licensing Authority to make decisions in individual cases. Any decision that the Licensing Authority makes should be supported by full reasons.

5.1.2 The following extracts from the guidance are relevant to this application.

5.2 The review process

5.2.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

5.2.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

5.2.3 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

5.2.4 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as relevant unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

5.2.5 Where a licensing authority receives a geographic cluster of complaints, consideration may be given as whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the licensing authority may be asked to consider whether it would be appropriate to publish a cumulative impact assessment. Further guidance on cumulative impact assessments can be found in Chapter 14 of this Guidance.

5.2.6 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this cooperation.

5.3 Powers of the licensing authority on the determination of a review

5.3.1 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

5.3.2 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

5.3.3 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

5.3.4 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

- 5.3.5** In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 5.3.6** For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 5.3.7** Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 5.3.8** Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

5.4 Licence conditions – general principles

- 5.4.1** Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives;
 - must be precise and enforceable;
 - must be unambiguous and clear in what they intend to achieve;
 - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
 - must be tailored to the individual type, location and characteristics of the premises and events concerned;
 - should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
 - should not replicate offences set out in the 2003 Act or other legislation;
 - should be proportionate, justifiable and be capable of being met;

- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

5.5 Public nuisance

- 5.5.1** The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that, in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 5.5.2** Public nuisance is given a statutory meaning in many pieces of legislation. It is, however, not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include, in appropriate circumstances, the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 5.5.3** Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate; however, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable).
- 5.5.4** Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 5.5.5** As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises, but the approach of licensing authorities and responsible authorities should be one of prevention and, when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

- 5.5.6** Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave
- 5.5.7** Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in antisocial behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

5.6 Licensing policy

General principles

- 5.6.1** Every application received by the Licensing Authority will be considered on its own individual merits.
- 5.6.2** If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the Licensing Authority must grant the application, subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions.
- 5.6.3** The Licensing Authority will aim to carry out its licensing functions in a way that promotes tourism, increases leisure and culture provision and encourages economic development within the borough; however the Licensing Authority will also always try and balance the needs of the wider community, local community and commercial premises, against the needs of those whose quality of life may be adversely affected by the carrying on of licensable activities, particularly within residential areas.
- 5.6.4** In particular the Licensing Authority will attempt to control any potential negative impacts from the carrying on of licensable activities, such as increased crime and disorder, anti-social behaviour, noise, nuisance, risks to public safety and harm to children.
- 5.6.5** The Licensing Authority's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 5.6.6** The Licensing Authority acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the authorisation concerned. As a matter of policy, however, the Licensing Authority expects every holder of an authorisation to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate surroundings of their premises.

Public Nuisance

- 5.6.7** Licensed premises, especially those operating late at night and in the early hours of the morning, can sometimes cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

5.6.8 Applicants should consider noise that could emanate from their premises in all instances. Where appropriate applicants are recommended to provide a noise management plan with their application. Examples include outdoor events or late evening venues.

5.6.9 When considering licence applications, where relevant representations have been received the Council will take into account measures proposed by the applicant to promote the prevention of nuisance and/or anti-social behaviour. In particular the Council may consider the following matters, where relevant:

- prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices (e.g. the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices);
- preventing disturbance by customers arriving at or leaving the premises, particularly between 11pm and 7am;
- preventing queuing by pedestrians or vehicular traffic, or if some queuing is inevitable then ensuring the queues are diverted away from neighbouring premises, or are otherwise managed, to prevent disturbance or obstruction;
- ensuring staff leave the premises quietly;
- arrangements for parking by patrons and staff, and the effect of the parking on local residents;
- provision for public transport (including taxis and private hire vehicles) for patrons;
- whether licensed taxis or private hire vehicles are likely to disturb local residents;
- whether routes to and from the premises on foot, by car or other services pass residential premises;
- the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
- the use of gardens and other open-air areas;
- the location of external lighting, including security lighting that is installed inappropriately; • other appropriate measures to prevent nuisance, (e.g. registered door supervisors, the use of CCTV);
- how the premises address refuse storage or disposal problems, or additional litter (including fly posters and illegal placards);
- the history of previous nuisance complaints proved against the premises, particularly where statutory action has been taken.

5.6.10 The Council is keen to stress, however, that as well as the licensing function there are other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. These include:

- planning controls;
- powers to designate parts of the District as places where alcohol may not be consumed publicly and the confiscation of alcohol in these areas; • police and local authority powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- police enforcement of the normal law with regard to disorder and anti-social behaviour;
- the power of the police, other responsible authorities, or a local business or resident to request a review of the licence or certificate;
- enforcement action against those selling alcohol to people who are already drunk.

6.0 DECISION

6.1 In determining the application, the Sub-Committee must have regard to the statutory guidance issued by the Secretary of State, the Council's adopted policy statement, the representations made and the evidence it hears. In particular, the Sub-Committee must seek to promote the four licensing objectives, which are:

- The prevention of crime and disorder
- The prevention of public nuisance
- The protection of children from harm
- Public safety

6.2 The Sub-Committee, having regard to all of the above, must take such steps as it considers appropriate for the promotion of the licensing objectives which can include:

- making no changes to the current premises licence;
- modifying the conditions of the premises licence;
- excluding a licensable activity from the scope of the licence;
- removing the designated premises supervisor;
- suspending the licence for a period not exceeding three months; or
- revoking the licence

7.0 ASSOCIATED RISKS

7.1 None.

8.0 MONITORING

8.1 All parties will be notified of the Licensing Sub Committee's decision in writing within five working days of the meeting.

8.2 The applicant and all interested parties will be provided with details of their right to appeal against the decision.

- 9.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES**
- 9.1** [Tewkesbury Borough Council's Licensing Act 2003 Policy Statement](#)
- 9.2** [Statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003](#)

Background Papers: Licensing Act 2003

Tewkesbury Borough Council's Licensing Act 2003 Policy Statement

Statutory guidance issued by the Home Office under section 182 of the Licensing Act 2003

Contact Officer: Licensing Team Leader
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Appendices:

- Appendix A – Copy of premises licence
- Appendix B – Plan of premises
- Appendix C – Location plan
- Appendix D – Copy of email sent to PLH 24.07.23
- Appendix E – Copy of email sent to PLH 10.08.23
- Appendix F – Copy of email sent to PLH 18.08.23
- Appendix G – Written warning
- Appendix H – EHO review application
- Appendix I – EHO exhibits
- Appendix J – Representations from residents supporting review
- Appendix K – Representations from residents not supporting review
- Appendix L – Representations from residents against review and offering additional information
- Appendix M – Representations from Cllr Cate Cody, County Councillor
- Appendix N – Representations from parties supporting the business
- Appendix O – Hearing procedure