



## Public Document Pack

# Uttlesford District Council

Chief Executive: Peter Holt

To all Members of Uttlesford District Council, you are hereby summoned to attend the meeting of the District Council to be held as shown below to deal with the business set out in the agenda.

Chief Executive: Peter Holt

## Extraordinary Council

**Date:** Thursday, 24th August, 2023

**Time:** 7.00 pm

**Venue:** Council Chamber - Council Offices, London Road, Saffron Walden, CB11 4ER

**Chair:** Councillor G Driscoll

**Members:** Councillors M Ahmed, A Armstrong, H Asker, G Bagnall, S Barker, N Church, M Coletta, A Coote, C Criscione, J Davey, A Dean, B Donald, J Emanuel, J Evans, C Fiddy, M Foley (Vice-Chair), R Freeman, R Gooding, N Gregory, N Hargreaves, R Haynes, P Lees, M Lemon, J Loughlin, T Loveday, S Luck, C Martin, D McBirnie, J Moran, E Oliver, R Pavitt, A Reeve, N Reeve, B Regan, G Sell, R Silcock, M Sutton and M Tayler

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Those who would like to watch the meeting live can do so by accessing the live broadcast [here](#). The broadcast will start when the meeting begins.

# **AGENDA**

## **PART 1**

### **Open to Public and Press**

**1 Apologies for Absence and Declarations of Interest**

To receive any apologies and declarations of interest.

**2 Licensing Act 2003 - Revised Statement of Licensing Policy** 4 - 87

To consider the revised Licensing Policy Statement for the period 2022 to 2027.

**3 Request from Aspire (CRP) Ltd for additional funding for further development at Chesterford Research Park** 88 - 105

To consider the request from Aspire (CRP) Ltd for additional funding for further development at Chesterford Research Park.

**4 Planning and Environmental Health Issue – electricity sub-station, Mortimer’s Gate, Saffron Walden** 106 - 149

To consider the Planning and Environmental Health issue at Mortimer’s Gate, Saffron Walden.

## **MEETINGS AND THE PUBLIC**

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The agenda is split into two parts. Most of the business is dealt with in Part I which is open to the public. Part II includes items which may be discussed in the absence of the press or public, as they deal with information which is personal or sensitive for some other reason. You will be asked to leave the meeting before Part II items are discussed.

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# Agenda Item 2

<b>Committee:</b>	Council	<b>Date:</b>	
<b>Title:</b>	Licensing Act 2003 – Revised Statement of Licensing Policy		24 August 2023
<b>Lead Member:</b>	Councillor Alex Armstrong, Chair of Licensing and Environmental Health Committee		
<b>Report Author:</b>	Steve Mahoney, Licensing Manager smahoney@uttlesford.gov.uk		

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## Summary

1. The revised statement of Licensing Act Policy completed its period of public consultation on 23 July 2023. No objections were received within this consultation. The result of the consultation was reported to the Environment and Licensing Committee on the 10 August 2023.
2. Members at the meeting of the Licensing and Environmental Health Committee on the 10 August 2023 recommended that the amended Licensing Act Policy be put forward to full Council for approval on the 24 August 2023 with the new statement licensing policy being in place from 1 December 2022 to maintain continuity with the current policy.

## Recommendations

3. The Council adopts the proposed new Statement of Licensing Policy to take effect from the 01 December 2022 to maintain continuity with the current policy.

## Financial Implications

4. None arising from this report.

## Background Papers

5. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

Uttlesford's Draft Statement of Principle Policy document.

Minutes of the Environment and Licensing Committee on the 10 August 2023

## Impact

6.

Communication/Consultation	Consultation has taken place with the statutory consultees (which include all responsible authorities), all premises licence holders and licensed clubs in the district and all town and parish Councillors. In addition the views of the public were sought with a press release on the council's website.
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Community Safety	This is encompassed in the licensing objective of public safety and the protection of children from harm
Equalities	There are no equality issues arising from this report
Health and Safety	Public safety is one of the licensing objectives promoted by the draft policy statement.
Human Rights/Legal Implications	In the event that the Licensing Policy is not consistent with the legislation it is susceptible to challenge by way of judicial review. In the event that the Policy is inconsistent with government guidance and no good reason has been given for departure therefrom the Policy would also be susceptible to such challenge and the Authority would be at greater risk of adverse costs on appeal if the court decided the issue based on government guidance.
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

## Situation

7. The Licensing Act 2003 which has been in force since 2005 requires that the authority produces a Statement of Licensing Policy and reviews it at least every 5 years. The current policy was last reviewed in 2017 and approved by Full Council.
8. In accordance with the requirement to keep the Policy under review the Policy has now been updated for the five-year period 2022 to 2027.
9. In exercising its duties under the Act the Licensing Authority must act in accordance with the general principles of public administration, and under a duty to promote the statutory licensing objectives of preventing crime and disorder: preventing public nuisance: protecting public safety; and protecting

children from harm.

10. During the life of the current policy, it has proved satisfactory and there have been no challenges made to any parts of the Policy. This revision contains additional supportive information and is in accordance with the revised guidance issued by the Secretary of State under section 182 of the Act 2003.
11. The Secretary of State's guidance however, requires Members to specifically consider the issue of a Cumulative Impact Policy and Late Night Refreshment Exemptions as part of the Licensing Policy process.
12. Cumulative Impact means the potential impact on the promotion of the licensing objectives of having a significant number of licensed premises concentrated in one area. It is open to Licensing Authorities to adopt a Cumulative Impact Policy, which creates a rebuttable presumption that applications for the grant or variation of licences or certificates which are likely to add to the cumulative impact will normally be refused, following relevant representations. Such a special policy needs to be set out within the Statement of Licensing Policy.
13. However, any decision to include a Cumulative Impact Policy within the Statement of Licensing Policy needs an evidential basis. The Licensing Authority has not previously felt that there was any evidence of cumulative impact, and this was reflected by such statements in its previous Licensing Policies. Up to the point of this review, no evidence has been received by the Licensing Authority that indicates a Cumulative Impact Policy would be appropriate, and therefore no change has been made to the status quo.
14. Similarly, the Deregulation Act 2015 gives Licensing Authority powers to exempt certain premises, in certain circumstances, from the requirement to have premises licences to provide late night refreshment (the supply of hot food or drink between 23.00 and 05.00). These powers allow licensing authorities to choose to apply an exemption where they think it will be helpful to businesses and where there are no problems with anti-social behavior or disorder associated with the night time economy.
15. Government guidance advises that licensing authorities should consider deregulation where possible. The decision to make an exemption is a licensing function that should be included in their statement of licensing policy. However, there is no obligation on a Licensing Authority to use the exemption powers.
16. The Licensing Authority has not received any comments from businesses that the current rules are too restrictive or costly, and the number of premises with Late Night Refreshment only licences is small, and therefore it is not considered appropriate to make any exemptions at this stage. The details of the types of premises that could benefit from any exemption, and the types of exemptions that could be made are set out in the draft policy for information.

17. Consultation on the draft policy took place over a 12-week period after the licensing committee approval. The licensing team consulted with all the persons listed in s5(3) of the Act, being responsible authorities under the Act, all premises licensed in the district, local businesses, Councilors, and Town & Parish Councils. Annex A
18. The draft licensing policy statement was also displayed on the Council's website throughout the consultation period. It was accompanied by an invitation to submit relevant comments.
19. The consultation period has been concluded with a minor amendment to section one About Uttlesford removing the reference to Thaxted and Takeley being towns. Members are asked to approve the revised statement of licensing policy to be implemented from the 1 December 2022.

## Risk Analysis

20.

Risk	Likelihood	Impact	Mitigating actions
The recommended policy is contrary to the government guidance	1. Members have been given copies of the updated guidance and will have regard to it	3. There is a risk of judicial review and adverse costs orders on appeals	Members give sound reasons for any provisions of the statement of government guidance and Licensing Policy which they propose should be otherwise that in accordance with government guidance.
The council does not review its licensing policy prior to the next scheduled review	1. The licensing and environmental health committee have previously approved draft Licensing Act policies in a timely manner	3. The council would suffer reputational damage if its policy was seen not to be consistent with the legislation and may be the subject of adverse costs awards on	Members recommend a revised policy for publication

		appeal.	
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- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.



## **Uttlesford District Council**

### **Statement of Licensing Policy 2022-2027**

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## Foreword

This Policy supports Uttlesford's Vision and Corporate Priorities.

Our vision: Making Uttlesford the best place to live, work and play.

Our vision is supported by four priorities.

- Putting Residents First
- Active Place-Maker for our towns and villages
- Progressive Custodian of our rural environment
- Champion of our district

Our vision for licensing is to support responsible premises and to encourage the development of a diverse and varied licensed and late-night offering across the district.

We recognise the many positive impacts that licensed premises provide, especially our public houses which play a key role in improving the quality of people's lives and preserving all that is best in Uttlesford.

Uttlesford is a very low crime and disorder area, frequently featuring in the as one of the best rural places to live in the whole of the UK. However, this is no reason to be complacent and Uttlesford is surrounded by areas which regularly suffer much higher crime levels. This Policy takes a safeguarding approach to prevent crime and disorder escalating.

We want our licensed establishments to contribute to the district remaining a safe and low crime area to live, work and visit. We are committed to ensuring that the district and in particular the town centres and areas of entertainment remain safe, vibrant, diverse and family-friendly.

Uttlesford enjoys a widespread and diverse selection of licensed premises and venues. More than 200 premises are currently licensed for either the sale or supply of alcohol; the provision of regulated entertainment; and / or the provision of late-night refreshment. These range from off-licences, shops and supermarkets; restaurants, cafes and take-away establishments; to pubs, bars, members clubs, night clubs, theatres, cinemas and indoor sports facilities. Together they combine to provide a wide range of leisure and cultural opportunities; support tourism; provide employment; and make a significant economic contribution to the local community.

As long as premises management strive to act responsibly; run safe, well managed venues and facilities; and work together with the local community, they can make a positive contribution toward building community cohesion and cultural development.

Of course, negative impacts can also occur if good management practices are not followed. Potential negative impacts may arise in the form of noise, nuisance, disturbance and crime and disorder problems. We recognise that the misuse of alcohol does negatively impact upon both public health and well-being. Whilst outside of the scope of this Policy we recognise the impact upon the public purse through the demands made upon A&E; additional policing; additional street cleaning; and the criminal justice system.

Our policy, therefore, seeks to provide a necessary balance between providing a platform upon which responsible business operators may contribute towards a thriving business and entertainment economy while ensuring that the quality of life of those who live and work in the district is protected and enhanced through the licensing system. We believe these aims are achievable if all parties concerned work together.

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# 1 About Uttlesford

Uttlesford is the largest of the 14 districts in Essex. It covers about 247 square miles, around a thirds of Essex, and offers a blend of rural and town living. The benefits of this mixture are greatly appreciated by the 91,300 people who live in the district.

The district has Chelmsford, Harlow and Epping Forest councils to the south, Braintree to the east, and Cambridgeshire lies on its northern boundary. To the west, the district borders onto the county of Hertfordshire.

Located to the West of the district at the junction of the A120 and M11 is the UKs third largest international airport – London Stansted.

Uttlesford's population in 2022 is now estimated to be 91300<sup>1</sup>. Over the last ten years the district has seen a 14.9% increase in its population. This is the largest percentage increase in the whole of Essex and significantly higher than the average in the England, which is 8.3% <sup>1</sup>.

Over the last ten years Uttlesford has had significant increases in its population particularly among those over 50, the biggest increase being in the 70-74 age group which rose by 63% <sup>1</sup>

The district is mainly comprised of farmland, hamlets and villages which surround ~~two~~ **four** towns where the majority of the population live. These are Saffron Walden which has the largest population at 16,000 followed by Great Dunmow. ~~Thaxted, and Takeley.~~

Uttlesford is regarded as an attractive rural location for those moving out from (and commuting into) London because of its transport links.

The people of Uttlesford are predominantly employed and enjoy higher than average earnings of £728.30 gross weekly pay for full-time workers compared £613.10 for the whole of the country. Unemployment is very low (2.5%<sup>2</sup>).

According to the latest [2011 Census](#), the population in Uttlesford is predominantly white (96.6%), with non-white minorities representing the remaining 3.4% of the population.

Asian people were the largest minority group in Uttlesford accounting for 1.4% of the population. 417 or 1% of the Uttlesford population are black according to the latest 2011 census.

In England more broadly the portion of the population that is white is 85.4%. 7.8% are Asian and 3.5% are Black.

Population by race in Uttlesford, 2011 census

- **White** - 76,639 people or 96.6%
- **Asian** - 1,122 people or 1.4%
- **Mixed** - 977 people or 1.2%
- **Black** - 417 people or 0.5%
- **Other** - 166 people or 0.2%

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<sup>1</sup> <https://www.ons.gov.uk/visualisations/censuspopulationchange/E07000077/>

<sup>2</sup> [Labour Market Profile - Nomis - Official Census and Labour Market Statistics \(nomisweb.co.uk\)](#)

## 2 About this document

- 2.1 This document is Uttlesford Council's statement of licensing policy in respect of the regulation of alcohol supplies, regulated entertainment and late-night refreshment, and the publication of it fulfils the authority's statutory obligation under section 5 of the Licensing Act 2003 ("the Act"). It sets out the policies and principles that we will follow when exercising our powers under that Act, particularly in respect of considering applications in respect of licences and other authorizations. It also gives details of our expectations of applicants and licence-holders. This statement must be published on at least one occasion in each five-year period. The statement must also be kept under review during its validity period, and revised if required, with any revisions published prior to taking effect.
- 2.2 This Statement of Licensing Policy was adopted by the Council on the, XXXXXX and was published via our website. The statement will have effect from XXXXXX to XXXXX.
- 2.3 This revised Policy has been reviewed and updated to reflect the authority's experiences in exercising its powers that have taken place in the intervening period.
- 2.4 We are required to exercise our licensing functions under the Act with a view to promoting the licensing objectives, which are:
- **The prevention of crime and disorder,**
  - **Public safety,**
  - **The prevention of public nuisance, and**
  - **The protection of children from harm.**
- 2.5 Each objective has equal importance, and they are explained in greater details in later chapters.
- 2.6 We must also have regard to our published Statement of Licensing Policy, and to the Guidance for licensing authorities published by the Secretary of State under section 182 of the Act.
- 2.7 The purpose of this statement is to provide guidance to committees and officers determining matters under delegated authority, to provide consistency to our decision-making. However, where the circumstances justify doing so, we may depart from any provision of this statement, or of the Government's Guidance, to make an appropriate decision based upon the individual circumstances of a particular case. In any such case we will give a clear explanation and reasons as to why we have done so.
- 2.8 This policy statement reflects the wide range of competing, and sometimes conflicting, considerations which we must take into account when exercising our powers and aims to balance these insofar as is possible.

### **3 Who is affected by this policy**

3.1 This document applies to all places selling or providing:

- Alcohol
- Regulated Entertainment
- Late Night Refreshment

Including

- Pubs and night-clubs,
- Off-licences,
- Restaurants serving alcohol, ☐☐☐ and take-aways open between 11.00pm and 5.00am, serving hot food and drink,,
- Hotels, guest house,
- Private members' clubs and social clubs,
- Theatre and amateur dramatic groups,
- Cinema operators,
- Organisers of temporary events,
- Festivals and other outdoor events,
- Some community events and village halls.

It is also recognised that how the Policy is applied can influence:

- The lives of Uttlesford residents
- Visitors of Uttlesford
- Businesses not directly involved with the licensed trade
- The local economy and prosperity of Uttlesford

### **4 Consideration of this Policy**

Each application must and will be considered on its individual merits and must be granted in the absence of any relevant representations; where representations are made regard, as required by law, will be had to our Statement of Licensing Policy. It will be expected that applicants are able to demonstrate that they have read, considered, and responded, where relevant, to this Statement of Licensing Policy in their applications. Equally responsible authorities and other persons will also be expected to have read, considered and, where relevant, address this Statement of Licensing Policy in their representations.

Protecting local residents and avoiding nuisance from disturbance and anti-social behaviour caused by the conduct of inconsiderate people visiting places of entertainment, is central to our Licensing Policy. This focus aims to address concerns about the impact of trading hours on behaviour and disturbance at night.

## 5 Policy Objectives

The aims of the policy are to pursue the four licensing objectives by:

Helping to build and maintain a prosperous society that balances the rights of individuals with needs of businesses.

Integrating the policy and objectives with other initiatives, policies and strategies including culture, planning, transport, employment and crime and disorder reduction.

Working to:

- Protect the well-being of local residents
- Encourage young people to enjoy and take part in cultural activities
- Maintain a safe and family friendly environment in the licensing authority's administrative area
- Reduce crime and disorder
- To reduce instances of sexual harassment and discrimination and ensure the licensed premises tackle inappropriate behaviour
- Prevent anti-social behaviour
- Manage nuisance, e.g. noise
- Encourage and promote good neighbourliness
- Encourage tourism
- Encourage and advise on an early evening and nighttime economy which is viable, sustainable and manageable
- Reduce alcohol misuse
- Encourage employment
- Encourage the self-sufficiency of local communities
- Reduce the burden of unnecessary regulation on business

- 5.1 The Council hopes that this Policy will help ensure that local people and visitors are able to enjoy their leisure time safely without fear of violence, intimidation, or disorder while on, arriving at or leaving licensed premises. The Council has to balance protecting the amenity of its local population with the expectations of commercial occupiers to have an environment that is attractive and sustainable for their business.
- 5.2 An effective Licensing Policy, with other initiatives, can help promote improvements (increasing the leisure industry provision for the community and encouraging regeneration of town centres), as well as reducing the negative impacts (noise, nuisance, anti-social behaviour and crime and disorder).
- 5.3 Our aim is to have a lighter touch for most businesses and community activities, which enhance peoples' lives by providing worthwhile opportunities for the enjoyment of leisure time without having a negative impact. Premises which cause problems within our



communities, allow disorder, threaten public safety, cause public nuisance, or threaten the wellbeing of children, will be targeted for enforcement action.

- 5.4 This Policy is designed to build upon the work presently carried out by the Council to maintain a dynamic, innovative and attractive place to live, work and relax. The Council has several strategies in place that contain the visions, aims and objectives to promote, improve and protect the area. This Licensing Policy has been prepared to promote the four licensing objectives, and the Council has had regard to the local strategies which have been developed for the district, its residents, businesses, workers and visitors. The Council is working to secure the proper integration with local crime prevention, planning, transport, tourism, cultural strategies, race equality schemes and disability and gender discrimination strategies, by ensuring the Licensing Policy is consistent with the aims and objectives of these strategies.
- 5.5 The council also recognises the importance of ensuring the licensed premises within the district are free from gender based violence, and misconduct and that customers and the licensed trade promote the reporting of cases of sexual harassment, misconduct and gender – based violence<sup>1</sup>. This is particularly important if a case of spiking occurs within the district. The council will support premises to make improvements to prevent further spiking offences.
- 5.6 The Council also recognises that the legislation supports a number of other key aims and purposes and that these too are vitally important and should be principal aims for everyone involved in licensing work.

They include:

Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.

Giving the police and licensing authorities the powers, they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;

Recognising the important role which pubs and other licensed premises play in our local communities by minimizing the regulatory burden on business, encouraging innovation and supporting responsible premises;

Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them;

Joining and supporting the districts pub watch schemes and the promotion of 'Ask Angela' within in the district.

<sup>1</sup> <https://www.local.gov.uk/publications/lga-guidance-note-drink-spiking-prevention>

## **6 Licensing Act 2003**

- 6.1 The Act has been in operation since 24 November 2005, and is administered by local authorities. The central purpose of the Licensing Act is to promote the four licensing objectives, and the Licensing Authority will use its powers working with the Police and other agencies to achieve this.
- 6.2 The Act aims to provide the entertainment/leisure industry with freedom and flexibility over provision of licensable activities and opening hours.
- 6.3 The Act specifies a set of licensable activities, which may only be provided under an authorisation issued by the relevant local Licensing Authority (Uttlesford Council for all premises within the District of Uttlesford). The licensable activities, which are covered in greater detail within this section, include supplying alcohol, providing regulated entertainment, and providing late night refreshment.
- 6.4 The types of authorisation which Licensing Authorities may issue to permit licensable activities include premises licences, club premises certificates, temporary event notices, and personal licences.
- 6.5 In exercising its licensing functions under the Act, the Licensing Authority shall:
- Aim to promote the licensing objectives,
  - Have regard to this statement of licensing policy, and
  - Have regard to the Government's Guidance.
- 6.6 The Licensing Authority may not reject an application nor revoke a licence in response to representations concerning general moral or ethical objections to the carrying on of licensable activities, unless a direct link to one or more of the licensing objectives can be established. In particular, the supply of alcohol is expressly permitted under UK legislation, and the Licensing Authority has a duty to act fairly and in accordance with the legislation.
- 6.7 Every matter considered by the Council, in its role as a Licensing Authority, will be considered on its own merits and in accordance with the statutory requirements of the Act. Nothing in this Statement of Licensing Policy shall:
- a) prevent any person from making an application for authorisation or giving a notice under the Act;
  - b) prevent any person from making representation in respect of an application of a type where the Act provides for them to do so;
  - c) prevent any person from making an application for the review of a premises licence; or
  - d) restrict or fetter the Council's discretion to consider and determine applications, or to initiate legal proceedings or other enforcement action, based upon the individual circumstances and merits of a particular case.
- 6.8 Typically, the Licensing Authority's discretion over whether to refuse applications, to issue counter-notices or to impose additional licence conditions is only engaged if relevant representations or objection notices have been given to the authority within a prescribed period. For many of the application processes under the Act (with a small

number of key exceptions), if no relevant representations or objection notices are received within the prescribed period, the Licensing Authority will be obliged to grant the application, subject only to any statutory conditions and conditions consistent with measures proposed by the applicant in their operating schedule.

6.9 The Licensing Authority has a general duty under the Crime and Disorder Act 1998 *‘to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area’*.

#### 6.10 Licensable activities

The Act regulates a set of broad ‘licensable activities’ relating to the leisure and retail industries, as follows:

- Supplies of alcohol, including:
  - Sale by retail of alcohol,
  - Supply of alcohol by or on behalf of a club to, or the order of, a member of the club.
  
- The provision of regulated entertainment, comprising:
  - Performance of plays,
  - Exhibitions of films,
  - Indoor sporting events,
  - Boxing and wrestling entertainments,
  - Performances of live music,
  - Playing of recorded music,
  - Performances of dance,
  - Entertainment which is similar to music or dance.
  
- The provision of late-night refreshment.

6.11 To be considered licensable, entertainment must be provided in the presence of an audience (which may consist of a single person), and either be open to the public or a section thereof, or provided for a consideration (e.g. admission fee, tickets) and with a view to profit. The definitions of these activities were left deliberately wide so as to account for future developments in the industries carrying on those activities – for example in recent years there has been an increase in the number of ‘silent discos’, which are considered to be regulated entertainment as they consist of recorded music, but which may not have been captured under a narrower definition.

6.12 The Government has pursued a deregulatory agenda in respect of entertainment licensing for community events and lower-impact entertainments by introducing new exemptions. As a result, many smaller-scale entertainments now fall outside of licensing requirements. Where this is the case, it should be noted that we may be unable to use our licensing powers to regulate these events, although other regulatory

schemes may be utilized to remedy any issues that arise. Schedule 1 to the Act details the exemptions that apply to entertainment licensing requirements.

- 6.13 Late night refreshment is defined as the sale of hot food or hot drinks, between the hours of 11 p.m. and 5 a.m. Exemptions applying to late night refreshment are set out in schedule 2 to the Act.
- 6.14 Although the Act has wide application, it does not control every activity which may be carried out in licensed premises, and some premises which are authorized under this Act may also need separate licences and authorisations for other activities carried out at those premises. Where the Licensing Authority is responsible for issuing such authorisations (for example, for gaming machines or prize gaming in licensed premises), we have published separate licensing policies to give details of how applications for those alternate licence types will be considered.

## **7 Pre-application advice and engagement**

- 7.1 The Council's Licensing Team are available to assist with what is known as pre-application advice. This is predominantly meant for smaller businesses and individuals who may not be familiar with the licensing process rather than national operators.
- 7.2 As applications for licences can be quite complex, and have a wide variety of requirements, it may be beneficial to applicants to seek advice prior to submitting an application. One example highlighting the importance of getting the process right is the requirement to use a newspaper advertisement to alert people to your application. Getting this wrong could lead to the application being invalid, and the loss of the money spent on that publication; obtaining advice from the Council is an effective way to avoid this sort of mistake, which is easily made.
- 7.3 As well as ensuring the legal requirements are met, the Licensing Team can assist you in drafting a valid application, which ensures that you apply for the full extent of the activities that you are likely to require for your business, whilst avoiding inadvertently including or omitting information that increases the likelihood of objections being received.
- 7.4 Objections to applications can lead to delays in licences being granted, and can take considerable time away from your business to resolve any issues arising, so it is best that applicants do all that they can to ensure that any unnecessary objections are avoided.
- 7.5 We may limit the amount of time we spend on pre-application advice particularly for large organisations or those planning large events, who should seek independent advice.
- 7.6 As part of the advice, we may recommend that an applicant contacts some or all of the responsible authorities, the Safety Advisory Group (SAG) or other appropriate individuals or organisations.
- 7.7 Engagement is crucial element of the licensing process. Applicants are expected to have considered the location and community they are proposing to operate in. An

understanding of the concerns to be addressed can be obtained by early engagement with a variety of bodies and individuals including:

- Statutory authorities, eg the Police, Environmental Health, the Fire Service
- Ward councilors
- Town councils
- Parish councils
- Residents Associations
- Businesses and residents in the vicinity of the proposed premises.

7.8 Experience shows that early engagement allows concerns to be addressed in the timeliest and most cost effective way for all parties. Where concerns cannot be addressed before an application is made resulting in formal representations the expectation is that the dialogue between the parties continues to try and find common ground and very often this can be done.

7.9 If a Licensing Sub-Committee has been scheduled the parties have up until 24 hours before the hearing starts to reach an agreement and dispense with the hearing. Where necessary the Licensing Authority can facilitate these discussions.

## **8 Licensing Objectives**

8.1 The Licensing Authority must carry out its functions with a view to promoting the four licensing objectives, each of which has equal importance:

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

8.2 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means of solving all local problems. The Licensing Authority will therefore continue to work in partnership with all stakeholders and partners towards the promotion of the licensing objectives.

8.3 The Licensing Authority expects applicants to address the licensing objectives within their operating schedules, having regard to the nature of the premises, the licensable activities to be provided, operational procedures, and the nature of the location and the needs of local communities. The operating schedule should contain sufficient information to enable the Licensing Authority, responsible authorities and other persons who may be affected by the operation of the licensed premises to assess whether the steps which will be taken to promote the licensing objectives are sufficient to mitigate any potential adverse impact.

8.4 The Licensing Authority is committed to empowering local community action and meeting the needs of its communities through close partnership working with others. The Licensing Authority recognises that licensed entertainment can provide a valuable contribution

towards the economy of the district, and seeks to balance the needs of the local businesses and licence holders, whilst protecting those of local residents.

8.5 Further policy considerations in respect of each of the objectives are set out below.

8.6 Good practice control measures on all four licensing objectives premises are available in Appendix 5.

## **9 Prevention of Crime and Disorder**

9.1 The Authority will endeavour to reduce crime and disorder throughout the district, in accordance with its statutory duty under section 17 of the Crime and Disorder Act 1998.

9.2 The Authority will expect applicants to take appropriate and proportionate measures to promote the crime and disorder objective. Examples of the sources of crime and disorder which the Authority would require applicants to take into consideration may include, but are not limited to:

- Underage drinking
- Drunkenness on the premises
- Public drunkenness
- Drugs
- Violent behaviour
- Overcrowding/occupancy capacity
- Anti-social behaviour

9.3 When determining licence applications and reviews the Licensing Authority will give consideration to:

- Whether the premises make or will make a significant contribution to levels of crime and disorder in the local area, and
- Whether the operating schedule demonstrates that an adequate risk assessment of the likelihood of crime and disorder occurring as the result of the issue of an authorisation has been carried out by the applicant.
- The ability and competency of the person in charge of the premises to monitor the premises at all times while they are open.
- The training given to staff in how to defuse or manage conflict amongst patrons and crime prevention measures appropriate to those premises.
- The physical security features installed in the premises. This may include matters such as the position of cash registers, and the security of cash boxes in gaming machines on the premises; where alcohol is stored in 'off-licences;' the standard of CCTV that is installed; adequate lighting; metal detection and search facilities; the use of toughened drinking glasses in pubs and clubs; the removal of glasses or glass bottles used or discarded outside of the applicants' premises.
- Risk assessment in respect of drinks promotions which may contribute to the impact on crime and disorder (e.g. 'happy hours'), and plans for minimising those risks.
- Measure to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies. On licensed hotel or B&B premises, this should extend to keeping proper registrations of guests, with proof of identification, and records of car registration numbers. Where applicable, applicants are encouraged to show that they

can comply with the Home Office guidance “Safer Clubbing” in relation to the control of illegal drugs on their premises, and they should agree a protocol with the police on the handling of illegal drugs found on their premises.

- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks.
- The likelihood of any violence, public disorder or policing problem if the licence is granted.
- Whether design of the premises has been considered having regard to reducing conflict and minimizing opportunities for crime.
- The measures taken to control admission to, and dispersal from, the premises, including the use of registered door supervisors.
- Any other such measures as may be appropriate, such as participation in a local pub watch scheme or other body designed to ensure effective liaison with the local community, ‘music wind-down policies’, restrictions on ‘happy hours’, and other examples of industry best practice.
- The arrangements for delegating and accounting for responsibility for the supply of alcohol on community premises operated without a DPS.

9.4 This list is not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits.

9.5 The authority will work closely with Essex Police and the other members of the Community Safety Partnership (CSP), both to monitor and investigate incidents of crime or disorder associated with licensable activities, at and around licensed premises, and to identify emerging trends and patterns in such incidents.

9.6 To achieve the best results, the prevention of crime and disorder requires partnership working between statutory bodies and licensed premises. While there are a number of measures which licence-holders can, and will be expected to, implement in order to promote this objective within their premises, the Council also expects licence-holders to understand which issues they will not be able to resolve themselves, and to liaise and co-operate with the Licensing Authority, Police, and other bodies when appropriate. In particular, incidents occurring outside of but in the vicinity of licensed premises, which do not involve the customers or staff from that premises, are likely to be outside of the direct control of licence-holders, but they may be able to provide evidence or intelligence allowing statutory bodies to investigate the incident in question.

9.7 It is recommended that applicants discuss the crime prevention procedures and management arrangements for their premises with the Licensing Authority and the Police before making a formal application.

## **10 Public Safety**

10.1 When considering this objective, the Licensing Authority will concern itself with the physical safety and wellbeing of the people who use licensed premises, and those who may be affected by the use of licensed premises (e.g. non-customers who happen to be

in the immediate vicinity of the premises). This will include measures that seek to prevent accidents, injuries and short- or long-term illnesses to staff, customers, or other persons.

10.2 The Licensing Authority will have regard to the measures to be taken by applicants to ensure that the physical safety of any person visiting or working in licensed premises is not compromised. This should be demonstrated in an applicant's operating schedule. Factors that may be considered include, but are not limited to:

- The total occupancy capacity (staff, customers, others) of the premises.
- Physical environment of the premises.
- Customer profile.
- Traffic management including access for emergency vehicles.
- Crowd management.
- Special arrangements for large events.
- Use of special effects.
- Lighting – emergency and general.
- Temporary electrical installations.

10.3 There are several regulatory regimes concerned with public safety, and the Licensing Authority will seek to avoid duplication as much as possible. In particular the Licensing Authority recognises that the Regulatory Reform (Fire Safety) Order 2005 replaced the previous fire safety legislation. Accordingly, the Authority will not seek to impose the fire safety conditions on a licence/certificate where the Order applies.

10.4 However, where representations are made by responsible authorities responsible for enforcing these regimes concerning the failure of a licence-holder to adhere to or comply with another regime, then the Licensing Authority may consider whether this is indicative of a wider systemic failure on the part of the licence-holder to promote the licensing objectives.

10.5 It is recognised that special issues may arise in connection with outdoor and large-scale events. Risk assessments must be used to assess whether any measures are necessary in the individual circumstances of any premises.

## **11 Prevention of Public Nuisance**

11.1 The Licensing Authority will interpret the term 'public nuisance' widely as advised in the Secretary of State's guidance. When considering this objective, the Authority will consider issues relating to noise, vibration, light, litter, offensive odours and anti-social behaviour arising from or in connection with the provision of licensable activities. Public nuisance can be at a low level only affecting a few people locally, as well as a major disturbance affecting the wider community.

11.2 This objective does not mean the complete prevention of all the above issues, but rather the prevention of such unreasonable levels of these as would constitute a nuisance to the public or a section thereof. A degree of noise, for example, is an inevitable consequence of the provision of most forms of regulated entertainment. The Licensing Authority will therefore seek to exercise its powers in a way which promotes the licensing objective, to



discourage and eliminate the carrying on of licensable activities in a way that causes unreasonable inconvenience, upset or distress to others.

- 11.3 The Authority would expect applicants to have demonstrated in their operating schedule that public nuisance concerns have been identified, with suitable control measures implemented and maintained. Factors that may be considered include, but are not limited to:
- The location of the premises and proximity to residential and other noise sensitive premises.
  - The hours of opening, including times when licensable activities may not be taking place, last admission time and 'wind down period'.
  - Nature of activities provided.
  - Supervision of customers including managing dispersal.
  - Odour and light nuisance.
  - Litter and waste disposal.
  - The location of delivery and collection areas and delivery/collection times.
  - Noise management plan (where appropriate).
- 11.4 Steps that can be taken to minimize public nuisance include those to:
- Prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. This may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
  - Prevent disturbance by customers and staff arriving at or leaving the premises;
  - Prevent queuing (either by pedestrian or vehicular traffic);
  - Help ensure patrons and staff leave the premises quietly;
  - Minimise the effect of parking by patrons on local residents;
  - Minimise noise from the use of smoking shelters, gardens, and other open-air areas.
- 11.5 The lists above are not exhaustive and the Licensing Authority remains aware of its obligation to consider each case on its merits.
- 11.6 The Authority notes that, as with other licensing objectives, other regulatory regimes exist which may be used to control nuisance. The Environmental Protection Act 1990 in particular allows Environmental Health officers to require the abatement of a statutory nuisance, and this would be considered the primary control for such issues. However, the Licensing Authority notes that this regime is largely reactive, whereas licensing may be used to establish proactive controls, preventing a nuisance from reaching a statutory level in the first instance. Applicants should also note Environmental Health is one of those bodies that may apply for a review of an existing licence.
- 11.7 Nuisance may arise directly because of licensable activities (for example, noise from music), or indirectly (noise from customers at the premises). Applicants and licence-holders are strongly encouraged to consider all sources of nuisance when compiling operating schedules, and to implement appropriate measures for the promotion of this objective. For many types of nuisance, this process will begin in the initial design stages prior to the construction or redevelopment of premises. The Council's Environmental Health officers may be consulted for informal advice, prior to the making of a licence

application, on proposed measures likely to reduce or prevent the likelihood of public nuisance arising from the operation of licensed premises.

- 11.8 The Licensing Authority will have regard to best practice guidance when considering this licensing objective, including but not limited to<sup>7</sup>:
- Guidelines on Community Noise (World Health Organisation).
  - Effective Management of Noise from Licensed Premises (British Beer and Pub Association).
  - Code of Practice on Environmental Noise Control at Concerts (Noise Council).
- 11.9 Where premises which are the subject of licensing applications involving amplified musical entertainment beyond 11pm are near residential properties, the Licensing Authority will require a comprehensive operating schedule listing measures that the applicant intends to implement to ensure the promotion of this licensing objective.
- 11.10 The Licensing Authority will also pay close regard to premises near to residential property proposing or permitted to trade after 11pm, where the premises includes one or more external areas for use by customers (for example, beer gardens, external dining areas, or smoking areas), as use of such areas by customers has the potential to lead to a public nuisance if not tightly controlled. Applicants are required to include measures within their operating schedule setting out how they intend to control the use of such areas, in order to promote this licensing objective.

## **12 Protection of children from harm**

- 12.1 The Licensing Authority is aware that this objective relates primarily to preventing children from being exposed to or permitted to access age- restricted products, such as alcohol; or age-restricted services, such as films with content deemed suitable only for adults or relevant entertainment of a sexual nature. Considerations relating to the physical safety and welfare of children will also be considered as part of any action the Authority takes to promote the public safety objective.
- 12.2 The Authority recognises the great variety of premises for which licences may be sought and the benefits and risks these may bring. The Authority will only restrict access by children to any premises where it considers it appropriate to do so in order to protect them from harm.

<sup>7</sup> See Appendix 3 – Useful resources

- 12.3 There is no reason children should not be admitted to responsibly- run, family-oriented licensed premises (for example, restaurants, theatres, cinemas (showing age-appropriate films), supermarkets, community premises, etc.), when accompanied by a suitable adult, such as a parent or guardian, and the Act allows for this. However, it is an offence under the Act:
- To admit children to exhibitions of films where a premises holds a licence permitting such regulated entertainment, if they are below the minimum age recommended by the Licensing Authority or a film classification body,

- To allow unaccompanied children under the age of 16 to be present at premises being used exclusively or primarily for the supply of alcohol for consumption on those premises, or
  - To allow unaccompanied children under 16 to be present between midnight and 5 a.m. at licensed premises supplying alcohol for consumption on the premises.
- 12.4 When deciding whether to limit the access of children, the Licensing Authority will judge each application on its individual merits. Examples which may give rise to concern in respect of children would include premises:
- 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 with a reputation for underage drinking.
  - Where there is a strong element of gambling on the premises (but not, for example the simple presence of a small number of gaming machines).
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
  - Where other concerns relating to this objective have arisen.
- 12.5 Where possible the Authority will avoid completely prohibiting access by children but that can be a choice for the licensee. Alternative options include:
- Limits on the hours when children may be present.
  - Limits or exclusions on children when particular activities are taking place.
  - Limited access to parts of premises.
  - Full exclusion of under-18s from the premises when any licensable activities are taking place.
- 12.6 Where a large number of children are likely to be present at licensed premises, the Licensing Authority will expect an appropriate number of suitably trained adult staff to be present, to control access and egress of children, and ensure their safety and protection from harm.
- 12.7 Even if the age restrictions mentioned above do not apply and the Licensing Authority has not attached conditions restricting access by children, there is still no obligation for licence-holders to admit children to their premises. Ultimately access to premises will remain at the discretion of the licence-holder, who may choose to adopt any reasonable admission policy. On that point a licensee is within their rights to have a no under 18 policy and this would not be seen as age discrimination.
- 12.8 Child sexual exploitation is a significant concern for licensing authorities nationwide, as reflected by several high-profile reported cases which directly involved licensed premises. Where the operation of licensed premises is causally or demonstrably linked to child sexual exploitation, the Licensing Authority will not hesitate to use the full range of powers at its disposal to promote this licensing objective and mitigate risk.

## 13 Stakeholder Engagement and Representations

### 13.1 The basis of decision making.

13.1.1 The process for making decisions on licensed premises applications is governed by the Licensing Act 2003 and associated regulations. Unlike other ways in which the Local Authority determines applications, for example planning applications, there is a presumption in licensing law that if:

- the licensing authority receives a valid application *and*
- the application is properly advertised *and*
- there is no objection raised by any responsible authority within the statutory consultation period *and*
- there is no objection raised by any responsible authority within the statutory consultation period *and*
- on the first day after the statutory consultation closed, the licence is **automatically** granted as applied for, that is, without any variation or condition

It is within this context that the Council will do its utmost to facilitate those wishing to make representations to do so in the most effective way and within the statutory consultation period. In addition to the legal responsibilities, we will notify any town and or parish council and our respective councillors.

### 13.2 How responsible authorities can make their views known

13.2.1 The Council strongly encourages the responsible authorities listed in table below to engage in the consultation process regarding applications (for new, and variations to existing, premises licences a club premises certificates) and raise any points as representations to the Licensing Authority. This may include submitting an objection.

Responsible authorities	Made aware by
<ul style="list-style-type: none"> <li>• Licensing Authority – Uttlesford Council</li> <li>• Essex Police</li> <li>• Environmental Health – Uttlesford Council</li> <li>• Planning Service – Uttlesford Council</li> <li>• Fire Authority – Essex Fire &amp; Rescue Service</li> <li>• Essex Safeguarding Children Board</li> <li>• Trading Standards – Essex County Council</li> <li>• Home Office – Alcohol Licensing Team</li> <li>• Public Health – Essex County Council</li> <li>• Health and Safety Executive</li> </ul> <p><i>(only need to be consulted if they are the enforcing authority for Health and Safety at the premises)</i></p>	<ul style="list-style-type: none"> <li>• Applicant will submit copies of application documents directly to them at the same time as the documents are sent to the licensing authority; or</li> <li>• 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 upon receipt</li> </ul>

13.2.2 Evidence-based representations provide the Council, when acting as the Licensing Authority deciding on applications, with the best means of assessing the merits, or otherwise, of applications under consideration.

13.2.3 While the type of representation and level of evidence will vary on a case- by-case basis, best practice would suggest representations should include wherever possible:

- 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 as listed in this document).
- Evidence to support the above.

13.2.4 The Council encourages all responsible authorities to engage with applicants at the pre-application stage and give advice to assist applicants to amend their proposals to accommodate the issues raised and thus avoid the responsible authority needing to make an objection. Whether the responsible authority engages or not, and whether the applicant works with the responsible authority, does not fetter the responsible authority's discretion over whether to object to an application. If an objection has been received, the Licensing Authority will wish to see efforts or continued efforts on the part of both the applicant and the responsible authority to accommodate the concerns raised.

### 13.3 Temporary Event Notice (TEN)

13.3.1 The Police and the Council's Environmental Health team are the only responsible authorities the law requires to be notified of and have the right to object to Temporary Event Notices (TENs). They have an ability to assist the Licensing Authority by making appropriate objections during the consultation period following submission of a TEN.

13.3.2 The format and content of objections are not defined in legislation or guidance. It would assist the Licensing Authority in their decision making if responsible authorities could include in their submissions as much of the following information as possible in support of their position:

- A commentary on past events at the venue / event.
- Any evidence of breaches of relevant statutory requirements.
- A summary of complaints, if any, from the public concerning the premises.

### 13.4 How members of the public can make their views known

13.4.1 In order to make informed decisions, the Council is keen to hear from those with a view on a particular application (for new, and variations to existing, premises licences or a club premises certificates).

<b>“Other persons” includes</b>	<b>Made aware by</b>
<ul style="list-style-type: none"> <li>• People who live or work near licensed premises.</li> <li>• Any company, charity, community organisation or similar body.</li> <li>• Any other person regardless of whether they live or work in the vicinity.</li> </ul>	<ul style="list-style-type: none"> <li>• Written notices will be put up by the applicant (in a statutorily prescribed format), attached to or near the premises concerned and displayed for not less than 28 days and visible 24 hours per day<sup>8</sup></li> <li>• A public notice (in a statutorily prescribed format) submitted by the applicant will be published in a locally circulated newspaper</li> <li>• A public notice of application will be displayed on the Council’s website<sup>9</sup></li> </ul>

13.4.2 As noted in the table above, the legislation and guidance dictate that members of the public have a specific time period during which to raise issues. This will be strictly observed.

13.4.3 Of note, the Licensing Act 2003 established a very prescriptive procedure for the way in which applications are made and determined:

- 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 (new application or variation of an existing licence) 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 at least once, within 10 working days of making the application, a notice in a local newsletter or similar document circulating in the vicinity of the premises.
- These Regulations dictate the consultation 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 notice is like that of the notice posted upon the premises.

13.4.4 The Council will do its utmost to ensure anyone wishing to make a representation is aware of the 28-day window for responding and the vital importance of this given that, unfortunately, the Council cannot vary this time period.

<sup>7</sup> Applications for minor variations only require a notice at the premises and it only needs to be displayed for 14 days.

<sup>8</sup> [Licensing consultations - Uttlesford District Council](#)

13.4.5 Within the relevant legislation, regulations and case law discussed above, the Council will strive to facilitate resident engagement, including emphasizing the consultation window. The Council will:

- Encourage applicants to hold informal discussions with local residents and businesses, the responsible authorities, Town Councils, Parish Councils and others prior to submitting formal licence applications.
- ensure applicants meet their statutory obligations to publicise their applications; advertising in a local newspaper and posting a notice at or near the premises – when such notices are not visible 24 hours per day, are removed or become defaced the Council will require them to be replaced and if appropriate the consultation time period to be restarted.
- Advertise applications for new or variation to existing licences or certificates on the Council's website.
- Alert ward members and parish/town councils of applications in their areas to enable them to discuss matters with residents should they wish.

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

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

13.5 How comments made by members of the public affect the decision making process.

13.5.1 Providing that any comments made by from members of the public are relevant (this term is explained below) and are received by the Council within the consultation period, they will be included in the decision-making process. Thus, comments from members of the public have a significant role to play. 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 make and further determination. Carry out any further investigations itself.

13.5.2 The Council will 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; which may mitigate or allay the concerns.

- 13.5.3 To be a valid representation then the person making the representation must be clearly identifiable and give their address. The representation must be 'relevant' and must not be 'vexatious' or 'frivolous'.
- 13.5.4 A representation is 'relevant' if it is argued that the granting of the licence would be likely to have a negative impact on at least one of the licensing objectives:
- **The prevention of crime and disorder,**
  - **Public Safety,**
  - **The prevention of public nuisance,**
  - **The protection of children from harm.**
- 13.5.5 So, for example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant as prevention of a detrimental impact on other commercial premises is not one of the four licensing objectives.
- 13.5.6 The Council has a policy that deals with abusive, persistent or vexatious complaints<sup>1</sup>.
- 13.5.7 A representation may be considered 'vexatious' if it appears intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses. 'Frivolous' representations are essentially those lacking seriousness. Frivolous representations could concern issues which are, at most, minor and/or for which no remedial steps would be warranted or proportionate.
- 13.5.8 Any person who is aggrieved by a rejection of their representations as either vexatious or frivolous may lodge a complaint through the Council's corporate complaints procedure<sup>2</sup>. A person may also challenge the Authority's decision by way of appeal to the magistrates Court or judicial review.
- 13.5.9 Where at all possible, the Council will assist in enabling the applicant and those making representations to find common ground thus mitigating or removing the concerns raised. As stated above, however, the timescale for this is extremely tight. If the issues raised by members of the public cannot be mitigated by the applicant through informal discussion, nor allayed to the satisfaction of the responsible authorities, then the Council will, within 20 working days of the close of the consultation, hold a public hearing of the Licensing Committee, or a Sub-Committee, to consider and determine the contested application. This also applies to contested applications for variations to a licence or a review of a licence.
- 13.5.10 At the hearing, all responsible authorities and other persons who have made valid representations will be entitled to attend and make their representations in person. Those who have made representation do not have to attend and all valid representations whether made in person or in writing will be considered.
- 13.5.11 The Council's Licensing Committee, or a Sub-Committee of this Committee, will consider the oral and written evidence before them.

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<sup>1</sup><https://www.uttlesford.gov.uk/article/6312/Abusive-persistent-or-vexatious-complaints-policy>

<sup>2</sup>[Compliments, suggestions and complaints frequently asked questions - Uttlesford District Council](#)



13.5.12 In determining the weight to place on the evidence before the members of the Committee will consider how the application supports or otherwise affects the licensing objectives engaged by the representations.

13.5.13 These four objectives underpin the Council's Statement of Licensing Policy.

- **The prevention of crime and disorder,**
- **Public Safety,**
- **The prevention of public nuisance,**
- **The protection of children from harm.**

13.5.14 The Licensing Committee, or Sub-Committee, will generally give its determination on the day of the hearing. However, regulations allow the authority to make its determination within a maximum period of five working days beginning on the last day on which the hearing was held.

## **14 Monitoring of the licensing function**

14.1 The Police, Fire Authority and other responsible authorities will be encouraged to report to the Council annually on the operation of the licensing function.

14.2 Once a licence is granted, the Council will send out an invoice each subsequent anniversary for the payment of the annual licensing fee. Those premises that do not pay this fee may have their licence suspended.

## **15 Administration, exercise and delegation of power**

15.1 The Licensing and Environmental Health Committee will consist of between ten and fifteen Councillors that will usually meet three times per year, but at least annually. The Council will review this Policy at least every 5 years. Any substantive changes to the Policy will include a full consultation.

15.2 Panels(s) of three Councillors will determine applications where representations have been received from responsible authorities or other parties. Ward Councillors will not serve on a Panel involving an application within their own ward.

15.3 The Licensing and Environmental Health Committee also deals with other licensing matters not associated with the Licensing Act 2003.

15.4 Where a Councillor has had direct involvement in the affairs of premises before them, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process for that application.

15.5 A Panel may refer any matter it is unable to deal with, because of the number of its members who are unable to take part in the consideration or discussion or vote on any question, to the full Licensing and Environmental Health Committee.

- 15.6 Each decision of the Licensing and Environmental Health Committee or its Panels(s) shall be accompanied with clear reasons for the decision. A summary of the decision will be sent to the applicant and all other parties.
- 15.7 The Licensing and Environmental Health Committee takes seriously its obligations under other legislation for example the Equalities Act 2010 and the Human Rights Act 1998. However, this is without prejudice to the right of premises to operate a strict no under 18s rule should they so choose.
- 15.8 The Council's authorised officers will deal with all other licence applications where either no representation has been received, or where representations have been received and it is agreed by all the parties that a hearing is not necessary.
- 15.9 Council officers will make the decisions on whether representations or applications for licence reviews should be referred to Members for a decision(s) and whether representations are frivolous, vexatious, or repetitious. Where representations are rejected, the person making that representation will be given written reasons why that is the case.
- 15.10 The Council will seek to integrate the Licensing function with its various other strategies and policies to promote the licensing objectives through utilizing the collaborative and partnership working arrangements and networks that engage with responsible authorities, other parties, and other key stakeholders.
- 15.11 A table explaining delegation for the Council is available in Appendix 6.

## **16 Enforcement and Inspection**

- 16.1 Licensing Authorities are required to state the principles to be applied by the Authority in exercising enforcement functions under the Act, both in terms of the inspection of premises and in instituting criminal proceedings in respect of specified offences.
- 16.2 The Licensing Authority will be led by the Statutory Guidance in respect of the inspection of premises and the powers to institute criminal proceedings, and will endeavour to ensure that enforcement and compliance actions are:
- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
  - **Consistent:** rules and standards must be joined up and implemented fairly;
  - **Transparent:** regulators should be open, and keep regulations simple and user friendly;
  - **Targeted:** regulation should be focused on the problem and minimize side effects.
- 16.3 The Council's enforcement action needs to be targeted. Decisions about which premises to investigate will be:
- Reactive – based on a specific complaint or resulting from intelligence from partner

organisations that strongly suggests a breach of the licence has occurred/is ongoing; and/or

- Proactive – this may take the form of one-off or periodic inspections based on previous complaints or intelligence.

16.4 The Licensing Authority may arrange for the inspection of premises, both licensed and otherwise, in response to specific complaints about those premises and the provision of unauthorized licensable activities therein. The Licensing Authority may also, from time to time, arrange a programme of risk-based inspections of licensed premises, consistent with the principles expressed throughout this document. Should officers witness offences or breaches of an authorization during an inspection, appropriate action will be taken.

During its inspections, the Licensing Authority may refer to any other agency any evidence or intelligence gathered that appears to it to be contravention of the legislation enforced by that agency. Equally, where a premises user appears unaware of a requirement that is outside of the Licensing Authority's remit officers will do their best to signpost them to the appropriate authority.

16.5 Where possible a graduated response will be taken where contraventions of legislation are found or where conditions have been contravened. For instance, an isolated administrative offence, such as failing to maintain records, may be dealt with by a written warning whilst a more serious offence, which has either been committed over a period of time or which jeopardizes public safety, may result in a referral for prosecution.

16.6 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Delivery Office (BRDO) in its consideration of the regulatory functions of Local Authorities.

16.7 The Licensing Authority shall also have regard to any corporate enforcement policy published by Uttlesford District Council.

16.8 Where the power to make representations or initiate reviews on behalf of the Licensing Authority is utilized, proper separation of functions will be ensured by having different officers conduct the distinct functions (for example, if a licensing enforcement officer makes a representation, they will not be involved in the administration of the application itself).

16.9 Several licence-holders with multiple outlets have formed primary authority partnerships, under which they receive 'assured advice' from a single local authority in respect of one or more regulated aspects of their business – for example, preventing underage sales of age-restricted products. Where we have concerns around a premises whose operator has formed a primary authority partnership relevant to the issue in question, we will consult with the primary authority prior to taking any formal action.

- 16.10 Results of enforcement or investigation will be made available to responsible authorities who may wish to include this evidence in a Review of a premises licence or club premises certificate.
- 16.11 When applications are received that have a statutory requirement for consultation, officers will check that notices are correctly displayed in compliance with the requirements of the legislation.

## **17 Raising concerns about licensed premises**

- 17.1 Given the Council's desire to be as responsive as possible to concerns, it is likely that most enforcement action will be reactive. It is therefore paramount that individuals, organisations, and other authorities report incidents and concerns about specific licensed premises when they arise so that timely investigation and intelligence gathering can take place.
- 17.2 Wherever possible, the Council would expect such concerns to be raised with the Premises Licence Holder or Designated Premises Supervisor in the first instance. Often, the business may not have realized that its operation is causing nuisance or problems and raising the issue is sufficient to ensure a prompt and adequate remedy.
- 17.3 Complaints can be made directly to Licensing Enforcement Officers at: [licensingenforcement@uttlesford.gov.uk](mailto:licensingenforcement@uttlesford.gov.uk)

## **18 Dealing with Complaints**

- 18.1 In all instances, complaints received about licensed premises, events and activities will be recorded.
- 18.2 If raising concerns directly with a premises does not remedy the situation or is not appropriate, the Council may become involved. In such circumstances, the Council may:
- Arrange meetings between various parties, including members of the public if appropriate, to jointly explore how best to remedy the situation.
  - Direct the Premises Licence Holder or Designated Premises Supervisor, business owner or occupier, as appropriate, to take action. This could take the form of issuing advice and guidance or may be more directive, for example, though not limited to, requiring specific remedies for noise nuisance or imposing variations to the conditions of the licence via a review.
  - Visit the premises in an attempt to witness the problem directly.
- 18.3 Sometimes, issues may arise within an area or on a particular street where it is not clear which establishment(s) is causing the issues. It can be the case that an issue arises from the interaction of venues and patrons purely because of the geographical proximity, for

example, a pub or club, late night food take-away and/or taxi ranks all located in close proximity may encourage concentrations of noise and/or other nuisance.

- 18.4 In the short-to-medium term, in such circumstances Council officers will seek to identify which establishment(s) is/are causing the issues and then make appropriate interventions.
- 18.5 In the longer term, the Council, in its wider capacity recognises it has a role to play with partners in identifying, addressing, mitigating and if at all possible designing-out the types of nuisance that can arise from the night time economy.

## 19 Partners' roles in enforcement activities

- 19.1 Enforcement activity may be undertaken by one or more of the responsible authorities acting independently, depending upon the extent to which the issue in question relates to their jurisdiction.
- 19.2 The statutory guidance issued to Licensing Authorities by the Home Office under section 182 of the Licensing Act 2003 (last amended in 2022) states at para 9.15:  
*"It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority".*
- 19.3 On that basis the lead authorities would be:
- **Crime and disorder** – Essex Police
  - **Noise and other nuisance** – Uttlesford Council as Environmental Health
  - **Public safety issues** – Uttlesford Council as Environmental Health; Essex County Council as Fire Authority
  - **Prevention of children from harm** - Essex Police; Essex County Council as Social Services and Education Authority.
- 19.4 Where the issues are wider, enforcement may be taken by the responsible authorities working together in partnership. The Council is committed to partnership working. This could involve, for example:
- Sharing intelligence, joint monitoring visits and intervention meetings with licence holders.
  - Bringing forward a review of the licence for an individual licensed premises.
  - Seeking changes to the Uttlesford Council's Statement of Licensing Policy based on the evidence for, and articulation of, particular amendments.

## 20 Reviews

- 20.1 A Responsible Authority or any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the Licensing Authority to review the licence/certificate because of concerns arising out of activities at the premises which may have an adverse impact on any of the licensing objectives. The Authority regards this as a valuable protection for residents and businesses. Applications for a review must be made in writing and will be considered by a Licensing Panel at a hearing.
- 20.2 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, local residents or businesses and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation.
- 20.3 Responsible authorities are encouraged to give an early warning of concerns about problems identified at the premises concerned and of the need for improvement to the operators, although it is recognised this is not always practicable or desirable. It is expected that a failure to respond to such warnings would lead to a decision to request a review.
- 20.4 Similarly, those persons other than responsible authorities who are seeking a review are encouraged to take initial steps such as:
- Asking the Licensing Authority to liaise with the licence/certificate holder on their behalf.
  - Asking their local MP or Councillor to speak to the licence/certificate holder on their behalf.
  - Talking to the relevant responsible authority to establish whether there is other action that can be taken to resolve the problem.
- 20.5 The law expects that any party making an application for a licence to be reviewed will prove the facts that they are relying on to support their allegations on the balance of probabilities, that it is more likely than not that the circumstances being complained of did actually occur. Because of the potentially serious consequences to a licence holder following a licence review, anecdotal or hearsay evidence will **not** be sufficient.
- 20.6 Any application for review submitted by a person other than a responsible authority must be relevant to one or more of the four licensing objectives, and must not be considered frivolous, vexatious or repetitious. The Council will generally not permit more than one review originating from a person other than a responsible authority in relation to a particular premises within a 12 month period on the grounds of repetitiveness save in compelling circumstances or where it arises following a closure order or illegal working compliance order. Following a review, the Authority will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable, and proportionate to the nature of the problems giving rise to the review. Options available are:
- To modify the conditions of the premises licence.
  - To exclude a licensable activity from the scope of the licence.
  - To remove the designated premises supervisor.

- Suspend the licence for a period not exceeding three months.
- Revoke the licence.
- Take no action.

20.7 The Licensing Authority we will offer the same level of support and guidance to those wishing to apply for the review of a licence as we would to those seeking to apply for a new licence.

20.8 Officers providing such support will have no involvement in the review process.

## 21 Appeals

21.1 Where the Licensing Authority's discretion has been engaged and a decision reached on a particular application, any party to the proceedings (including residents) aggrieved by a licensing decision is (in most cases) entitled to appeal to the Magistrates Court within 21 days of the receiving the decision notice. There is no power to extend this period by agreement.

21.2 Where there is a right of appeal the relevant parties will be notified of this right when they are issued with the decision notice. The Council has the right to defend its decision, as do other interested parties, and its normal approach is to fully recover its costs of so doing from an unsuccessful applicant.

## 22 Operating Schedules

22.1 Steps to promote the licensing objectives<sup>10</sup>

*'In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.*

*Applicants are expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives.*

<sup>10</sup> Revised guidance under s 182 Licensing Act 2003 issued Dec 2022, 8.41 – 8.45, [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

*That they understand:*

- *the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;*
- *any risk posed to the local area by the applicants' proposed licensable activities; and any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.*

*Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy. It should be noted that the Council does not currently have a cumulative impact policy.*

*It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.*

*The majority of the information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:*

- *the Crime Mapping website;*
- *Neighbourhood Statistics websites;*
- *websites or publications by local responsible authorities;*
- *websites or publications by local voluntary schemes and initiatives; and*
- *on-line mapping tools. ‘*

22.2 Applicants are expected to write an operating schedule that shows how they will promote the licensing objectives. The operating schedule will be used as a basis for licence conditions for the individual premises.



## 23 Conditions

- 23.1 Licensing is about the regulation of licensed premises, qualifying members' clubs, and temporary events. We may only impose conditions on premises licences and club premises certificates in two circumstances:
- (1) Where the applicant volunteers them as part of their operating schedule; and/or
  - (2) On receipt of relevant representations from potentially affected parties, or responsible authorities.
- 23.2 Where applicants volunteer conditions as part of their operating schedule our officers will draft appropriate conditions for premises licence and club registration certificates which reflect the intention of the applicant. This will be completed in line with the requirements at 23.5.
- 23.3 We have produced a pool of model conditions for premises licences and club premises certificates which are available at Appendix 5 of this document. Applicants are under no obligation to use these when preparing their operating schedules, but doing so may reduce the likelihood of representations being made about the application. Should relevant representations be received, we may use conditions from the pool to address the concerns raised.
- 23.4 Conditions attached to premises licences or club premises certificates will be appropriate, reasonable, proportionate, and relevant and will be focused on matters within the control of the individual licence-holders and others granted relevant permissions. Conditions will be tailored to the style and characteristics of the individual premises. These matters will centre on the premises and places being used for licensable activities and have regard to the vicinity of those premises or places.
- 23.5 Conditions attached to licences and certificates should:
- be appropriate for the promotion of the licensing objectives;
  - be precise and enforceable;
  - be unambiguous and clear in what they intend to achieve;
  - not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
  - be tailored to the individual type, location and characteristics of the premises and events concerned;
  - not be standardized, as it may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
  - not replicate offences set out in the 2003 Act or other legislation;
  - be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
  - not 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 be written in a prescriptive format.

23.6 Where we have discretion because relevant representations have been made about licensing applications, we may also consider the following factors to fulfil our vision:

- (1) what contribution the application can make to creating a diverse offering, specifically in terms of offer to a wide-range of customers; family-friendly policies and facilities; operating hours; and pricing;
- (2) entertainment aimed at different age groups;
- (3) links with other activities in the town, to encourage day-time users to stay in the evening;
- (4) provision of a full food menu and not only alcohol;
- (5) transport/dispersal provision, particularly during periods when public transport is unavailable;
- (6) style and type of venue. The licensing authority wants to attract only high-quality operators who can provide a safe and professional environment, characterised by a range of activities, and offers that would appeal to individuals of all backgrounds. This type of offering may (but need not) be characterised by:
  - a range of alcoholic and soft drinks suitable for all ages;
  - a food menu, including healthy options which caters for different tastes and needs, available throughout the duration of the premises' operating times;
  - facilities suitable for assisting customers with young children, such as high-chairs and baby-changing facilities, and facilities for family groups such as suitably laid-out seating/table areas;
  - a range of activities or entertainment that appeals to a range of age groups, whether provided at the same time or at separate times.
- (7) involvement in local community events and organisations
- (8) commitment to involvement in Community Safety Partnership (CSP) initiatives
- (9) use of pavement licences for outdoor table areas

23.7 Licence holders must ensure that they and their premises comply with any conditions attached to a licence while licensable activities are taking place, otherwise they commit an offence and risk review of their licence and/or prosecute if appropriate.

## **24 Special Licensing Policies**

24.1 There are several types of special licensing policy which a Licensing Authority is entitled to adopt, to help it regulate the provision of licensable activities within its area.

24.2 Cumulative Impact

24.2.1 Cumulative impact is the term used to describe the impact, potential or actual, of a large number of licensed premises concentrated in a single locality. In terms of the licensing objectives, this may be evidenced by an

increase in incidents of crime, disorder, or public nuisance, over and above the impact of the individual premises themselves.

- 24.2.2 The cumulative impact of licensed premises on the promotion of any of the licensing objectives is a matter that the Licensing Authority can take into account in determining its Licensing Policy. This should not, however, be confused with any question of 'need' which relates to the commercial demand for a particular type of premises (for example, a pub, restaurant, or hotel). The issue of 'need' is a matter for market forces to influence and for the planning authority to regulate, and if appropriate for magistrates to give weight and so does not form part of this Policy statement.
- 24.2.3 The Licensing Authority will, where appropriate, and having received relevant representations, take into account the cumulative effect that the existence of a concentration of premises in one area may have. A concentration of licensed premises can attract customers to the area to such a degree that it has an adverse impact on the surrounding area beyond the control of individual licence holders.
- 24.2.4 The Licensing Authority notes that, in accordance with the Guidance, it may adopt a special policy in response to a cumulative impact issue in a defined area. Consideration of such a policy may be prompted by submissions from responsible authorities or other persons, evidenced appropriately and linked to one or more of the licensing objectives. Where such a policy has been adopted, the issue of cumulative impact can be taken into account when considering the individual merits of any application within the area defined within that policy.
- 24.2.5 Where the cumulative effect of many licensed premises within an area gives rise to problems of public disorder and nuisance in the surrounding area the Licensing Authority may consider it inappropriate for any further licensed premises to be established in the area and/or capacities to be increased. In these circumstances, and where suitable and sufficient evidence is provided, the Licensing Authority will consider declaring a cumulative impact area.
- 24.2.6 Whilst the Licensing Authority does not believe it is necessary to implement a Cumulative Impact Policy for the period of 2023-28 there is an obligation to keep it under review during that period and make revisions where we consider it appropriate. If during the life of this document there is evidence and need to support a special policy anywhere within the district we will not hesitate to act.
- 24.2.7 If such a policy were adopted it would not override the duty on the Licensing Authority to consider each application on its own merits. Such a policy would introduce a presumption of refusal of applications for new premises licences or variations of existing premises licences within a defined area except where the applicant can demonstrate that the grant would not negatively impact on the relevant licensing objectives (normally the Prevention of Crime and Disorder and Prevention of Public Nuisance).
- 24.2.8 The absence of a special policy does not prevent any responsible authority or other party making representations on an application for the grant of a licence

on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

24.2.9 In coming to any decision about cumulative impact the Licensing Authority will have regard to other mechanisms outside of the licensing regime which may be available to address this issue.

24.2.10 When dealing with cumulative impact issues, the Licensing Authority recognises that, as well as licensing functions, there are a number of other mechanisms for addressing issues of nuisance, disorder and anti-social behaviour occurring away from licensed premises. These may include:

- Planning controls;
- measures to provide a safer and cleaner environment in partnership with local businesses, transport operators and other departments of the Council;
- the provision of CCTV surveillance in town centres, taxi ranks, street cleaning and litter patrols;
- powers for a local authority to protect public spaces from the effects of anti-social consumption of alcohol, enabling police and accredited persons to confiscate alcohol;
- enforcement of the law relating to disorder and anti-social behaviour, including the issue of fixed penalty notices or other sanctions under the Anti-Social Behaviour, Crime and Policing Act 2014;
- the prosecution of any personal licence holder or member of staff at licensed premises who is selling alcohol to children or people who are drunk;
- powers to close down instantly any premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from premises causing a nuisance;
- the power for responsible authorities or other persons to apply for a review of a premises licence or club premises certificate; or
- other local initiatives that similarly address these problems.

### 24.3 Early morning alcohol restriction orders (EMARO's)

24.3.1 To promote the licensing objectives, a Licensing Authority may utilise powers under the Act to pass an early morning alcohol restriction order. Such an order would prohibit the sale of alcohol from any premises within an area defined in the order between specified times (which may extend from midnight until 6 a.m.) on specified days.

24.3.2 It is envisaged that this power will only be used in response to severe and recurring issues arising from the supply of alcohol in the night-time economy, such as high levels of alcohol-related crime and disorder in specific areas at specific times, which cannot be attributed to an individual premises. The Licensing Authority views this as a 'last resort' option, for use after other tools have been unsuccessful in remedying the issue.

24.3.3 At the present time, Uttlesford has not utilised the provisions of the Act to pass an early morning alcohol restriction order, and has no current plans to do so.

Should this position change, full details will be published on our website and notified to all licensed premises that would be affected.

#### 24.4 Late night levy

24.4.1 Part 2 of the Police Reform and Social Responsibility Act 2011 introduced a new power for Licensing Authorities to establish a 'late night levy'. Licensed premises within the area of a Licensing Authority which has adopted such a requirement will be required to pay an additional annual fee if they are licensed to supply alcohol within a late-night period set by the Authority (generally between midnight and 6 a.m., although shorter periods are permissible).

24.4.2 Where a levy requirement has been adopted, the Licensing Authority will be responsible for the collection of the appropriate amounts from licence- holders. After deduction of administration costs, not less than 70% of the net proceeds of the levy must be paid by the Licensing Authority to the local Police force, which may be used (but is not required to be) to offset the costs incurred in policing the nighttime economy arising from the alcohol supplies permitted from affected licensed premises. The remaining amount may only be applied on purposes prescribed in Regulations, namely arrangements connected with the late-night supply of alcohol for one or more of the following functions:

- The reduction or prevention of crime and disorder
- The promotion of public safety
- The reduction or prevention of public nuisance
- The cleaning of any relevant highway or relevant land in its area.

24.4.3 At the time of writing, Uttlesford has not adopted the provisions of the 2011 Act relating to a late-night levy, nor is it currently intended to do so.

## 25 Public Health and Well-being

25.1 Uttlesford Council's Environmental Health services and the Licensing team already work closely together. The alignment of these different service areas, with appropriate policies and partnership support, work well for the benefits for residents.

25.2 The Police Reform and Social Responsibility Act 2011 made primary care trust's (PCT) or local health board's (LHB) a responsible authority under the Licensing Act 2003. Therefore, they can make representations against licence applications. Currently, unlike in Scotland, England does not have a fifth licensing objective relating to Public Health.

25.3 The Council has considered the potential role of Public Health within licensing and this Policy has considered the revised s.182 Guidance at length.

25.4 Uttlesford Council has taken the decision, with the full understanding and knowledge of the section 182 Revised Guidance and relevant legislation, to engage with Public Health as a central consideration in its decision-making process. As a result, where a relevant representation is made regarding the undermining of the licensing objectives, and that representation relates to public

health and well-being and is supported by evidence, that representation will be considered during the decision-making process.

- 25.5 This includes considering information about the impact of alcohol abuse upon wider Public Health issues, such as alcohol related illness and harms, and not just immediate impacts such as slips trips and falls from intoxication. The purpose of this is not to attempt to make Public Health the fifth licensing objective, rather using the ordinary definition of the licensing objectives to help address evidence-based alcohol related harms within our communities.
- 25.6 While recognising that evidence-based alcohol related harms are a key concern, the Licensing Authority also recognises that alcohol is just one, albeit significant, component of the recreational and late night economy with which the licensing regime is addressed. The Licensing Authority will approach any Public Health representation within the wide framework of the regime and not exclusively on health and well-being considerations.

## **26 Planning Permission**

- 26.1 While the development control and planning consent processes are separate jurisdictions to licensing decision making, there are notwithstanding links between them. The Council as a Planning Authority is a responsible authority under the Licensing Act 2003. Intelligence sharing and representations are routinely made between officers involved in processing applications under the two decision making regimes. The decision-making processes and enforcement criteria under each regime, however, are different so that action taken in response to particular circumstances involving a given venue may not be the same under both regimes.
- 26.2 As a named Responsible Authority under the Licensing Act 2003, the Planning Authority receives copies of premises licence applications. Where there is no planning consent for the use for which the licence is sought, Planning will be responsible for raising this with the applicant outside of the remit of this Policy, and ultimately for enforcement should the licence be granted. Where representations have been made by the Planning Authority on grounds that in order to promote the licensing objectives, some restriction in accordance with planning considerations might be needed on opening hours, the Licensing Authority will have regard to the need, to accord with planning control, for there to be restrictions on hours.
- 26.3 Any conflicts between a proposed premises licence operating schedule with existing planning conditions and permissions will in itself not prevent the grant of a licence. Whilst there will be an expectation from the Licensing Authority for the applicant to comply with any relevant planning conditions, any such breaches will be solely a matter for the Planning Authority to enforce under its separate system of regulatory control.
- 26.4 In many cases where an application is made for a new licence or variation, the planning use will already be authorised by a previous planning permission or

because the premises has a long-standing lawful use. Therefore, a new application for planning permission is often not required.

- 26.5 Another key route by which stakeholders can express their views is through the planning process, either when neighbourhood plans are being developed or when particular planning applications are considered. The mechanisms and procedures governing how interested parties can input to planning decisions is covered in the Council's planning policies: [www.uttlesford.gov.uk/planning](http://www.uttlesford.gov.uk/planning)

## **27 Festivals and Outdoor Events**

- 27.1 The Licensing Authority recognises the contribution that well-run outdoor events bring to local communities and is pleased to support events which are run in a manner that will promote the licensing objectives.
- 27.2 The organisation of outdoor events of any size is a significant undertaking, with a multitude of issues which must be taken into account. Licensing is only one aspect of the regulation and control of such events.
- 27.3 Generally, we would expect the organisers of all outdoor events to follow the advice contained in the "Purple Guide"<sup>1</sup> when planning their event. This document contains guidance written by and for the events industry in respect of safety and welfare aspects of event management, and replaced earlier guidance issued by the Health and Safety Executive.
- 27.4 For larger events taking place under the authority of premises licences, it is recommended that organisers consider engaging professional advice and assistance, particularly with regards to issues which may affect public safety.
- 27.5 The Authority will expect the organisers of any large events (taking place under the authority of a premises licence) or events which include special risk factors to consult the Uttlesford Safety Advisory Group (SAG) as part of the early stages of planning their event, and to implement any reasonable recommendations made by the group. The SAG is a multi-agency body, which includes representatives of the Licensing Authority, responsible authorities and other statutory bodies who are involved in the organisation and safe running of events. Whilst this is not mandatory the Council considers consultation with SAG as best practice for any large scale event.
- 28 Prior to applying for a licence, event organisers will need to secure permission from the appropriate landowner for the site on which they intend to hold their event. In the case of public land which the Council is responsible for managing, including parks and common land, approaches should be made to the Assets & Estates team within the Strategic Finance & Property service.

<sup>1</sup><https://www.thepurpleguide.co.uk/>

- 28.1 One of the major concerns arising from outdoor events is disturbance to local residents from noise associated with music entertainment at the event, or other noisy equipment such as generators, public announcement systems, fireworks, and so on. The Licensing Authority will expect to receive a comprehensive operating schedule from applicants, containing appropriate proposals to control such issues and promote the prevention of public nuisance licensing objective. Depending on the size and nature of the event it is likely this will need to include a comprehensive Event Management Plan (EMP) integrating a specific Noise Management Plan.
- 28.2 To mitigate these concerns as far as possible early engagement with those likely to be affected by an event is expected. Simply fulfilling the statutory obligation to advertise is likely to trigger representations and raise concerns more than if there has been early engagement. Please refer to the section of this Policy that deals with “Pre-application advice & engagement” for further details.
- 28.3 It is particularly important for organisers of festivals to consider the demographics of their clients. Safe spaces for the public to go to and the promotion of national campaigns such as ‘Ask Angela’ are important mechanisms to promote public safety.
- 28.4 Use of multiple Temporary Event Notices for a single event
- 28.4.1 It has become increasingly common for larger scale events where licensable activities are taking place to be covered by multiple Temporary Event Notices (TEN’s).
- 28.4.2 Whilst, this will often be perfectly legal, it is important that sufficient formal planning is carried out for such events in order to reassure the Police and Environmental Health that the event can take place in such a way that the licensing objectives are promoted.
- 28.4.3 It is also important that organisers take suitable steps to ensure that they can be confident that they will not be inadvertently breaching licensing laws when running events in this way.
- 28.4.4 Organisers should consider using the Uttlesford Safety Advisory Group and whether seeking pre-application advice would be worthwhile.



## 29 Circuses

- 29.1 Authorisation is needed under the Licensing Act should a circus sell alcohol or provide late night refreshment.
- 29.2 The position is less clear in terms of regulated entertainment, and we are aware of extremes in approaches by Licensing Authorities across the country. It is this Authority's opinion that the incidental music to a circus performance is not licensable, clowns may not necessarily be playing a dramatic role qualifying as a theatrical performance, trapeze artistes are not engaged in indoor sports, and film performances are rarely included.
- 29.3 The Legislative Reform (Entertainment Licensing) Order 2014 deregulated entertainment in travelling circuses provided that the following qualifying conditions are met:
- the entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
  - the entertainment takes place between 08.00 and 23.00 on the same day;
  - the entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
  - the travelling circus has not been located on the same site for more than 28 consecutive days.
- 29.4 The position is less clear in terms of regulated entertainment, and we are aware of extremes in approaches by Licensing Authorities across the country. It is this Authority's opinion that the incidental music to a circus performance is not licensable, clowns may not necessarily be playing a dramatic role qualifying as a theatrical performance, trapeze artistes are not engaged in indoor sports and film performances are rarely included.
- 29.5 Evidence nationally indicates that circuses, pose no significant risk to the licensing objectives, add value to the cultural activities of a town, and are regulated by other means including compliance with the Health and Safety at Work etc. Act 1974.
- 29.6 It should be noted that while a subject of considerable public concern, the question of whether or not there are animal acts at a circus is not a matter for the Licensing Authority.

## 30 Garages and Motorway Service Areas

- 30.1 Section 176 of the 2003 Act prohibits the sale or supply of alcohol from premises which are used primarily as a garage or are part of premises used primarily as a garage. Premises are used primarily as a garage (i.e. the sale of fuel) if they are used for one or more of the following:
- The retailing of petrol;
  - The retailing of diesel (derv);
  - The sale of motor vehicles; and
  - The maintenance of motor vehicles.
- 30.2 If premises that are primarily used as a garage are granted a licence, that licence is “of no effect” and alcohol may not be lawfully sold.
- 30.3 Although there is no requirement in the legislation for an applicant for a licence to provide proof of primary use it is considered useful for this information to be included so that it is clear to all parties if the licence has affect or not. Applications that do not include this information will still be processed and determined as required by the Licensing Act 2003.
- 30.4 Where there is a question around the primary use of premises, we may request that an applicant or licence holder demonstrate that their premises are not primarily used as a garage based on intensity of use. The Licensing Authority requests that evidence be based on **income** (from retailing petrol and derv and vehicles sales/maintenance versus other items) and **the numbers of individual sales** (of petrol, derv and vehicles sales/maintenance versus other items) over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises main feature.
- 30.5 Where insufficient evidence exists to establish primary use, we will decide whether or not grant a licence and deal with any subsequent issues using our enforcement powers in conjunction with other responsible authorities.
- 30.6 Where such information is not available (because for example the premises have only just started trading), we will consider imposing a condition requiring this information to be provided to the licensing authority on a regular basis for the following two years to ensure the premises are not primarily a garage.
- 30.7 Where relevant representations have been made and a Panel will be the determining the application we shall treat it as an off-licence, as defined in this Policy.
- 30.8 Paragraph 5.23 of the statutory guidance issued under the Act makes it clear that the Licensing Authority must decide whether or not any premises is used primarily as a garage. We are aware that different authorities take a number of different approaches to this question. However, we hope that the proceeding paragraphs will guide applicants and licence holders as to the information we would like them to provide if this question arises.

## 31 Security and CCTV

- 31.1 Under a mandatory licence condition, any person engaged to work at licensed premises who is carrying out a prescribed security activity, as specified under the Private Security Industry Act 2001, must be correctly licensed to carry out that function by the Security Industry Authority, or otherwise authorised under an approved contractor scheme or similar.
- 31.2 The Licensing Authority will expect applicants for licences to consider whether they may need to employ security personnel when compiling their operating schedules. This expectation will not just apply to premises licensed for the supply and consumption of alcohol, but any premises which may potentially experience disorder.
- 31.3 Premises which are licensed for the supply of late night refreshment, located either in town centre locations or on primary dispersal routes from such locations, and which cater primarily for the night-time economy may in particular need to consider whether security personnel will be necessary, both to safeguard their premises against damage, and to prevent outbreaks of disorder among customers who may be intoxicated.
- 31.4 Where premises experience regular incidents of disorder and does not employ security personnel to guard against this, the Licensing Authority may consider the imposition of licence conditions mandating their provision, on receipt of an application to review a licence.
- 31.5 Where a premises has a policy of searching patrons prior to entry, searches should only be carried out by security personnel of the same gender as the customer who is being searched. This will mean that such premises will need to employ a minimum of one male and one female door supervisor.
- 31.6 CCTV
- 31.6.1 The Licensing Authority will have regard to GDPR and the Surveillance Camera Code of Practice<sup>12</sup>, in particular paragraph 1.15, which highlights that the blanket imposition of licence conditions requiring CCTV systems to be operated in licensed premises without strong justification would be contrary to the first principle of the code. The imposition of CCTV conditions will, like all other matters relating to authorisations under the Act, be considered on a case-by-case basis, taking into account the circumstances and individual merits of the case in question. The Licensing Authority may still impose conditions requiring the operation of CCTV, if it is considered necessary to meet an identified pressing need and for a specified purpose, in addition to being appropriate for the promotion of one or more of the licensing objectives.
- 31.6.2 In the absence of a condition requiring it, it will be for the licence-holder to decide whether to operate a CCTV system in their premises. The Code of Practice, while binding on public authorities, is voluntary for private operators, although adherence to the principles therein is encouraged.

<sup>12</sup><https://www.gov.uk/government/publications/surveillance-camera-code-of-practice>

31.6.3 Where CCTV is in use in licensed premises, the Licensing Authority will expect its use to comply with the provisions of the Data Protection Act. This will mean that:

- The licence-holder must register with the Information Commissioner as a Data Controller.
- Clear signage is displayed advising of the usage of CCTV.
- The CCTV is under the control of and accessible only by management and supervisory staff, who are conversant in its usage.
- The licence-holder has a clear policy on the retention of recorded images, and disposes of them after a set period (typically around 28 days) unless an incident is reported.

31.6.4 To ensure the most effective use of CCTV, it is also encouraged that:

- The date and time on the system is correctly set.
- The system is kept operational at all times while the premises are open to the public.
- There is camera coverage of the key parts of the premises, including all entrances/exits, bars, checkouts and dancefloors.
- Where recordings are required by police to assist in an investigation, that these can be accessed and supplied within a reasonable period – a maximum of 24 hours from receipt of a request is suggested.

31.6.5 Essex Police's crime prevention officers can offer advice on the installation and setup of CCTV systems to ensure best evidential quality.

## **32 Drugs and New Psychoactive Substances**

32.1 The Licensing Authority expects all licensed premises to adopt suitable measures to detect and discourage persons from using controlled drugs (which for the purposes of this section means substances which are proscribed under the Misuse of Drugs Act 1971) while on those premises. Examples of such measures may include, but are not limited to, the following:

- Ensuring a highly visible staff presence throughout the premises.
- Regular checks by staff of ancillary areas such as lobbies, toilets, cloakrooms and corridors.
- Redesigning toilet facilities to remove horizontal surfaces, and niches and other areas where illicit items could be concealed.
- Ensuring that all staff, and door staff in particular, are trained to recognise visible signs that a person is under the influence of an illegal substance, and to refuse such persons entry to the premises.
- Operating robust 'search on entry' policies, with procedures in place to confiscate controlled drugs found during searches and hand these to police at the earliest opportunity.
- Carrying out testing on surfaces within the premises to detect the presence of traces of controlled drugs.
- Enforcing a zero-tolerance policy to the use or supply of controlled drugs within the premises, ejecting or refusing entry to persons known to be linked to the use or supply of controlled drugs, and reporting to the police any person suspected of supplying controlled drugs.

- 32.2 Where a licence holder believes that there may be an issue with the illegal use or supply of controlled drugs within their premises, they are strongly encouraged to contact Essex Police for advice and assistance in remedying that issue. This may involve a degree of ‘target hardening’ – redesigning parts of the premises or operating procedures to more easily detect and discourage such practices. Where premises are co-operating with the Police to deal with such issues, the Licensing Authority is less likely to take action to remove or restrict the licence, than it would with premises which do not offer co-operation.
- 32.3 For the purposes of this part of the Policy, the Licensing Authority will regard new psychoactive substances (widely referred to as ‘legal highs’) in the same way as it does controlled drugs, and will expect that the measures taken in licensed premises to detect and discourage the use of controlled drugs will also extend to these substances, which generally mimic the effect of a controlled drug.
- 32.4 The Licensing Authority expects that licensed premises will not engage in, sanction nor condone the sale or supply of new psychoactive substances in or from their premises, and may seek to take enforcement action against premises that are found to be doing so.
- 32.5 The Licensing Authority recognises that Government has committed to strengthening the legislation around the supply and use of new psychoactive substances and welcomes such moves.

### **33 Modern Slavery**

- 33.1 Modern slavery is a crime. The UK Modern Slavery Act 2015 includes the following under the offence of modern slavery:
- Slavery, where ownership is exercised over a person.
  - Servitude, where a person is obliged to provide services imposed by coercion.
  - Forced or compulsory labour, which involves work extracted under the menace of penalty and for which the person has not offered himself voluntarily.
  - Human trafficking, which involves the movement of people by means such as force, fraud, coercion or deception with the aim of exploiting them.
- 33.2 In the UK, estimates go as high as 136,000 when quantifying the number of hidden victims living in conditions of slavery. In the European hospitality sector, which includes bars and restaurants, a recent study found 110,000 victims of exploitation annually. Government agencies in the UK have specifically identified hospitality as a high-risk area for modern slavery.

#### **Licensed premises might be unwitting hosts to modern slavery in two ways:**

- (1) Victims and their traffickers visiting the establishment. Sexual exploitation and forced criminality would be the most common forms identified in this way.

- (2) Staff being recruited through unscrupulous means, leaving them trapped and/or indebted to a trafficker.

### 33.3 Identification and reporting

33.3.1 Staff at licensed premises can have the power to identify and report any exploitation they encounter. A licence holder may ensure awareness of modern slavery by:

- **Identifying any risks** at the premises and working with relevant business partners and suppliers (i.e. recruitment agencies) to mitigate such risk.
- **Actively informing those working on the premises** of their rights and how they can confidentially seek help or advice on modern slavery if required.
- Provide **regular training** to all staff on the indicators of modern slavery and how to report concerns.
- Establishing **strong relationships with local police and victims service providers**, such as the national Modern Slavery Helpline (0800 0121 700), in advance of any incident.

### 33.4 Reporting protocols

33.4.1 Having **clear and straightforward protocols** for when an incident is discovered is crucial to ensure that victims get appropriate support. Where employees identify a potential victim, they can follow a specific internal procedure in order to protect the safety of that individual.

33.4.2 The procedure should **1) not be overly complex, 2) should involve senior level staff and 3) should account for when reporting should go immediately to the police** (i.e. if certain indicators are met, if the potential victim is in immediate danger, if the potential victim is a child).

**The Modern Slavery Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.**

## 34 Child Sexual Exploitation (CSE)

34.1 High-profile cases around the UK have acted to highlight the potential links between victims of child sexual exploitation and licensed premises. As Licensing Authorities have a statutory duty to ensure the protection of children from harm through the exercise of their licensing functions, it is important that licence-holders are aware of the potential for premises to be used by persons who are exploiting children for sexual purposes and take appropriate measures to detect and discourage this.

34.2 Child sexual exploitation generally involves a young person being encouraged, coerced or forced into participating in a sexual relationship or activity by an adult. It frequently involves the victim being offered something in exchange for this, such as money, gifts, food, alcohol, cigarettes, drugs, involvement in adult situations, or

sometimes just attention. Victims may have been subject to a grooming process lasting for weeks, months or years.

- 34.3 There is no single model of sexual exploitation – different cases will all have different circumstances. Similarly, victims can be quite different. While some victims may have had troubled backgrounds, others may come from prosperous and loving families.
- 34.4 There are a number of indicators which may indicate child sexual exploitation. These include, but are not limited to:
- Relationships which develop between a child and an adult;
  - Children accompanied by a group of unrelated adults;
  - Children regularly attending premises and meeting with a number of different adults, particularly if alcohol is being purchased for the child;
  - Children outside of licensed premises who develop relationships with adults, particularly if alcohol is being purchased for the child;
  - Children leaving the premises with unrelated adults, particularly with a group of adults;
  - Children looking uncomfortable in the company of or leaving the premises with adults, or groups of adults.
- 34.5 It must be stated that not every instance of the behaviours listed above will indicate exploitation, and many interactions between children and adults will be perfectly innocent. However, if staff at licensed premises have reasonable grounds for suspicion (for example, if the child does not appear to know the adults they are with or appears distressed) then they should be urged to report this.
- 34.6 The Licensing Authority expects licence-holders and applicants for new licences to be aware of the possibility of child sexual exploitation taking place in or around licensed premises, and to adopt suitable protective measures to assist in the detection and reporting of incidents of this. These may include:
- Inclusion of child sexual exploitation issues within training programs for new and existing staff,
  - Written management procedures for identifying and reporting suspicious behaviour to police,
  - Frequent monitoring of all areas of the premises and immediate vicinity, including external areas, to detect behaviours of the types listed above.

## **35 Film Classification**

- 35.1 Premises which are licensed for the exhibition of films are required by a mandatory licence condition to restrict admission to screenings in accordance with any age recommendation made by a film classification body, or by the Licensing Authority. Where recommendations have been made by both bodies, and the Licensing

Authority has notified licence- holders of this, the Licensing Authority's recommendation will take precedence.

- 35.2 For the purposes of sections 20 and 74 of the Act, the Licensing Authority recognises the British Board of Film Classification (BBFC) as the film classification body and will specify this body within the licences and certificates it issues.
- 35.3 The Licensing Authority views as good practice the inclusion within publicity materials of age-related admission restrictions arising from recommendations made by the BBFC or Licensing Authority. In any event, licence-holders must take appropriate measures to verify the age of persons being admitted to films which are subjected to age restrictions.
- 35.4 Details of the applicable recommendation in respect of a particular film should be exhibited prior to the commencement of that film. In the case of a BBFC recommendation this may be displayed on screen for at least 5 seconds prior to the feature. Details of a Licensing Authority recommendation should be displayed at or near the entrance to the screening.
- 35.5 The Licensing Authority anticipates that the BBFC's recommendations will apply to most films shown at licensed premises within the district. However, in a small number of cases, the Licensing Authority may be called upon to exercise its powers and issue an overriding recommendation, which would only apply to licensed premises within the district. Such situations can be approximately characterised in one of three groups:
- In cases where the Licensing Authority has concerns about a particular film, and has of its own volition made an alternate recommendation. This may allow admission of persons of a higher or lower age than the recommendation made by the BBFC, or in extreme circumstances may prevent the showing of a particular film. This power will be rarely, if ever, utilised.
  - In cases where a film has not been classified by the BBFC. This is likely to be the case with small, local, independent films, or foreign films, where a wider UK release is not intended.
  - In cases where the Licensing Authority is approached by a third party, asking the authority to override a recommendation made by the BBFC.
- 35.6 The third of these groups may include films intended to be shown at 'parent and baby' screenings, which have increased in popularity in recent years. The Act and Guidance are silent on the admission of babies to a film which is subject to an age-related recommendation – therefore on a strict interpretation of the Act, babies must be excluded from such screenings. The Licensing Authority is aware that some cinemas across the country have agreed schemes whereby the applicable Licensing Authority makes an alternate recommendation in respect of a specified film, expressly permitting the admission of babies and young children to special screenings of that film with only parents of such children in attendance.



- 35.7 It is recommended that any premises considering the provision of such screenings contact the Licensing Authority to discuss the proposals first. The authority will typically expect special provisions to be made for such screenings, including higher light levels and reduced sound levels, in order that parents can better ensure the safety of their children.
- 35.8 Issue of recommendations by the authority
- 35.8.1 When exercising powers under section 20 to issue an admission recommendation for a previously-unclassified film, it is proposed that the authority will adhere to the BBFC's Classification Guidelines ([Age ratings and film classification | BBFC](#)), and where possible will issue a recommendation which is in accordance with one of the standard classification bands. This approach is preferred as audiences will be familiar with this particular classification scheme and the meaning of the 'certificates'.
- 35.8.2 In such circumstances, the authority will require the organiser of the exhibition to provide a copy of the film for classification purposes, or to arrange a viewing for representatives of the Licensing Authority.
- 35.9 Alternate recommendations for parent and baby screening.
- 35.9.1 Where the Licensing Authority receives a request to override an existing recommendation made by the BBFC, or has concerns of its own in respect of a particular film, in the first instance the authority shall have regard to the BBFC's original classification decision, and the BBFC Insight record which describes the content of the film that led to the classification decision. If satisfied that the content will not present any issues if viewed by children under 24 months of age, then the authority may agree to issue an alternate recommendation, consistent with the BBFC's original classification but including a specific exemption for accompanied children below 24 months of age, at screenings advertised and restricted to 'parent and baby' only. Issues will be assessed on a film-by-film basis, but it is anticipated that scenes of strong violence and gore, sex and strong threat will lead to greater concern around viewing by children of that age than strong language, mild nudity and discriminatory content will.
- 35.9.2 Where concerns exist based on the BBFC Insight record that a film may not be suitable for viewing by young children below 24 months of age, the authority may request that the cinema facilitates a viewing of the film in question to make a full assessment of this. No alternate recommendation would be issued unless the authority is satisfied that allowing young children below 24 months of age to be admitted will not lead to the child protection licensing objective being undermined.

## **36 Promotion of Quality**

- 36.1 The Licensing Authority recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons of different characteristics. The 2010 Act provides for a number of protected characteristics, as follows:
- Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnership
  - Pregnancy and maternity
  - Race
  - Religion and belief
  - Sex
  - Sexual orientation
- 36.2 The Licensing Authority expects that licensed premises will not discriminate against any person based solely on any of these characteristics – for example, refusing a person entry to a licensed premises based on their race, gender or age unless it is a legal requirement or within their premises policy to not admit persons of a certain age i.e. no under 21s.
- 36.3 The sole exception to this will be where such action is necessary to comply with legal requirements or licence conditions, particularly in respect of ensuring an individual's age in situations where licence-holders must restrict access to age-restricted goods or services to any person who is below the legal age for that good or service – for example, the sale of alcohol to under-18's, or admission of under 15's or under 18's to a film with a '15' or '18' certificate.
- 36.4 The Licensing Authority will also expect members clubs to ensure that their membership rules do not result in discrimination against a person because of a protected characteristic – for example, maintaining different membership classes for persons of different genders.

## **37 Other Considerations**

- 37.1 Licensed premises are subject to many statutory requirements including fire safety, trading standards, food hygiene, health and safety, and planning. These different regulatory systems will be properly separated as described in the Guidance.
- 37.2 In addition, section 17 of the Crime and Disorder Act 1998 requires the Council when exercising its functions to do all it reasonably can to prevent crime and disorder.

- 37.3 By consulting widely prior to this policy statement being published the Licensing Authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies
- 37.4 Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their operating schedule.
- 37.5 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Licensing Authority may, when appropriate, receive reports on:
- The needs of the local tourist economy;
  - The cultural strategy for the area;
  - The employment situation in the area and the need for new investment and employment opportunities where appropriate;
  - Planning considerations which might affect licensed premises.
- 37.6 Live music, dance and theatre
- 37.6.1 The Licensing Authority will monitor the impact of its licensing decisions on the provision of regulated entertainment within the district, and particularly live music, dancing and plays.
- 37.6.2 Many events which consist solely of these activities will now fall outside of licensing requirements, following deregulation.

The Licensing Authority is aware of the Covenant on Economic, Social and Cultural Rights and the requirements of Article 15 of the International Convention on Economic, Social and Cultural Rights<sup>1</sup> which require that progressive measures be taken to ensure that everyone can participate in the cultural life of the community and enjoy the arts. Care will be taken to ensure that only appropriate, proportionate and reasonable licensing conditions are imposed on these events.

- 37.6.3 Account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community of these activities.
- 37.6.4 When attaching conditions the Licensing Authority will generally seek to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature. However, the Licensing Authority notes that on occasion it may have no choice but to impose such requirements in order to safeguard the licensing objectives – for example, requiring the installation of safety equipment to ensure the safety of persons attending an entertainment performance.

## Appendix 1 - Consultation

The consultation on this Statement of Licensing Policy was open to the public and has been widely publicised. Anyone who wanted to make comment was welcome to do so during the 4-week consultation. Below is a list of individuals, organisations and / or representatives directly consulted in the preparation of the Licensing Policy. The list is not exhaustive but gives a good indication of the scope of the consultation exercise.

- The responsible authorities designated under the Licensing Act 2003
- Holders of existing premises licences and club premises certificates issued by the Licensing Authority
- Representatives of residents associations in the area
- Uttlesford Councillors
- Town Councils
- Parish Councils
- Town Centre Management Boards
- Community Voice
- Youth Council
- Essex County Council
- British transport police
- Public transport providers
- Neighbouring Local Authorities
- Licensed Victuallers Association
- Chamber of Commerce
- Local Pubwatch groups
- Essex Environmental Forum
- Essex Local Enterprise Partnership (LEP)
- Federation of Small Businesses
- Solicitors and agents that have previously submitted applications
- Spectrum Drug & Alcohol Services
- Uttlesford Licensed Taxi Trade
- Community Safety Partnership (CSP)
- Safety Advisory Group (SAG)

## Appendix 2 – Glossary of Terms

These definitions are provided to aid understanding of the policy by residents and applicants. They do not replace the meaning given to the terms in the Act or the statutory guidance. Reference should therefore be made to these publications to clarify any of these terms for legal purposes.

Alcohol includes spirits, wine, beer, cider, or any other fermented, distilled, or spirituous liquor of or exceeding 0.5% alcoholic strength at the time of sale.

Club Premises or Qualifying Clubs can supply alcohol to members or guests and can provide regulated entertainment. These clubs must comply with general and specific conditions in relation to size, membership and the nature of their operations.

Designated Premises Supervisor (DPS) is a personal licence holder who is specified on the premises licence so that it can authorise the sale of alcohol. This may be any person with a personal licence.

Guidance means the guidance to Licensing authorities published by the Secretary of state under section 182 of the Licensing Act 2003.

Licensing Authority means Uttlesford Council.

Licensing Committee is a committee of 10 to 15 councillors, appointed by the Council.

Licensing Sub-Committee/Panel is a committee of at least two but usually three councillors, appointed from the licensing committee to whom the functions of the licensing committee can be delegate under the Act.

Personal Licence - permits individuals to supply, or to authorise the supply of alcohol. The licensing of individuals separately from the licensing of premises allows the movement of personal licence holders from one premise to another, allowing greater flexibility. It ends the outdated regime where publicans are tied by licence to the premises they manage.

Regulated Entertainment is entertainment that is provided to the public, or exclusively to members of a qualifying club and their guests, or entertainment provided for profit/personal gain.

Representations are objections or comments, against an application and can be made by responsible authorities (e.g. police) or other persons (e.g. residents). They must be made in writing and will only be relevant if they relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. Representations by other parties will not be relevant if they are considered by the licensing authority to be frivolous (i.e. not serious) or vexatious (i.e. arising out of unrelated disputes).

Temporary Events Notice, used for small-scale events held in or on any premises involving licensable activity and no more than 499 people at any one time (including staff & performers).

“The Act” means the Licensing Act 2003.

## Appendix 3 – Useful Resources

The links below were accurate at the time of publication of the Policy

Age verification

No ID No Sale campaign - [www.noidnosale.org](http://www.noidnosale.org)

Alcohol awareness

Drinkaware - [www.drinkaware.co.uk](http://www.drinkaware.co.uk)

Alcohol promotions

Code of Practice of the Naming, Packaging and Promotion of Alcoholic Drinks (Portman Group) - » [25 Years of Responsible Alcohol Regulation: A Spotlight on 2021 \(portmangroup.org.uk\)](http://portmangroup.org.uk)

Child sexual exploitation

Operation HALO (Essex Police) - [Child sexual exploitation | Essex Police](#)

Say Something If You See Something resources (Essex Safeguarding Children's Board) - [Home \(escb.co.uk\)](http://escb.co.uk)

Counter-terrorism

Protecting Crowded Places from Terrorism (National Counter-Terrorism Security Office) - [www.gov.uk/government/collections/crowded-places](http://www.gov.uk/government/collections/crowded-places)

Crowd safety

Managing Crowds Safely: a guide for organisers at events and venues (HSE Publications) - [Event safety - Crowd management \(hse.gov.uk\)](http://hse.gov.uk)

Film classification

Classification guidelines (British Board of Film Classification) - [Home | BBFC](#)

Fire safety

Fire safety advice documents (Department for Communities and Local Government) - [www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents](http://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents)

Essex Fire & Rescue Service - [Welcome to Essex County Fire & Rescue Service \(essex-fire.gov.uk\)](http://essex-fire.gov.uk)

## Modern Slavery

The Modern Slavery Helpline (0800 0121 700) can provide support to anyone who has a suspicion and would like some guidance on next steps, 24 hours a day.

Blueprint training ([You searched for blue print - Shiva Foundation](#))

Indicator list (<http://www.shivafoundation.org.uk/>)

Example policies ([Policy Archives - Shiva Foundation](#))

## Noise control

Guidelines on Community Noise (World Health Organisation) - [Guidelines for community noise \(who.int\)](#) Effective Management of Noise from Licensed Premises (British Beer and Pub Association) – [Home | BBPA \(beerandpub.com\)](#)

Code of Practice on Environmental Noise Control at Concerts (Noise Council) – [www.cieh.org](http://www.cieh.org)

## Outdoor events

The Purple Guide to Health, Safety and Welfare at music and other events - [www.thepurpleguide.co.uk](http://www.thepurpleguide.co.uk) (subscription required)

The 'Can Do' guide to Organising a Voluntary Event (Cabinet Office) - [www.gov.uk/government/publications/can-do-guide-for-organisers-of-voluntary-events](http://www.gov.uk/government/publications/can-do-guide-for-organisers-of-voluntary-events)

Uttlesford Safety Advisory Group (SAG) - [Health and safety Uttlesford District Council](#)

**Revised guidance issued under section 182 of the Licensing Act 2003 v Dec 2022** – [Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](#)

## Security and CCTV

**Security Industry Authority website** - [www.sia.homeoffice.gov.uk](http://www.sia.homeoffice.gov.uk)

**Surveillance Camera Code of Practice (Surveillance Camera Commissioner)** - [www.gov.uk/government/publications/surveillance-camera-code-of-practice](http://www.gov.uk/government/publications/surveillance-camera-code-of-practice)

## Appendix 4 – Contact Details

### Licensing

Uttlesford Council  
London Road  
Saffron Walden  
Essex CB11 4ER

Phone: 01799 510510

Emails:

(General enquiry): [licensing@uttlesford.gov.uk](mailto:licensing@uttlesford.gov.uk)

(Complaint): [licensingenforcement@uttlesford.gov.uk](mailto:licensingenforcement@uttlesford.gov.uk)

Website: [www.uttlesford.gov.uk/licensing](http://www.uttlesford.gov.uk/licensing)

Most applications can be made online by following the links from the above page.

Please note that, due to the complexity of the legislation that governs these activities, we can only give basic advice about which activities do and do not require authorisation, and about application processes.

If you are unsure as to the legality of a particular activity, or require more detailed information or advice than we are able to offer, we recommend that you consult an independent specialist advisor or a legal representative.

**Responsible authority contact details:**

[Licensing Act 2003 statutory consultees - Uttlesford District Council](#)



# Appendix 5 – General

## General – all four licensing objectives

This section provides guidance on good practice for the general promotion of all four licensing objectives at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the general promotion of the licensing objectives after a licence has been granted.

Licensees and their staff have responsibility for the effective and safe management of their premises and the promotion of the four licensing objectives. Training is the key to giving licence holders, premises managers and staff the knowledge and skills to deal with and manage risks associated with licensed premises. Training should be provided to all staff and should be about both preventing and managing problems occurring at premises. Training should be regularly updated.

Risk		Good Practice Measure
<p><b>Lack of knowledge or understanding of the Licensing Act 2003</b></p>	<p><b>G1</b></p>	<p>(a) Well trained staff will contribute to well-run premises and a responsible approach to the sale of alcohol, provision of entertainment and late night refreshment. Formal qualifications for your staff, either to personal licence level or to another appropriate standard recognised by bodies such as the British Institute of Innkeepers (BII) would be preferential.</p> <p>(b) All staff should be advised of licensing law in writing before they are allowed to serve alcohol.</p> <p>(c) Training should also be provided on premises' specific policies relevant to the operation of the business.</p> <p>(d) A record should be kept of the date and name of person trained or advised and be made available for inspection by the police or licensing authority.</p>

## Prevention of crime and disorder

This section provides guidance on good practice for the prevention of crime and disorder from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of crime and disorder from their premises after a licence has been granted.

The main causes of crime and disorder in licensed premises arise from inadequate security provisions, poor design and layout, the type of event being promoted, overcrowding and customers being drunk or under the influence of drugs. This can result in theft, conflict, violence and anti-social behaviour. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing crime and disorder from their premises.

All applications for new licences and variations should address the steps proposed to prevent crime and disorder and this is best achieved through a premises risk

assessment. Alcohol can be a significant contributory factor to levels of crime and disorder in an area. Good management and good practice along with adequate physical controls can make a significant difference to the level of alcohol related crime at premises. Such measures should be reflected in the operating schedule.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to minimise the potential for crime and disorder.

Licence holders should have clearly documented policies and procedures in place which identify all crime and disorder risks associated with their premises and the measures implemented to prevent, manage and respond to those risks.

Risk		Good Practice Measure
<p><b>Security in and around the premises</b></p>	<p><b>CD1</b></p>	<p>(a) <b>An alarm or other security measure</b> should be installed at the premises to protect it when closed or empty.</p> <p>(b) Emergency exits should be alarmed when the premises are open to the public so that staff are immediately notified of unauthorised opening or tampering.</p> <p>(c) Any staff or private areas and cellars should be kept locked and secured whilst the premises are open to the public.</p>
	<p><b>CD2</b></p>	<p>(a) <b>CCTV</b> should be installed inside and outside the premises. The cameras should cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system must be correct.</p> <p>(b) The recordings should be in real time and on hard drive with the availability to copy disks for other agencies such as the police.</p> <p>(c) For analogue systems, tapes should be changed daily and used no more than 12 times.</p> <p>(d) Recordings should be kept for a minimum period of 28 days.</p> <p>(e) Staff should be trained in the maintenance and operation of such systems with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p> <p>(f) A trained member of staff should be on duty to operate the system whenever the premises are open.</p>

	<b>CD3</b>	<b>External lighting</b> provides an obvious means of crime deterrence. Care should be taken so that lighting does not impact on neighbours.
	<b>CD4</b>	(a) <b>Security systems should be integrated</b> so that the alarm, CCTV and lighting work together in an effective manner.  (b) The alarm should be linked to a system that will notify the police if it is activated.
	<b>CD5</b>	(a) <b>Door staff and / or stewards</b> should be employed at the venue supervise admissions and customers inside the venue.  (b) Any person performing the role of a door supervisor must be licensed with the Security Industry Authority (SIA) and SIA badges must be clearly displayed whilst working.  (c) Door staff should be easily identifiable by wearing a uniform, high visibility jackets or arm bands.
		(d) Door staff should sign into a register detailing their full SIA licence number, their name, contact details and the time and date their duty commenced and concluded.  (e) Stewards and other staff at the premises should also be easily identifiable. Stewards must not be used for supervision of the door.
	<b>CD6</b>	(a) <b>Effective security policies</b> , based on risk assessments, can protect your premises, staff and customers from threats, conflict or violence.  (b) Security policies should be formulated in consultation with a police crime prevention officer.  (c) All staff must be aware of a premises security policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.  (d) Premises should be searched inside and out for suspect packages before, during and after opening hours. Staff should be trained to remain vigilant during opening hours and report any suspicious activity to the police.
	<b>CD7</b>	<b>Security reviews</b> should be held regularly and at least every three months with minutes kept.

	<b>CD8</b>	<p>(a) <b>Daily staff briefing and debriefing</b> will enable licensees to improve working practices in their premises.</p> <p>(b) Briefings can be informal but any problems identified and remedial action taken should be recorded with records kept in the main office.</p>
<b>Crime and disorder in and around the premises</b>	<b>CD9</b>	<p>(a) <b>Promoted events</b> may attract larger than usual crowds.</p> <p>(b) Such events must have a comprehensive risk assessment undertaken by the licence holder and submitted to the Uttlesford District Council.</p> <p>(c) It is expected that promoters should have obtained the BIIAB level 2 for large scale music events for over 1500 people.</p> <p>(d) If a problem should arise during a promoted event, this should be documented by the licence holder and it is expected that a written debrief will be provided to the Uttlesford District Council licensing officer and the police licensing officer within 48 hours of the event.</p>
<b>Crime including conflict, violence or</b>	<b>CD10</b>	<p>(a) <b>Proper management of the door</b> will depend on the size and type of venue. The number of door supervisors should be determined by a risk assessment considering the size of venue and the type of crowd the entertainment is likely to</p>

<b>aggression in and around the premises</b>		<p>attract, but at the very least on a ratio of 1 door supervisor per 50 customers.</p> <p>(b) Consideration should be given to a sufficient provision of male and female door supervisors, but at least one female door supervisor should be used.</p>
	<b>CD11</b>	<p><b>A door admissions policy</b> including any age restrictions, expected dress standards or the screening of handbags should be widely publicised on any promotional material or website and clearly displayed at the entrance to the premises.</p>
	<b>CD12</b>	<p>(a) <b>Ejecting or refusing entry to persons</b> from the premises if they do not meet your admissions standards or they are known to be violent or aggressive.</p> <p>(b) In such cases, an entry should be made in an incident or logbook.</p> <p>(c) Identification scanners should be considered if this would aide</p> <p>(i) swift entry procedures and (ii) identify customers with a</p>

		history of problems at other venues.
	<b>CD13</b>	<p>(a) <b>A policy to manage capacity</b> should be adopted to prevent overcrowding and patrons possibly becoming aggressive through accidental jostling.</p> <p>(b) For promoted events and large venues, the use of clickers is essential to record the number of patrons inside the premises.</p> <p>(c) For other events or smaller venues, ticket sales or head counts may be appropriate.</p> <p>(d) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons and avoid conflict, violence or aggression within the premises.</p> <p>(e) Where a premises holds a special event which is expected to attract a greater than usual number of patrons more than 1500 people, the premises licence holder will be expected to notify the Council's licensing officer and the police licensing officer licensing team at least 14 days in advance of the event.</p>
	<b>CD14</b>	<p>(a) <b>Alternatives to glass drinking vessels</b> should be considered to prevent glassware being used as an assault weapon, particularly during promoted events.</p> <p>(b) Drinking vessels made from plastic or polycarbonate would be preferential particularly in outside areas.</p> <p>(c) Where alternatives are not used, there should be a robust glass collection policy in place. This should include regular collection of glassware by staff and prevention of glassware being removed from the premises.</p>
	<b>CD15</b>	<p>(a) <b>Measures to preserve a crime scene</b> until police arrival, following the outbreak of disorder or any other crime should be clearly documented in a policy.</p> <p>(b) Such a policy should be formulated in consultation with a police crime prevention officer.</p> <p>(c) All staff must receive training on the policy with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>

	<b>CD16</b>	<p>(a) <b>Staff training</b> in conflict management should be provided to give them the knowledge and confidence to deal with demanding situations and reduce crime and disorder at the premises.</p> <p>(b) Training should also cover dealing with, logging and reporting incidents if they occur.</p> <p>(c) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<b>CD17</b>	<p><b>Sharing of information</b> with others in the industry. Regular meetings, the use of local radio networks or membership of a local pub / club watch scheme will enable information to be passed on about troublemakers and common problems in the area.</p>
<b>Drugs and weapons being brought into the premises</b>	<b>CD18</b>	<p>(a) <b>A zero-tolerance policy</b> to the use of drugs, including 'legal highs' and carrying of weapons in the premises should be adopted with a clear "<i>No search. No entry</i>" message.</p> <p>(b) Posters can be displayed throughout the premises to remind customers of zero tolerance policy.</p>
	<b>CD19</b>	<p>(a) <b>Effective search policies</b> will minimise the opportunity for drugs and weapons to be brought into licensed premises and lead to drug and weapon seizure if attempts are made.</p> <p>(b) The use of search arches and wands may be appropriate in some cases.</p> <p>(c) Search policies should be formulated in consultation with the police licensing officer.</p> <p>(d) Search policies must be advertised widely on tickets, promotional leaflets and on websites and prominently in the premises entrance and queuing area.</p> <p>(e) Searches should always be carried out in public areas and covered by CCTV.</p> <p>(f) All staff must be trained on search policies with a record kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>

	<b>CD20</b>	<b>Calling the police</b> if customers are suspected of being in possession of drugs or weapons. All staff must be made aware of this requirement.
	<b>CD21</b>	(a) <b>Seizing, retaining and documenting</b> any drugs or weapons found with a clear audit trail and a process for surrendering them to the police.  (b) A search policy should clearly set out procedures that must be followed by staff should they find drugs or weapons during a search including circumstances when the police should be called; the use of tamper proof bags and safe storage of seized items in a lockable box; details that need to be recorded and how / when seized items should be surrendered to the police.
	<b>CD22</b>	(a) <b>Supervising toilet areas</b> can be effective in discouraging drug selling or use.  (b) A toilet attendant may be appropriate for promoted events or on busy nights such as Friday and Saturday.  (c) Regular toilet checks such as swabbing should be considered and where conducted, these should be documented with date, time and finding recorded.  (d) Removal of flat surfaces in toilet areas can reduce the likelihood of drug misuse.
	<b>CD23</b>	<b>Drug awareness training</b> should be provided for all staff. A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.
<b>Theft from premises or lost property</b>	<b>CD24</b>	<b>Bag hooks (Chelsea clips) and bag bells</b> should be provided to prevent bag snatching.
	<b>CD25</b>	<b>Clear signage</b> should be displayed throughout the premises about crime prevention and to warn customers of the potential for pickpockets and bag / laptop snatchers.
	<b>CD26</b>	<b>Property patrols, managed cloakrooms</b> and toilet attendants can be employed to prevent theft from patrons or the premises.
	<b>CD27</b>	<b>Premises layout and lighting</b> should be considered. Secluded or dimly lit parts of the premises should be avoided as they can encourage crime.

	<b>CD28</b>	<b>Mirrors</b> used throughout the premises can aid supervision and act as deterrents to thieves.
	<b>CD29</b>	<b>A lost and found policy</b> should be in place in relation to lost / found property at the premises. The policy should include procedures regarding the logging and disposal of property and in particular any valuable property. Passports and any other ID found should be handed in to any police station.
	<b>CD30</b>	(a) <b>Carefully positioning alcohol</b> in retail premises can reduce theft from the premises. Alcohol is a key target for shop thieves so it is best not to place alcoholic beverages within the first few metres near the door as this allows thieves to 'grab and run'.  (b) It may be helpful for alcohol display areas to be covered by CCTV if possible.
	<b>CD31</b>	<b>Security tagging</b> any items considered a specific target for theft, particularly alcoholic drinks over a certain price level will deter thieves.
<b>Disorder from customers queuing to enter the premises or when leaving the premises</b>	<b>CD32</b>	(a) <b>Reduce the potential for excessive queue lines</b> with a well-managed and efficient door policy. Long queuing times can cause people to become agitated or aggressive. Searches should therefore be conducted as quickly and effectively as possible.  (b) Door staff will be required to refuse entry to premises to customers who do wait outside premises in a quiet and orderly fashion.
	<b>CD33</b>	(a) <b>A customer dispersal policy</b> can minimise the potential for disorder from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening such as a gradual change in music style and increasing lighting levels.  (b) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.
	<b>CD34</b>	(a) <b>Staff training</b> in preventing disorder should be provided to give them the knowledge and confidence to deal with demanding situations.  (b) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or Licensing Authority



<p><b>Customers getting drunk and dealing with drunken customers</b></p>	<p><b>CD35</b></p>	<p>(a) <b>Drinks promotions</b> should be socially responsible and not encourage excessive drinking.</p> <p>(b) A documented policy on responsible drinks promotions should be in place at the premises and should adhere to industry codes such as those recommended by the British Beer and Pub Association (BBPA) and The Portman Group. This is in addition to adherence with the mandatory licensing condition regarding irresponsible promotions.</p> <p>(c) Any drinks promotion should market the availability of soft drinks.</p>
	<p><b>CD36</b></p>	<p>(a) <b>Staff training</b> on the effects of alcohol and how to spot early signs of customers becoming drunk should be provided to give them the knowledge and confidence to deal with drunken patrons.</p> <p>(b) Staff should be aware of their responsibilities under the Licensing Act 2003 and be able to recognise appropriate 'cut off' points for serving drunken customers, to reduce the likelihood of fights or aggressive behaviour.</p> <p>(c) When staff are collecting glasses, they can interact with customers and assess the levels of drunkenness. Any concerns should be reported back to a manager.</p> <p>(d) A record should be kept of the date and name of person trained. Records should be made available for inspection by the police or licensing authority.</p>
	<p><b>CD37</b></p>	<p><b>A duty of care policy</b> regarding persons suffering adversely from the effects of drink should be in place at the premises. The policy should clearly express that every effort will be made by staff to prevent patrons from deteriorating to an uncontrolled intoxicated extent. All staff must be briefed on the policy.</p>
	<p><b>CD38</b></p>	<p><b>Drink-aware posters</b> can be displayed in the premises to remind customers of the unit content in alcoholic drinks and the safe alcohol consumption limits.</p>
<p><b>Consumption of alcohol on the street and street drinkers</b></p>	<p><b>CD39</b></p>	<p><b>Restrict the sale</b> of strong beer and cider above 5.5% ABV (alcohol by volume) and the sale of single cans or bottles of beer and cider. Such sales can contribute to anti-social behaviour and disorder through the consumption of alcohol on the street and in open spaces by street drinkers or persons who are already drunk.</p>

<b>Sale of alcohol outside permitted hours</b>	<b>CD40</b>	<b>Lockable shutters</b> can be fitted on display units for alcohol in retail premises, which can be closed and locked at the end of permitted hours.
<b>Tackling sexual harassment and discrimination</b>	<b>CD41</b>	<b>Staff and SIA operatives training</b> in a zero-tolerance policy to sexual harassment and discrimination to deal with: (a) unwelcome sexual gestures and sexual innuendos confidence to deal with drunken patrons. (b) groping, pinching or smacking someone's body without consent (c) exposing sexual organs to someone (d) entering the opposite sexes toilet derogatory comments or gestures based on someone's age, gender, race orientation or ability.
<b>Reporting criminal offences</b>	<b>CD42</b>	<b>Premises licence holders are requested to report all criminal allegations to the police</b> , eg theft, drug possession, fraudulent documentation. It is then a matter for the police as to what is the appropriate action to take.

## Public Safety

This section provides guidance on good practice for the promotion of public safety at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the promotion and management of public safety at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks to the safety of the public (including performers) attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing public safety at their premises.

All applications for new licences and variations should address the steps proposed to promote public safety and this is best achieved through a premises risk assessment.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the design and layout of the premises to achieve the highest possible standard of safety.

Licence holders should have clearly documented policies and procedures in place which identify all public safety risks associated with their premises and measures implemented to prevent, manage and respond to those risks.

Risk		Good Practice Measure
<b>General safety of staff and customers</b>	<b>PS1</b>	<p>(a) <b>A full risk assessment</b> considering public safety should be carried out at the premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards. A risk assessment should be regularly reviewed, at least once every 12 months.</p> <p>(b) All staff should be made aware of the risk assessment and precautionary measures therein.</p> <p>(c) A copy of the risk assessment should be kept at the premises and made available for inspection.</p>
	<b>PS2</b>	<b>First aid boxes</b> should be available at the premises and maintained with sufficient in-date stock.

	<b>PS3</b>	<p>(a) <b>A recognised qualification in first aid</b> should be held by at least one member of staff who should be always on duty at all times the premises licence is in use.</p> <p>(b) Other staff should be trained to a basic first aid standard with records kept of the date and name of person trained.</p>
	<b>PS4</b>	<b>A first aid room</b> or quiet room should be made available to anyone requiring medical attention.
	<b>PS5</b>	<b>Temperature levels</b> and humidity in venues should be controlled for the comfort and safety of customers. An environment that is too hot or too cold can make customers irritable. Premises should be adequately heated and ventilated to avoid this. This can be achieved through use of air conditioning systems or natural ventilation in non-residential areas. Before installation, please check with the Council's Planning Department for advice as to whether this is permissible.
<b>Overcrowding</b>	<b>PS6</b>	<b>A documented capacity</b> should be set for the premises overall and for individual rooms within the premises. Capacity can be determined by a risk assessment in consultation with the fire safety authority. The risk assessment should consider factors such as floor space, numbers of toilets, potential queuing time and available fire exits.
	<b>PS7</b>	<p>(a) <b>A policy to manage the capacity</b> should be adopted to prevent overcrowding and localised overcrowding.</p> <p>(b) The use of electronic clocking systems, clickers, ticket sales or head counts may be appropriate.</p> <p>(c) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons.</p>

<b>Accumulation and disposal of glasses / drinking vessels</b>	<b>PS8</b>	<p>(a) <b>A glass collection policy</b> should include provisions for regular collection of glassware by staff and the prevention of glassware from being taken into external areas. Glassware should not be allowed to accumulate or cause obstruction.</p> <p>(b) Perimeter checks should be made outside the premises for any glasses or bottles.</p> <p>(c) All staff must be made aware of the glass collection policy and their responsibility for the task.</p>
	<b>PS9</b>	<b>Spillages and broken glass</b> should be cleaned up immediately to prevent floors from becoming slippery and unsafe.
	<b>PS10</b>	<b>Bottle bins</b> should be secure at all times and away from public areas.
<b>Accident or other emergency incident on the premises</b>	<b>PS11</b>	<p>(a) <b>A written policy</b> to deal with all types of accidents and emergency incidents should be in place at the premises.</p> <p>(b) The policy should be based on risk assessments and include matters such as emergency management, contingency planning and evacuation procedures in the event of fire, bomb threats or suspect packages and when to contact emergency services.</p> <p>(c) Evacuation responsibilities and roles should be clearly communicated to staff, routes and exits should be well defined and evacuation plans exercised regularly.</p> <p>(d) A copy of the fire risk assessment should be kept at the premises and made available for inspection by the fire authority and licensing authority.</p>
	<b>PS12</b>	<b>A fire detection system</b> should be in place at the premises and should be fully functional at all times. The system should be tested regularly with records kept and made available for inspection.
	<b>PS13</b>	<p>(a) <b>Means of escape</b> in case of any emergency must be clearly visible, unobstructed and well-maintained including areas outside exits leading to a place of ultimate safety such as the street.</p> <p>(b) Checks should be carried out before opening each day to ensure that exits are unlocked and unobstructed.</p>
	<b>PS14</b>	<b>Equipment should be checked and maintained</b> regularly with a record kept of the date and findings of the checks.

	<b>PS15</b>	(a) <b>Staff training in fire safety</b> and any premises safety policy should be provided for all staff to give them the knowledge and confidence to deal with emergency situations, including location of equipment, utilities, services and layout of premises. Training should include how to use fire extinguishers. (b) Records should be kept of the date and name of person trained and made available for inspection.
	<b>PS16</b>	<b>An accident book</b> should be kept to record all accidents or incidents and made available for inspection.
<b>Drug use or drink spiking</b>	<b>PS17</b>	(a) <b>A zero-tolerance policy</b> to the use of drugs in the premises should be adopted. (b) Posters can be displayed throughout the premises to remind customers of the zero-tolerance policy.
	<b>PS18</b>	<b>Refusing entry</b> to anyone who is showing signs of drug use and contacting the emergency services in appropriate circumstances. In such cases, an entry should be made in an incident log-book.
	<b>PS19</b>	(a) <b>A duty of care policy</b> regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide medical attention where necessary. (b) All staff must be briefed on the policy. A record should be kept of the date and name of person trained.
	<b>PS20</b>	(a) <b>Prevent the possibility of drink spiking</b> by offering various anti-drink spiking products to customers. (b) If a customer suspects that their drink has been spiked, you should report it to the police immediately. A process for this should be clearly set out in your duty of care policy.
	<b>PS21</b>	<b>A 'chill out' area</b> should be provided. This should be cooler and quieter than rest of venue.
<b>Smoking on the premises</b>	<b>PS22</b>	<b>Staff should be aware</b> of their responsibilities regarding smoke-free legislation and for monitoring compliance.
<b>Safety of customers when leaving the premises</b>	<b>PS23</b>	<b>Discourage drink driving</b> by promoting schemes such as designated driver, with notices clearly displayed throughout the premises.

	<b>PS24</b>	(a) <b>Display information</b> to customers with regards to safe options for travelling home. Information should include access to licensed taxi cabs or licensed private hire vehicles, the location of taxi ranks and public transport facilities including night bus options. (b) Provide a free taxi phone service and a safe waiting area for customers inside the premises.
	<b>PS25</b>	(a) A <b>'chill out' period at the end of an evening</b> can allow a slow dispersal from the premises allowing door staff to gain a handle on problem individuals, preventing arguing over taxis or congregation at takeaways and clashes with groups from other venues. (b) Provision of food and non-alcoholic drinks during a chill out period can be effective in allowing customers to sober up before leaving the premises.
	<b>PS26</b>	(a) <b>Increased lighting</b> inside the premises should be considered towards the end of an evening to affect the alertness of customers before they leave the premises. (b) <b>Increased external lighting</b> particularly in car parks under the direct control of the licence holder will provide added safety for customers as they leave the premises. Care should be taken so that lighting does not impact on neighbours, particularly in and close to established residential areas.

## Prevention of public nuisance

This section provides guidance on good practice for the prevention and management of public nuisance from licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the prevention and management of noise and other public nuisance issues from their premises after a licence has been granted.

Excessive noise and nuisance from licensed premises is a major concern for persons living or working in the area. It is therefore recommended that applicants and licensees take a proactive approach to preventing and managing public nuisance from their premises.

All applications for new licences and variations should address the steps proposed to prevent public nuisance. Where entertainment or other potentially noisy activity is planned, a noise assessment should be carried out. For some premises, the assessment will need to be carried out by a suitably qualified consultant.

For new premises or the refurbishment of existing premises, preventative measures should be factored in during the planning and design stage. Consideration should be given to the structure and layout of the premises and equipment both internally and externally, to ensure that the premises are fit for purpose. Sound attenuation measures can include wall linings, acoustic curtains and acoustic treatment to mechanical ventilation or air conditioning systems. Consideration should also be given to historical noise problems at the premises with measures put in place to prevent them from recurring.

Licence holders should have clearly documented policies and procedures in place which identify all public nuisance risks associated with their premises and measures implemented to prevent, manage and respond to those risks. Licence holders should also engage with local residents and businesses on a regular basis to ensure that they are being good neighbours and dealing with problems as they arise.

Risk		Good Practice Measure
<p><b>Music, singing and speech noise breakout from the premises</b></p>	<p><b>PN1</b></p>	<p>(a) <b>A noise management policy</b> should be in place that sets out sound attenuation measures to prevent or control music, singing and speech noise breakout from the premises.</p> <p>(b) The policy should be based on the findings of an acoustic consultant's assessment.</p> <p>(c) All staff should be trained on the content of the policy to ensure a commitment to good noise management. A record should be kept of the date and name of person trained and made available for inspection by the licensing authority or environmental health responsible authority.</p> <p>(d) DJs, event promoters or other entertainment providers should be made aware of the policy in advance of any performance.</p>
	<p><b>PN2</b></p>	<p>(a) <b>Windows and doors should be kept closed</b> whilst the premises licence is in use to prevent noise breakout. Ventilation should be provided by mechanical means.</p> <p>(b) Windows should be sound insulated.</p> <p>(c) Emergency exits should be sealed acoustic doors.</p> <p>(d) A lobbied area should be provided at the entrance and exit to the premises.</p> <p>(e) Doors should be fitted with self-closing devices.</p>
	<p><b>PN3</b></p>	<p>(a) <b>A sound limiting device</b> should be installed, set and sealed at a level approved by an acoustic consultant.</p> <p>(b) The sound limiting device should be used at all times that relevant regulated entertainment is taking place, including all externally promoted events.</p> <p>(c) Only the premises licence holder or a nominated deputy and the designated premises supervisor should have access to the sound limiting device.</p>

	<b>PN4</b>	<p>(a) <b>Locate entertainment facilities</b> such as DJ booth, stage and loudspeakers away from doors and windows.</p> <p>(b) Rubber speaker mounts can be used to minimise structure borne noise.</p>
	<b>PN5</b>	<p>(a) <b>Methods for monitoring noise</b> should be included in a noise policy. Methods could range from simple perimeter checks and listening tests by the licence holder / staff to a detailed measurement taken by a qualified consultant using sound measuring equipment.</p> <p>(b) Noise monitoring should actively be carried out on a regular basis and when a new form of entertainment is introduced at the premises, when alterations are made to the premises or when a complaint is made directly to the venue.</p>
	<b>PN6</b>	<p>(a) <b>A logbook</b> should be kept of any noise monitoring carried, the findings and any remedial action taken. The log should indicate whether it was routine noise monitoring or the result of a complaint.</p> <p>(b) The logbook should be made available for inspection by the licensing authority or environmental health responsible authority.</p>
	<b>PN7</b>	<b>A contact telephone number</b> should be made available to local residents and businesses which they can use to report noise disturbances to a responsible person at the venue as and when they occur. The telephone line should be available at all times the licence is in use.

<b>Noise and nuisance from customers arriving and leaving the premises</b>	<b>PN8</b>	<p>(a) <b>Reduce the potential for excessive queue lines</b> with a well-managed and efficient door policy.</p> <p>(b) Long queues should be avoided and any queues should be directed away from residential properties.</p> <p>(c) Queues should be actively managed by door staff, especially later in the evening, to keep noise to a minimum. Rowdy behaviour from people queuing to get in should not be tolerated.</p> <p>(d) Door staff should refuse entry to anyone behaving in an anti- social way.</p> <p>(e) Restrict admittance or re-admittance to the premises after 23:00.</p>
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	<b>PN9</b>	<p>(a) <b>A customer dispersal policy</b> can minimise noise disturbance to local residents from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening.</p> <p>(b) A gradual change in music style and reduction in volume, for example quiet or mellow music towards the end of an evening and increasing lighting levels can help to reduce the potential for rowdy behaviour.</p> <p>(c) Sufficient staff should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.</p>
	<b>PN10</b>	<p>(a) <b>Display prominent notices</b> close to the exit doors, requesting patrons to leave the premises quickly and quietly.</p> <p>(b) Display notices in car parks reminding patrons that they are in a residential area and to leave quickly and quietly and not to slam doors, rev engines, sound horns or play loud music.</p> <p>(c) Make announcements at the end of an evening, requesting patrons to (i) leave the premises and area quickly and quietly; (ii) to use toilet facilities before leaving.</p>
	<b>PN11</b>	<p>(a) <b>Provide a free taxi phone service and an internal waiting area</b> for customers to prevent noise disturbance to neighbours.</p> <p>(b) Steps should be taken to ensure that any taxi operators used and all their drivers are aware that they should arrive and depart as quietly as possible and should not sound their horns or leave engines idling unnecessarily.</p>
<b>Noise and nuisance from customers using external areas such as beer gardens or forecourts</b>	<b>PN12</b>	<b>Display prominent signs</b> in external areas such as beer gardens and forecourts asking customers to keep noise to a minimum.

	<b>PN13</b>	<b>Restrict the use of external areas</b> after 22:00 if premises are in a residential area.
	<b>PN14</b>	<p>(a) <b>Door supervisors or staff</b> should regularly monitor and manage external areas to ensure that customers are not causing a disturbance to local residents.</p> <p>(b) For private forecourts, a physical barrier such as a rope should be used to mark the boundary of the area outside the premises where customers are allowed.</p> <p>(c) Limit the number of smokers permitted outside at any one time after a certain time.</p> <p>(d) Discourage smokers from loitering outside by not permitting them to take their drinks with them and removing external furniture after a certain time.</p> <p>(e) Locate smoking areas away from residential premises.</p> <p>(f) Do not permit customers to congregate on and block the public highway to passersby.</p>
<b>Noise from staff and entertainment providers leaving the premises</b>	<b>PN15</b>	<b>Staff and performers</b> who depart late at night or in the early hours on the morning when the business has ceased trading, should conduct themselves in such a manner as to avoid causing disturbance to nearby residents. This includes the loading and unloading of artists' equipment.
<b>Noise and disturbance caused by deliveries, collections and waste disposal</b>	<b>PN16</b>	<b>Commercial deliveries, collections and storage / disposal of waste</b> , including beer deliveries, refuse collections and storage / disposal of waste and recyclables in external areas should be restricted to normal working hours between 08:00 and 18:00 Monday to Friday.
<b>Litter and waste around the premises</b>	<b>PN17</b>	<p>(a) <b>Flyers should not be distributed outside the premises</b> by the licence holder or any staff employed by the licence holder.</p> <p>(b) Licence holders should ensure that promoters of events at their premises do not distribute flyers outside the premises.</p>
	<b>PN18</b>	(a) <b>Procedures should be in place</b> for the prompt collection of street litter generated by the premises for example flyers,

		<p>cigarette butts or food wrappers.</p> <p>(b) Regular patrols of the area outside the premises should be undertaken by staff to clear any litter attributable to the premises.</p> <p>(c) Use wall or floor mounted cigarette bins in designated smoking areas for customers.</p>
<b>Disturbance from external lighting</b>	<b>PN19</b>	<b>External lighting</b> for the premises should be turned off after the premises are closed to the public.
<b>Noise or odours from plant and machinery</b>	<b>PN20</b>	<b>Plant and machinery should not cause nuisance</b> to local residents by way of noise, odours or vibration. Acoustic measures such as screening, enclosures, anti-vibration mounts, silencers or timing clocks should be used if necessary.

### Protection of children from harm

This section provides guidance on good practice for the protection of children from harm at licensed premises. It is intended to help those applying for new licences or variations to existing licences in completing their operating schedules. It is also designed to guide licensees on the protection and management of children from harm at their premises after a licence has been granted.

The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks of harm to children attending licensed premises. It is therefore recommended that applicants and licensees take a proactive approach to protecting and managing the well-being of children at their premises.

All applications for new licences and variations should address the steps proposed to protect children from harm and this is best achieved through a premises risk assessment.

Licence holders should have clearly documented policies and procedures in place which identify all age restricted risks at their premises and measures implemented to prevent, manage and respond to those risks.

<b>Risk</b>		<b>Good Practice Measure</b>
<b>Children accessing licensed premises</b>	<b>CH1</b>	<p>(a) <b>A documented policy</b> setting out measures to protect children from harm should be in place at the premises. The policy should consider all activities associated with the premises including the sale of alcohol and the provision of regulated entertainment and when children should be allowed on or restricted from the premises.</p> <p>(b) All staff including door staff and bar staff should be trained on the policy.</p>

	<b>CH2</b>	<p>(a) <b>Restrict access to children</b> depending on the nature of the business and / or circumstances.</p> <p>(b) The admission of children can be restricted up until a specified time in the evening.</p> <p>(c) The admittance of children can only be permitted if they are accompanied by an adult.</p>
<b>Underage sales of alcohol</b>	<b>CH3</b>	<p>(a) <b>Operate a strict 'No ID, No Sale' policy. 'Challenge 25' scheme</b> serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.</p> <p>(b) A 'Challenge 25' scheme gives staff additional support and encouragement to ask for ID from any person appearing to be under 25 years of age to prove that they are over 18.</p> <p>(c) Only accept photographic driving licences, passports or PASS (Proof of Age Standards Scheme) cards approved as means of ID. If you accept other forms of ID such as EU National ID cards, these must bear a photograph, date of birth and holographic mark.</p> <p>(d) Use till prompts to remind staff to ask for proof of age.</p> <p>(e) Prominently advertise the scheme in your premises so that customers are aware, in particular, display proof of age signs at the point of sale.</p>
	<b>CH4</b>	<b>Display posters at the premises</b> stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales).
	<b>CH5</b>	<b>Adverts or promotions for alcohol should not</b> appeal to young persons.
	<b>CH6</b>	<p>(a) <b>Keep a refusals book</b> (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.</p> <p>(b) The book should contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused.</p> <p>(c) The book should be made available to police and authorised council officers on request.</p>

		(d) The book should be reviewed on a regular basis to see if any patterns emerge.
	<b>CH7</b>	(a) <b>Staff training</b> in the age-related sections of the Licensing Act 2003 should be provided to all door, bar and till staff. This includes the ability to competently check customers' identification where necessary.  (b) A record should be kept of the date and name of person trained.
<b>Access to age restricted films</b>	<b>CH8</b>	(a) <b>Adequate provisions for restricting children</b> from viewing age restricted films should be in place at the premises.  (b) Staff should be trained to check ages at point of sale and prior to entry to a screening room to ensure that admission of children to films is in accordance with the recommendations of the British Board of Film Classifications (BBFC).
<b>Access to age restricted gaming machines</b>	<b>CH9</b>	<b>Age restricted gaming or vending machines</b> should have suitable signage setting out the age restrictions and should be in full view of staff for monitoring.
<b>Access to entertainment of an adult nature</b>	<b>CH10</b>	<b>Children under the age of 18 should be excluded</b> from the premises or part of the premises when specified activities such as adult entertainment are taking place.
	<b>CH11</b>	<b>Adverts for entertainment of an adult nature should not be displayed externally</b> on the premises or in any part of the premises internally where they can be seen by young people.

## Appendix 6 – Exercise and Delegation of Functions

All decisions on decisions on licensing matters under the 2003 Act, except for the approval and review of the statement of licensing policy will be taken in accordance with the following scheme of delegation aimed at underlining the principles of timely efficient and effective decision making.

### Delegation of Functions

Matter to be dealt with	Licensing Committee	Licensing Sub-Committee	Officer
Application for personal licence with no unspent relevant convictions			All cases
Application for personal licence with unspent relevant convictions		If a police objection	If no police objection
Application for premises licence / club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence / club premises certificate		If a relevant representation made	If no relevant 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 authority		If a police objection	All other cases
Application to review premises licence / club premises certificate		All cases	

Decision on whether a complaint is irrelevant frivolous vexatious etc		Non- straightforward cases that the licensing officer or legal officer consider whether the matter should be referred to the licensing sub-committee.	Straightforward cases in consultation with legal officer
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police or Environmental Health objection to a Standard temporary event notice		All cases	
Determination of a police or Environmental Health objection to a Late temporary event notice			All cases – automatic refusal
Minor variations			All cases
Amendment to licences when conditions and / or activities are made redundant through legislation		All cases	All cases
More than two amusement with prizes machines on licensed premises		All cases	All cases

This form of delegation is without prejudice to officers referring an application to a licensing sub-committee, or to the full committee, if considered appropriate by the licensing officer or sub-committee in the circumstances of the particular case and where permitted by legislation.

# Agenda Item 3

**Committee:** Council

**Date:**

**Title:** Aspire (CRP) Ltd – Request for Funding

24 August 2023

**Portfolio Holder:** Councillor Neil Hargreaves,  
Portfolio Holder for Finance and the Economy

**Report Author:** Jody Etherington, Director of Finance,  
Revenues and Benefits  
JEtherington@uttlesford.gov.uk

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## Summary

1. The Council has been approached by its wholly owned subsidiary, Aspire (CRP) Ltd, with a request for loan funding to the value of £21,060,000.
2. The purpose of the loan is to fund new development at Chesterford Research Park, namely the building of a new unit for letting (Building 800), and phase 1 of an on-site solar farm.
3. This report considers the implications of providing such funding, including the financial returns for the Council and Aspire, the recommended loan terms and interest rate to be applied, compliance with statutory requirements, sources of finance, and the implications on the Council's access to the Public Works Loan Board (PWLB).
4. The loan is forecast to provide a significant positive return to the Council over a number of years. Furthermore, should the Council decide not to proceed, there is a risk that the value of Aspire's existing stake in Chesterford Research Park will be adversely affected. For these reasons, it is recommended that the Council proceed with the loan as requested.

## Recommendations

5. Council is recommended to:
  - a. approve a new loan facility of up to £21,060,000 be made available to Aspire (CRP) Ltd, to be drawn down in tranches over a period of up to 2 years;
  - b. note the implications of making the loan on the Council's access to Public Works Loan Board, as set out in paragraphs 50 to 57;
  - c. delegate authority to the Director of Finance, Revenues & Benefits (in consultation with the Portfolio Holder for Finance and the Economy and the Council's external treasury advisers) to agree the final terms of the loan facility, including the interest rate to be charged (such rate to be no less than 7.5%); and



- d. approve the financing of the new loan facility through additional external borrowing as set out in paragraphs 38 to 41 below.

### Financial Implications

6. The financial implications are set out at paragraphs 42 to 49 and Appendix A.

### Background Papers

7. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
- Letter from the Board of Aspire (CRP) Ltd – request for additional funding for further development at Chesterford Research Park
  - Arlingclose Report – Aspire Interest Rate Report August 2023 (Draft)

### Impact

- 8.

Communication/Consultation	Cabinet
Community Safety	None
Equalities	None
Health and Safety	None – Aspire (CRP) Ltd is a passive investor in Chesterford Research Park and is not therefore directly responsible for health and safety matters
Human Rights/Legal Implications	The legal form of any new loan agreement will mirror previous agreements entered into with Aspire (CRP) Ltd
Sustainability	The request for funding is partly to finance an on-site solar farm, which will greatly enhance the Park's sustainability credentials
Ward-specific impacts	The Park is located in the Littlebury, Chesterford and Wenden Lofts Ward
Workforce/Workplace	None

### Background

9. In December 2016, Full Council gave its approval for the acquisition of a 50% share in Chesterford Research Park, through the Council's wholly owned subsidiary, Aspire (CRP) Ltd (referred to throughout this report as 'Aspire').

10. In order to fund this acquisition, a 50-year maturity loan of £47.5 million was made by the Council to Aspire at a fixed rate of 4%.
11. At the time of acquisition, the development of the park was still in the first of three planned phases, with outline planning consent in place for a further 21 units to be built. The Council recognised and supported the principal that additional borrowing would be required in the future to enable the park to develop further.
12. Since this time, 7 additional loans have been advanced to Aspire totalling £13.3 million. These have been for small scale development and improvements to existing assets on the site. The loans are on a mixture of terms and durations depending upon their purpose. As at the date of this report, the total principal amount outstanding on all loans is £59.6 million.
13. Aspire have now approach the Council seeking funding for the first large scale development on the site since its acquisition – namely the development of a new unit for letting (Building 800), and a solar farm for the purposes of providing an on-site renewable energy provision.
14. The total funding being sought is £21,060,000, to be drawn down in tranches over a period of up to 2 years.

### **Nature of Investments**

15. This report does not directly address the viability or risks associated with the underlying investment in the Park by Aspire. These matters are for discussion by the Investment Board, which will meet on 21 August 2023. The Chair of the Investment Board will be in a position to update Council on these discussions at the meeting at which this report is considered.
16. Nevertheless, before agreeing to any funding request, it is important that the Council carries out its own due diligence to ensure that the risks and rewards of any loan made to Aspire are fully considered.
17. The proposed investment in the Park can be split into two parts, as follows:-

#### **Building 800**

18. The proposed development of Building 800 provides for a multi-state, fully fitted lab building, created to satisfy demand from second stage Life Science companies who are moving from incubator hubs or small suite accommodation as their research expands.
19. The project appraisal prepared by the Park's Development Manager allows for total development costs of £51.1 million (including the notional value of the land upon which the building will sit), with an estimated net development value upon completion of £59.3 million, representing a development profit of £8.2 million. Expected rental value of the building is anticipated to be £3.2 million.
20. An alternative appraisal prepared by the Park's independent valuers, CBRE, estimates development costs of £51.2 million, with an estimated net

development value of £57.6 million, i.e. a slightly lower development profit of £6.4 million. Nevertheless, this still helps to provide independent assurance as to the profitability of the planned development. Expected rental value is again estimated at £3.2 million.

21. After removing the notional value of the land already held by the Park, Aspire's 50% share of the development costs is estimated at £18,821,200. The main contractor will be appointed on a fixed price design and build contract, which will significantly reduce the risk of price variability.

### Solar Farm

22. The request for funding of the solar farm is for phase 1 of a two phase project, covering some development of the farm itself, alongside infrastructure upgrade works to the private electrical ring to enable the use by core buildings of the electricity generated. Phase 1 will include a total panel area of c. 1,500 sqm.
23. The value of Aspire's share of the investment in phase 1 is estimated at £2,238,800. Aspire have estimated the payback period to be approximately 8.5 years. However, given the inherent volatility of income from energy generation, no income has been assumed for the purposes of this report, in the interests of prudence. Even without this model, the loan requested will deliver a positive return to the Council overall, as set out at paragraphs 42 to 49 below.

### **Loan Terms**

24. Previous loans to Aspire have been made at fixed rates between 4.0% and 4.5% – the latest of which was advanced in August 2021. However, the past 12 months have seen significant increases in interest rates, which has impacted the cost at which the Council can borrow.
25. When setting the interest rate on subsidiary loans there are a number of factors to consider. The rate charged needs to result in a viable investment for both the Council and its subsidiary, as well as for the group as a whole. In addition, it must reflect a fair commercial rate, otherwise there is a risk of issues relating to state subsidy (if the rate is too low) or corporation tax (if the rate is too high). As such, the Council has engaged its treasury management advisers, Arlingclose, to advise on a range of acceptable rates, taking into account the other terms of the loan.
26. It is proposed that the main terms of the loan (except interest rate) be broadly consistent with the original loan made to Aspire for the acquisition of the Park, namely:-
  - a. the loan shall be secured on the assets of Aspire as a whole (i.e. not just the individual building being financed);
  - b. the loan shall be a maturity loan with a duration of 50 years from the date of first drawdown, to reflect its primary purpose in financing a new building which will have a useful life of at least 50 years;
  - c. the loan shall be repayable in full upon demand by the Council.

27. In addition, Aspire have requested an initial interest free period from the point of first drawdown until 31 March 2025, in order to allow time for construction and occupation, and taking into account and rent-free periods which may be offered to tenants. Arlingclose have confirmed that such a request is not unusual for this type of funding, and this initial interest-free period will be reflected in a higher rate charged for the remaining duration of the loan.
28. In determining a reasonable commercial interest rate to charge, Arlingclose have reviewed the creditworthiness of Aspire (in the absence of a formal credit rating), and have estimated a likely Moody's rating of Baa3. Taking this into account, Arlingclose have proposed a minimum commercial loan rate of 5.15% – although this rate does not take into account any profit margin for the Council, nor the impact of the initial interest-free period above.
29. Taking all factors into account, it is therefore proposed that the final fixed-term loan rate should be set no lower than 7.50%, which is equivalent to 2.25% above the current Bank of England base rate. For comparison, the original acquisition loan was made at 4.00% when the Bank of England base rate was 0.25%, i.e. a margin of 3.75%.
30. The advice from Arlingclose is still in draft form at the time of writing this report, and is due to be finalised shortly. Council is therefore recommended to delegate authority for agreeing the final rate to the Director of Finance, Revenues and Benefits, in consultation with the Portfolio Holder of Finance and the Economy, taking into account appropriate professional advice from Arlingclose.

## **Statutory Compliance**

### Prudential Code

31. Under local government finance regulations, the making of loans from capital purposes is classified as capital expenditure, and therefore the Council is required to have due regard to the CIPFA Prudential Code.
32. The Prudential Code was last updated in 2021, and there is now a general prohibition on local authorities borrowing to finance capital expenditure where the primary purpose is for commercial yield. Authorities with existing commercial land and property are, however, expressly permitted to invest in maximising its value.
33. The investment appraisals referenced in paragraphs 19 to 20 above provide evidence that the making of this loan would increase the value of the Aspire's share of the Park by a greater amount than the sums invested, which clearly demonstrates compliance with the Prudential Code.
34. Furthermore, the Council has sought professional advice from Cushman & Wakefield (who advised on the original acquisition) as to the impact should the Council choose not to proceed with this investment. The terms of the joint venture mean that, in this case, the other partner could proceed alone, which

would dilute the Council's 50% holding in the whole Park. Specifically, Cushman & Wakefield have advised that:-

*"Where minority stakes are offered to the market the potential buyer audience is smaller, the liquidity of the stake diminishes and there is often a negative pricing implication although the quantum of such is difficult to determine as no two JVs are alike. Therefore, in conclusion, in order to protect the value of UDC's interest in CRP we would advise that any future developments and conducted in line with the JV agreement, on a 50:50 basis with Aviva, thus ensuring an equal shareholding with your JV partner."*

35. The above provides further justification for proceeding with the investment under the 'maximising value' provisions of the Prudential Code.

### Minimum Revenue Provision

36. Under the Council's Minimum Revenue Provision (MRP) policy, last approved by Full Council in February 2023, the Council charges MRP on all capital loans to subsidiaries on an annuity basis over the life of the loan.
37. It should be noted that this approach is more prudent than that currently required by statutory MRP guidance, which doesn't explicitly require local authorities to charge MRP on capital loans. The government has consulted on introducing such a requirement, but has not to date confirmed whether or not this will go ahead or from which date it will be effective. The Council has chosen to adopt this approach before it is mandated in the interests of prudence, and this has been taking into account in modelling the impact of the proposed loan on the finances of the Council and the group.

### **Sources of Finance**

38. The Council will need to undertake new external borrowing in order to finance the loan to Aspire. It is proposed that this be done in two phases.
39. Firstly, during the construction and occupation phase, borrowing will be undertaken on the local authority market. This will consist primarily of short-term borrowing, although borrowing durations of up to 3 years may be taken if available.
40. Whilst short-term borrowing rates are currently slightly higher than long-term rates, this approach will allow the Council flexibility to match external borrowing with cashflow requirements, for example if there is a delay to construction which results in later than anticipated drawdown by Aspire. Since Arlingclose are currently forecasting short-term rates to start falling in around a year's time, a secondary benefit will be the ability to take advantage of lower refinancing rates later in the construction phase.
41. Once occupation is complete, the Council will seek to refinance the borrowing in the longer-term. The default starting assumption is that the duration of borrowing will be set to match the duration of the loan to Aspire in order to eliminate any interest rate risk to the Council – however advice will be sought

from Arlingclose nearer the time, and an alternative strategy may be adopted if conditions dictate. All external borrowing will always be undertaken in line with the Treasury Management Strategy approved by Full Council each year.

## **Financial Modelling**

42. As set out above, it is not the purpose of this report to provide a detailed financial appraisal of the underlying investment by Aspire in the Park. However, in order to demonstrate that the additional borrowing is prudent, a basic cashflow model has been developed for both the Council and Aspire.
43. The key assumptions used in this model are as follows:-
- a. Rental income – starting at £3.2 million as supported by CBRE appraisal, with 5-yearly increases set at 2% per annum compounded (a relatively prudent assumption based upon the terms of a number of existing tenants at the Park).
  - b. Borrowing costs – based on rates available today, adjusted for future borrowing using the latest interest rate forecasts provided by Arlingclose.
  - c. Loan rate – 7.5% (the minimum to be agreed as set out above).
44. The model has been extended to cover a 50 year occupation period to ensure that it accounts for the full repayment of MRP. This demonstrates positive net cashflow for Aspire in each year of the loan, with the exception of 2026/27 when there is a relatively small deficit of £251,000 as a result of an anticipated rent-free period. It is expected that Aspire will be able to cover this shortfall from rental profits relating to other buildings.
45. For the Council, there is an initial total net cost of £2.3 million in the first three years (2023/24 to 2025/26), due to the fact that the Council will incur external borrowing costs whilst not receiving interest income from Aspire during the interest-free period. It is proposed that these costs are covered from the commercial asset reserve, which currently stands at £4 million, with additional contributions of £1 million per year planned for the remainder of the current Medium Term Financial Strategy period (to 2027/28). Should this be agreed, the reserve will stand at £6.7 million by 31 March 2028.
46. Following the initial interest-free period, there are positive cashflows for the Council from interest income alone (net of borrowing costs and MRP), in each year up to and including 2058/59.
47. The use of the annuity basis to calculate the Council's MRP charge means that the amount of MRP charged increases each year. This is an appropriate basis to use for investment income as it matches future charges against future expected increases in income streams. Whilst the interest income the Council will receive from the loan is fixed, anticipated rent increases will greatly increase the profit earned by Aspire, which can either be reinvested or distributed to the Council by way of dividends.

48. In each of the years from 2059/60 to 2075/76 inclusive, the interest income from the loan alone will not be sufficient to cover the Council's external borrowing costs and MRP charges. However, in each year, the forecast profits from Aspire will far exceed the costs incurred, resulting in a positive net cashflow position for the group as a whole.
49. Overall, the investment is forecast to deliver net profits to the group of c. £39.4 million over a 50 year occupation period. The full cashflow model is set out at Appendix A.

### **Other Implications**

50. In June 2023, HM Treasury updated the lending terms of the Public Works Loan Board (PWLB). Under these terms, any local authority which incurs capital expenditure on investments primarily for commercial yield are unable to access the PWLB for new borrowing until the end of the following financial year.
51. In this particular case, strong representations would be made to HM Treasury concerning the need to protect and enhance the value of the Council's existing commercial investments, as set out at paragraph 34 above. However, it is ultimately for HM Treasury to determine their own lending terms, therefore it is considered likely that, should the Council proceed with making new loans to Aspire, it will be unable to access new PWLB borrowing until at least 1 April 2026. Furthermore, the specific borrowing undertaken to support the loan will be unable to be refinanced using PWLB at any point in the future.
52. The Council's current Capital Programme, as approved in February 2023, anticipates new borrowing totalling £2.1 million to support General Fund capital expenditure between 2023/24 and 2025/26. This is a relatively low level of borrowing in the context of the Council's Balance Sheet, and can be supported in the short-term by alternative borrowing sources such as other local authorities.
53. The Housing Revenue Account (HRA) Capital Programme does not currently envisage any external borrowing in 2023/24 or 2024/25. This was a conscious decision made in light of the ongoing review of the 30 Year Business Plan, which is due to conclude in the next few months on the affordability of further external borrowing in the HRA to support the delivery of new housing stock.
54. Should the review conclude that further borrowing is affordable to the HRA, it may be possible to bring forward some of the schemes currently planned for later years (from 2025/26 onwards). However, by proceeding with the loan to Aspire, the Council will be prevented from borrowing from the PWLB to finance these until 1 April 2026.
55. Furthermore, the HRA Capital Programme currently forecasts new borrowing of £3.1 million in 2025/26 – again this would be unable to be financed from the PWLB, which could risk further delaying these schemes.

56. One possible solution to this issue would be to borrow from alternative sources (such as other local authorities or internally from the General Fund) in the short-term, then refinance this borrowing to the PWLB from 1 April 2026. Such an approach would be permitted by the current lending terms.

57. It is important to note that, should the loan to Aspire proceed, the Council would retain access to PWLB at all times for the refinancing of existing borrowing which falls due for repayment (with the exception of borrowing relating to commercial investments committed after November 2020, which is already excluded from PWLB financing). The refinancing risk to the Council's existing debt portfolio as a whole is therefore unaffected by the new loan.

## Risk Analysis

58.

Risk	Likelihood	Impact	Mitigating actions
Cost overruns – funding is insufficient for development	2	1	Main contractor for Building 800 to be appointed on fixed price basis – total provisional contract sums relatively low (c. £300k).
Project delays – late occupation resulting in reduced rental income	2	3	Financing of construction phase on short-term borrowing market gives flexibility to reduce unnecessary borrowing costs should delays be encountered.
Underachievement of future rental income, including unplanned voids or longer than expected rent-free periods	1	3	Rental income assumptions are relatively prudent when compared to current market conditions and independent valuation advice.



Risk	Likelihood	Impact	Mitigating actions
Interest rate risk to Council at point of refinancing loan (on completion of building)	2	1	Cashflow model incorporates latest interest rate forecasts from external advisers, Arlingclose. Loan can be recalled by Council at any time should market conditions shift significantly (although in practice it would likely be difficult for Aspire to find alternative funding sources).
Decision not to proceed – impact on valuation of existing investment	3	3	External advisers have confirmed that a decision not to proceed would be likely to adversely affect the value of Aspire’s existing investment in the Park, although this is difficult to quantify.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

# Cashflow Model

# Appendix A

	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34	2034/35	2035/36	2036/37	2037/38	2038/39	2039/40	2040/41
<b>Aspire</b>																		
Rent Income	-	-	-	1,329	1,595	1,595	1,595	1,622	1,761	1,761	1,761	1,761	1,791	1,944	1,944	1,944	1,944	1,978
Interest Cost	-	-	-	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580
Tax Expense	-	-	-	-	- 4	- 4	- 4	- 11	- 45	- 45	- 45	- 45	- 53	- 91	- 91	- 91	- 91	- 100
<b>Total Aspire</b>	-	-	-	- 251	11	11	11	31	136	136	136	136	158	273	273	273	273	298
<b>Council</b>																		
External Borrowing Cost	- 189	- 1,035	- 1,095	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085
MRP Charge	-	-	-	- 96	- 101	- 106	- 111	- 117	- 123	- 130	- 136	- 143	- 151	- 158	- 167	- 175	- 184	- 194
Interest Income	-	-	-	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580
<b>Total Council</b>	- 189	- 1,035	- 1,095	399	394	389	384	378	372	365	359	352	344	337	328	320	311	301
<b>Total Group</b>	- 189	- 1,035	- 1,095	148	405	400	395	409	508	501	495	488	502	610	601	593	584	599

	2041/42	2042/43	2043/44	2044/45	2045/46	2046/47	2047/48	2048/49	2049/50	2050/51	2051/52	2052/53	2053/54	2054/55	2055/56	2056/57	2057/58	2058/59
<b>Aspire</b>																		
Rent Income	2,146	2,146	2,146	2,146	2,183	2,370	2,370	2,370	2,370	2,411	2,616	2,616	2,616	2,616	2,662	2,889	2,889	2,889
Interest Cost	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580
Tax Expense	- 142	- 142	- 142	- 142	- 151	- 198	- 198	- 198	- 198	- 208	- 259	- 259	- 259	- 259	- 271	- 327	- 327	- 327
<b>Total Aspire</b>	424	424	424	424	452	592	592	592	592	623	777	777	777	777	811	982	982	982
<b>Council</b>																		
External Borrowing Cost	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085
MRP Charge	- 204	- 214	- 225	- 237	- 249	- 262	- 275	- 289	- 304	- 320	- 336	- 354	- 372	- 391	- 411	- 432	- 455	- 478
Interest Income	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580
<b>Total Council</b>	291	281	270	258	246	233	220	206	191	175	159	141	123	104	84	63	40	17
<b>Total Group</b>	715	705	694	682	698	825	812	798	783	798	936	918	900	881	895	1,045	1,022	999

	2059/60	2060/61	2061/62	2062/63	2063/64	2064/65	2065/66	2066/67	2067/68	2068/69	2069/70	2070/71	2071/72	2072/73	2073/74	2074/75	2075/76
<b>Aspire</b>																	
Rent Income	2,889	2,939	3,189	3,189	3,189	3,189	3,245	3,521	3,521	3,521	3,521	3,582	3,888	3,888	3,888	3,888	3,955
Interest Cost	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580	- 1,580
Tax Expense	- 327	- 340	- 402	- 402	- 402	- 402	- 416	- 485	- 485	- 485	- 485	- 501	- 577	- 577	- 577	- 577	- 594
<b>Total Aspire</b>	982	1,019	1,207	1,207	1,207	1,207	1,249	1,456	1,456	1,456	1,456	1,501	1,731	1,731	1,731	1,731	1,781
<b>Council</b>																	
External Borrowing Cost	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085	- 1,085
MRP Charge	- 503	- 529	- 556	- 584	- 615	- 646	- 679	- 714	- 751	- 790	- 831	- 873	- 918	- 966	- 1,015	- 1,068	- 1,123
Interest Income	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580	1,580
<b>Total Council</b>	- 8	- 34	- 61	- 89	- 120	- 151	- 184	- 219	- 256	- 295	- 336	- 378	- 423	- 471	- 520	- 573	- 628
<b>Total Group</b>	974	985	1,146	1,118	1,087	1,056	1,065	1,237	1,200	1,161	1,120	1,123	1,308	1,260	1,211	1,158	1,153

Uttlesford District Council  
 Council Offices  
 London Road  
 Saffron Walden  
 CB11 4ER  
 F.A.O. Jody Etherington

Dear Jody,

### **Request for additional funding for further development at Chesterford Research Park**

Please take this letter as a formal request from the Board of Aspire (CRP) Ltd for additional borrowing of £21,060,000 to cover Aspire's share of the development costs for Building 800 and phase one of the Solar Farm.

The drawdown of the total loan would be as follows.

<b>Date</b>	<b>Amount £</b>
August 2023	3,250,000
January 2024	4,250,000
April 2024	4,500,000
July 2024	4,000,000
October 2024	3,000,000
January 2025	2,060,000
<b>Total</b>	<b>21,060,000</b>

Set out below are details of the two projects.

#### **Building 800 – Funding request £18,821,200**

**The development of Building 800 – Sidney Sussex Building presents the opportunity to deliver a best-in-class laboratory-led scheme in a highly supply-constrained submarket with strong projected financial performance.**

- The proposed development of Building 800 provides for a multi-suite, fully fitted lab building, created to satisfy demand from second stage Life Science companies who are moving from incubator hubs / small suite accommodation as their research expands. The accommodation to be delivered is fully fitted 'plug and play' laboratory space, which will generate wide appeal to tenants without the financial means to undertake expensive laboratory fit outs and the multi-suite building design is optimal for future asset management opportunities.
- The size of suites to be developed (from 2,200 sq.ft. To 8,292 sq.ft.) is additive to the overall offer of laboratory accommodation at Chesterford Park and 'plugs the gap' of current accommodation developed at the Park, allowing the Asset Manager to move tenants within the Park as their science and space requirements grow. The suite sizes sit between the established Science Village Building (16 suites of 1,500 to 2,000 sq.ft) and Building 60 and 300 (suites of 9,000 to 10,000 sq.ft.).
- Planning permission has been obtained and the S106 agreed and signed.
- The Cambridge Life Science market is imbalanced by very limited existing available laboratory

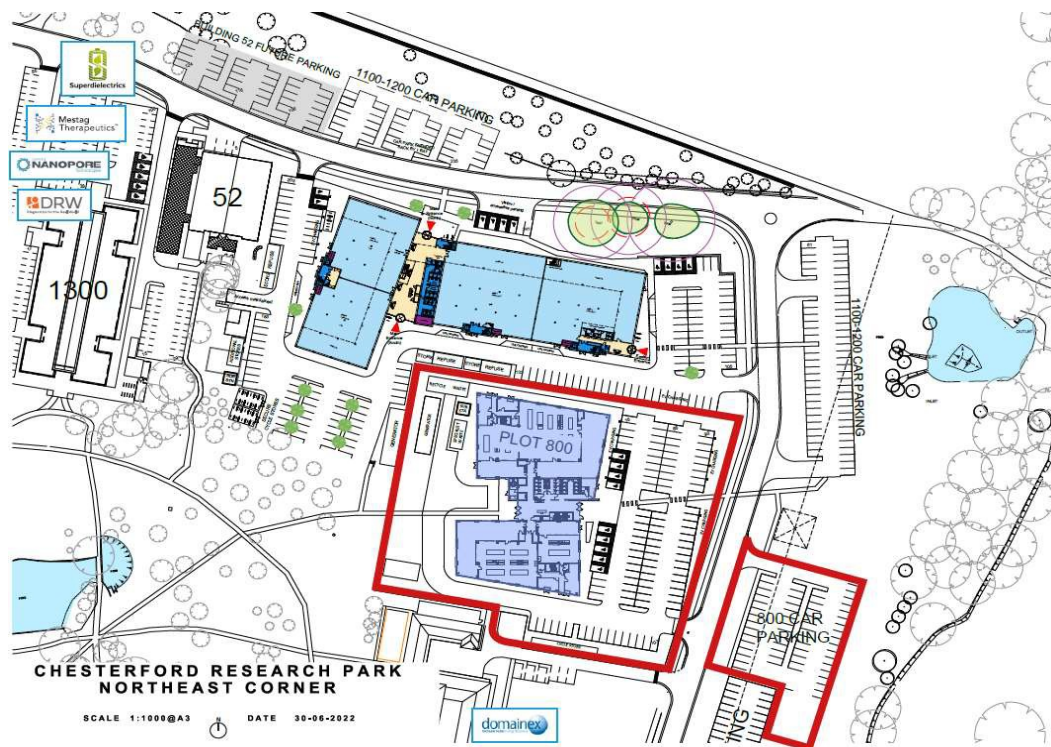
supply (47,230 sq.ft. available) and limited space currently under construction (240,000 sq.ft - the majority of which has been pre-let ), set against current named demand of 1m sq.ft for laboratory accommodation.

- In addition to providing attractive returns, development at Chesterford Park increases the critical mass of the park and further establishes it as one of Cambridge's premier Life Science estates. Furthermore, additional development will have a positive effect on the current non-recoverable service charge and drive expenditure (and reduce losses) in The Nucleus (the central facilities building).
- Rents are assumed at £58.50psf (with rents on competing parks having achieved £65psf) and an assumed yield of 5% (supported by CBRE and with yields for similar fitted up and let multi-let laboratory buildings on the Park currently being valued at 4.5%).
- The rental income would be £3,244,878 per annum when fully let. Assuming this is achieved, the value of the asset post completion would be circa £8 million higher than construction cost.
- Due to the quality of the scheme to be delivered and the strong market dynamics, our leasing advisers are confident in achieving market leading rents and pre-letting a significant part of the building. Void assumptions are at 6 months post PC however we believe that a significant proportion of the building will be let by PC. Various existing Park occupiers have already expressed interest in taking expansion space in the building and regularly seek update on progress/timing.
- The scheme has ESG embedded into the design and is targeting BREEAM Excellent.

### **Chesterford Research Park**

- Chesterford Research Park is a leading Cambridge Life Science park at the centre of the Cambridge cluster. The cluster is increasingly being centred on Science Parks south of Cambridge and include Chesterford Research Park, Cambridge BioMedical Campus, Granta Park, Welcome Trust's Sanger Institute and the Babraham Institute. The proximity to Cambridge should see the Park continue to perform well, and the abundance of development land at Chesterford allows significant development opportunity.
- Since its inception as a Science Park in 2000, 240,000 sq.ft. of specialist space has been constructed to create a leading research centre.
- The Park currently comprises 335,000 sq.ft. (lettable GIA) of modern, purpose built R&D and office accommodation in 11 main buildings.
- The Park also benefits from an agreed planning Masterplan for 273,000 sq.ft. of additional research and development accommodation, with potential planning support for a further 412,000 sq.ft. which combined would result in a park estate of 1.02 million sq.ft. Development would be progressed in 21 development plots situated around the Park.

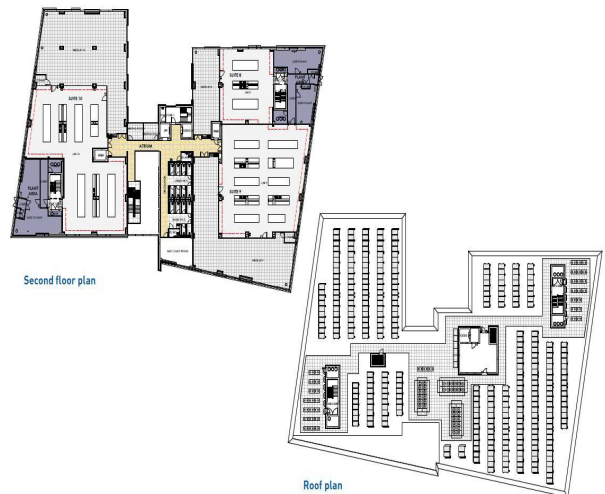
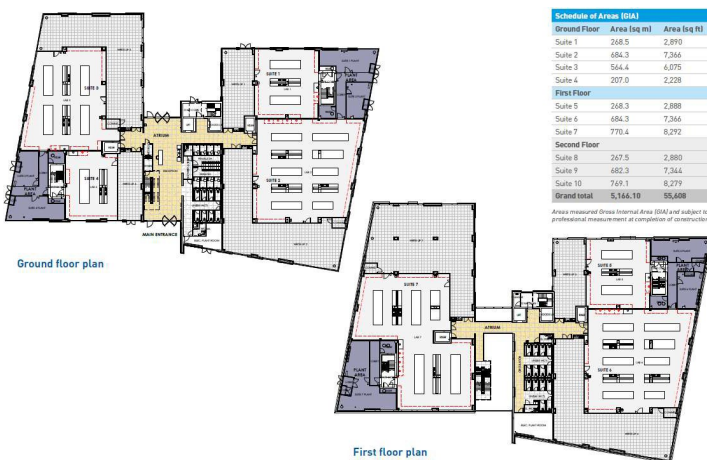
## The proposed Scheme



- The development will provide a total of 55,468 sq ft (NIA) laid out over ground and two upper floors.
- The ground, first and second floors are for laboratory use and comprise fully fitted suites, to include write up and lab areas with a specification to allow for both biology and chemistry uses, as well as dry capabilities. The specification matches the industry recognised CL2 Wet Lab Standard.
- Each lab is designed to have the capability for two extraction fume hoods with the base M&E having flexibility for tenants to install additional should they choose.
- The building is served by 8 showers, 36 gender neutral superloos (plus dedicated disabled facilities on each floor), a passenger and goods lift with a rear service entrance for the delivery of laboratory supplies.
- Communal meeting rooms are located on the 2<sup>nd</sup> floor.
- High-efficiency electric VRF units (reversible heat pumps) will be installed to meet 100% of space heating and space cooling demands.
- Optimised AHU specific fan powers and effective ventilation heat recovery (incl. to laboratory extract) have been specified.
- High-efficiency internal and external lighting design.
- A significant 400m<sup>2</sup> of roof-mounted Photovoltaic Panels.
- The building will be provided with a minimum of 169 external car parking spaces, 18 of which will be Electric Vehicle charging points (14 standard EV spaces and 4 Accessible EV spaces).



- The development has been designed wholly in accordance with the AIRE Sustainable Design Brief.
- The development is fossil fuel free as the building is 100% electrically powered.
- The scheme is targeting an EPC A rating, BREEAM Excellent and is to be WELL enabled.
- The scheme is also targeting Embodied Carbon and Energy Use Intensity figures within the Best Practice targets of the AIRE Sustainable Design Brief as below:
  - Achieve an Energy Usage Intensity (EUI) of < 500 kWh/m<sup>2</sup> with an aspirational target of < 300 kWh/m<sup>2</sup>. The Stage 4 design achieves 250 kWh/m<sup>2</sup>.
  - Target an embodied carbon intensity of < 600 kg CO<sub>2</sub>/m<sup>2</sup> with a maximum allowance of 1000 kgCO<sub>2</sub>/m<sup>2</sup>. The Stage 4 design achieves 565 kgCO<sub>2</sub>/m<sup>2</sup>.



## Timetable

- Assumed Joint Venture Board Approval and Individual Investor Approval – End of August 2023.
- Assumed Building Contract Award date – 1 September 2023.
- Site mobilisation / enabling works – 8 September 2023.
- Main contract works commencement – November 2023.
- Internal Fit-out complete – 21 March 2025.
- External works complete – 1 May 2025.
- Practical Completion – 14 May 2025.

## SWOT Analysis

<p><b>Strengths</b></p> <ul style="list-style-type: none"> <li>• Inside the prestigious Cambridge Science BioCluster on the favoured south side of the city.</li> <li>• Strong amenity offering in the Nucleus building with bar, gym, restaurant and meeting room facilities.</li> <li>• Broad tenant mix with offering spread between incubator space to large headquarter buildings.</li> <li>• Efficient fitted laboratory suites with ancillary write up area.</li> <li>• New development designed fully in accordance with AIRE Sustainable Design Brief meaning 100% fossil fuel free, EPC A, BREEAM Excellent and Good Practice Energy in Use and Embodied Carbon targets contribute to a highly specified product driving appeal to target occupiers.</li> <li>• Restricted supply environment and robust tenant demand for similar product creating strong pre-let demand and limited competition.</li> <li>• Established park team with on-site staff, asset manager and development manager in place for 10 years.</li> <li>• Elements of infrastructure already in place including electricity reservation to allow full development of the park.</li> </ul>	<p><b>Weaknesses</b></p> <ul style="list-style-type: none"> <li>• Further critical mass is required on the park to improve tenant mix, tenant offer such as nursery facilities or residential accommodation that are provided on Granta Park and other larger schemes.</li> <li>• Nucleus and transport running costs are subsidised by the Park owner.</li> <li>• Life Science buildings in their nature require high electricity usage and are not the most efficient buildings.</li> </ul>
<p><b>Opportunities</b></p> <ul style="list-style-type: none"> <li>• Potential to expand the Park further to a total size in excess of 1 million sq ft of R&amp;D or obtain alternative uses for the 259 acre land holding.</li> <li>• Bring forward further speculative development to offer 'grow on' space for companies expanding from the Science Village.</li> <li>• Reduction of non-recoverable costs through development of Plot 800 and further plots.</li> <li>• Expand amenity offer through critical mass and development of new plots.</li> <li>• ERVs are underwritten at £58.50psf, however our agents are advising rents could reach £65psf at completion.</li> <li>• The Solar Park provides the opportunity to create green electricity on-site to power B800 and reduce non-recoverable costs on the Nucleus.</li> </ul>	<p><b>Threats</b></p> <ul style="list-style-type: none"> <li>• Costs during the development period <b>Mitigant</b> – A Fixed Price D&amp;B Contract has been agreed achieving 99% price fixity with Provisional Sums in the Building Contract totalling circa £300,000.</li> <li>• Surrounding development competition from other Science and Research Parks <b>Mitigant</b> – Create best in class buildings with added benefits such as the solar farm.</li> <li>• Tenant Corporate Activity. Mergers and acquisitions are prevalent in the R&amp;D sector which can result in opportunity and threats.</li> </ul>

## **Solar Farm – Funding request - £2,238,800**

The full solar farm will be delivered in two phases and this funding request is for phase one only. In addition to the development of the farm itself, there is an element of infrastructure upgrade works to the private electrical ring to enable the use by core buildings of the electricity generated.

### **Background**

The addition of renewable electric power to Chesterford Research Park contributes to the overall renewable energy requirements of the country as we move towards a clean energy future.

The primary role of Chesterford Research Park is as a biotech / science-based park and the Solar Green Energy Hub is being provided to facilitate the development of the park, not simply as a means of supplying electricity. The Solar Green Energy Hub must work together with the development of the park buildings to provide a significant contribution to the on-site renewable energy provision required by planning and building regulations. It will also provide a key USP for the Park in terms of marketing against similar life science parks.

There is a need to generate our own electricity on site due to the difficulties of providing enough on plot renewable power (through the national grid) to meet the planning and building regulation requirements along with the rising need for Electric Vehicle charging. Electric Vehicle charging also has the effect of draining mains grid supplied power from future building development on the park, thus potentially reducing the growth of the Park, this solar farm will help to reduce that risk.

### **Project Scope**

Phase 1 has a total panel area of circa 1,500m<sup>2</sup> which equates to 3,060 individual PV cells, which are set out in 85 PV tables, with each table consisting of cells in a 9x4 grid formation. Planning permission has been obtained.

As well as the building of the solar farm and battery storage there will be the following infrastructure works:

- New High Voltage ring main cabling & associated works to Green Energy Hub.
- New High Voltage substation to north car park and resurfacing the existing car park.
- Installation of EV chargers to North Car Park; comprising 2nr 150kw chargers, 2nr 75kw chargers and 6nr 22kw chargers.
- Increase number of EV chargers at Nucleus utilising existing electrical capacity, comprising 1nr 75kw charger and 6nr 22kw chargers and associated LV cabling works.

The upgrading of the above Electrical Infrastructure enables the Green Energy Hub to supply renewable energy to the following buildings:

- The Mansion House
- Building 60
- Science Village
- Building 52
- Building 800 (when complete)

### **Timetable**

- July 2023: Board approval for phase 1.
- August 2023: Aspire and Aviva funding approved
- September - December 2023: Construction lead-in and Discharge of remaining Pre-Commencement Planning Conditions.
- January 2024: Construction commencement.
- May 2024: Construction completion.



**Payback period**

Based on current forecasts the payback period for the solar farm investment is 8.5 years.

**Basis of Loan of £21,060,000**

The main element of this loan request is for the construction of Building 800. During the construction phase there will obviously be no income received, and when a new tenant takes occupation there is almost always a period of rent free for the tenant (a 10 year lease would normally attract a six to nine month rent free period). The directors would therefore request that the loans are provided on an interest free basis until 1 April 2026 to cover the construction period and rent free periods for new tenants. The directors understand and agree that the cost of this provision will be rolled into subsequent years.

I trust the information contained within this document is sufficient to enable you to recommend the loans to Full Council in August 2023.

Yours sincerely



Adrian Webb

Director

Signed on behalf of the Board

11 August 2023

# Agenda Item 4

**Committee:** Council

**Date:** 24 August  
2023

**Title:** Planning and Environmental Health Issue –  
electricity sub-station, Mortimer’s Gate, Saffron  
Walden

**Portfolio  
Holder:** Cllr Petrina Lees, Leader of the Council

**Report  
Author:** Peter Holt, Chief Executive  
[pholt@uttlesford.gov.uk](mailto:pholt@uttlesford.gov.uk)

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## Summary

1. This report updates Council on efforts made to address a planning and environmental health issue around the ongoing noise from an electricity sub-station in Mortimer’s Gate, Saffron Walden. This follows an adverse finding from the Ombudsman recommending that the local authority sought to find a lasting solution to this issue.

## Recommendations

2. That Council:
  - a. Supports the in-principle decision of Cabinet not to fund the remedial works; or
  - b. Recommends to Cabinet that the Council funds the remedial works up to a sum as stipulated in confidential Appendix C and approves the additional expenditure (subject to Cabinet agreeing to fund the works).

## Financial Implications

3. Depending upon the decision there are different impacts. Should Members endorse the officer recommendation there is no financial impact. However, if the decision is to recommend to full council that the work is to be paid for by the council then the cost of that work will need to come from the MTFs Reserve, which is already under pressure and, without intervention to reduce the forecast MTFs deficit, is likely to be exhausted during 2025/26. Should the Cabinet vote to propose to full council to fund the works up to a cost of the sum set out in the confidential appendix to this report. In that eventuality, it will be necessary to notify the external auditors. As Members will have voted against officer advice, it is possible that the decision could have an adverse effect on the auditors’ determination of ‘use of resources’ and therefore their ‘value for money’ assessment. The impact of a negative or qualified value for money assessment from our external auditors would generally reduce public confidence in the authority – ie its impact would be reputational rather than financial.

## Background Papers

4. The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.
  - Ombudsman's adverse finding against the Council (as previously reported to Members) – Appendix A
  - Acoustic report prepared by WBM Acoustics on behalf of UDC – Appendix B
  - Legal advice received from commissioned KC – not published (as such legal privileged advice is not disclosable)
  - Quantum of commercially sensitive estimated cost/financial provision for these works (Confidential Appendix C)

## Impact

5.

Communication/Consultation	The Council has kept the complainant in touch with progress, as was also recommended by the Ombudsman
Community Safety	Nil
Equalities	Nil
Health and Safety	The issue at the heart of this report is an ongoing noise problem from an electricity substation.
Human Rights/Legal Implications	As addressed in the body of this report.
Sustainability	Nil
Ward-specific impacts	Saffron Walden – Castle, although if the decision is to fund the project then there may be adverse impacts on other Wards as funding will not be available for projects elsewhere in the district
Workforce/Workplace	Nil

## Situation

6. Planning permission for the development of the site known as Land North of Ashdon Road was granted planning permission for 167 houses by Planning Committee on 26 November 2014. The estate was built immediately adjacent to an electricity sub-station that had already for many years served an

adjacent industrial site. As is quite natural for such industrial electricity sub-stations, it emits a regular hum.

7. The Planning process considered the issue of noise from the electricity sub-station, and included a planning condition that the developer should institute noise reduction measures in place. Importantly, the planning condition imposed did not specify the degree to which noise should be reduced. It should be noted that it is the responsibility of the developer to properly protect homes on the development from adverse levels of noise. The developer duly put in place noise mitigation measures that reduced noise. The heart of the problem is that the noise has not been sufficiently reduced to fall below a level that represents a nuisance to newly built nearby houses.
8. People duly bought the new built houses, whether off plan or after they had been built. In the years since, several of the houses have been sold on to second owners. It is reasonably imagined that the adjacency to an electricity sub-station was a factor in the negotiation over price – with the market ultimately determining a price factoring in any perceived disbenefit.
9. Whether buying off plan, after build, or in a subsequent resale, the basic principle of ‘caveat emptor’ applies – namely ‘let the buyer beware’. That is, the existence of and noise from the electricity sub-station was obvious and cannot reasonably have been a surprise to any buyers. It is not known what number of purchasers successfully negotiated potentially substantial discounts in the purchase price of their homes because of the ongoing noise, who in such cases would then have therefore arguably already received compensation they would have considered proportionate to the disbenefit.
10. In the normal run of things, if an electricity sub-station were built next door to residential properties, the responsibility for ensuring that there was no ongoing noise nuisance would fall on the operator of the sub-station. The local authority’s Environmental Health team would be able to take enforcement action as necessary against the operator of the sub-station. This principle however does not apply in the case of Mortimer’s Gate, as the houses were built many years after the electricity sub-station, and buyers subsequently bought their homes in the full knowledge of the pre-existing electricity sub-station and associated noise.
11. Essentially therefore, we have residents and homeowners living next door to a buzzing electricity sub-station. One of those residents/homeowners made a complaint to the Local Government Ombudsman against the Council, on the basis that they argued (essentially, in summary) that the Council should have imposed and subsequently enforced a tougher and more specific planning condition in the first place, and that as it did not, the Council is now responsible for finding a solution to the ongoing noise issue. To the best of officers’ knowledge, there has only been one such neighbour complaint, though it is equally acknowledged that there is a much larger number of residents within sound of the buzzing electricity sub-station, so this is very much not an issue isolated to one household.

12. The Local Government Ombudsman concluded their investigation, and issued an adverse report against the Council. That report was routinely reported up to Members at Council on 11 October 2022.
13. The Local Government Ombudsman's resulting recommendations were that the Council should:
- Send Mrs X a written apology for its failures when discharging the planning condition about noise.
  - Pay Mrs X £500 to recognise the prolonged distress and loss of amenity she suffered.
  - Arrange its own noise survey report, which will also assess the degree/level of mitigation required, and then draw up a plan to install appropriate mitigation measures. The Council will notify the Ombudsman if it needs more time to finalise its report.
  - Seek to work with the developer to implement the mitigation measures. Should the developer refuse to pay or contribute to the mitigation measures, the Council should fund the mitigation measures instead.
  - Share its plans with Mrs X and keep her updated on progress
14. The Council duly and promptly wrote to the complainant with an apology, and paid her £500. The Council also duly arranged its own noise survey report. Subsequent to that, the Council worked with the operators of the electricity sub-station to identify a potentially suitable engineering solution, the estimated cost of which is set out in the confidential Appendix C to this report – confidential on the grounds of commercial sensitivity. The Council then met with the developer to seek to persuade them to fund or contribute to the funding of such an engineering solution. The Council has throughout continued to keep the complainant updated on progress.
15. It is important to note: the Council did not agree to accept all of the Ombudsman's individual findings – most importantly, the Council did not accept liability for any necessary works in the eventuality that its efforts to persuade the original developer to make good were not successful.
16. It is similarly important to note that there is substantial risk of cost overrun well beyond the cost estimate received (set out in confidential Appendix C), because of the unique circumstances of this situation. The engineering solution identified is to build a substantial, roofed brick structure around the electricity substation, and of course therefore over-topping it. This necessarily requires the full and active agreement of the electricity sub-station operator, who would understandably need to be satisfied that such a structure would not inhibit their ongoing operation of the sub-station, and that such a building (on and over-topping their land) was a sound structure they were prepared to take on, including its future structural liabilities. It is eminently possible not only that inflation will have pushed up the estimated price, but also that any unexpected contingencies which arose during construction would also have to be picked

up by whoever agreed to fund it. Officers advise therefore that a substantial contingency sum should be factored in, pushing up the potential estimated cost, as detailed in confidential Appendix C.

17. Unfortunately, the developer, Bloor Homes, who should be responsible for ensuring that the homes are not adversely impacted by noise, has not agreed to fund such an engineering solution.
18. The Council has carefully considered the Ombudsman's remaining recommendation – namely that “Should the developer refuse to pay or contribute to the mitigation measures, the Council should fund the mitigation measures instead.”
19. The Ombudsman does not have the power to enforce its recommendations, but does have a duty to follow up and potentially issue further reports on any recommendations not duly enacted. The Ombudsman is being thorough in tracking this case, so this is a likely conclusion (should Members follow officer advice in this matter), not an abstract or low level risk.
20. Officers have considered the matter carefully, and taken expert legal advice, and concluded that the authority does not have liability to fund such works of this nature or of the order of this cost. The authority was not the developer, was not the sales agent, and has had no financial interest in this housing development. Although immensely sympathetic to the complainant, and without arguing that there is not an ongoing noise problem, Members are advised that it is not an appropriate use of scarce resources that would otherwise be available to spend on other council services to seek to remedy an issue that is essentially one between the house buyers and the commercial developer from whom they bought their home.
21. The Council does acknowledge that it could, with the benefit of hindsight, have done a more thorough job in setting and thereafter enforcing a more specific planning condition. Officers advise however that this sub-optimal historic approach was not so deficient as to create any legal or financial liability for the ultimate problem, particularly when considering that buyers (and their own advisors) should reasonably have considered the noise issue before completing their purchase, and only proceeding if they were content to own a home next door to this electricity sub-station and the noise it produced, even after a wooden fence was built around it by the developer with the objective of reducing the noise, albeit clearly not sufficiently. In the alternate, they could have declined to buy the property, even at a discount, and said to the developer that they would only go ahead with the purchase (presumably at the higher price) had the developer spent the extra money to add the additional engineering solution now scoped out – and instead of giving discounts, the developer might perhaps have spent that money on more noise insulation.
22. As it is, buyers all went ahead and bought the homes, and one at least is now seeking to have the original developer pick up the cost of a supplementary, additional engineering solution. It would be a matter for any such homeowner to determine whether they thought they had a strong enough legal claim to that effect against the developer to pursue through the courts. To the best of

officers' knowledge, there has been no such legal claim against the developer, and it is not for the Council to take a view on whether there is such a claim between two sets of external third parties.

23. The Council does not have a statutory duty to identify any alternative solutions. It may be that property owners on the estate would be able to band together themselves to pay for an engineering solution that would mitigate the ongoing noise they experience and potentially increase the value of their homes as a result.
24. If this is the chosen course of action, because of the risks set out in paragraph 16 above it is important to limit the council's financial exposure. It is therefore part of the recommendation that the contribution is limited to the sums set out in the confidential Appendix C. Should this sum prove insufficient a further report would be brought to Members.

## Risk Analysis

25.

Risk	Likelihood	Impact	Mitigating actions
That the Council could be sued by the complainant for relief from the noise nuisance.	1 – low risk	3 – significant impact – exposure	The Council has made every reasonable effort to persuade the original developer to take responsibility to fund a supplementary engineering solution. That having failed, the Council has taken legal advice and determined that it has a very low risk of any successful legal challenge imposing financial liability on the authority.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.

13 September 2022

**Complaint reference:**  
21 012 123

**Complaint against:**  
Uttlesford District Council

## The Ombudsman's final decision

Summary: Mrs X complained about noise from an electricity substation opposite her home. She said the Council accepts there is noise nuisance but cannot act. Mrs X complained the Council did not create a suitable planning condition to mitigate the noise, did not consult UK Power Network, and did not carry out noise assessments as part of the planning process. The Council was at fault for failing to properly discharge the planning condition about noise mitigation. This caused Mrs X prolonged injustice which the Council agreed to remedy.

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## The complaint

1. Mrs X complained about noise from an electricity substation opposite her home. She said the Council accepts there is noise nuisance but cannot act against the owner of the substation.
2. Mrs X also complains about the relevant planning application process. She said the Council did not put in a suitable condition to mitigate the noise, did not consult UK Power Network (UKPN), and did not carry out noise assessments as part of the planning process.
3. Mrs X said the noise is constant. It prevents her from opening windows, can be heard above the television, disturbs her sleep, and spoils the enjoyment of her garden.

## The Ombudsman's role and powers

4. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
5. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)



- 
6. If we are satisfied with an organisation's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **What I have investigated**

7. The complaint relates to the Council's consideration of planning matters dating back to 2017 and earlier. We normally do not investigate complaints which are more than 12 months old, unless there are good reasons. Mrs X did not learn about the relevant planning matters until about 2020. She raised the complaint with the Council at the earliest opportunity and brought her complaint to the Ombudsman after exhausting the Council's complaint procedure. I also consider Mrs X's claimed injustice is significant and warrants investigation. I am therefore satisfied there are sufficient grounds in this case to exercise discretion and disapply the usual 12-month rule.

## **How I considered this complaint**

8. As part of the investigation I have considered the following:
- The complaint and the documents provided by the complainant (including his medical evidence).
  - Documents provided by the Council and its comments in response to my enquiries.
  - Planning Practice Guidance.
9. Mrs X and the Council had an opportunity to comment on my draft decision. I considered any comments received before making a final decision.

## **What I found**

### **Law and guidance**

10. The general power to control development and use of land is set out in the Town and Country Planning Act 1990. Permission is required for any development or change of use of land and may be granted by a Local Planning Authority. For this complaint, the Council is the Local Planning Authority.
11. Development proposed in the vicinity of existing businesses, community facilities or other activities may need to put suitable mitigation measures in place to avoid those activities having a significant adverse effect on residents or users of the proposed scheme.
12. In these circumstances the applicant (or 'agent of change') will need to clearly identify the effects of existing businesses that may cause a nuisance (including noise, but also dust, odours, vibration and other sources of pollution) and the likelihood that they could have a significant adverse effect on new residents/users.
13. The agent of change will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified.
14. Where necessary for approval of a permission, a planning condition may be imposed to require details of specific aspects of a development which are not provided in the original application. The applicant must satisfy the condition and apply for it to be discharged by the authority.

- 
15. Planning authorities may take enforcement action where there has been a breach of planning control. Enforcement action is discretionary. Government guidance says local planning authorities should act proportionately in responding to suspected breaches of planning control.
  16. Section 171A of the Town and Country Planning Act 1990 provides that a breach of planning control is defined as:
    - the carrying out of development without the required planning permission; or
    - failing to comply with any condition or limitation subject to which planning permission has been granted.
  17. Where there is a breach of a planning condition, the authority may serve a Breach of Condition Notice under section 187A. Failure to comply with a Breach of Condition Notice is an offence that may be tried in the magistrates' court.

### **Outline planning applications and reserved matters**

18. Outline planning permission establishes the acceptability of development, subject to later agreement to details of 'reserved matters'.
19. Reserved matters may be any or all of access, appearance, landscaping, layout, and scale of the development.
20. An application for approval of details of reserved matters is not a planning application, and there is no legal requirement to give publicity to the application.

### **What happened**

#### **Outline planning permission and applicant noise assessment**

21. The Council approved outline planning permission for a new housing development in 2013. The development was to be built on land which formed part of an industrial site. The developer identified that an electricity sub-station was present at the site and would remain in place after the development was complete.
22. As part of the outline plans, the developer gave the Council a noise assessment report. The report considered the likely noise impact on the new development, including from the electricity sub-station. It states:
23. "Noise readings from the electrical sub-station were taken as part of the assessment. The typical average noise level, at a distance of 5 metres, was recorded as 65 decibels".
24. "*Noise levels affecting residential properties and closest and most exposed to noise emissions from the electrical substation are around 47 dB LAeq during the day and around 46 dB LAeq during the night*".
25. "*Noise emissions from industrial sources, including the electrical substation, are often more intrusive to residents than [sic] noise from other environmental sources and therefore, even though noise levels across the site are broadly dictated by road traffic noise, industrial type noise may require further consideration when determining the detailed design of the development. The development master plan does already incorporate design measures intended to further reduce the noise impact of the substation, including:*
  - *A clear 4m 'Buffer Zone' around the substation, and;*

- 
- *An acoustic barrier of approximately 5m height around the edge of the buffer zone to further reduce noise emissions affecting surround [sic] residential areas.”*
26. *“In summary of the above, based on the measured and predicted noise levels at the site; it is considered that acceptable noise environments could be provided for future residents with the design and provision (where required) of appropriate noise mitigation measures. These measures would be straightforward to implement in the design of the development following the grant of outline planning permission. This could be secured through the imposition of suitable planning conditions”.*

**Reserved matters and discharge of planning condition about noise**

27. The Council’s planning committee considered the applicant’s reserved matters application in 2017. As part of this process, the planning case officer reported to the Council with their views, including about noise from the electricity substation. The officer stated:
28. *“There is an existing electricity substation which is located in the northwestern corner of the application site. This is stated to form a noise constrain on the site and that residential dwellings would need to [sic] located at least 10m away from the noise source together with a range of noise mitigation measure [sic] to be proposed in the form of an acoustic noise barrier and upgraded glazing to those immediate dwellings”.*
29. *“The retained sub-station that is currently an eyesore would be screened by a 4m high timber fence with landscaping to assimilate this within the scheme. The fencing would also act as an acoustic noise barrier. These measures would protect the visual and residential amenity of future occupiers, in accordance with Local Plan Policy GEN2 and GEN4”.*
30. *“A Noise Assessment has been submitted as part of the application. In terms of amenity there is an existing electricity substation that provides a source of noise emissions...To mitigate the noise the nearest dwelling would be no more than 10m and with the erection of acoustic fencing, and the provision of upgraded housing facades and glazed windows to mitigate the noise. Should planning permission be granted details of this would need to be submitted for approval”.*
31. The planning case officer recommended approval of the application, subject to conditions. One of which was:
32. *“Before the commencement of development on the relevant phase of the development that contains the main electricity substation that is located to the rear of the site and which is shown as to be retained on the illustrative masterplan, details of boundary treatment for screening and noise mitigation details of the existing electricity substation shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details, in accordance with a programme agreed with the Local Planning Authority.”*
33. The developer applied to discharge some planning conditions, including about noise mitigation. The developer told the Council it intended to erect a 4-metre high ‘acoustic’ timber fence and landscaping to screen the sub-station. It also gave the Council drawings of the fence.
34. The Council approved the details and discharged the condition about noise mitigation in January 2017.

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### Sub-station noise

35. Mrs X bought her home in 2019. The electricity sub-station is directly opposite. Mrs X was aware of the noise from the sub-station before she bought her home, but she said the developer gave assurances it would install an 'acoustic' fence before she moved in.
36. After Mrs X moved into her home, the developer eventually installed a timber fence around the sub-station. Unfortunately, Mrs X did not notice any difference or reduction in noise.
37. Mrs X said the noise is constant and the hum from the sub-station is present indoors at the front of the house. She cannot open windows, cannot sleep if a window is open, and cannot enjoy her garden.
38. Mrs X contacted UKPN about the noise in September 2020. It told her the timber fence was inadequate mitigation and gave her a copy of a noise survey it had conducted in 2019. According to Mrs X, UKPN told the housing developer a timber fence would be inadequate, but it continued with its plans due to costs.

### Noise survey report commissioned by UKPN

39. *"The aim was to make a record of the sound levels in and around the substation and to make an assessment of the likely impact of transformer noise at the new houses. The sound level measurements were carried out on the 24<sup>th</sup>/April/2019."*
40. *"A new wooden fence, four metres tall, has been installed around the substation: I understand the intention was to hide the substation from view and also to reduce the sound levels at the new properties nearby."*
41. *"The transformer is quite old and quite noisy: the mean sound level beside it was 74dBA... The houses around it were at varying levels of completion at the time of the survey... The sound of the transformer hum was very obvious outside all of them, with sound levels in the range of 45dBA to 57dBA. For comparison, the background levels in the area were about 38dBA in the afternoon and 30dBA at the end of the evening. When the sound levels above are rated using the method of BS4142:2014, the conclusion is that there is a very 'significant adverse impact' from transformer hum."*
42. *"I was able to take some sound level readings in one of the occupied new houses... I found that transformer hum was very clearly audible in a bedroom when a window was slightly open and just audible when it was shut. The levels of the 100Hz tone were around 43dB and 36dB, respectively. These levels lie above and below the reference curve level in the Defra documents NANR45, which is 38dB for 100Hz, implying some cause for concern, at least. I believe that other houses could have significantly higher levels than this."*
43. *"It is not uncommon for transformers... to be fitted with an acoustic enclosure, and these normally give a reduction in sound levels of 15dBA, or slightly more. This improvement should be enough that most future residents will be prepared to accept the situation, though transformer hum will still be audible outside the houses."*
44. *"British Standard BS4142:2014 'Methods for rating industrial and commercial sounds' is the most widely used method for rating sound affecting residences... The essence of the rating method is to compare the 'specific sound level' outside the residential façade with the background sound level would exist in its absence: the greater the difference between the two the greater the 'adverse impact' is judged to be."*

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45. *“My experience is that BS4142 tends to overestimate the severity of a noise nuisance in situations such as this, where the background levels are low. However, the calculation indicates a very high likelihood of complaints about transformer noise from owners of the new houses.”*
46. *“Defra document NANR45 ‘Procedure for assessment of low frequency noise complaints’...suggests that sound levels should be measured in third octave bands, inside houses, at points where the sound is most noticeable. The results should then be compared with the levels in a ‘reference curve’; if the levels are above the curve, the sound should be considered significant.”*
47. *“In a report of a previous survey carried out in 2012, the sound levels of the transformer was given as ‘65dBA at five metres’...so it appears the sound levels has not changed much, if at all, since then. My experience is that transformer noise levels are generally very steady, over time.”*
48. *“The rating of BS4142 indicates that the rating levels of transformer hum are around 25dBA higher than the background level at night. On this basis, a reduction of 20dBA will be needed to reduce the rating from ‘significant adverse impact’ to merely ‘adverse impact’.”*
49. *“The conclusion from NANR45 analysis is that a reduction of about 5dB(100Hz) would bring the sound levels inside houses below the reference curve when the windows are shut, or about 15dB(100Hz) would be enough when they are open a little.”*
50. *“Taking the two together, it appears that a reduction of about 15dB in the 100Hz tone level, which would equate to 15dBA for this sound, should be enough to satisfy many residents, though transformer hum will still be audible outside the houses.”*
51. On the ‘acoustic’ fence installed by the applicant, the report considered *“the net effect of installing the screen is a reduction of no more than 4-5dB.”*

### **Environmental health investigation**

52. After considering the noise report from UKPN, Mrs X raised a noise complaint with the Council. She asked the Council to investigate.
53. Environmental health officers visited the site to measure the noise in April 2021. They found the area clearly dominated by a tonal hum from the sub-station’s transformer in an otherwise quiet area.
54. The officers inspected the fence the developer installed around the transformer. They observed its effectiveness was affected by gaps underneath. It also appeared to be too low and positioned too far from the transformer to adequately mitigate the noise. The officers questioned whether the fence was of sufficient mass to mitigate against the noise.
55. The officers observed clearly audible, constant, and distinctive noise in Mrs X’s main bedroom with the window partially open. With the windows closed the noise was slightly audible, although not significantly intrusive to prevent or disturb sleep.
56. The officers considered the noise in the living room is unlikely to constitute a nuisance. However, there is a standing wave present. The impact was difficult to quantify, but the officers suspected it is more of an issue in the summer.
57. The officers also noted the hum/drone from the transformer is dominant in the garden despite screening by the house.

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58. The officers noted the noise was subjectively very tonal and the characteristics of the noise are particularly perceptive and intrusive. They considered the noise is unreasonable in a residential setting and likely to be detrimental to health in the long term.
59. The Council considered whether it could serve an abatement notice on UKPN to stop the noise from the sub-station. It sought legal advice but determined it could not take formal action against UKPN. Relevant caselaw indicates the responsibility to mitigate the noise lies with the developer of the land, as they are seeking to change the nature of the site.
60. The Council also received advice that it could not take action against the developer, as the Council had approved their proposed mitigation.

### **My investigation**

61. In response to my enquiries, the Council told me Mrs X first reported noise nuisance in September 2020. Environmental health officers visited the site and contacted UKPN in October.
62. UKPN denied responsibility for any noise nuisance. The Council tried to arrange a meeting with UKPN and the developer, but the developer would not engage.
63. The Council sought legal advice and determined it could not take action against UKPN.
64. The Council met with the developer, who said Mrs X knew about the noise before buying her home. The developer said it made no claims about the acoustic qualities of the fence it installed, and it sold the affected homes at a discounted price.
65. The Council said it consulted its environmental health department about the developer's noise survey report. It also said while the 'acoustic' fence is one metre lower than planned, it is effectively in line with what was recommended in the noise survey report. It said it consulted on and assessed the 'acoustic' fence and there was no suggestion it was inadequate.

### **Analysis**

66. I do not find the Council at fault for its investigation of the noise nuisance. It properly considered matters and reached the reasonable conclusion it could not take action against UKPN.
67. As the agent of change, it was the responsibility of the housing developer to properly protect homes on the development from noise. Now the Council has approved the developer's scheme of mitigation it has no power to compel the developer to install improved mitigation.
68. The Council told me it consulted its environmental health department about the developer's noise survey report before approving the 'acoustic' timber fence. I have reviewed the Council's report to the planning committee and feedback from environmental health. I found comments about noise from a nearby road, but nothing about noise from the electricity sub-station or the associated mitigation measures.
69. The Council also told me the 'acoustic' timber fence installed by the developer was effectively in line with what was recommended in the developer's noise survey report. I have reviewed the noise survey report and found that it did not make any recommendations about noise mitigation. It simply confirms the mitigation measures the developer had planned. It said it considered acceptable

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noise levels could be provided and could be secured through suitable planning conditions. It did not offer any opinion on how effective it considered the mitigation would be, nor did it give any specific details about what the noise reduction impact of those mitigation measures would be.

70. The noise report commissioned by UKPN considered the 'acoustic' timber fence is only reducing noise levels by 4-5dB. On the evidence seen, this is not something the Council considered or looked into when the developer applied to discharge the planning condition. The developer did not give any details about the properties of the timber fence or its noise reduction abilities, and the Council did not seek to find this out.
71. It is not enough for the Council to say there was no suggestion the 'acoustic' fence was inadequate. The purpose of the planning condition was for the developer to give specific details for the Council to assess. That did not happen.
72. Any fence can serve as an acoustic barrier, but the specific properties of the fence will determine its effectiveness and to what extent it can mitigate the noise. This was not something the developer gave details about and the Council did not enquire. In effect, the Council left this to chance.
73. The timber fence erected by the developer is clearly inadequate as mitigation against noise from the sub-station. This is evidenced by the Council's environmental health investigation and by the noise survey report carried out on behalf of UKPN. The Council is at fault for failing to adequately check the details of the proposed mitigation.
74. The developer said it made no claims about the acoustic qualities of the fence. I agree. I found it evident in the planning process that the required information and level of detail about the fence was sorely lacking.
75. It is essential the Council properly checks noise mitigation measures in order to safeguard the amenity of residents. The Council recognised the noise risk here, hence the need for a condition about noise mitigation. Unfortunately, it failed to carry out checks on the noise mitigation effectiveness of a timber fence in this context. It also failed to ask the developer to provide specifics about the mitigation qualities of the fence, and what the predicted noise reduction would be.
76. The Council's failure to properly consider the noise mitigation measures before discharging the relevant planning condition has caused Mrs X (and other nearby residents) significant injustice to the extent that a noise nuisance exists.
77. The Council's environmental health department recognised the detrimental impact noise nuisance can have on a person's health. Mrs X has suffered stress, inconvenience, and frustration since buying her home. Her sleep is affected, and she has suffered a loss of amenity as she cannot fully enjoy her home. This has been ongoing for the last few years.
78. In response to my draft decision, the Council told me it has reviewed the actions of officers in the case and taken action to ensure the failings are not repeated. It also said it has changed its practice so that consultees are required to actively respond in cases like this.

### **Agreed action**

79. Within eight weeks of my final decision, the Council agreed to:
  - Send Mrs X a written apology for its failures when discharging the planning condition about noise.



- 
- Pay Mrs X £500 to recognise the prolonged distress and loss of amenity she suffered.
  - Arrange its own noise survey report, which will also assess the degree/level of mitigation required, and the draw up a plan to install appropriate mitigation measures. The Council will notify the Ombudsman if it needs more time to finalise its report.
  - Seek to work with the developer to implement the mitigation measures. Should the developer refuse to pay or contribute to the mitigation measures, the Council should fund the mitigation measures instead.
  - Share its plans with Mrs X and keep her updated on progress.

### **Final decision**

80. I have completed my investigation. The Council was at fault for failing to properly discharge the planning condition about noise mitigation. This caused Mrs X prolonged injustice which the Council agreed to remedy.

### **Investigator's decision on behalf of the Ombudsman**



**Ref**            **5318**

**For**            **Marcus Watts**  
Environmental Health Manager (Protection)  
Uttlesford District Council  
Council Offices  
London Road  
Saffron Walden  
Essex  
CB11 4ER

**Mortimers Gate, Saffron Walden**  
**Saffron Walden Substation**  
**Noise Impact Assessment**

**Date**            25 November 2022

**Author**        Sarah Large

## The Author

Sarah Large MA (Cantab) MSc Dip (IoA) MIOA (Senior Consultant) obtained a degree in music from Cambridge University in 2007. She has worked in acoustic consultancy since 2009, completing the Institute of Acoustics Diploma in Acoustics and Noise Control in 2010 and a Master of Science degree in Environmental Acoustics from South Bank University in 2012. Sarah has extensive experience in environmental acoustics including noise modelling, noise monitoring and assessments. Sarah joined WBM in 2021 and is working on architectural and environmental acoustic projects including mineral sites.

## WBM

WBM (the trading name of Walker Beak Mason Limited) is an established independent acoustic consultancy specialising in architectural & building acoustics, environmental noise, planning issues and expert work. WBM is a member of the Association of Noise Consultants and is also a Corporate Member of the Institute of Environmental Management & Assessment. The consultants are members of the Institute of Acoustics.

*This report has been prepared with all reasonable skill, care and diligence as appropriate for an acoustic consultancy practice under the terms and brief agreed with our Client. The document is the copyright of WBM and no third party may rely upon this document without the prior and express written agreement of WBM.*

## Document Control

Revision	Description	Date	Prepared by	Checked by
-	DRAFT	25/11/2022	SL	RHC

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## **1 Introduction**

WBM was appointed by Uttlesford District Council (UDC) to undertake noise monitoring and an assessment of transformer substation noise at the Mortimers Gate residential development in Saffron Walden.

It is understood that complaints have been received by UDC regarding the substation noise and that these complaints are ongoing.

This report summarises the findings and results of a noise survey undertaken on the evening / night time period of 11<sup>th</sup> – 12<sup>th</sup> October 2022.

To aid comprehension, a glossary of acoustic terms is presented in Appendix A.

## **2 Site Description**

The Mortimers Gate residential development comprises recently built housing located to the north east of Saffron Walden. To the south of the development is Ashdon Road and other areas of residential development within Saffron Walden. Residential development is also located to the west of the site. Farmland lies to the north of the site and an existing commercial building to the east of the site. Within the north western corner of the Mortimers Gate development is the Saffron Walden substation. The substation is surrounded by a 4m high wooden close boarded fence. The predominant noise sources in the area are local and distant road traffic and the substation.

## **3 Assessment Approach**

There is no clear guidance for the noise from the substation, which emits a strong 100Hz (low frequency) tone.

British Standard (BS) 4142:2014+A1:2019 "*Methods for rating and assessing industrial and commercial sound*" ("BS4142") provides a method for rating and assessing sound of an industrial or commercial nature on residential properties. The noise under investigation (the specific level) is compared to the background sound level, which should be measured in the absence of the noise under investigation. The specific level can be adjusted with addition of decibel penalties to account for any distinguishable acoustic features to give a rating level. A summary of BS4142 is provided in Appendix B.

The greater the difference between the rating level and the background sound level, generally the greater the impact.

- A difference of 0 dB or less indicates a low impact, depending on the context.
- A difference of around +5 dB is likely to indicate an adverse impact, depending on the context.
- A difference of around +10 dB or more is likely to indicate a significant adverse impact, depending on the context.

Context must be considered when making an assessment of impact and can include factors such as the absolute level of the noise, the character of the ambient sound environment, the sensitivity of the receptor and scope for mitigating the noise. A summary of the assessment method given in BS4142: 2014 is provided in Appendix B.

Whilst the most relevant guidance for this type of noise source (the substation) is BS 4142, it being of a commercial / industrial nature, the scope of the standard states “*The standard is not applicable to the assessment of low frequency noise*” and refers the user to the Defra document “*Procedure for the assessment of low frequency noise complaints*” (NANR45).

The NANR45 procedure relies on internal measurements and uses a reference curve of 1/3<sup>rd</sup> octave band levels between 10Hz and 160Hz against which noise measurements can be assessed. However, the assessment in this report is based on external measurements and as such the NANR45 procedure and reference curve cannot be directly used.

A paper submitted to the ICBEN conference in 2017 written by Downey and Parnell “*Assessing low frequency noise from industry – a practical approach*” proposes an adjustment to the internal NANR45 low frequency noise curve so that assessment can be based on externally measured free field noise levels. The adjusted curve is reproduced below in Table 3.1.

**Table 3.1 – Third octave low frequency noise adjustment thresholds (NANR45 criteria adjusted for façade noise reductions to give an external value)**

Hz	1/3 <sup>rd</sup> octave band externally modified NANR45 criteria												
	10	12.5	16	20	25	31.5	40	50	63	80	100	125	160
dB	92	89	86	77	69	61	54	50	50	48	48	46	44

The above table is reproduced as a guide only and is not UK recognised guidance. However, it could be used with external measurements as an indicator of an indoor low frequency noise issue as recognised by NANR45 (subject also to the caveats and guidance notes in that report).

BS4142 provides a list of suggested further reading, which includes, for low frequency noise, a paper submitted to Acoustic Australia by Broner (2011) “*A simple outdoor criterion for assessment of low frequency noise emission.*” The paper discusses various low frequency noise sources and approaches to the assessment of these sources. In Table 2 of the paper, reproduced below as Table 3.2, a summary of outdoor criteria for low frequency noise is given. As with the Downey and Parnell paper, the criteria in the Broner paper are reproduced as a guide only; the criteria are not recognised as UK guidance.

**Table 3.2 – Summary of outdoor criteria for low frequency noise (Broner 2011)**

Developed by	Criteria
Hoover	67 dBC (70 dB at 31.5 Hz) should never be exceeded
Challis	72 dBC overall with 70 dB @ 16 Hz 60 dBC overall with 60 dB @ 31.5 Hz
ANSI B133.8 1977	75-80 dBC
Hessler	Max 70 dBC when $L_{90} > 40\text{dBA}$ daytime intermittent, normal suburban, Max 65 dBC when $L_{90} > 40\text{dBA}$ 24/7, normal suburban Max 65 dBC when $L_{90} < 40\text{dBA}$ daytime intermittent, quiet suburban, Max 60 dBC when $L_{90} < 40\text{dBA}$ 24/7, quiet suburban
Newman	57 dBC - 6 dB @ 31.5 Hz
ANSI S12.9	67 dBC to minimise annoyance 72 dBC to prevent noise induced rattles
Oregon USA	65 dBC between 10pm-7am 68 dBC between 7am-10pm
Hale	65 dBC
Hessler	65 dBC with a maximum regulatory limit of 70 dBC (wind turbines)



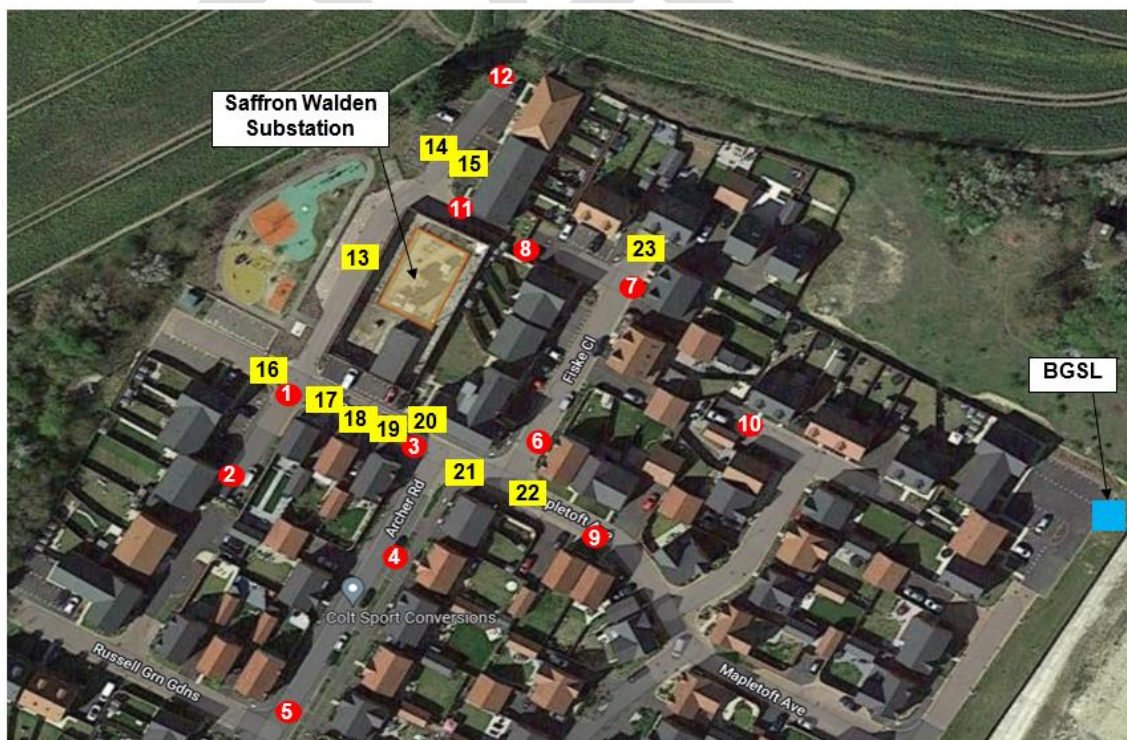
For the purposes of this assessment, noise levels from the substation are assessed primarily in relation to the BS4142 methodology. Commentary on the measured noise levels with regard to the Downey and Parnell (2017) and Broner (2011) papers are provided to supplement the BS4142 assessment.

## 4 Noise Surveys

### 4.1 Measurement Description

Noise monitoring was undertaken on 11<sup>th</sup> – 12<sup>th</sup> October 2022 at the locations shown on Figure 4.1 below. At locations 1 – 12 (red circles) measurements were undertaken at 1.5m and approximately 3.5-4m height above local ground level for a duration of 5 minutes. At locations 13 – 23 (yellow squares) shorter sample measurements of approximately 20-50 seconds were undertaken at 1.5m height above local ground level. At the end of the survey background sound levels were measured at the location indicated on the plan (BGSL) for one 15 minute period at approximately 3.5-4m height above local ground level and for two 15 minute periods at 1.5m height above local ground level.

Figure 4.1 – Aerial view showing noise monitoring locations



The predominant source of noise closest to the substation was the transformer noise, which emitted a clear 100Hz tone. With increasing distance from the substation, road traffic noise became more audible, though at the majority of locations the substation noise remained dominant.

## 4.2 Results

The results of the noise survey are presented in Table 4.1. The results include the overall A weighted noise levels ( $L_{Aeq,T}$ ) and due to the low frequency dominance of the substation transformer noise (with tonality in the 100Hz third octave band) the C weighted noise levels are also given ( $L_{Ceq,T}$ ).

**Table 4.1 – Noise survey results 11-12<sup>th</sup> October 2022**

Location	Start Time	Duration T	1.5m height $L_{eq,T}$			3.5-4m height $L_{eq,T}$		
	(hh:mm)	(mm:ss)	dB(A)	dB(C)	100Hz	dB(A)	dB(C)	100Hz
1	21:55	05:00	54	72	72	50	67	67
2	22:05	05:00	47	65	65	43	60	60
3	22:13	05:00	43	59	58	50	64	64
4	22:21	05:00	41	57	56	40	50	44
5	22:30	05:00	37	49	42	38	48	39
6	22:40	05:00	39	53	53	38	54	53
7	22:48	05:00	41	53	52	43	54	53
8	22:56	05:00	42	57	57	41	50	44
9	23:05	05:00	36	49	48	34	47	44
10	23:14	05:00	38	52	45	39	54	51
11	23:26	05:00	55	73	74	55	72	72
12	23:34	05:00	43	59	59	42	52	47
13	23:44	00:35	53	71	72	-	-	-
14	23:45	00:50	46	62	62	-	-	-
15	23:47	00:31	44	57	56	-	-	-
16	23:49	00:43	47	63	63	-	-	-
17	23:50	00:42	49	67	67	-	-	-
18	23:51	00:32	46	63	63	-	-	-



Location	Start Time	Duration T	1.5m height L <sub>eq,T</sub>			3.5-4m height L <sub>eq,T</sub>		
	(hh:mm)	(mm:ss)	dB(A)	dB(C)	100Hz	dB(A)	dB(C)	100Hz
19	23:51	00:45	45	62	62	-	-	-
20	23:52	00:28	40	55	54	-	-	-
21	23:54	00:43	43	60	60	-	-	-
22	23:55	00:32	41	58	58	-	-	-
23	23:57	00:39	45	62	62	-	-	-

Background sound levels were measured at a proxy location where the substation could not be heard. The background sound levels measured were as follows:

**Table 4.2 – Background sound level measurement results 11-12<sup>th</sup> October 2022**

Start time (hh:mm)	1.5m height dB T=15 minutes			3.5-4m height dB T=15 minutes		
	L <sub>Aeq,T</sub>	L <sub>Ceq,T</sub>	L <sub>A90,T</sub>	L <sub>Aeq,T</sub>	L <sub>Ceq,T</sub>	L <sub>A90,T</sub>
00:14	44	57	34	45	56	35
00:40	37	53	34	-	-	-

## 5 UK Power Network Report May 2019

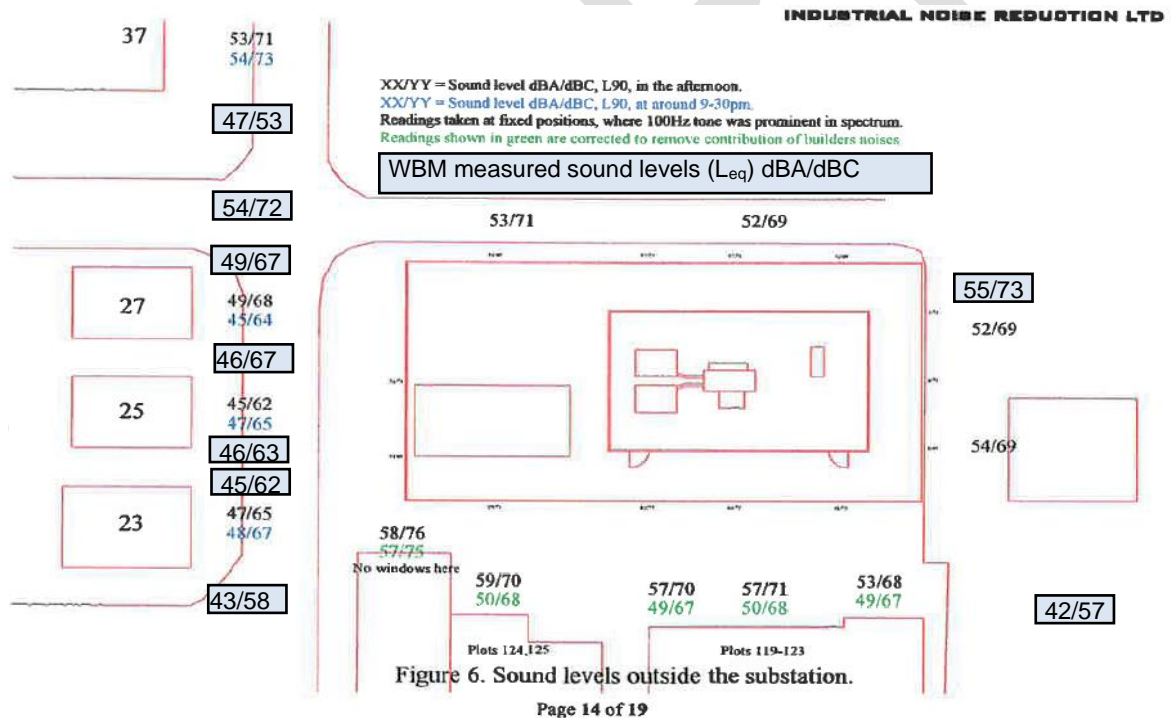
A noise survey and preliminary investigation of the Saffron Walden substation noise was undertaken by Industrial Noise Reduction Ltd on behalf of the UK Power Network in 2019. The survey included measurements inside the substation and the report provides a description of the plant within the substation along with associated noise levels. At the time of the survey the residential development at Mortimers Gate was still under construction. Additional measurements of the substation noise were undertaken at some of the nearby dwellings that were occupied, both inside and outside of dwellings. A 4m high wooden close boarded fence was also being constructed around the substation at the time of the survey, but was incomplete.

The report provided by Industrial Noise Reduction Ltd on behalf of the UK Power Network (“the UKPN report”) gives a helpful summary of the plant at the substation as well as the immediate surroundings.

Figure 6 in the UKPN report summarises the measured noise levels around the substation during daytime and evening and provides the average A weighted and C weighted results. Figure 6 from the UKPN report is reproduced below with the WBM measured noise levels from 11<sup>th</sup> – 12<sup>th</sup> October 2022 added.

The results in Figure 6 show a good correlation between the UKPN report and WBM measured noise levels, with the exception of a location used by WBM between 27 and 37 Mapletoft Avenue (“54/72”). This higher result is likely a result of localised effects discussed further in sections 6 and 7 below. The good correlation between the UKPN report and WBM measured noise levels indicates that there has been little change in the noise from the substation between the UKPN measurements in 2019 and the survey undertaken by WBM in October 2022.

**Figure 5.1 – Sound level results UKPN (2019) and WBM (2022)**



The UKPN report also outlines noise measurements undertaken in close proximity of the substation, identifying the main source of noise as that from the transformer (there appears minimal contribution from the radiators). The mean level beside the transformer is given as 74dB(A) (88dB(C)) corresponding to a sound power level of 91dB(A) (105dB(C)).

## 6 Noise Modelling

The residential development and substation noise was modelled using SoundPlan noise mapping software to assess the extent to which the noise propagates across the development. The purpose of the modelling was to establish the number of dwellings potentially impacted by the substation noise.

A mean sound power level of 91dB  $L_{WA}$  has been used for the transformer in the model based on the measurements presented in the UKPN report close to the transformer and the good correlation observed between the UKPN report and WBM measurements outside of the substation. As greater variation was observed in the measured noise levels at 3.5-4m height, the noise modelling is based on predictions at 1.5m height only. A noise map showing the results of the modelling is provided in Appendix E. Further information regarding the noise modelling inputs can be provided on request.

A table summarising the results of the modelling is presented below for the receiver locations used in the WBM noise survey undertaken on 11<sup>th</sup> – 12<sup>th</sup> October 2022. At most locations the predicted noise levels provide a reasonable approximation of the measured noise levels; however, there are some locations closest to the substation where predicted noise levels underestimate the measured noise levels.

During the noise survey on 11<sup>th</sup> – 12<sup>th</sup> October 2022 a high variability in the noise from the substation was noted particularly at dwellings closest to the substation. The differences in predicted and measured noise levels are likely a result of localised effects that cannot be accurately accounted for in the noise model including interaction of the transformer noise with the wooden fencing and reflected noise.

Comparison of the measured and predicted noise levels indicates that at the majority of locations the predicted noise levels can provide a reasonable representation of the transformer noise levels, but care should be taken at the dwellings closest to the substation to the north of the site (locations 8 and 11 on Figure 4.1), at dwellings to the south west of the site (locations 1 and 2 on Figure 4.1) and at dwellings near the junction of Mapletoft Avenue and Archer Road (locations 21 and 22 on Figure 4.1). At these locations the predicted noise levels significantly underestimate impact and any assessment of impact at these dwellings should refer to the measured noise levels.

**Table 6.1 – Predicted noise levels (compared with measured noise levels) 1.5m height**

Location**	Measured noise level 1.5m height $L_{eq,T}$		Predicted noise level 1.5m height $L_{eq,T}$		Difference (Predicted – Measured)	
	dB(A)	125Hz (1/1 octave) dB(A)	dB(A)	125Hz (1/1 octave) dB(A)	dB(A)	125Hz (1/1 octave) dB(A)
1	54	53	47	44	-6	-10
2	47	46	43	39	-4	-7
3	43	39	45	41	1	1
4	40*	38	38	35	-2	-3
5	37	27	33	30	-5	4
6	38*	34	35	34	-3	0
7	40*	33	38	36	-2	3
8	42	38	47	44	5	6
9	34*	29	30	28	-4	-1
10	31*	29	34	32	3	3
11	55	55	49	45	-6	-9
12	43	40	43	40	1	0
13	53	53	50	47	-3	-6
14	46	43	47	44	1	1
15	44	37	47	44	3	6
16	47	44	47	43	1	-1
17	49	48	47	44	-2	-4
18	46	44	47	44	1	-1
19	45	43	46	43	1	-1
20	40	36	41	32	1	-4
21	43	41	33	31	-10	-10
22	41	39	31	29	-10	-9
23	45	43	44	40	-1	-3

\*Based on contemporaneous notes (i.e. excluding extraneous noise)

\*\* See Figure 4.1

## 7 Noise Assessment and Discussion

During the noise survey on 11<sup>th</sup> – 12<sup>th</sup> October 2022 a high variability in the noise from the substation was noted particularly at dwellings closest to the substation. Moving to and from a location approximately 4-5m apart could result in large differences in the measured noise levels and particularly the 100Hz tone. This is likely to be a result of nodes and anti-nodes created by reflections off building facades and / or could also be an interaction between the noise from the transformer and the wooden perimeter fence around the substation area. It is noted that the UKPN report notes a similar experience.

The measured noise levels at 3.5m – 4m height appear to show greater variability from the measurements at 1.5m height particularly at 100Hz. The majority of measurements at 1.5m height were dominated by 100Hz sound energy. As such assessment has been based on the measured noise levels at 1.5m height.

### 7.1 Measured Noise Levels

#### BS4142: 2014 +A1:2019

The scope of the BS4142 standard states “*The standard is not applicable to the assessment of low frequency noise*” and refers the user to the Defra low frequency noise criteria (NANR45), which the Downey & Parnell 2017 paper is based on. However, an objective method for assessing the audibility of tones in sound (one-third octave method) is provided in Annex C of BS4142. This method includes assessing noise in the low frequency range and provides the following criteria for identifying a tone:

The level differences between adjacent one-third-octave bands that identify a tone are:

- 15 dB in the low-frequency one-third-octave bands (25 Hz to 125 Hz);
- 8 dB in middle-frequency one-third-octave bands (160 Hz to 400 Hz);
- 5 dB in high-frequency one-third-octave bands (500 Hz to 10 000 Hz)

At all measurement locations at 1.5m height except for location 5 and location 10, a tone would be identified in the 100Hz third octave band using the BS4142 objective third octave band method.

Background sound levels were measured in a proxy location where the 100Hz substation noise could not be heard. At 1.5m height the background sound level was 34dB  $L_{A90,15\text{minute}}$ .

The measured A weighted noise levels are presented for locations 1-12 below along with a BS4142 style assessment. A full BS4142 assessment has not been provided but additional information (including the “Information to be reported”, see Section 12 of BS4142) can be provided on request.

The assessment is based on the measured levels at 1.5m height. In some cases the A-weighted noise levels taken from contemporaneous notes have been used in the assessment as the overall measured level was influenced by extraneous noise.

To determine the rating level, a 6dB penalty has been added to the measured A-weighted noise level to account for a highly perceptible tone (100Hz) except for locations 5 and 10, where no tonal penalty is identified based on third octave band analysis.

**Table 7.1 – BS4142 style assessment of transformer noise at Mortimers Gate**

Location	Start Time	Measured noise level 1.5m height	Rating level	Background sound level	Difference
	(hh:mm)	dB $L_{Aeq,T}$	dB $L_{Ar,T}$	dB $L_{Aeq,T}$	dB
1	21:55	54	60	34	26
2	22:05	47	53	34	19
3	22:13	43	49	34	15
4	22:21	40*	46	34	12
5	22:30	37	37**	34	3
6	22:40	38*	44	34	10
7	22:48	40*	46	34	12
8	22:56	42	48	34	14
9	23:05	34*	40	34	6
10	23:14	31*	31**	34	-3
11	23:26	55	61	34	27
12	23:34	43	49	34	15

\*Based on contemporaneous notes (i.e. excluding extraneous noise)

\*\* No tonal penalty applicable.

At all locations except for locations 5, 9 and 10 the difference between the rating level and the background sound level indicates a significant adverse impact is likely to arise, based on the guidance in BS 4142. Consideration of context has not been made, but is unlikely to change the outcome of the assessment.

The measured average noise levels ( $L_{Aeq,T}$ ) were lower at 3.5-4m height in all cases except for locations 3, 5, 7 and 10. At location 5, the 100Hz third octave band sound level is lower at 4m height than at 1.5m height and as such the higher noise level at 3.5-4m height is unlikely to be caused by the substation hum. At location 3 and 7 the assessment at 1.5m height indicates a significant adverse impact and this would not change considering the assessment at 3.5-4m height. At location 10 there is a 1dB increase in noise level between 1.5m and 3.5-4m height, but this would not change the outcome at this location that impact is likely to be below the point at which adverse impact arises.

An aerial plan showing the BS4142 style assessment results for all the locations at which measurements were taken at 1.5m height is provided in Figure 7.1 below. It is noted that to conform with BS4142 methodology an assessment period of 15 minutes is required during the night time period (23:00 – 07:00). The measured noise levels at locations 1-12 were of 5 minute duration and are considered representative of the substation noise output, as it was steady and continuous at the monitoring location. At locations 13-23 the measurement duration was shorter, but can also be considered reasonably representative of a longer duration measurement due to the steady and continuous nature of the noise at the monitoring location.



Figure 7.1 – Difference between rating level and background sound level (BS4142), based on measured noise levels 11-12<sup>th</sup> October 2022.



Downey & Parnell (2017) / Broner (2011)

The Downey and Parnell (2017) paper proposes an adjustment to the internal DEFRA low frequency noise criteria so that assessment can be based on externally measured free field noise levels. The adjusted curve is reproduced in Table 3.1 above. At 100Hz (third octave band) the noise adjustment threshold is 48dB (Lin).

The 100Hz criterion level of 48dB is exceeded at all measurement locations at 1.5m height at Mortimers Gate apart from locations 5, 9, 10 and the location used for measuring background sound levels.

The Broner 2011 paper provides a summary of outdoor criteria for low frequency noise, see Table 3.2 above. Comparison of the measured noise levels at Mortimers Gate with the criteria in the table indicates a range of C weighted average levels ranging from 57-80 dB(C), though many fall within the 60-67 dB(C) range.

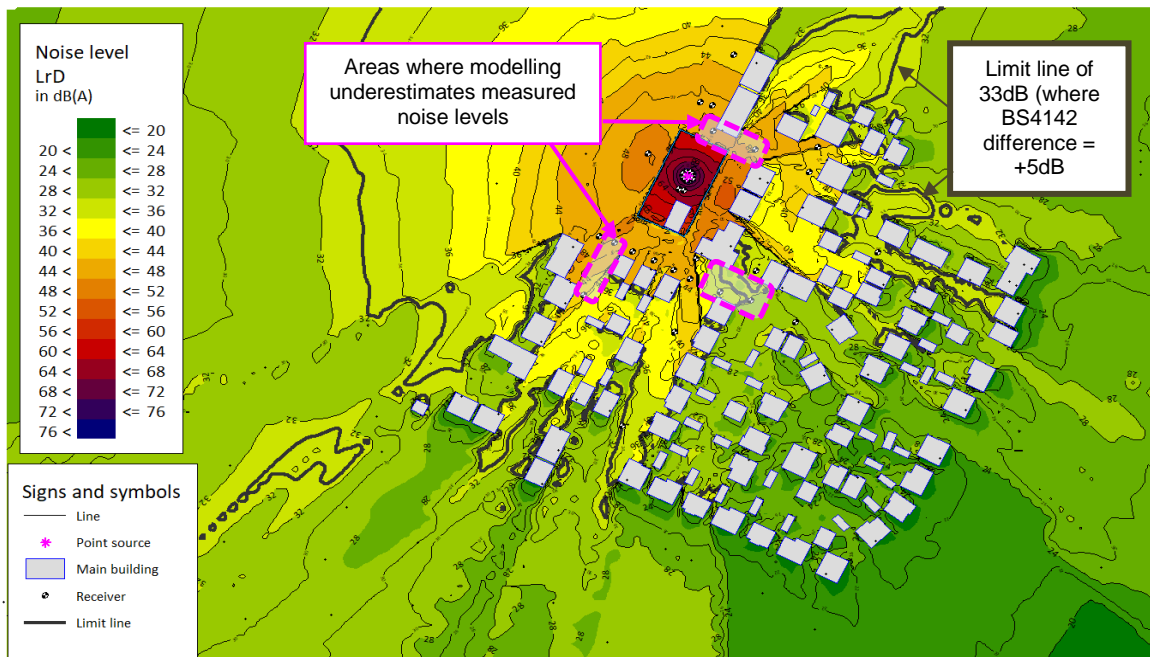


The criteria proposed in the Downey and Parnell (2017) and Broner (2011), whilst not recognised as UK guidance, corroborate the findings of the BS4142 assessment indicating that there is a noise issue at all measurement locations with the exception of locations 5, 9 and 10 (and the background sound level monitoring location).

## 7.2 Predicted Noise Levels

A noise map showing the results of modelling is provided in Appendix E in terms of calculated  $L_{Aeq,T}$ . The noise map provides a visual representation of how the noise from substation propagates across the Mortimers Gate development. As noted above, the noise model was found to underestimate impact compared to the measured noise levels at some locations closest to the substation. Figure 7.2 below shows the noise map from Appendix E with the areas where noise levels are underestimated marked. All other areas are reasonably well represented by the noise model.

**Figure 7.2 – Predicted substation noise levels (dB  $L_{Aeq,T}$ )**



A limit line is marked on the noise map showing the boundary where noise levels would be considered an adverse impact based on a BS4142 style assessment with a difference between the substation rating level and background sound level of 5dB. The limit line has been derived from the measured background level at the proxy location (34 dB  $L_{A90,T}$ ). In order for the rating level to not exceed “adverse impact” according to BS 4142 would require the value not to exceed  $34+5=39$  dB  $L_{Ar,T}$ .

As indicated above, as the noise from the substation is tonal, there is a 6 dB penalty meaning that the specific sound from the substation would need to be at or below  $39-6=33$  dB  $L_{Aeq,T}$ . Hence 33 dB  $L_{Aeq,T}$  is considered to be the upper limit in order to avoid adverse impact. Dwellings located beyond the limit line are expected to be relatively unaffected by the substation noise.

Similarly, for the substation noise to achieve a low level of impact as indicated by the BS 4142 method (i.e. a difference between the substation rating level and the background sound level of 0) the predicted noise level should be 28 dB  $L_{Aeq,T}$ .

## **8 Summary and Conclusions**

WBM was appointed by Uttlesford District Council (UDC) to undertake noise monitoring and assessment of transformer substation noise at the Mortimers Gate residential development in Saffron Walden. It is understood that complaints have been received by UDC regarding the substation noise and that these complaints are ongoing.

This report summarises the findings and results of a noise survey undertaken on the evening / night time period of 11<sup>th</sup> – 12<sup>th</sup> October 2022. The predominant source of noise closest to the substation was the transformer noise, which emitted a clear 100Hz tone. With increasing distance from the substation, road traffic noise became more audible, though at the majority of locations the substation noise remained dominant.

During the noise survey on 11<sup>th</sup> – 12<sup>th</sup> October 2022 a high variability in the noise from the substation was noted particularly at dwellings closest to the substation. Moving to and from a location approximately 4-5m apart could result in large differences in the measured noise levels and particularly the 100Hz tone. This is likely to be a result of nodes and anti-nodes created by reflections off building facades and / or could also be an interaction between the noise from the transformer and the wooden perimeter fence around the substation area. It is noted that the UKPN report notes a similar experience.

A good correlation between the UKPN report and WBM measured noise levels indicates that there has been little change in the noise from the substation between the UKPN measurements in 2019 and the survey undertaken by WBM in October 2022.

Following a BS4142 style assessment, at all locations except for locations 5, 9 and 10 the difference between the substation rating level and the background sound level indicates a significant adverse impact is likely to arise. Consideration of context has not been made, but is unlikely to change the outcome of the assessment.

The site has been modelled using SoundPlan noise mapping software. The noise map provides a visual representation of how the noise from the substation propagates across the Mortimers Gate development. The noise map can be used as a guide for how many dwellings within the development are impacted by the substation noise (albeit with caveats as outlined in Section 6 and 7 above). For the substation noise to achieve a low level of impact as indicated by the BS4142 method (i.e. a difference between the substation rating level and the background sound level of 0) the predicted noise level should be at or below 28 dB  $L_{Aeq,T}$ . For the substation noise to achieve a level indicative of adverse noise impact (but below the point at which significant adverse impact would be expected to arise) the predicted noise level should be at or below 33 dB  $L_{Aeq,T}$  (i.e. a difference between the substation rating level and the background sound level of +5dB).

A limit line is marked on the noise map showing the boundary where noise levels would be considered an adverse impact based on a BS4142 style assessment with a difference between the substation rating level and background sound level of 5dB. Dwellings located beyond the limit line are expected to be relatively unaffected by the substation noise.

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Senior Consultant

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## Appendix A – Glossary of Acoustic Terms

### General Noise and Acoustics

The following section describes some of the parameters that are used to quantify noise.

#### Decibels dB

Noise levels are measured in decibels. The decibel is the logarithmic ratio of the sound pressure to a reference pressure ( $2 \times 10^{-5}$  Pascals). The decibel scale gives a reasonable approximation to the human perception of relative loudness. In terms of human hearing, audible sounds range from the threshold of hearing (0 dB) to the threshold of pain (140 dB).

#### A-weighted and C-weighted Decibels, dB(A) and dB(C)

The 'A'-weighting filter emulates human hearing response for low levels of sound whereas the 'C'-weighting filter emulates human hearing at high levels of sound. The filter networks are incorporated electronically into sound level meters.

Sound pressure levels measured using an 'A'-weighting filter have units of dB(A) which is a single figure value to represent the overall noise level for the entire frequency range.

A change of 3 dB(A) is the smallest change in noise level that is perceptible under normal listening conditions. A change of 10 dB(A) corresponds to a doubling or halving of loudness of the sound. The background noise level in a quiet bedroom may be around 20 –30 dB(A); normal speech conversation around 60 dB(A) at 1 m; noise from a very busy road around 70-80 dB(A) at 10m; the level near a pneumatic drill around 100 dB(A).

Sound pressure levels measured using the 'C'-weighting filter have units of dB(C). The C-weighting filter is generally flatter compared to A-weighting, with less attenuation at low frequencies.

#### Façade Noise Level

Façade noise measurements are those undertaken near to reflective surfaces such as walls, usually at a distance of 1m from the surface. Façade noise levels at 1m from a reflective surface are normally around 3 dB greater than those obtained under freefield conditions.

#### Freefield Noise Level

Freefield noise measurements are those undertaken away from any reflective surfaces other than the ground

#### Frequency Hz

The frequency of a noise is the number of pressure variations per second, and relates to the "pitch" of the sound. Hertz (Hz) is the unit of frequency and is the same as cycles per second. Normal, healthy human hearing can detect sounds from around 20 Hz to 20 kHz.

#### Octave and Third-Octave Bands

Two frequencies are said to be an octave apart if the frequency of one is twice the frequency of the other. The octave bandwidth increases as the centre frequency increases. Each bandwidth is 70% of the band centre frequency.

Two frequencies are said to be a third-octave apart if the frequency of one is 1.26 times the other. The third octave bandwidth is 23% of the band centre frequency.

There are recognised octave band and third octave band centre frequencies. The octave or third-octave band sound pressure level is determined from the energy of the sound which falls within the boundaries of that particular octave or third octave band.

## Appendix A (continued)

### Day Evening Night Level $L_{den}$

The day evening night level is the average A-weighted sound level over a 24 hour period, determined from the  $L_{day}$  ( $L_{Aeq,12hr}$  7am-7pm),  $L_{evening}$  ( $L_{Aeq,4hr}$  7pm-11pm) and  $L_{night}$  ( $L_{Aeq,8hr}$  11pm-7am), with a 5 dB penalty added to the  $L_{evening}$  and a 10 dB penalty added to the  $L_{night}$ .

### Equivalent Continuous Sound Pressure Level $L_{Aeq,T}$

The 'A'-weighted equivalent continuous sound pressure level  $L_{Aeq,T}$ , is a notional steady level which has the same acoustic energy as the actual fluctuating noise over the same time period T. The  $L_{Aeq,T}$  unit is dominated by higher noise levels, for example, the  $L_{Aeq,T}$  average of two equal time periods at, for example, 70 dB(A) and 50 dB(A) is not 60 dB(A) but 67 dB(A).

The  $L_{Aeq}$ , is the chosen unit of BS 7445-1:2003 "Description and Measurement of Environmental noise".

### Maximum Sound Pressure Level $L_{Amax}$

The  $L_{Amax}$  value describes the overall maximum 'A'-weighted sound pressure level over the measurement interval. Maximum levels are measured with either a fast or slow time weighted, denoted as  $L_{Amax,f}$  or  $L_{Amax,s}$  respectively.

### Noise Rating NR

The noise rating level is a single figure index obtained from an octave band analysis of a noise. The NR level is obtained by comparing the octave band sound pressure levels to a set of reference curves and the highest NR curve that is intersected by the sound pressure levels gives the NR level.

### Sound Exposure Level $L_{AE}$ or SEL

The sound exposure level is a notional level which contains the same acoustic energy in 1 second as a varying 'A'-weighted noise level over a given period of time. It is normally used to quantify short duration noise events such as aircraft flyover or train passes.

### Statistical Parameters $L_N$

In order to cover the time variability aspects, noise can be analysed into various statistical parameters, i.e. the sound level which is exceeded for N% of the time. The most commonly used are the  $L_{A01,T}$ ,  $L_{A10,T}$  and the  $L_{A90,T}$ .

$L_{A01,T}$  is the 'A'-weighted level exceeded for 1% of the time interval T and is often used to give an indication of the upper maximum level of a fluctuating noise signal.

$L_{A10,T}$  is the 'A'-weighted level exceeded for 10% of the time interval T and is often used to describe road traffic noise. It gives an indication of the upper level of a fluctuating noise signal. For high volumes of continuous traffic, the  $L_{A10,T}$  unit is typically 2–3 dB(A) above the  $L_{Aeq,T}$  value over the same period.

$L_{A90,T}$  is the 'A'-weighted level exceeded for 90% of the time interval T, and is often used to describe the underlying background noise level.

## Appendix B – BS 4142 Summary

British Standard (BS) 4142:2014+A1:2019 "*Methods for rating and assessing industrial and commercial sound*" describes methods for assessing the likely effects of sound of an industrial and/or commercial nature on residential properties. It includes the assessment of sound from industrial and manufacturing processes, M&E plant and equipment, loading and unloading of goods and materials, and mobile plant/vehicles on the site. It can be used to assess sound from proposed, new, modified or additional industrial/commercial sources, at existing or new premises used for residential purposes.

The standard describes methods to measure and determine ambient, background and residual sound levels, and the rating levels of industrial/commercial sound. The standard also requires consideration of the level of uncertainty in the data and associated calculations.

BS 4142 is not intended to be used for the derivation or assessment of internal sound levels, or for the assessment of non-industrial/commercial sources such as recreational activities, motorsport, music and entertainment, shooting grounds, construction and demolition, domestic animals, people, and public address systems for speech. In addition, BS 4142 is not intended to be applied to other sources falling within the scope of other standards or guidance.

Sound of an industrial / commercial nature does not include sound from the passage of vehicles on public roads and railway systems.

Ambient sound is defined in BS 4142 as "*totally encompassing sound in a given situation at a given time, usually composed of sound from many sources near and far*". It comprises the residual sound and the specific sound when present.

Residual sound is defined in BS 4142 as "*ambient sound remaining at the assessment location when the specific sound source is suppressed to such a degree that it does not contribute to the ambient sound*". The background sound level is the  $L_{A90,T}$  of the residual sound level, and is the underlying level of sound. Measurements of background sound level should be undertaken at the assessment location where possible or at a comparable location. The measurement time interval should be sufficient to obtain a representative value (normally not less than 15 minutes) and the monitoring duration should reflect the range of background sound levels across the assessment period. The background sound level used for the assessment should be representative of the period being assessed.

The specific sound level is the  $L_{Aeq,Tr}$  of the sound source being assessed at the assessment location over the reference time interval,  $Tr$ . BS 4142 advises that  $Tr$  should be 1 hour during the day and 15 minutes at night.

The rating level is the specific sound level plus any adjustment for the characteristics of the sound at the assessment location (tone, impulse, intermittent or other acoustic feature). The standard describes subjective and objective methods to establish the appropriate adjustment. The adjustments for the different features and assessment methods are summarised below.



## Appendix B (continued)

### Summary of Potential Acoustic Feature Adjustments

Acoustic Feature	Adjustment for Acoustic Feature		
	Subjective Methods	Objective Methods	
Tonality	+2 dB if just perceptible	Third Octave Analysis	Narrow Band Analysis
	+4 dB if clearly perceptible +6 dB if highly perceptible	+6 dB if tones identified	Sliding scale of 0 to +6 dB depending on audibility of tone
Impulsivity	+3 dB if just perceptible +6 dB if clearly perceptible +9 dB if highly perceptible	Sliding scale of 0 to +9 dB depending on prominence of impulsive sound	
Intermittency	+ 3 dB if intermittency is readily distinctive	n/a	
Other	+ 3 dB if neither tonal nor impulsive, but otherwise readily distinctive	n/a	

Where tonal and impulsive characters are present in the specific sound within the same reference period then these two corrections can both be taken into account. If one feature is dominant, it might be appropriate to apply a single correction.

The rating level is equal to the specific sound level if there are no features present.

The level of impact is assessed by comparing the rating level of the specific sound source with the background sound level. Typically, the greater the difference, the greater the magnitude of the impact depending on the context. Other factors that may require consideration include the absolute level of sound, the character and level of the residual sound compared to the specific sound, and the sensitivity of the receptor and scope for mitigation.

When the rating level is above the background sound level, a difference of around +5 dB is likely to indicate an adverse impact and a difference of around +10 dB or more is likely to indicate a significant adverse impact, depending on the context.

The lower the rating level with respect to the background sound level, the less likely it is that the specific sound source will have an adverse impact. Where the rating level does not exceed the background sound level, this is an indication of the specific sound source having a low impact, depending on the context.

## Appendix C – Survey Details

### Date and Locations of Survey

21:30 on 11<sup>th</sup> October 2022 – 01:00 on 12<sup>th</sup> October 2022

Noise measurement locations in the vicinity of Mortimers Gate residential development.

### Survey carried out by

Sarah Large

### Weather Conditions

Dry, cool, clear sky, very still, southerly wind direction (4mph forecast speed). 6-7°C.

### Instrumentation and Calibration

The instrumentation used (including serial number in brackets) is tabulated below. The sensitivity of the meter was verified on site immediately before and after the survey using the field calibrator. The measured calibration levels were as follows:

Instrumentation	Measurement height	Start Cal	End Cal
Norsonic 140 Sound Level Meter (1403138)	1.5m	113.8 dB(A)	113.8 dB(A)
Norsonic 1251 Calibrator (31991)			
Norsonic 140 Sound Level Meter (1404819)	3.5-4m	113.8 dB(A)	113.9 dB(A)
Norsonic 1251 Calibrator (33321)			

The meters and calibrators are tested monthly against Norsonic Calibrators, type 1253 (serial number 22906) and type 1256 (serial number 125626100) both with UKAS approved laboratory certificates of calibration. In addition, the meters and calibrators undergo traceable calibration at an external laboratory every two years.

### Survey Details

At locations 1 – 12 (see Figure 4.1) measurements were undertaken at 1.5m and approximately 3.5-4m height above local ground level for a duration of 5 minutes. At locations 13 – 23 shorter sample measurements of approximately 20-50 seconds were undertaken at 1.5m height above local ground level. At the end of the survey background sound levels were measured at the location indicated on the plan (BGSL) for one 15 minute period at approximately 3.5-4m height above local ground level and for two 15 minute periods at 1.5m height above local ground level.

### Observations

The predominant noise sources in the area were distant road traffic and the substation.



## Appendix D – Survey Results

11<sup>th</sup> – 12<sup>th</sup> October 2022 – 3.5-4m height (substation noise)

Location	Start Time	Duration T (mm:ss)	Results dB			Comments / Observations
			L <sub>Aeq,T</sub>	L <sub>Ceq,T</sub>	L <sub>A90,T</sub>	
1	21:55	05:00	50	67	49	Hum, bins being moved briefly in middle of period.
2	22:05	05:00	43	60	43	
3	22:13	05:00	50	64	49	
4	22:21	05:00	40	50	39	Slightly more distant road traffic noise at this location.
5	22:30	05:00	38	48	36	Hum still audible but much reduced. At 22:31:07 100Hz sound much reduced / quieter. Both dB(A) and 100Hz influenced by distant road traffic noise. Along front of Russel Green Gardens only just audible hum / masked by road traffic noise. Aircraft noise at end of period.
6	22:40	05:00	38	54	38	
7	22:48	05:00	43	54	43	Hum, intermittent talking in nearby gardens just audible.
8	22:56	05:00	41	50	40	Hum and distant road traffic noise. See also 315Hz at 4m / 400Hz at 1.5m
9	23:05	05:00	34	47	33	Hum and noise from bathroom fan at nearby dwelling.
10	23:14	05:00	39	54	34	Hum audible but much lower here,
11	23:26	05:00	55	72	55	Significant hum. Approx 3-3.5m from fence
12	23:34	05:00	42	52	40	Hum. Moved 4m mast closer to source by approx. 2m and 100Hz increases. Aircraft noise at end (23:34)
NE end of Miller Street	00:14	15:00	45	56	35	Background sound level. Hum not audible. Dead still - no wind. Distant jet aircraft.

### Appendix D (continued)

11<sup>th</sup> – 12<sup>th</sup> October 2022 – 1.5m height (substation noise)

Location	Start Time	Duration T (mm:ss)	Results dB			Comments / Observations
			L <sub>Aeq,T</sub>	L <sub>Ceq,T</sub>	L <sub>A90,T</sub>	
1	21:55	05:00	54	72	53	Hum, bins being moved briefly in middle of period.
2	22:05	05:00	47	65	46	
3	22:13	05:00	43	59	42	
4	22:21	05:00	41	57	39	Slightly more distant road traffic noise at this location.
5	22:30	05:00	37	49	35	Hum still audible but much reduced. At 22:31:07 100Hz sound much reduced / quieter. Both dB(A) and 100Hz influenced by distant road traffic noise. Along front of Russel Green Gardens only just audible hum / masked by road traffic noise. Aircraft noise at end of period.
6	22:40	05:00	39	53	38	
7	22:48	05:00	41	53	39	Hum, intermittent talking in nearby gardens just audible.
8	22:56	05:00	42	57	41	Hum and distant road traffic noise. See also 315Hz at 4m / 400Hz at 1.5m
9	23:05	05:00	36	49	33	Hum and noise from bathroom fan at nearby dwelling.
10	23:14	05:00	38	52	31	Hum audible but much lower here,
11	23:26	05:00	55	73	55	Significant hum. Approx 3-3.5m from fence
12	23:34	05:00	43	59	42	Hum. Moved 4m mast closer to source by approx. 2m and 100Hz increases. Aircraft noise at end (23:34)
13	23:44	00:35	53	71	53	
14	23:45	00:50	46	62	43	
15	23:47	00:31	44	57	43	
16	23:49	00:43	47	63	46	
17	23:50	00:42	49	67	49	
18	23:51	00:32	46	63	46	
19	23:51	00:45	45	62	44	
20	23:52	00:28	40	55	39	
21	23:54	00:43	43	60	42	
22	23:55	00:32	41	58	40	
23	23:57	00:39	45	62	44	

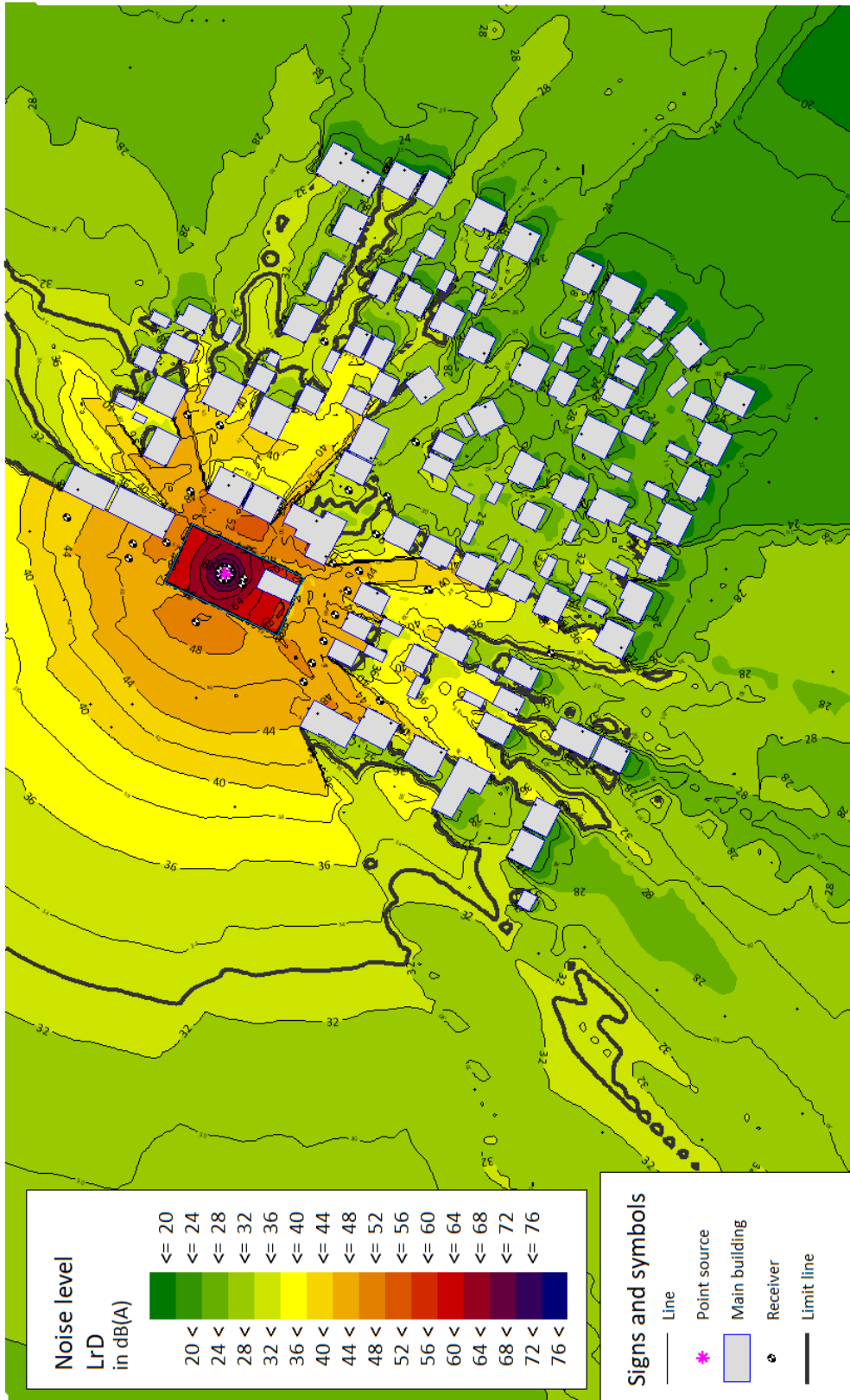
**Appendix D (continued)**

**12<sup>th</sup> October 2022 – 1.5m height (proxy baseline)**

Location	Start Time	Duration T (mm:ss)	Results dB			Comments / Observations
			L <sub>Aeq,T</sub>	L <sub>Ceq,T</sub>	L <sub>A90,T</sub>	
NE end of Miller Street	00:14	15:00	44	57	34	Background sound level. Hum not audible. Dead still - no wind. Distant jet aircraft.
	00:29	09:40	52	68	38	Car arrives towards start of measurement and engine left idling. Stopped measurement due to engine noise.
	00:40	14:59	37	53	34	Distant road traffic noise. Hum not audible.

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**Appendix E – Predicted Noise Levels (1.5m height) dB LAeq,T**



By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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