

REPORT OF DIRECTOR OF DEVELOPMENT AND ENVIRONMENTAL SERVICES

LICENSING POLICY

1.0 SUMMARY

- 1.1 This report outlines the aims and purpose of a new Policy intended to apply to the application and determination of Public Entertainment Licence and asks Committee to determine that the Policy will be implemented for such licences.

2.0 RECOMMENDATIONS

- 2.1 IT IS RECOMMENDED THAT the Committee approve the Policy and agree to its implementation for the process of application and determination of Public Entertainment Licence.

3.0 BACKGROUND

- 3.1 Like many other comparable cities, Nottingham has experienced a growth in inner city residential development and has also experienced an increase in nuisance and disorder associated with late night licensed activities.
- 3.2 In late 2000 Members determined that having regard to such problems officers should enquire into establishing a Policy for Entertainment Licensing which is often a late night licensed activity that, if not effectively managed can lead to nuisance and public disorder e.g. noise, litter, flyposting, alcohol related violence etc.
- 3.3 The draft policy has been consulted upon to a wide variety of partners and stakeholders involved in the licensing process. The views received have been incorporated into the policy where appropriate. The resulting comments from consultees have shown wide support for the policy, particularly from the major partners in the licensing process, the Police. Their view is that the matters highlighted in the policy guidance, if adopted by licensees and applicants, should lead to a reduction in nuisance and disorder from late night licensed activities.

4.0 PROPOSALS

- 4.1 The key is effective management and the use of sensible controls that are consistently applied having regard to the need to determine each licence application on its own merits. Self regulation by licensees is encouraged by the adoption and application of best practice available to the industry. The Council will promote such adoption and application through the implementation of the Licensing Policy.

4.2 The Licensing Bill expected to receive Royal Assent later this year. One key feature of the Bill is the requirement to produce a specific policy as part of the delivery of the future licensing function. It is anticipated that this policy before the Committee will form a basis for the production of the future policy under the Bill. That future policy will be brought back to this Committee for approval.

5.0 FINANCIAL IMPLICATIONS

5.1 The matters outlined in the Policy are ones that are currently available to, and should form part of, the management of an Entertainment Licensed activity. As such there would be no additional cost to licensees or applicants.

5.2 Using of the Policy to determine applications the decision-making process should be consistent and as such result in no increase in costs for the Council.

6.0 LEGAL IMPLICATIONS

6.1 These will be reported at the meeting.

7.0 OBSERVATIONS OF OTHER OFFICERS

7.1 These will be available to the Committee at the meeting.

8.0 EQUAL OPPORTUNITIES IMPLICATIONS

8.1 The consideration of licences in accordance with the policy will lead a consistency in determination.

9.0 BEST VALUE

9.1 A consistent approach to licence determination will help reduce costs in delivering the licensing function by reducing the potential for appeal against determination.

10.0 List of background papers other than published works or those disclosing confidential or exempt information

None.

11.0 Published documents referred to in compiling this report

None

12.0 CRIME & DISORDER IMPLICATIONS

- 12.1 Licensing for public entertainments is an opportunity for the City Council to work in partnership with the Police to reduce the risk of crime and disorder occurring both within and immediately outside licensed premises, having regard to the effect of the proposals on both customers and residents.

13.0 Copyright Acknowledgement

- 13.1 Nottingham City Council has adopted a policy of making agendas and reports available for public inspection by electronic means. Where material from sources other than the City Council is reproduced either in whole or in part as part of a Committee report, copyright of such material is acknowledged.
- 13.2 Where the copyright holder of such material objects to the practice of its further publication for viewing by electronic means, they should contact the officer(s) named below in the first instance who will arrange for its removal.

BARRY HORNE
DIRECTOR OF DEVELOPMENT & ENVIRONMENTAL SERVICES

Lawrence House, Talbot Street, Nottingham
Contact Officer: Tim Coulson, Service Manager - Food & Licensing
Telephone Number: 0115 9156781
E-mail: general.licensing@nottinghamcity.gov.uk
27 March 2003

Statement of Licensing Policy Nottingham City Council

Contents

Page

2 **Foreword by The Leader of Nottingham City Council**

3 **Section 1 - Policy Statements**

8 **Section 2 –Introduction**

9 **Section 3 – The Application Process**

3.1 Late Night Refreshment Houses

3.2 Public Entertainments

3.3 Consultation

3.4 The Licensing Committee

13 **Section 4 – Background**

4.1 The Economy

4.2 The relationship with liquor licensing

4.3 The relationship with the planning &
development process

17 **Section 5 – Specific Considerations**

5.1 Compliance with conditions

5.2 Safety and Environmental Issues

5.3 Location and Impact

5.4 Preferred Terminal Hour

24 **Section 6 – Renewals**

26 **Appendices**

Appendix 1 Public Entertainment Licence Standard Conditions

Appendix 2 Flow Chart for Public Entertainment Licence
Applications

Appendix 3 Licensing Committee Procedure

Appendix 4 Extract from Nottingham City Council's Local Plan

Appendix 5 Enforcement Policy

Section 1 - Policy Statements

All of the Councils policies for Public Entertainment Licensing are listed here for ease of reference. Please refer to the supporting text in the following sections for the rationale behind the individual policies. References to the objectives met are to those listed in Section 2 of this policy.

Policy 1

Applicants for Public Entertainment Licence (including renewal of an existing licence) will be required to demonstrate the following:

- **That they have had due regard to, and are able to comply with the Standard Conditions of the licence and any Special Conditions attached to the licence;**
- **Matters that impact on local crime and disorder have been identified and suitable measures to the satisfaction of the Police have been established to minimise or prevent avoidable incidents;**
- **There is no impediment that would make them unsuitable to hold a licence, that they and their manager are adequately and appropriately trained and are competent in the management of licensed premises;**
- **Matters have been identified that ensure the health and safety of the public, performers and staff including the provision of suitable, sufficient and adequate facilities, amenities and services;**
- **Matters that might present an adverse impact on the neighbourhood from the licensed activity have been assessed and suitable measures put in place to minimise or prevent the impact;**
- **That they have taken steps to ensure good order inside and outside the premises;**
- **They can (or have put) in place such effective measures as given above to the satisfaction of the Council and Police.**

*See paragraph 3.2
objectives met : All*

Policy 2

Representations/objections will be taken into account in respect of why an application should, or should not, be granted unless the they have been withdrawn or the Council's procedure (appendix 4) requiring the full grounds of objection to be given and supported has not been complied with.

*See paragraph 3.3
Objectives met : Ensuring a fair and expedient licensing process*

Policy 3

A licence will normally not be granted or renewed unless the local authority has granted Planning Permission or change of use permission where necessary. The licence applicant must be able to demonstrate that he has, or does not require the necessary permissions in order to proceed with a licence application.

See paragraph 4.3

Objectives met: Ensuring Public Safety, Prevention of nuisance, Protection of amenity.

Policy 4

Licence holders will be required to ensure that they, the premises to be used for the licensed activity and any other matters that are covered by the licence, comply at all times with any conditions attached to a licence.

See paragraph 5.1

Objectives met: All

Policy 5

When considering whether Public Entertainment Licence should be granted, the Council will assess the likelihood of the proposal causing an unacceptable adverse impact either by itself or in conjunction with another factor that by itself may not have that adverse impact. Particular regard will be had to the impact on local residents.

See paragraph 5.3

Objectives met: Ensuring Public Safety, Prevention of nuisance, Protection of amenity, protecting children from harm.

Policy 6

Having regard to the Criteria a – j on page 21, a last entry time will be attached as a Special Condition to a licence where the Council considers it appropriate.

See paragraph 5.3

Objectives met: Ensuring Public Safety, Prevention of nuisance, Protection of amenity

Policy 7

If, due to matters beyond the control of the applicant, measures have not been put into effect to mitigate any of the circumstances referred to in Criteria a – j on page 21, or there has been insufficient time for the Council or Police to assess the adverse impact, a licence may be granted for a period shorter than one year.

See paragraph 5.3

Objectives met: Ensuring Public Safety, Prevention of nuisance, Protection of amenity

Policy 8

Normally the Preferred Terminal Hour for Public Entertainment License will be 11pm. Any later terminal hour applied for will need to be supported and justified as part of the application.

See paragraph 5.4.1

Objectives met: Ensuring Public Safety, Prevention of nuisance, Protection of amenity

Policy 9

Within the City Centre the preferred terminal hour is 1am for Public Entertainment Licence.

See paragraph 5.4.2

Objectives met: Ensuring Public Safety, Prevention of nuisance, Protection of amenity

Policy 10

It is unlikely that a new application for a terminal hour beyond the times stated in Policy 8 and 9 will succeed where the area is predominantly residential or has circumstances that are sensitive to the problems associated with licensed premises unless the applicant can demonstrate extenuating reasons why the application should be granted.

See paragraph 5.4.2

Objectives met : Ensuring Public Safety, Prevention of nuisance, Protection of amenity

Policy 11

For a new application or variation, exceptions may be made to permit a later terminal hour where the Council are satisfied that the applicant has shown that the following circumstances would apply:

- a The licensed activity would not be likely to cause adverse impact, especially on local residents, and if there is a potential to cause adverse impact that appropriate measures will be put in place to prevent or minimise the impact; and

- b There will not be an adverse impact from the licensed activity, cumulatively or by itself, on local residents; and**
- c There is an adequate level of public transport to enable the public to leave the area shortly after or at the terminal hour; and**
- d The activity will not lead to an increase in car parking demand in surrounding streets, and which may lead to undue disturbance for residents late at night.**

See paragraph 5.4.3

Objectives met: Ensuring Public Safety, Prevention of nuisance, Protection of amenity

Policy 12

In the case of the renewal of a licence, where the application is for exactly the same activity and hours of operation as currently licensed, then provided that the applicant has shown that the following circumstances apply the licence will normally be granted:

- a There is no evidence of past adverse impact from the activity, especially on local residents and businesses, including anti-social behaviour problems; and**
- b The activity has not caused an unacceptable level of car parking in surrounding streets or has lead to undue disturbance for residents late at night; and**
- c The Police have not made representation to the Council regarding an adverse impact on Crime and Disorder in the area or the applicant has failed to enter into negotiations with the Police and agreed a remedy to the Police concerns; and**
- d if adverse impact has been caused by the licensed activity, that appropriate measures have been agreed with the Council and put into effect by the applicant to satisfactorily mitigate the adverse impact.**

See Section 6

Objectives met: All

Section 2 - Introduction

The policy demonstrates how the City Council as Licensing Authority seeks to balance the rights and interests of applicants with those of persons and businesses who will be affected by the licensed premises and with the Council's general duty of protecting the public. In carrying out the licensing function the Council is under a duty under section 17 of the Crime and Disorder Act 1998 to have due regard to the effect on, and prevention of crime and disorder. In addition this policy has the following its objectives:-

- Ensuring public safety
- Prevention of public nuisance
- Protecting children from harm
- Protection of amenity
- Ensuring a fair and expedient licensing process

This policy applies to Public Entertainment issued by Nottingham City Council. References to 'licensed premises', 'licence' 'licenses' and 'licensing' relate to these activities. 'Applicant' means the person applying for a licence.

The policy applies to all existing and future licenses and licence applications (e.g. for initial grant, renewal, transfer and variation), particularly those that seek to extend beyond 11pm.

The problems associated with licensed activities and that may have an adverse impact on an area can be identified as including:

- Street crime e.g. robbery;
- Disorder including drunkenness, fighting, vandalism;
- Anti-social behaviour such as defiling streets and property with urine and vomit;
- Nuisance e.g. noise in the streets, noise breakout from licensed premises, litter;
- Public safety due to potential overcrowding of licensed premises, fighting and other drink related violence, crowds over-spilling onto roads;
- 'Hidden costs' from alcohol consumption such as domestic violence, medical treatment for injuries, long term health problems.

It is the aim of the Council to balance the current culture in social drinking, entertainment and increased leisure time with the equally important needs of residents and other businesses for an acceptable environment and quality of life in which to live, prosper and build for future generations.

Section 3 - The Application Process

3.1 Late Night Refreshment Houses

Premises subject to such a licence may often be found close to liquor and Public Entertainment Licensed premises, on established routes between residential areas and licensed premises, or between licensed premises and transport routes to residential areas. Although these businesses can provide a useful service to the local community they can also be the source of nuisance due to matters such as noise, litter, anti social behaviour, crime and disorder, smell and light pollution.

Late Night Refreshment Houses are governed by the Late Night Refreshment Houses Act 1969. A licence is required for any premises kept open for public refreshment, resort and entertainment between the hours of 10pm and 5 am. Whilst the Council does not have the power to refuse such applications, conditions may be imposed prohibiting the premises from opening between 11pm and 5am so as to avoid nuisance (including such matters outlined above). Breach of such conditions is an offence.

Such premises and licence are not covered by this Policy at present, however applicants and current licensees of such premises are recommended to follow the aims of this Policy in making their application and in the operation of their business.

3.2 Public Entertainments

The licensing of Public Entertainments is governed by the Local Government (Miscellaneous Provisions) Act 1982. The following activities require a licence:-

- Public music;
- Public dancing;
- Public entertainment of a kind similar to music and /or dancing;
- Singing to accompany recorded music (e.g. karaoke).

•
A Public Entertainment Licence may be annual or for an occasion. Unless otherwise stated no distinction is made when applying this Policy to these two types of licence. All annual licenses begin on 6th April each year at which time they are reviewed for public safety, crime and disorder purposes.

Standard Conditions are attached to a license (see appendix 1), and further Special Conditions may also be attached where considered warranted. Breach of condition is an offence that could lead to prosecution, revocation of/refusal to renew the licence, or both.

Policy 1

Applicants for licence (including renewal of an existing licence), will be required to demonstrate the following:

- **That they have had due regard to, and are able to comply with the Standard Conditions of the licence and any Special Conditions attached to the licence;**
- **Matters that impact on local crime and disorder have been identified and suitable measures to the satisfaction of the Police have been established to minimise or prevent avoidable incidents;**
- **There is no impediment that would make them unsuitable to hold a licence, that they and their manager are adequately and appropriately trained and are competent in the management of licensed premises;**
- **Matters have been identified that ensure the health and safety of the public, performers and staff including the provision of suitable and adequate facilities, amenities and services;**
- **Matters that might present an adverse impact on the neighbourhood from the licensed activity have been assessed and suitable measures put in place to minimise or prevent the impact;**
- **That they have taken steps to ensure good order inside and outside the premises;**
- **They can (or have put) in place such effective measures as given above to the satisfaction of the Council and Police.**

The process followed by Nottingham City Council for Public Entertainment Licensing, together with target times, is set out in Appendix 2.

3.3 Consultation

As part of the application process the local authority must consult with the statutory consultees, (i.e. the Police and Fire Authority), and may choose to consult with whoever appears appropriate to help the Authority determine the application. Consultees will normally include the following groups for the stated purposes:

- **Police – advice concerning crime and disorder matters; public order within and outside licensed premises; relevant liquor licensing issues; suitability of applicants to hold a licence and comments on the proposed hours.**
- **Fire Authority – fire safety and means of escape in licensed premises including maximum occupancy levels.**
- **Environmental Health – suitability of premises for the intended activity; level and standard of facilities and amenities for the public; noise and other potential nuisance, litter and similar environmental matters; food safety and health and safety issues.**
- **Town and Country Planning – advice on planning and development issues including planning conditions of use.**

- Building Control – advice of building development issues; means of escape in certain cases and maximum occupancy rates.
- Area Focus Co-ordinators – consultation with resident groups and others in the area close to the site of the licensed activity, as applicable.
- Elected Councillors – comments received as representatives of the electors for the electoral ward covered by the application, together with relevant developments, policies and other matters pertinent to their status.

In addition these groups may themselves seek comments from others whom they know may wish to be aware of the application. These comments may in turn be passed on to the Council as part of the consultation process.

The Council also operate a Door Supervisor Registration Scheme. It is a condition of licence that where there is a need to exercise public control measures associated with the licensed activity, e.g. door control, crowd control, etc, Door Supervisors who are registered with the Council, are employed.

As consultation proceeds, the consultees may contact the applicant to discuss the application and advise the applicant of their comments at that stage. It is normal for consultees to enter into negotiation with the applicant should there be a point of contention over the application.

Policy 2

Representations/objections will be taken into account in respect of why an application should, or should not, be granted unless they have been withdrawn or the Council's procedure (appendix 3) requiring the full grounds of objection to be given and supported has not been complied with.

If a negotiated settlement is reached over a point of objection the Licensing Service will seek the written agreement of the applicant to the matter. Should all objections be settled it is likely that the licence will be issued under delegated powers. If the objection cannot be settled the application will normally be directed to the Licensing Committee for determination.

3.3 The Licensing Committee

The Licensing Committee is a public meeting with power to make decisions on licensing applications on behalf of the Council. At the Committee the applicant may be legally represented if they wish. The Committee operate to a published procedure (Appendix 4). The procedure is sent out with all applications that are directed to the Committee. Objectors to an application may attend the meeting but may only speak with the permission of the Committee Chair.

The Committee are normally able to make a decision at the time of the meeting. The decision is recorded and brought back to the Committee for confirmation. The Licensing Service will notify the decision in writing to the applicant on publication of the committee minutes.

An applicant who disagrees with the decision of the Council (including any of the conditions attached to the licence) may appeal to the Magistrates Court in the first instance within 21 days of being told the decision.

During the application process regard is had to the relevance of Human Rights, Equal Opportunities and similar legislation. The Rights of the applicant and others involved in the application process are ensured by the Council's internal procedures that cover all services, and may be challenged through the public committee meeting and the Courts.

Section 4 – Background

4.1 The Economy

In recent times there has been a growth in the number of night time entertainment licenses applied for in Nottingham. This has been in line with many other Cities of comparable size and demographics. Much of this growth has been focussed within the City Centre. Nottingham City Council's Local Plan defines this area.

The following factors are believed to be responsible for this growth:

- Nottingham is the natural and acknowledged regional centre for the East Midlands;
- Excellent road and rail facilities make access quick and easy;
- The City Centre is the natural focus for entertainment and drinking venues.
- A large student population skews the population demographics towards the 18 –25 year old age group;
- Nottingham is fast growing in terms of both business and development;
- Residential accommodation is increasing at a rapid rate within the City Centre;
- Modern social trends mean that citizens demand a more sophisticated range of cultural and leisure activities;
- Many large business concerns recognise the strategic importance of Nottingham for the above reasons. It is natural that this also applies to the leisure, entertainments and drinks industry;
- The City Centre is the only available area that appeals at present to large scale development for entertainments, i.e. super clubs and +1000 occupancy premises;
- Much of the City's industrial heritage lends itself to such large-scale developments but this is in conflict with residential and other major developments.

Nottingham's main cultural and entertainment focus has been on the City Centre. This stems from the historical development of the City such as the use of the Market Square as the main market place and site of the Nottingham Goose Fair.

It is not surprising therefore that much of the modern cultural and entertainment development has taken place within the 'square mile' of the City Centre encompassing areas such as the historical Lace Market.

The Lace Market area of the City has seen a growth in the number of licensed premises. This is also fast growing residential area that carries an active business community often being the forming ground for start-up sole trader and similar small businesses. It is also a heritage area stemming from the Georgian Lace Making trade and has a number of sites of particular local historical significance.

The Lace Market can be described as a 'stress area'. This is because of the close proximity of licensed premises to heritage sites and to particular types of residential development and occupants that are all sensitive to the effects and problems associated with licensed activities. It can be expected that concerns and objections may be raised against both existing and future food and drink type licensed developments and ancillary activities both within this area and within others where matters of equal relevance exist.

The Council looks to develop and encourage a broad range of business types and build a strong economic environment for the benefit of its citizens. The Council also recognises the need for a sound cultural business base and welcomes the growth of the entertainment and leisure industry. However whilst making Nottingham the natural Entertainment and Leisure Centre for the East Midlands the increase in the late night entertainment sector is causing tangible concerns and problems particularly in terms of crime, disorder and environmental nuisance.

Much late night licensing occurs in public houses that apply for a late night Public Entertainment Licence in order to extend the permitted liquor-licensing hour. In order to obtain an extended hours liquor licence, minimum facilities and entertainments must be provided for the public, usually recorded music and a small dancing area.

The result is that there is much migration in the City Centre when the permitted terminal hour of 11pm approaches as patrons move to the late licensed premises in search of extended drinking. The movement of people is combined with the drink pricing policy in many licensed premises and the current time restrictions on normal on-licence alcohol sales in the City Centre. This means that patrons drink heavily in the early evening before moving on to the late licensed premises where drinks tend to be more expensive but are available until 2am.

The combination of drink, fresh air and a large number of people who have lowered inhibitions due to alcohol, tends towards problems occurring. This results in high spirits, noise and unfortunately, fighting, vandalism, risk taking and a lack of respect for the City's residents, facilities, the environment and law and order. It is believed that much of the fear of crime demonstrated by a recent Fear of Crime Audit stems from the above actions.

The problems mentioned above can be identified further as including:

- Street crime e.g. robbery;
- Disorder including drunkenness, fighting, vandalism;
- Anti-social behaviour such as defiling streets and property with urine and vomit;
- Nuisance e.g. noise in the streets, noise breakout from licensed premises, litter;
- Public safety due to potential overcrowding of licensed premises, fighting and other drink related violence, crowds overspilling onto roads;
- 'Hidden costs' from alcohol consumption such as domestic violence, medical treatment for injuries, long term health problems.

It is the aim of the Council to balance the current culture in social drinking, entertainment and increased leisure time with the equally important needs of residents and other businesses for an acceptable environment and quality of life in which to live, prosper and build for future generations.

Bearing this in mind the City Council will assess applications for late licenses very carefully. This is in order to balance the needs of residents, businesses, visitors and others with the desire to maintain a vibrant and dynamic night time economy, and maintain a City that is safe and without risk.

The Council also feels that sensible controls that are agreed within the entertainment and leisure Industry should be identified and established. Basic, generic controls are identified in this document that the Council considers should apply to all licensed activities.

The City Council recognises that policies that are made in respect of an ever changing environment, need to be reviewed on a regular basis in order not to become out-dated. For this reason the Council will periodically review this Policy.

4.2 Relationship with Liquor Licensing

Liquor Licences are currently issued by the licensing justices and apply to the sales and supply of alcohol to the public. It is proposed however that responsibility for liquor licensing may transfer to Local Authorities in the future at which stage this policy will be reviewed to incorporate this function.

In general terms licences are normally granted for pubs and proprietary clubs to allow sale and supply to occur within the permitted hours of 10.00am to 11pm on weekdays and 12 noon to 10.30pm on Sundays. Subject to approval from the licensing justices, nightclubs and many restaurants close later – up to 2am on certain days. Special Orders can also vary the liquor licensing hours. However obtaining a Public Entertainment Licence from the local authority can allow the liquor licensee to apply for a Special Hours Certificate to extend this time beyond the permitted hour until 2am, providing certain conditions are met. This Certificate remains in force until revoked.

A Restaurant Certificate and an Extended Hours Order also has a similar effect of extending the permitted hour.

Conditions are often attached to licences at the discretion of the Courts. Breach of condition is an offence that could lead to prosecution, revocation of the licence, or both.

4.3 Relationship with Planning & Development

Premises that are to be used for food and drink, entertainments and similar licensed activities may often require Planning Permission under Town and Country Planning legislation. Typically this could be for:

- The sale of food and drink for consumption on the premises or of hot food for consumption off the premises (Use Class A3);
-
- Assembly and leisure which includes concert hall, dance hall and indoor/outdoor sports and recreation (Use Class D2);

- Use as an hotel that has a restaurant or bar included in the authorised use (Use Class C1).

The Council's Planning Policies are set out in the Nottingham Local Plan. The policies relating to key town centre uses (including large-scale licensed premises,) are set out in appendix 4. Other policies relating to design, terminal hours etc may also apply not only to large-scale facilities but also to smaller licensed premises.

Please see the local plan or contact the Planning Applications and Advice service for further details.

In general, planning permission authorises the use of premises for a broad range of uses and activities by any person. A licence however, is granted for a particular type of activity and to a specified person or persons and may either cover the whole or only a part of the intended premises. A Planning Permission for an entertainment use for instance, may cover activities that can have a wide range of different impacts in the locality. The precise nature of the specific impacts needs to be considered carefully when an application is made for a licence.

In some cases where an application is made for a new licence or for renewal of an existing licence, the town planning use will already be authorised by planning permission and therefore a new planning permission may not required. However two points need to be made:

- 1) The existing planning permission especially if recently granted is very likely to have conditions linking the hours of operation with those that may be or have been imposed on the licence.
- 2) The existence of planning permission where there is no condition on the usage does not mean that a licence for late hours of operation or a particular entertainment would necessarily be appropriate or approved. Similarly, if an existing planning permission has conditions on the hours of operation, it does not follow that a licence for a particular activity will be granted up to the hours specified in the planning permission.

Breach of planning permission is enforceable by the local authority.

Building Control certification is required for all new buildings and structures that fall under relevant Building Control Legislation. The Building Control Service may also deal with Means of Escape in the Case of Fire in licensed premises.

Policy 3

A licence will normally not be granted or renewed unless the local authority has granted Planning Permission or change of use permission where necessary. The licence applicant must be able to demonstrate that he has, or does not require the necessary permissions in order to proceed with a licence application.

Section 5 – Specific Considerations

5.1 Compliance with Conditions

The Council has a key role in regulating the safety of licensed premises. Council officers work in partnership with the Police, Fire Safety Service and others, including Environmental Health Officers to monitor safety and compliance with licence conditions.

Policy 4

Licence holders will be required to ensure that they, the premises to be used for the licensed activity and any other matters that are covered by the licence, comply at all times with any conditions attached to a licence.

The Council pursues enforcement action in line with its published Enforcement Policy (Appendix 5)

5.2 Safety and Environmental Issues

An applicant for a public entertainment licence should be sufficiently trained and competent to run such premises, as should any person employed as manager of the premises.

As part of the consultation with the Police checks on the applicant for relevant criminal convictions will be carried out. Any complaints concerning individuals or premises are taken into account when determining an application. Applicants will be advised of adverse complaints made in order that they can respond.

Relevant matters that the applicant/existing licensee should take into account include the following matters:

- The potential or actual impact of noise escaping from the venue and the measures to attenuate such noise to prevent an adverse impact or disturbance arising to the satisfaction of the Pollution Control Officer. Examples include music, shouting and singing, amplified voices, refuse collection of bottles or other waste, noise from cars and crowds entering or leaving the venue.
- Completion of a fire safety risk assessment and the ability to sound the alarm and evacuate the premises in the event of fire or a suspected fire.
- Confirmation by a suitably qualified and competent electrical engineer that the electrical system to the venue is safe and without risk to the health and safety of the public, staff and performers.
- Appropriate means are taken to ensure that any waste or litter created as a result of the licensed activity is not allowed to accumulate such that it interferes with the safety of the public, staff or performers, creates nuisance or litters public places.

- Advertising of the licensed activity or any matter in connection with the licensed activity is conducted in such a manner that does not despoil the local environment and does not contravene the law with regard to 'flyposting'. The promotion of the licensed venue by means of offers to drinkers should also be avoided. This paragraph applies whether by the express direction of the licensee or by way of inference by the licensee or any person connected with the licensed activity.
- The means by which the licensee will ensure that the licensed venue does not exceed the stated capacity as given on the Licence, and the action that will be taken to verify the capacity at any point in the licensed period. A nominal last entry time should be proposed to ensure that the venue is not likely to be overcrowded by virtue of people taking advantage of late drinking hours.
- The means by which the licensee will ensure that the licensed venue is properly controlled and supervised as regards crowd safety and good order at entrance and exit points and within the venue itself. The means by which crowd control and safety matters will be detected and actioned to ensure the safety of the public, performers and staff.
- Particular attention should be given to the training of staff and managers, including the licensee himself, and the nomination of a suitably trained and empowered person to act in the absence of the licensee.
- That all persons involved in the operation or management of the licensed activity are competent and adequately trained in matters pertinent to the licensed activity and the operation of the business.
- Membership of a suitable trade body is strongly recommended to enable the licensee to be aware of relevant issues that affect the operation of the licensed activity.
- The use of a suitably qualified and experienced legal advisor is strongly recommended to ensure that the applicant/licensee receives appropriate and correct advice as the options available and actions to follow regarding the licensing process and operation of the licensed activity.

Applicants and licensees may find it helpful to put many of the above matters into a Management Operational Plan for the venue.

5.3 Location & Impact

This part of the policy concerns existing or proposed licences (usually involving premises but including renewals and occasional licences that may or may not be in premises). It concerns whether it is appropriate to grant or renew the licence with particular regard to the actual or predicted impact of the licence on the area and the citizens in that area.

Relevant matters include the level of impact that could arise from crime and disorder, noise and vibration, litter, anti-social behaviour, parking, people coming and going, crowds and queuing, the movement of people and whether any impact is particularly unacceptable late at night.

This part of the policy dealing with opening hours is based on a distinction between the approach to be taken in areas that are predominantly residential in nature, and those that have a noticeable residential presence in the vicinity whilst being perhaps primarily commercial and/or retail. No prescribed restrictions have been suggested for these latter areas and which do not have a noticeable residential presence. One example of an area that currently has a noticeable residential presence is the Lace Market.

In all cases the granting of a licence will depend upon the impact of the licensed activity on the area, its businesses and particularly on local residents. The permitted hours of operation for licensed premises will normally be determined with regard to the level of residential presence in the vicinity. However representations made as part of the application process may also be taken into account where appropriate, when determining the application.

The notion of a **Preferred Terminal Hour** is introduced. This is the time that the Council considers should be the normal hour for the termination of any Public Entertainment Licence. This time will vary according to the nature of the licensed activity, and the local circumstances of the area in which the licensed activity will take place. These latter two matters are looked at in more detail in this Part of the Policy.

Policy 5

When considering whether Public Entertainment Licence should be granted, the Council will assess the likelihood of the proposal causing an unacceptable adverse impact either by itself or in conjunction with another factor that by itself may not have that adverse impact. Particular regard will be had to the impact on local residents.

The nature of the licensed activity will be a factor in considering the impact that the activity has on an area. Much of the impact will principally arise due to the orderliness and number of customers attending the activity, noise and litter from the activity.

Levels of noise from licensed premises, which may be acceptable at certain times of the day or evening may not be acceptable later at night when ambient noise levels are much lower.

The Council's preference is to see licensed activities located in places where customers are not reliant on private car use and can walk or use public transport.

In the City Centre, the customers of licensed premises can expect a high level of public transport, but even there public transport availability may decline late at night and therefore car use is likely to increase. This will have the effect of leading to increase in noise levels as patrons leave premises and use their cars to leave the area, thus disturbing residents.

Premises that are specifically designed to accommodate large public capacity and that operate longer hours with an extended liquor licence can give rise to late night/early morning disturbance if not properly managed. This is particularly so due to the movement of large numbers of people who have been drinking, where disorder and anti-social behaviour can arise. However smaller premises including pubs with music may also give rise to similar disturbance due to their close proximity to neighbouring premises. The problems here may be seen more as noise breakout and customers

arriving at or leaving the premises. The latter businesses may feel that they need to seek to gain a sector of the available (drinking) customer base prior to those customers moving on to premises with an extended liquor licence.

The methods used to gain an advantage over other similar businesses include increase in the terminal hour; cheap drink prices/'promotions' and the use of flyers/advertisements.

Where such methods are not properly co-ordinated or managed this can lead to an increase in the number and extent of licensing related problems. It can also result in the migration of significant numbers of people around the City Centre. This in itself can lead to further crime, disorder and anti-social behaviour incidents (vomiting, urinating, etc). Further problems of equal significance include spoiling the City's streets due to such as litter from thrown away promotions and the fouling of doorways to residencies and businesses.

The growth of late night food businesses adds to matters by delaying the dispersal of customers often until the early hours.

Further there is an attraction to out-of-town taxi drivers to visit the City and pick up customers who have not pre-booked the taxi. This is not only an illegal act on the part of the drivers but is also a risk to the health and safety of the customer.

Entrances to and from licensed premises should be located in a position that allows customers to queue safely, without causing obstruction or noise that might disturb residents. Furthermore, it would be inappropriate for large numbers of people to queue or leave licensed premises, directly into a residential area.

As premises close down the tendency is to switching lights off thus decreasing the available light. The areas outside licensed premises should become more illuminated as customers leave to ensure their safe exit, but at the same time the needs of residents close by must be taken into account such that bright lights and noise do not unreasonably disturb them.

The impact from licensed premises increases in areas where there are many of such premises. The adverse effects from licensed uses are particularly acute in some areas of the city such as the Lace Market. In view of this, the Council will take account the existing number and cumulative effect of licensed premises in an area when considering an application. Further licences will not normally be approved where there is already an adverse impact from licensed premises or the Council considers there are sufficient numbers, unless the applicant can demonstrate that a particular activity will not add to the problem.

With any adverse impact it may be possible to take steps to mitigate or stop the impact. Amongst other things the Committee in determining an application will take the following factors into account:

- a The type of activity, the number of patrons likely to attend the premises (occupancy level) and the patrons group that are likely to be attracted by the application.
- b The proposed hours of the operated licensed activity.

- c The current and predicted crime and disorder impact that the licensed activity may have on the area.
- d. The level of public transport available for customers to use either arriving at or leaving the premises and the means of transport that customers are likely to use.
- e The means of access into and out of the premises, including any queuing area or system.
- f The arrangements for security and crowd control to be used at the activity both inside and outside the licensed premises/event.
- g The cumulative impact of all other of licensed premises in the area (including liquor licensed).
- h The scope for mitigating any impact.
- i How often the licensed activity will/may occur.
- J The past history of compliance with licensing legislation.

Policy 6

Having regard to the Criteria a – j above, a last entry time will be attached as a Special Condition to a licence where the Council considers it appropriate.

Policy 7

If, due to matters beyond the control of the applicant, measures have not been put into effect to mitigate any of the circumstances referred to in Criteria a – j above, or there has been insufficient time for the Council or Police to assess the adverse impact, a licence may be granted for a period shorter than one year.

5.4 Preferred Terminal Hour

5.4.1 Outside the City Centre

Since many premises licensed for Public Entertainment are also licensed for liquor it is reasonable to expect that the terminal hour for any entertainment they provide should tie in with the termination of normal permitted licensing hours (11pm).

Because of the way the City has developed, many premises licensed both for entertainment and liquor outside of the City Centre are in relatively close proximity to residential areas. It is reasonable to have different policies for outside the City Centre where the concentration of customers and economy is not so great, and where the premises tend to be in relatively close proximity to residential areas.

Policy 8.

Normally the Preferred Terminal Hour for Public Entertainment License will be 11pm. Any later terminal hour applied for will need to be supported and justified as part of the application.

The fact that the Licensing Justices have agreed a later terminal hour for liquor is no reason by itself that a later terminal hour for the Public Entertainment Licence to be extended beyond the Preferred Terminal hour.

It is unlikely that an application beyond 11pm in an area outside of the City Centre that is predominantly residential or has other special considerations highlighted as part of the consultation process will succeed without extenuating reasons.

5.4.2 Within the City Centre

It is recognised that life within a city centre, especially one that is as thriving as Nottingham, is different from life outside of the centre. Longer licensing hours can be expected and accommodated within the centre. However it is recognised that there are an increasing number of people who now choose to live in the Centre itself and they have rights and expectations that need to be balanced against those of the businesses that operate within the Centre.

Policy 9

Within the City Centre the preferred terminal hour is 1am.

Policy 10

It is unlikely that a new application for a terminal hour beyond the times stated in Policy 8 and 9 will succeed where the area is predominantly residential or has circumstances that are sensitive to the problems associated with licensed premises unless the applicant can demonstrate extenuating reasons why the application should be granted.

5.4.3 Exceptions to the Preferred Terminal Hour

Policy 11

For a new application or variation exceptions may be made to permit a later terminal hour where the Council are satisfied that the applicant has shown that the following circumstances would apply:

- a The licensed activity would not be likely to cause adverse impact, especially on local residents, and if there is a potential to cause adverse impact, that appropriate measures will be put in place to prevent or minimise the impact; and**
- b There will not be an adverse impact from the licensed activity, cumulatively or by itself, on local residents; and**

- c** There is an adequate level of public transport to enable the public to leave the area shortly after or at the terminal hour; and
- d** The activity will not lead to an increase in car parking demand in surrounding streets, and which may lead to undue disturbance for residents late at night.

Section 6 – Renewals

Where an application is made to renew a licence the consideration will be given to the circumstances of the previous licence and the impact of the licensed activity on the surrounding area. Matters such as the existing conditions of the licence and any reports or objections received will clearly be material considerations that will be taken into account when determining the renewal application.

If the activity has not an adverse impact as outlined above then it would be likely that the application would be renewed. If an adverse impact is reported then that could lead to a refusal to renew a licence or the imposition of Special Conditions to mitigate or prevent the impact, depending on the severity of the problem and whether the licensee can deal it with effectively.

In considering any application to renew a licence, the Council will take into account any evidence in respect of:

- a Past adverse impact due to crime and disorder or matters associated with licensed activities such as noise, litter, anti-social behaviour arising from the activity especially on local residents; and
- b Appropriate measures having been taken by the applicant to mitigate the effects of any adverse impact from the licensed activity. If such measures have not been put into effect or there has been insufficient time to assess them, a licence may be granted for a period shorter than a year.
- c The past history of compliance by the licensee with licensing legislation or matters under other legislation that is relevant to the operation of the licence, licensed premises or licensed activity.

Policy 12

In the case of the renewal of a licence, where the application is for exactly the same activity and hours of operation as currently licensed, then provided that the applicant has shown that the following circumstances apply the licence will normally be granted:

- a **There is no evidence of past adverse impact from the activity, especially on local residents and businesses, including anti-social behaviour problems; and**
- b **The activity has not caused an unacceptable level of car parking in surrounding streets or has lead to undue disturbance for residents late at night; and**
- c **The Police have not made representation to the Council regarding an adverse impact on Crime and Disorder in the area or the applicant has entered into negotiations with the Police and agreed a remedy to the Police concerns; and**

- d if adverse impact has been caused by the licensed activity, that appropriate measures have been agreed with the Council and put into effect by the applicant to satisfactorily mitigate the adverse impact.**

STANDARD CONDITIONS OF ENTERTAINMENT LICENCE

GENERAL

1. The licensee, or a responsible person nominated by him/her in writing for the purpose shall be in charge of and on the licensed premises during the whole time that they are open for public entertainment. The person in charge shall throughout the whole time the premises are open for public entertainment, be assisted by a sufficient staff of competent attendants specially instructed by the licensee, or a person nominated by him/her, as to their duties in the event of any emergency.
2. The licensee shall allow any authorised officer of the Licensing Authority, Fire Authority or Police to enter all parts of the licensed premises at all reasonable times and the licensee shall conform with any reasonable request of an Authorised Officer of the Licensing Authority, Fire Authority or Police.
3. No exhibition, demonstration or performance of hypnotism shall be given.
4. The licensee shall not knowingly allow any unlawful game to be played on the licensed premises.
5. In relation to the morning on which summer time begins, where the terminal hour of this licence is later than 1.00 am, the terminal hour shall be extended by one hour.
6. Entertainments on Sundays shall be limited to those that are not prohibited by the Sunday Observance Acts as modified.
7. There shall be fixed and kept in a conspicuous place on the door or at the entrance of the premises, an inscription in capital letters as follows:- "LICENSED FOR PUBLIC ENTERTAINMENTS", also showing the maximum occupancy level of the premises. Where an individual part of the premises has been licensed, the maximum occupancy (where determined by the Fire Officer) shall be displayed at the entrance to that part in the form "MAXIMUM OCCUPANCY".
8. A copy of the Public Entertainment Licence shall be kept on the premises at all times and produced for inspection upon request by an Authorised Officer of the Licensing Authority, Police or Fire Authority.

ELECTRICAL SAFETY

9. The electrical system shall be in accordance with the edition of the regulations of the Institution of Electrical Engineers in force at the time of installation. All materials or equipment used in connection with the electrical system for which there is a British Standard specification, Regulations or Code of Practice shall conform to that specification, Regulation or Code.
10. A Report signed by a qualified electrical engineer who is a member of the National Inspection Council for Electrical Installation and Contracting (NICEIC), the Electrical Contractors Association, or the Electrical Contractors Association of Scotland, shall be submitted to the City Council on initial application and on renewal (except where a new licence and electrical reports are issued after 1 November) to the effect that the electrical system, the emergency lighting, if any, and the fire alarm system installed at the premises, if any, have been examined and tested and are in a safe working condition. All documentation relating to electrical safety submitted with an application to renew a licence must have been issued no earlier than 1 November of the preceding year. Entertainers shall only be permitted to use electrical sockets fitted with residual current device protection, complying with the current British Standard. Such sockets must be maintained in good working order and marked 'Audio Equipment Only'.
11. All parts of the premises to which the public have access shall have the lighting system tested every three months and the results recorded in the fire log book. Where a secondary system of lighting is provided by the provision of hand lamps, these shall be maintained in an efficient working order and made available to staff whose duty it is to facilitate the evacuation of the premises.
12. Electric lighting switches and gas taps shall, as far as possible, be arranged to be protected from unauthorised interference by members of the public.
13. The electrical intake enclosure shall not be accessible to the public and shall be used exclusively for the purpose for which it is provided. The main supply shut off of both gas and electricity should be easily and readily accessible in case of emergency. All electrical accumulators shall be adequately ventilated and unless installed in rooms or compartments specially reserved for them, shall be completely enclosed together with the terminals in substantial enclosures constructed of, or lined with, insulating and fire resistant material. The

gas meter enclosure shall be adequately ventilated and used exclusively for the purpose for which it is provided.

FIRE SAFETY

14. Emergency exit notices must be illuminated at all times the premises are occupied, to be legible and in the event of failure of normal lighting such signs must be illuminated by the emergency lighting supply.
15. Fire alarm systems should be tested weekly and the results recorded in a log book. The system shall be maintained in efficient working order.
16. Testing and maintenance shall be carried out on all fire equipment, which shall be maintained in efficient working order.
17. Portable fire extinguishers shall be examined at least once annually and tested by a BAFE registered extinguisher maintenance engineer.
18. A notice or notices clearly indicating the position of the nearest telephone by which the emergency services may be summoned must be provided in suitable locations. If the premises are to be used for the regular provision of indoor sporting entertainment, a telephone must be installed.
19. The licensee must inform both the Fire Service, the Police and the Licensing Authority of any fire, however slight that occurs on the premises.
20. A fire log book must be kept which records details of tests, examinations and fire drill instruction. The log book must be readily available and produced for inspection by an authorised Officer of the Licensing Authority, Fire Authority or Police.
21. All members of staff must receive written instruction and training appropriate to their responsibilities in the event of an emergency. The training and instruction of staff on fire safety must include actions on discovering a fire, raising the alarm, location and use of fire fighting equipment, evacuation of the public and staff, calling the fire service. This training is to be carried out immediately to new staff as part of an induction programme and periodically repeated no less than twice per year.

PUBLIC ORDER AND ACCESS

22. a) The total number of persons allowed on the premises, is as stated on the licence. Any request to amend the occupancy must be by applying to vary the licence.
 - b) The licensee shall ensure that an effective system for determining the number of persons on the premises at any one time is used at all times when the premises are open for public entertainment. Staff responsible for monitoring and controlling access to the premises and management staff are to be aware of the maximum occupancy figures for the entire premises and where appropriate specific areas within the premises. These staff members must be instructed as to how the occupancy figure is to be monitored and the action to be taken when the maximum occupancy figure is reached.
 - c) The licensee shall not allow the stated maximum occupancy to be exceeded.
23. The licensee shall maintain and keep good order and decent behaviour on the premises.
 24. No public music, dancing, exhibition, recitation or entertainment of a like kind shall be permitted or suffered to take place in the licensed premises which is offensive, obscene, immoral, licentious, indecent or likely to produce riot, tumult or a breach of the peace, and the operation of the premises shall be carried out in such a way to prevent such conduct.
 25. Table dancing, lap dancing, pole dancing and all forms of entertainment, dancing, or displays that include nudity or sexual performances of any kind are prohibited.
 26. Collapsible gates or roller shutters, if installed, shall be opened to allow full width and necessary height of exit way before admission of the public, and must be kept locked in that position at all times the public are on the premises. A notice stating the requirements of this rule as to the opening and locking of the gates and shutters shall be kept posted in a conspicuous position near the gates or shutters.
 27. In the case of seated audiences, adequate gangways of not less than 1.07 metres (3ft 6in) wide shall be provided for the free passage of the audience. These gangways shall not be occupied or obstructed in any manner and must be arranged opposite exit doors wherever possible.

28. Where the premises are to be used for a seated audience (except lunches or dinners) exceeding 200 persons, all seats shall be securely fixed to the floor, or secured together in groups of four and 12. Where more than 400 persons are to be accommodated, the seats adjoining front, back or across the gangways and seats adjoining exits shall be securely fixed to the floor. The seats shall be so arranged that no seat or part of a seat shall be more than 4.57 metres (15 ft) from a gangway, measured in line of seating. Seating arrangements should comply with current British Standards and Codes of Good Practice.
29. a) No person shall be employed or otherwise engaged on the licensed premises as a door supervisor unless he/she holds a current registration from the City Council.
- b) At all times when engaged on supervisory duties a person shall wear and clearly display the registration badge issued by the City Council.
- c) 'Door supervisor' means any person employed at or near the entrance to the licensed premises to ascertain or satisfy him/herself as to the suitability of customers to be allowed on the premises, and/or is primarily employed to maintain order on the premises.
- d) The licensee shall maintain on the premises a log book in which the names, addresses and dates of birth of all registered door supervisors, and the registration number of registered door supervisors shall be entered for each day that they are engaged at the premises.
- e) The log book shall be kept for a period of at least three months from the date of the last entry and be readily available for inspection by an authorised officer of the Licensing Authority, Fire Authority or Police.

30. This condition applies to premises which are licensed for liquor (other than by way of an occasional licence) and which are licensed to remain open after the general licensing hours defined and prescribed by Section 60 of the Licensing Act 1964.
- a) The licensee shall provide free and unrestricted access to cold drinking water at a location which is readily accessible to customers. The water shall be provided without any charge.
 - b) The licensee shall provide rest facilities which are cooler, quieter and preferably separate from the main dance area(s). Adequate seating shall be provided with the rest facilities.
 - c) The licensee shall provide full working air conditioning and/or room temperature regulation appropriate for the type of event. Such air conditioning and/or room temperature regulation shall be properly maintained and shall operate during the provision of entertainment.
 - d) The licensee shall ensure that adequate first aid provision is available at all times to include having at least one nominated and suitably trained first aider on the premises at all times during the event.
31. a) In premises licensed for public dancing, the dance floor shall be clearly delineated and shall be positioned in such a way as to ensure the safety of persons using the dance floor.
- b) The arrangements for access around the dance floor and for seating in the vicinity of the dance floor shall be such that neither dancers nor patrons, seated or otherwise, are put at risk of physical injury.
32. The licensee shall ensure that all plant and equipment used on the premises to which the licence relates is maintained in a safe condition and except for necessary maintenance be securely fenced or otherwise guarded so as to preclude any danger.
33. a) The provision of sanitary conveniences and other appliances and facilities must be in accordance with the current British Standard.
- b) All sanitary conveniences and appliances must be kept in good order and repair and kept effectively cleansed and ventilated. The licensee must ensure that every part of the premises to which the licence applies is maintained in a good state of structural repair and stability.

34. No structural alterations to the premises shall be made without the City Council's consent. Any request made to alter the premises must be by applying to vary the licence.
35. The licensee must ensure that every part of the premises is maintained in a good state of structural repair and stability.
36. The licensee must ensure that in every part of the premises to which the licence applies, the floors, walls, ceilings, windows, doors and fixtures are maintained in a clean condition, that the walls, ceilings, windows and doors are maintained in a reasonable state of decoration, and that no accumulation of dirt, rubbish or flammable material is allowed in any part of the licensed premises or in any other place under the control of the licensee and adjacent to the licensed premises.
37. Refuse must be stored in proper dustbins or other suitable receptacles with close fitting lids.
38. The licensee shall take all due precautions for the prevention of accident and shall not permit any act which is likely to cause fire or danger to the public.
39. All gangways, staircases and exits shall be kept clear of obstructions, well illuminated and free from any trip hazard whilst the premises are open for public entertainment.

NOISE AND GENERAL NUISANCE

40. Any noise produced or associated with the entertainment must not be audible at the façade of the nearest residential, commercial or industrial premises.
41. The licensee shall take all reasonable steps to ensure that patrons awaiting entry to the premises or leaving the premises do not cause annoyance or nuisance to any other person in the vicinity of the premises.
42. Sound insulation or control equipment which is installed to prevent noise nuisance to the occupiers of neighbouring premises shall be maintained in satisfactory working order.

SPECIAL EFFECTS

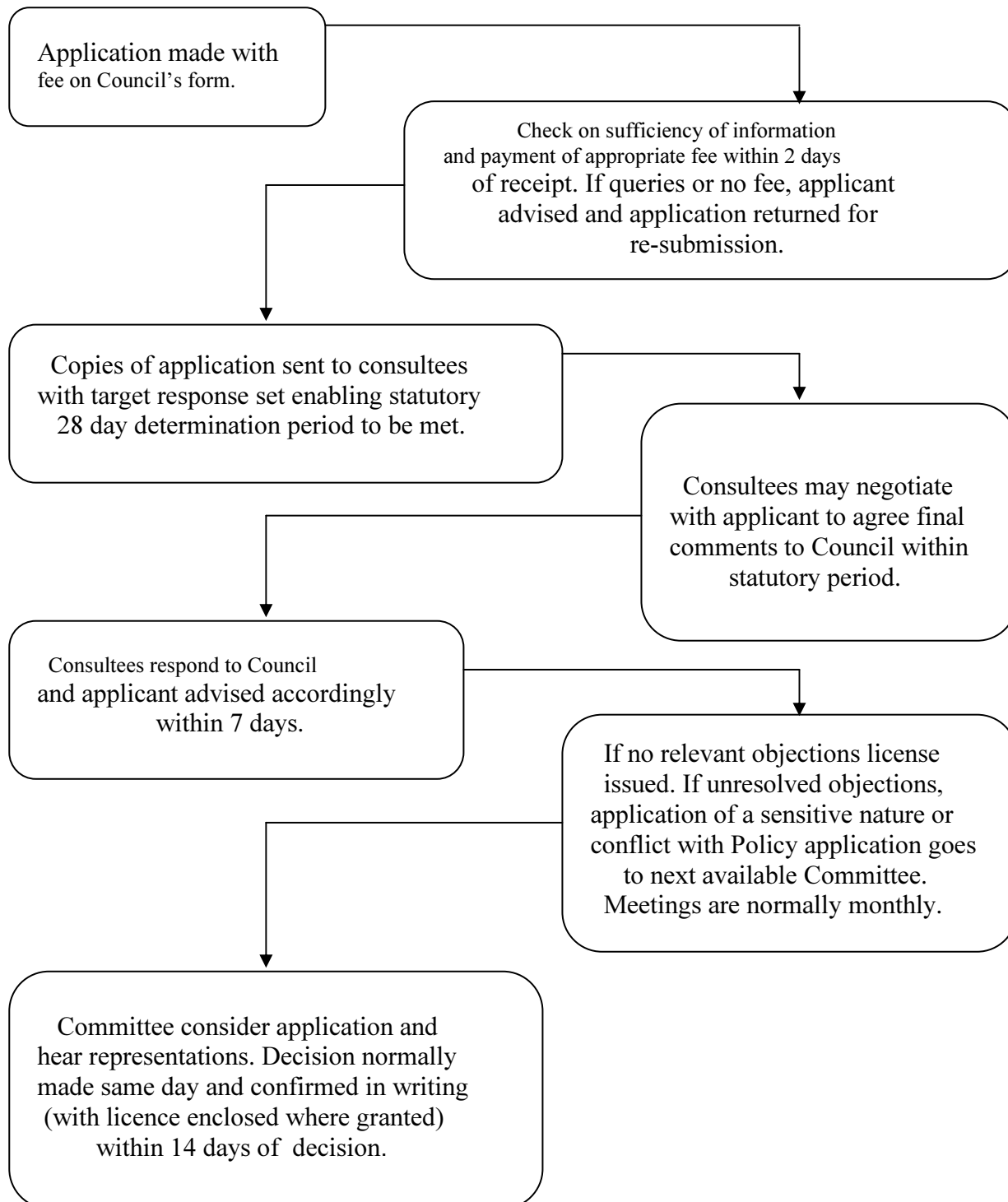
43. Lasers and strobes are not to be used without the written consent of the City Council. A warning sign to the effect that a laser or strobe is to be used in premises must be clearly displayed at all public entrances to the premises such that the public can see the warning sign before entering.

May 2002

Appendix 2

The Public Entertainment Licence Application Process

Below is a process diagram outlining the stages through which an application for a Public Entertainment Licence with Nottingham City Council, will pass.



NOTTINGHAM CITY COUNCIL

LICENSING COMMITTEE PROCEDURE

General

1. The Licensing Committee consists of approximately five Councillors from various parties who meet to discuss licensing matters generally and to determine certain licence applications. Whilst contested licensing applications are quasi judicial in nature, the Committee tries to keep the proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedure set out in paragraphs 4 to 7 below is designed to ensure that all parties are able to express their views openly and fairly. The Committee is inquisitorial rather than adversarial and, whilst applicants and interested parties are entitled to bring legal representation with them if they so wish, this is by no means a requirement.
2. Whilst the Committee usually meets in public, it does have powers which allows it to hear certain applications in private. The Committee, however, always reaches its decision in private. A public announcement of the decision is ordinarily made at the end of the Hearing.
3. Copies of Committee Reports relating to a particular item are available from the Committee Administrator at the address given below at least three clear days before the Committee date.

Procedural Requirements

4. Upon notification that a matter is to be put before the Licensing Committee, all interested parties (e.g. applicants, objectors, statutory consultees) shall within five working days contact the Licensing Office at the address given below and give a time estimate for their presentation/representations to the Committee. This information will then be used to assess the likely length of time needed for the hearing. Objectors shall also give a full written outline of their grounds of objection to the Licensing Office within this time limit. Failure to do so could result in an objection being considered groundless and not being taken into consideration. Details of objections will be transmitted to the Applicant as soon as possible.
5. Where a large number of objectors are involved, they will be encouraged to appoint a spokesperson or spokespersons so as to avoid duplication of evidence.
6. Any party invited to attend the Committee may bring legal or other professional representatives with them if they so wish. Advocates are, however, reminded that these are civil proceedings and inquisitorial rather than adversarial in nature. Aggressive advocacy is not encouraged and will not be tolerated.
7. Any party who intends to put written material before the Committee should provide at least ten copies of that material (including plans) to the Licensing Office at least seven working days prior to the hearing. Applicants should note that changes to application plans during the application process should be notified to the Licensing Office as soon as possible and may result in a need for re-consultation and a delay in determining the application. All relevant documentation received will be sent to members of the Committee, relevant officers, and statutory consultees as soon as

possible upon receipt and objectors may make arrangements to inspect any relevant documentation at the Council's offices by contacting the Licensing Officer.

Any failure to adhere to requirements 4-7 above may

- (i) result in a case having to be adjourned
- (ii) result in considerable delay
- (iii) result in the Committee refusing to allow a party to speak at the hearing.

At Committee

8. The following procedure will ordinarily be followed at the Committee Hearing:-

- (i) The Chair will introduce themselves, other members and relevant officers. The Chair will also ask the parties to introduce themselves and any witnesses they wish to call.
- (ii) The relevant officer of the Council will introduce the Report and there will be an opportunity for questions to be asked of the officer by members of the Committee and interested parties.
- (iii) The applicant will be asked to present their case. Where a general presentation is made other parties may ask questions at the end of that presentation. However, where witnesses are called, it is expected that each witness will give their evidence and then be open for questioning once their evidence has finished. The next witness will then give evidence. The order for asking questions will be:-
 - (i) Statutory Consultees;
 - (ii) Objectors; and
 - (iii) Members of the Committee and Council officers.
- (iv) Formal objectors will then be given an opportunity to present their objections. Once again, once the objection has been presented and any evidence given, there will be an opportunity for questions to be asked firstly, by the applicant and then by members and Council officers. Where there is more than one objector to an application the order for the hearing of objections will normally be the Police, followed by other statutory consultees, then third parties.
- (v) Once all the evidence has been given, the objectors will be given an opportunity to sum up their objections in the same order as they presented their case. The applicant will then be given an opportunity to sum up their case and have the final word.
- (vi) All parties will then be asked to leave the room whilst a decision is made.
- (vii) The decision will be announced in public and transmitted in writing as soon as practicable after the Committee Hearing, together with notification of any rights of appeal.

Useful Names and Addresses

1. Mr T Coulson, Service Manager - Food and Licensing, Directorate of Development and Environmental Services, Lawrence House, Talbot Street, Nottingham

Tel: 0115 915 6781 (or 915 6776 – General Licensing)

2. The Committee Administration Section, City Secretary's Department, The Guildhall, Nottingham NG1 4BT.

Tel: 0115 915 4588

AB January 2003

Shopping and Town Centres

Introduction

The importance of shopping, services and leisure

5.1 The retail sector of the economy plays a key role in the well being of the City as a whole. In Nottingham retailing provides 16,000 jobs, about two-thirds of which are in the City Centre.

5.2 The availability of a wide range of easily accessible shopping facilities also makes an important contribution to quality of life. Shopping centres provide the focal points for communities and can act as a catalyst for regeneration, helping to encourage the location of other commercial activities, community, health and leisure facilities and residential uses within those centres. Achieving this diversity of uses within Centres will make an important contribution to sustainable development.

National Guidelines

5.3 The Government's advice is set out in Planning Policy Guidance Note 6 (PPG6) 'Town Centres and Retail Developments' (revised June 1996) and is in accordance with its overall strategy of sustainable development. It emphasises the need to sustain and enhance the vitality and viability of town centres which serve the whole community and are accessible by a choice of means of transport. The guidance introduced the 'sequential approach' to selecting sites for development for retail and other key town centre uses, with preference being given to sites within existing centres rather than on the edge of, or outside, centres.

Shopping Centre Hierarchy

5.4 The boundaries of the City Centre, the four District Centres and the Local Centres, which form the City's hierarchy of traditional shopping centres, are defined on the Proposals Map. The City Centre and the four District Centres are considered to act as town centres, as defined in PPG6, whereby they are the focus for shopping, services, leisure, community activities and public transport and are locations where mixed use development should be encouraged. Their boundaries therefore cover a wider area than the main shopping areas. The main shopping area is defined by the extent of the Primary Shopping Frontages in the City Centre and by the *Primary District Centre and Local Centre Shopping Areas elsewhere within the District Centres*.

5.5 The Local Centres vary in size but correspond to the definition of district or local centres in PPG6, according to the services and facilities they provide. The Local Centres fulfil an important function for local neighbourhoods and this must be maintained and enhanced to encourage sustainable communities with access to a range of shops and services by means other than the private car.

5.6 Within all of these Centres the principle of retail development is acceptable. The location of a range of other services and facilities in these Centres is also very important, extending their function and contributing towards sustainability by facilitating linked trips. The District Centres, in particular, are well placed to play a vital role in the realisation of sustainable communities, provided that their attractiveness and convenience for shoppers is enhanced and development opportunities are

maximised. They are also accessible locations for sports, leisure, entertainment and arts facilities and Policy R7 in the Recreation and Leisure chapter refers to the development of such facilities in both the City Centre and District Centres.

Retail Capacity

~~The City Council commissioned a capacity study of retail floorspace, and expenditure, in 1996. The assessment of expenditure growth and existing floorspace and commitments concluded that there was no need to allocate any further sites for out-of-centre retail warehouses or major new foodstores within the period up to 2006. In terms of comparison shopping, there was no need to identify further town-centre sites other than the major extension of the Broad Marsh Centre and other existing commitments.~~

~~It is evident, however, in the City Centre that availability of floorspace is now being outstripped by demand. There is also considerable development pressure for retail elsewhere in the City. It is therefore intended to update the retail capacity study to determine whether a need exists for new retail development in the Plan period. If a need is identified, sites will be provided in accordance with the policies below.~~

5.7 The City and County Council have jointly commissioned a Retail Capacity Study (Published in May 2002) to identify the need for new retail floorspace over the Plan period. The assessment of expenditure growth and existing floorspace and commitments concluded that there was limited capacity for out of centre retail warehouses or major new foodstores in the period up to 2011. For retail warehousing, commitments at the time of the Study account for much of this limited extra capacity. The study therefore recommends no further sites be allocated for retail warehousing or major new foodstores.

5.8 In terms of City Centre comparison shopping, the Study demonstrates that there is the potential to increase City Centre floorspace by up to 90,000 m² by 2011. The study concluded that new development should provide a qualitative increase in the City Centre's retail offer, by addressing the limitations of the existing retail stock, allowing for the City Centre's share of the sub-regional market to be increased.

5.9 In terms of the City's hierarchy of Centres, the Study concluded that the existing hierarchy is adequate, but recommended that Bulwell be considered a 'Major District Centre'. Whilst it does have a more significant comparison role than other District Centres, it is defined as a District Centre (along with Sherwood, Clifton and Hyson Green) in the Local Plan for simplicity, because the same policy approach applies to both types of centre.

The City Centre

5.10 Nottingham City Centre is of national, as well as regional, significance as one of the top shopping destinations in the country, being regularly placed second in the top five in the UK league tables for retail strength and diversity.

5.11 Although Nottingham is competing very successfully with other cities and the proliferation of out-of-centre retail parks has been stemmed by PPG6, the City Centre must continue to enhance its range of retail facilities and shopping environment in order to meet the ongoing challenge not only of other major shopping destinations, but also of rapidly changing retail needs and new forms of shopping such as the internet.

5.12 There is an important relationship between shopping, the pedestrian environment and City Centre accessibility. Much progress has been made in recent years in improving car parking for shoppers by increasing the security of the City Centre's public car parks, and private car park operators have been encouraged to do the same. The implementation of the Nottingham Express Transit tram system will improve linkages to, and within, the City Centre.

5.13 The City Centre, as defined on the Proposals Map, offers ~~341,000 sq. m (3,670,000 sq. ft)~~ 287,000 m² (3,088,100 sq. ft.) of retail floorspace (Use Class A1) but availability of floorspace is being outstripped by demand with over 200 retailers having a requirement for space here.

5.14 There is an increasing demand for larger units, up to 2700 sq. m² (30,000 sq. ft), but a limited number of large shop units available. This has resulted in:

- redevelopment or renovation of smaller stores to create larger units;
- take-up of space on upper floors and in basements;
- location of some niche market retailers away from traditional locations to those previously considered unsuitable, such as Victoria Street and Byard Lane.

5.15 Specialist shops and independent retailers are largely found in the Hockley area and west of the Old Market Square, away from the main north-south shopping axis. It is important to foster these areas to enhance Nottingham's individuality and appeal as a regional shopping centre.

New Retail Development in the City Centre

S1: Planning permission will be granted *applications* for retail development within the City Centre, defined on the Proposals Map, where it: *will be considered against the following criteria:*

- whether they reinforces the range of retail facilities and attractions of Nottingham as a regional shopping centre, particularly department stores, larger retail units and speciality shopping;***
- whether they creates more commercially attractive retail units through renovation or redevelopment of existing retail units, ~~subject to safeguarding of character and quality of development to a high quality of design that safeguards the character of the area;~~***
- whether they reinforces the retail vitality of the primary shopping frontages, especially west of the Old Market Square and in the Hockley area;***
- whether they helps to create an attractive and safe pedestrian environment, which provides accessibility for people with disabilities;***
- whether they helps to improve the appearance of the City Centre.***

5.16 Retail development refers to uses which fall within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987. *The importance of other Use Classes within the City Centre is recognised and these are subject to policies S6 to S11.*

S2: Planning permission will be granted for a major retail development and extension to the Broad Marsh Centre, as shown on the Proposals Map, to accommodate shopping, and leisure

facilities and associated uses of regional significance together with a transport interchange and car parking.

5.17 The redevelopment and extension of Broad Marsh Shopping Centre is a fundamental element of the regeneration and economic development strategy for the City Centre. It is intended to:

- Provide attractive space for retail expansion to meet current and anticipated demand;
- Strengthen the range and quality of the retail 'offer' to expand Nottingham's regional role;
- Enable the effective integration of the expanding Southside of the City Centre with the central core by establishing attractive and legible pedestrian routes. This will require the closure of Collin Street;
- Provide a fitting entrance to the City from the Midland Station and other key gateways to the City;
- Maximise the benefits of public transport infrastructure including the NET, planned improvements to the Midland Station, bus infrastructure and park and ride, all of which focus on Broad Marsh.

5.18 The Broad Marsh redevelopment and extension will be the most significant development scheme in the City over the Plan period. Outline consent has already been granted. A high quality development will be essential to ensure its successful contribution to the skyline, townscape and streetscape of this key location. *Car parking issues are considered in the context of Policy T15.*

S3: Planning permission will be granted for retail development, or mixed use development predominantly for retail uses, on a site adjoining the Victoria Centre, as shown on the Proposals Map.

5.19 There is an opportunity to extend the Victoria Centre and create more attractive retail floorspace by redeveloping this site fronting onto Lower Parliament Street and Glasshouse Street. *A planning permission currently exists on this site for retail development.*

5.20 There may be further potential for retail development on other sites, for example, the introduction of new pedestrian links across the Inner Ring Road could help to create opportunities for new retail development by enhancing the accessibility of some locations for shoppers. Opportunities for new retail development may also arise as part of mixed use schemes on City Centre sites identified in Policy MU1, in the Regeneration and Mixed Use chapter.

District and Local Centres

New Retail Development in District and Local Centres

S4: Planning applications ~~permission will be granted~~ for retail development within the District Centres and Local Shopping Centres, defined on the Proposals Map, where it will be considered against the following criteria:

- whether it maintains the compactness of the shopping area for the convenience of shoppers;***
- whether it is compatible with the scale and nature of the Centre;***
- whether it reinforces the range and vitality of retail facilities and attractions of the centre;***
- whether it helps to improve the environment of the centre, including appearance and accessibility for people with disabilities.***

5.21 The four District Centres - Bulwell, Clifton, Hyson Green and Sherwood - fulfil similar functions although they do differ in scale and character. The City Council has produced a Performance Indicators Report for each District Centre in accordance with recommendations in PPG6. These provide detailed information on each Centre which allows a 'health check' to be made on its performance as a retail centre. It is intended that these reports will be updated regularly to help identify progress or problems and the resources needed to address them. The City Council is committed to encouraging the enhancement and revitalisation of these Centres. ~~Plans~~ *Strategies* to improve the accessibility, environmental quality and safety of the District Centres will be produced.

5.22 Hyson Green District Centre has been in decline for many years but there are some indications that the situation has been improving more recently. The City Council has implemented a policy of encouraging conversion of vacant shop units to residential use towards the northern and southern peripheries of the Centre in order to concentrate the shopping frontages into a compact area more closely related to the major shops and community facilities. The boundaries of the District Centre on the Proposals Map have been redefined to reflect this.

New retail development on the edge of or outside existing centres

S5: Planning permission for new retail development outside existing centres will only be granted where the need for the development has been demonstrated and where no suitable sites are available firstly, within the City Centre or District Centres or secondly, on the edge of the City Centre or District Centres or within Local Centres.

Where the need for the development has been demonstrated and no suitable sites are available within Centres, ~~planning permission applications~~ for new retail development on the edge of or outside the City Centre or District Centres, or outside Local Centres, will be ~~granted subject to~~ *considered against* the following ~~considerations~~ *criteria*:

- a) **the extent to which the proposal would impact on the strategy and objectives of the Local Plan to sustain and enhance the vitality and viability of existing Centres, either by itself, or cumulatively with other proposals;**
- b) **the extent to which the site is, *or can be made*, accessible by a choice of means of transport and whether the proposal would add to the overall number and length of car trips;**
- c) **whether the development would assist in enabling the wider redevelopment of brownfield sites for a variety of uses;**
- d) ***whether there are alternative sites available which better meet the above criteria.***

5.23 ~~The purpose of Policy S5 is~~ *seeks* to channel retail development to locations where a higher proportion of trips is likely to be made by public transport and where multi-purpose, linked trips are more likely. This will enable a reduction in the use of the private car and allow a more sustainable form of development. The objectives of the Local Plan for sustaining and enhancing existing centres is dependent on ensuring that any development of out-of-centre sites would not be to the detriment of the vitality and viability of the City, District or Local Centres. An edge-of-centre site is defined as one within easy walking distance (usually no more than 300m) of the primary shopping area. In accordance with PPG6, *applications for retail developments over 2,500 m² (or occasionally for*

smaller developments) should be supported by a Retail Impact Assessment. The onus will be on the developer proposing a development on the edge of, or outside, existing centres to demonstrate that there is a need for the development and that there are no suitable sites within those centres. The assessment of need should include capacity in physical terms, demand in terms of available expenditure within the proposal's catchment area, qualitative factors and any other factors relevant in any particular case. Policy S5 also seeks to maximise opportunities for regeneration from retail development.

5.24 In implementing Policy S5 the City Council will have regard to the need for small-scale convenience shopping provision in areas of deficiency to provide for the day-to-day requirements of local residents. Such developments should be of a scale and nature appropriate to serving a local catchment area and should not be intended to attract car-borne trade from elsewhere.

5.25 Under criterion (a) of Policy S5, the City Council would have to be satisfied that the level of turnover and the pattern of trade from a proposal would not be to the detriment of the vitality and viability of shops in the City, District or Local Centres or prejudice proposals for the expansion and improvement of those Centres. Where the City Council considers that the effect of an unrestricted development, on its own or together with other proposals, would seriously affect the vitality or viability of existing centres, it may, as an alternative to refusal, consider granting permission subject to planning conditions or obligations to restrict the range of goods sold or the size of individual units. This will be particularly relevant to any edge-of-centre or out-of-centre retail warehouses that are considered acceptable in terms of Policy S5. In these cases it is likely that the range of goods would be restricted to bulky goods, such as DIY goods, and the size of unit would usually be expected to be a minimum of 1,000sq m² (11,000sq ft) gross floorspace.

5.26 New retail development should be easily accessible by public transport, foot and bicycle, which usually means it has to be located in existing centres. However the City Council recognises that in some cases works can be carried out to make sites accessible. Under criterion (b) a transport assessment, including modal split, will be required. Where necessary, planning conditions and obligations will be used to secure new or improved public transport links and access for pedestrians and cyclists. New retail development will also be subject to the provisions of Policies T1, T2 and T3 in the Transport Chapter which relate to issues such as accessibility by means of transport other than the private car, impact on overall travel demand and patterns, and car parking levels.

5.27 Criterion c) ensures that wherever possible, development occurring on the edge of, or outside of existing centres, contributes to the regeneration aims of the City Council. PPG6 refers to retail development not being used simply as a mechanism to bring vacant or derelict sites into development, however regeneration benefits will be a material consideration when assessing such development. Each site will be dealt with on its merits dependent on the size, location, need assessment of the development, and all other material considerations.

5.28 The City has a number of existing out-of-centre, freestanding retail warehouses and foodstores as well as retail parks at Queens Drive, Hucknall Lane, Radford Boulevard, Castle Bridge Road and Meadow Lane. Planning permission for many of these was granted subject to conditions restricting the range of goods which could be sold. Applications for extensions to these retail uses, or to expand the range of goods and services currently permitted to be sold, will be determined in accordance with the test of need, the sequential approach and the other considerations set out in Policy S5.

5.29 Planning applications for 'factory shops' will be determined in the context of Policy S5 unless they are within premises mainly in employment use (Use Classes B1, B2 and B8) where the retail sales are ancillary to the main use, the goods for sale are produced in the same premises and there are no shopfront proposals.

Key Town Centre Uses

5.30 Retail uses underpin the existing centres and must continue to do so to ensure their future success, but there are also a variety of other key town centre uses which, together with retailing, can contribute to a centre's vitality and viability. *Leisure and entertainment uses, R restaurants, pubs, cafés, bars and hot food takeaways have a role to play and make a particular contribution to the evening economy, and where they attract a lot of users, they are defined as key town centre uses. and their* The location of food and drink outlets will be subject to Policy S7. *However, due to increasing conflict with residential uses, where activity associated with licensed premises and late night hot food outlets has created problems of noise and nuisance at night, these uses will require careful consideration. In particular, large venues (A3 bars and D2 nightclubs over 1,000 capacity) generate activity both at and outside the premises on neighbouring streets and they are increasingly the focus for noise, disturbance and anti-social behaviour. It is considered that the existing number of premises with large capacities requires a restrictive approach to further provision.*

5.31 Entertainment, leisure and office uses which attract large numbers of people will be encouraged to locate in existing centres. Entertainment and leisure uses within centres are covered by Policy R7 and outside centres by Policy R8. These policies aim to focus such development in existing centres wherever possible. Policy T1 is applicable to offices.

Non-Retail Uses

S6: Within the primary shopping frontages in the City Centre, the primary shopping areas in the District Centres and within the Local Centres, shown on the Proposals Map, planning permission will be granted for change of use from shops (Class A1) to other uses where the proposed use is not detrimental to the vitality and viability of the City Centre, District Centre or Local Centre and the predominantly shopping character of the frontage. The assessment of the proposal will involve consideration of:

- a) **the existing number, proximity and distribution of uses other than Class A1 and the proportion of vacant street level property in the shopping area ;**
- b) **the length of frontage of the proposal;**
- c) **the location and prominence of the proposal in the shopping area;**
- d) **the nature of the proposed use, including the associated level of activity, hours of operation and whether a shop front would be included;**
- e) **whether the proposed use would be harmful to the living or working conditions of nearby occupiers *and residents*.**

5.32 The continuity of shopping frontages, with their varied window displays, contributes to the character of centres and is important to their retailing function. However services and leisure uses are becoming increasingly important to the vitality of centres.

5.33 The City Centre's primary shopping frontages, shown on the Proposals Map, include the frontages that are most important for shopping at present and those which the City Council wishes to enhance in the future in terms of widening retail activity throughout the shopping area. Policy S6 aims to retain shopping uses (Use Class A1) in the primary retail frontages in the City Centre and a high proportion of such uses in the primary shopping areas of the District Centres and within Local Centres. However non-retail uses, including financial and professional services (Use Class A2) and other key town centre uses can make an important contribution to the wider role of these Centres and the considerations in the Policy will be applied flexibly to allow other uses where they would not be detrimental to the vitality and viability of the shopping centre.

Food and Drink

S7: Planning permission will be granted for food and drink uses (Use Class A3) where:

- a) *for key town centre uses, the location is in accordance with the sequential approach set out in Policy S5;***
- b) *the character or amenity of the area would not be detrimentally affected;***
- c) *the development would not result in, or aggravate, traffic congestion or be a hazard to road safety;***
- d) *the development includes adequate consideration of efficient ventilation, bin storage and sound insulation; and***
- d e) *the effect of noise, disturbance, anti social behaviour, smells and litter on the amenities of nearby occupiers and residents, is capable of being adequately controlled by means of planning conditions or obligations, including those requiring the installation of an efficient ventilation system, CCTV and the limitation of opening hours where appropriate.***

5.34 Restaurants, public houses, cafés, wine bars, café/bars, snack bars and hot food take-aways all fall within Use Class A3 and *where they attract a large number of users* are considered to be key town centre uses which can make a positive contribution to town centre diversification, making these centres more attractive and allowing easy accessibility to these facilities by a choice of means of transport. *Nightclubs (D2) also fall within this category and are also subject to Policy R7 and R8.* The most appropriate locations will therefore be in the City Centre, District Centres and, *for small scale facilities serving a local catchment*, Local Centres.

5.35 However the potential impact on an area, particularly in terms of noise and disturbance, can vary according to which of the uses within Use Class A3 or D2 is proposed and it may therefore be necessary to distinguish *within the individual use classes between these uses* in assessing whether a proposal is acceptable in a specific location. Some A3 uses, such as public houses and café/bars, can result in noise and disturbance on the street from customers leaving the premises in the late evening. In locations where this would be detrimental to residential amenity such uses may be inappropriate or may only be acceptable subject to planning obligations to adequately control the dispersal of customers. ~~Leisure facilities, such as nightclubs, can cause similar problems and these are referred to in Policy R7 of the Recreation and Leisure chapter.~~ Hot food take-aways can give rise to problems such as noise and smells from the premises, litter dropped by customers, and noise and

disturbance from customers arriving and departing by car or on foot. Car-borne custom can also lead to on-street parking. This type of use may not, therefore, be acceptable in predominantly residential areas even if it has been established that there are no suitable sites available within, or on the edge of, existing centres.

S8: Planning Permission will not be granted for high occupancy (1,000 people or greater) licensed premises (A3 and D2) in the City Centre, unless it can be clearly demonstrated that they will not give rise to increased noise, disturbance, or anti social behaviour.

5.36 *Large licensed venues can give rise to particular problems of public disorder, noise and disturbance. Large venues are those with a capacity of over 1,000 people, which equates to a customer floorspace of about 500 sq m or more. There has been a significant increase in such incidents over recent years. There are already many such venues in the City Centre, and it is considered that further provision is likely to seriously exacerbate the existing situation. Applicants will be required to liaise with police and the City Council, to demonstrate that proposals will not give rise to or exacerbate these problems.*

S8 9: Where planning permission is granted for food and drink uses (Use Class A3), subject to the criteria set out in Policy S7, planning conditions to control opening hours will be imposed having regard to the following guidelines:

- a) **in the City Centre opening hours will not normally be restricted, with the exception of areas which are predominantly residential in character presence in the vicinity;**
- ~~b) on the western side of Mansfield Road between the City Centre and the junction with Chatham Street and on Alfreton Road between Canning Circus and the junction with Peveril Street opening hours will not normally be restricted;~~
- e) b) in District Centres and in Local Shopping Centres on main radial route frontages permitted opening hours will normally be between 9.00am and 12.00 midnight.**

5.37 Policy S8 9 sets out the guidelines on opening hours that the City Council will follow when assessing proposals for food and drink uses, although each application will be considered on its merits. In some parts of the City Centre, such as the Lace Market there are clusters of residential uses where the impact of additional food and drink uses generating night-time activity requires careful consideration. Unrestricted opening hours ~~may not~~ *are unlikely* to be appropriate in such locations.

5.38 Given the criteria set out in Policy S7, it is unlikely that there will be many occasions when A3 uses will be acceptable outside existing centres. However in cases where such locations are acceptable the permitted opening hours will normally be more restrictive than those set out in Policy S8 9 in order to protect residential amenity.

Upper Floors

S9 10 : In the City Centre, District Centres and Local Shopping Centres planning permission will be granted for the use of upper floors for any appropriate purpose, including residential, except where the use would:

- a) **be seriously detrimental to the living conditions of nearby occupiers; or**

- b) compromise specific security requirements of nearby occupiers; or**
- c) cause unacceptable conflict with rear servicing requirements.**

5.39 The City Council wishes to encourage the use of vacant and underused space above shops and other ground floor uses in the existing centres as this will encourage mixed use, contributing to the creation of sustainable communities, but Policy S9 10 recognises that sensitive handling is required to avoid conflict with surrounding occupiers. Policy H4 in the Housing chapter provides additional criteria which will be taken into account in the consideration of applications for residential use of upper floors.

Markets

S10 11: Planning permission will be given for the establishment of new markets in, or adjacent to, ~~shopping centres~~ the City Centre, District Centres and Local Centres where:

- a) the market would enhance the vitality and viability of the shopping centre;**
- b) adequate provision is made for storage of stalls, parking of traders' vehicles and market facilities; and**
- c) the effect of noise, activity, parking and traffic generation would not have an unacceptable impact on the amenities of the area.**

5.40 Nottingham has a tradition of open markets selling a wide range of food and other convenience goods. The existing markets contribute to the vitality of the centres in which they are located. Appropriate locations for markets may be on car parks, pedestrian areas or other open space available within the District or Local Centres subject to satisfactory dual use of the space. Redevelopments in shopping centres may provide opportunities to include open space suitable for markets. There are opportunities in the City Centre for specialist markets. Proposals for markets which are not of a traditional nature, such as car boot sales, will be assessed on their individual merits.

Petrol Filling Stations

S11 12: Planning permission for new petrol filling stations, and for the refurbishment of existing premises, will be granted where:

- a) the development would not have a detrimental impact on the vitality or viability of any District Centre or Local Shopping Centre;**
- b) the development would not have a detrimental effect on the amenities of nearby occupiers;**
- c) the development would not be detrimental to the character of the surrounding area; and**
- d) the development would not result in, or aggravate, traffic congestion or cause a hazard to road safety.**

5.41 The introduction or expansion of other retail sales (goods other than day-to-day motoring requirements) from petrol filling stations can fill a gap for convenience 'top-up' purchases in areas which are deficient in local shopping facilities. However this must be subsidiary to the primary use as a petrol filling station and careful consideration will be given to the impact of retail sales on District or Local Centres in the vicinity. *Consideration of the layout of the site to ensure the safety of shoppers visiting on foot will also be necessary.*

5.42 In considering the effect of a proposed petrol filling station on the amenities of nearby occupiers and the character of the area the location and design of the canopy and associated structures, illumination, surfacing and landscaping details will be taken into account. Where necessary, planning permission may be granted subject to the imposition of conditions limiting the hours of use. The layout and design of the development must also allow space for waiting vehicles to queue within the boundary of the site.

5.43 Changes in petrol retailing have led to a number of vacant sites becoming available which can be difficult to redevelop due to contamination and land preparation costs. The City Council will actively promote the redevelopment of closed petrol filling stations for new uses, subject to the other policies of the Plan *and the agreement of a programme of remediation works.*

Recreation and Leisure

Introduction

6.1 Nottingham has a range of open spaces which make a major contribution to the quality of life of City residents and visitors. These include parks, playing fields, allotments, *cemeteries*, playgrounds, woodland, boulevards, rivers and canals, paths, squares, and other incidental spaces. This 'network' of open spaces makes a major contribution to the visual character and image of Nottingham, provides for a diversity of recreation needs, and is important for its landscape and nature conservation interest. *Establishing a linked network of open spaces and range of space types will allow this under-capitalised resource to be considered as a whole and will facilitate a more strategic approach to management. Sites and the links between them can then be considered not only for their individual open space function but also for their value to the open space network and the contribution they make to the quality of life.*

6.2 The Open Space Network supports City Council objectives set out in the Nature Conservation Strategy and the Tree Strategy. The City Council's Open Space Strategy 'Space To Breathe', which is complementary to the contents of this chapter, will be reviewed during the preparation of this Plan.

~~Many open spaces are of wildlife importance providing a vital environment for flora and fauna. Draft Biodiversity Supplementary Planning Guidance, which supports policies in the Nottinghamshire Structure Plan, provides a strategic context for dealing with development affecting nature conservation interests. The City Council's Nature Conservation Strategy identifies the wildlife network of Nottingham and the need for defined consultation mechanisms to ensure that all stakeholders are involved.~~

6.3 Open spaces with recreational value should be protected from development, as 'once built on, open space is likely to be lost to the community for ever' (*Planning Policy Guidance Note (PPG)17 Sport and Recreation*, 1991). Revised PPG 3 'Housing' states that local planning authorities should

have clear policies for the protection of open space and playing fields, and new housing developments should incorporate sufficient provision where such spaces are not already adequately provided within easy access of the new housing.

6.4 However, some areas of open space can be threatening to use or not easily accessible, 'left over' space from previous development or in areas which are well provided with better alternative spaces. Where these problems cannot be resolved, allowing limited development could help to consolidate or upgrade facilities and the quality of the Open Space Network as a whole, by providing finance to upgrade other open spaces, modernise facilities, and ensure ongoing maintenance to a high standard. The benefits of such releases would need to be tangible to local people in terms of community safety, upgraded facilities and increased quality. In areas of identified open space deficiency (as defined on Plan 1 as residential locations more than 400metres from an area of publicly accessible open space), this should not result in a net loss of local open space.

6.5 Some open spaces within the City, such as private sports grounds, institutional grounds and allotments, do not have public access. Nevertheless they can fulfil an important role in terms of enhancing biodiversity and the visual character of the City. Where private spaces fulfil this role, they are defined as part of the open space network. Smaller open spaces of less than 1 hectare are not shown on the Proposals Map. Nevertheless, they also make a contribution to the Open Space Network.

6.6 *Many open spaces are of wildlife importance providing a vital environment for flora and fauna. Draft Biodiversity Supplementary Planning Guidance (SPG), which supports policies in the Nottinghamshire Structure Plan, provides a strategic context for dealing with development affecting nature conservation interests. The City Council's Nature Conservation Strategy identifies the wildlife network of Nottingham and the need for defined consultation mechanisms to ensure that all stakeholders are involved.*

The Open Space Network

Development of Open Space

R1: ~~Planning permission will not be granted applications~~ for development which would adversely affect the parks and open spaces and the green links between them which together forming the Open Space Network as shown on the Proposals Map. ~~Planning permission will only be granted for development of land within the Open Space Network where:~~ will be considered against the following criteria :

- a) ***whether* ~~if~~ The land is underused and undervalued, and is not required for open space use within the Network;**
- b) **~~It does not~~ *whether the development would* have a detrimental effect on the open space, environmental, landscape character, or wildlife value of the Network as a whole;**
- c) ***whether* ~~if~~ *the development* will enhance the Network, particularly in areas of open space deficiency, and help to achieve the City Council's aims for the open space resource;**

- d) ***it whether the land is a small part of a major open space and would not result in the loss of integrity of the open space or be detrimental to its function as part of the Open Space Network ; or***
- e) ***whether the proposal would involve partial development of a smaller open space ~~would~~ and enhancement of the function of the rest of the open space as an amenity locally or as part of the overall Open Space Network.***

6.7 The Proposals Map shows those elements of the Open Space Network which are of 1 hectare or more and any particularly important areas which are less than 1 hectare. They include parks, public and private playing fields, golf courses, allotments, play spaces and other green spaces.

6.8 ~~As set out in Policy R1, the~~ The City Council will only consider limited releases of open space to development in specific circumstances where it would generally not result in detriment to the Open Space Network, and if possible improve it. Such releases would be considered only as part of a more comprehensive 'action area' approach identifying wider areas of improvement, for instance developing enhanced facilities or including an element of residential development to increase surveillance. The City Council will secure, ~~by a planning agreement or otherwise~~ *through a planning obligation or conditions*, with the developers, improvements to the open space, and/or provision of other community facilities locally.

6.9 Generally opportunities to create significant new areas of open space are very limited in some areas of the City, and dependent on development or redevelopment taking place. *This is the case in the City Centre, where smaller open spaces associated with new development can enhance the contribution of open spaces in the City Centre generally to the City's open space resource.*

Open Space in New Development

R2: The City Council will ~~secure~~ *negotiate through planning obligations* a contribution from developers to make provision for additional areas of *publicly accessible* open space, on site or within the locality, *where there is a need created by the development.*∴

- a) ~~Where there is a need created by the development;~~
- b) ~~Where there is an identified shortage of open space, particularly in or near those primarily residential areas which are deficient in open space, as shown on the map of Open Space Deficiency;~~
- c) ~~In order to enhance the Open Space Network.~~

~~Where the open space is primarily for the benefit of the development itself, and the developers wish the City Council to adopt the space, a commuted sum for maintenance will be sought.~~

6.10 The City Council will negotiate with developers for provision of *publicly accessible* open space, including play areas if appropriate, where it is considered there is a need created by the development. *Where the open space is primarily for the benefit of the development itself, the City Council will expect the developer to enter into a management agreement to maintain the open space. If the developers wish the City Council to adopt the space, a commuted sum for maintenance will be sought.*

6.11 ~~In circumstances where~~ where the location and physical characteristics of the site and the surrounding area preclude or restrict the creation of new *publicly accessible* open space, the City Council will ~~secure~~ *negotiate* a contribution from the developer to enhance existing local open space, or to improve access. This could include joint use of playing fields, and temporary use of appropriate sites, in consultation with the local community.

6.12 Residential development should provide *local publicly accessible* local open space to serve the development having regard to the City Council's related ~~Supplementary Planning Guidance~~ (SPG). The City Council will secure that provision through planning conditions or a planning obligation.

6.13 In considering planning applications for major new developments in the City Centre, the City Council will, where appropriate, negotiate planning obligations with developers to provide or improve *publicly accessible* squares and open spaces.

6.14 Where necessary, the City Council will, as a last resort, use compulsory purchase powers to secure necessary land for *publicly accessible* open space, including play areas *and public squares*.

Access to Open Space

R3: Where public open space, play areas or squares are included in development, planning permission will not be granted for schemes which do not provide good access, public safety, and security.

6.15 New open space, particularly play areas, must be designed to be safe, *easily* accessible, clearly visible and located to minimise nuisance to nearby residents. If open space is not open to view, or there are poorly located or too few entrances, access may be difficult and the perception of personal safety diminished. This particularly affects young children, elderly people and disabled people.

Rivers and Waterways

R4: Where relevant, ~~the~~ the City Council will *negotiate planning obligations, or impose conditions, to secure* ~~require, where relevant,~~ improvements to access, and the provision of public open space, along the River Trent Corridor, Nottingham Beeston Canal, River Leen Corridor and Fairham Brook Corridor. Planning permission for development which could adversely affect these corridors will not be granted.

6.16 The River Trent, Nottingham Beeston Canal, River Leen and Fairham Brook are key elements of the Open Space Network, both in terms of the water areas and adjoining embankments and open spaces. The City Council intends to enhance the potential of these water features, from the recreational, amenity, landscape and visual point of view, and to ~~consolidate~~ *protect and enhance* their role as wildlife habitats and corridors.

6.17 A strategy for improvements to the River Trent Corridor to create a regional country park is being drawn up with partners in adjoining authorities, relevant agencies and Nottingham Development Enterprise. This will help to realise the full recreational, ecological and economic development potential of one of the most important natural assets of the City and the wider region. It will be a key strategic planning priority over the plan period and beyond.

Sports, Leisure, Entertainment and Arts Facilities

Playing Fields and Sports Grounds

R5: Planning permission will not be granted for development which would result in the loss of existing playing fields and sports grounds including those at educational establishments unless:

- a) there is no existing or future demand *need* for the facility, or there is demand *a need* but equivalent or improved alternative provision can be made in a suitable location;**
- b) there is no demand *need* for public open space or recreational facilities that could be met by ~~use of all or part of the site~~ *using all or part of the playing field or sports ground for this purpose*;**
- c) the site's contribution to the visual amenity of the surrounding area or to the Open Space Network is not unacceptably harmed; and**
- d) the site's role as part of a wildlife corridor or reserve is not unacceptably diminished.**

6.18 Playing field provision must be considered both as a city-wide resource and in terms of its contribution to local community needs, as well as its wider landscape and amenity role. Some areas of the City are deficient in playing fields. It is therefore important that playing pitches are protected from development, particularly in such areas of deficiency.

6.19 The City Council commissioned a study of Playing Pitch provision in Greater Nottingham which reported back in May 2001. This carried out a qualitative assessment of supply based on an approach outlined in the National Playing Fields Association (NPFSA)/Sports Council/Central Council of Physical Recreation (CCPR) 'Playing Pitch Strategy' 1991, and a quantitative assessment based on the NPFSA minimum standards for outdoor playing space. The former reviews playing pitch requirements at a local level based on local assessment and consultation and taking into account levels of use and pitch management. The quantitative approach is a 'cruder' national blanket method.

6.20 The City's policies will therefore be based on the qualitative approach. This shows an overall surplus of pitch provision of 20.5 hectares in Greater Nottingham, of which 6 hectares were in the City.

6.21 The Study also examined characteristics within the Area Committee areas of the City of Nottingham. There was a broad correlation between areas of the City found to have qualitative shortfalls of playing field space and areas considered to be deficient in open space generally. In these areas of deficiency playing fields are particularly valued as they can serve a wider open space role.

6.22 Sport England is a statutory consultee on all issues affecting playing fields including planning applications for development that would lead to the loss of, or prejudice the use of, playing fields for sport. In addition, local authorities are required to seek the prior consent of the Secretary of State for Education and Employment before they can dispose of a school playing field, or change its use to any purpose other than for the educational purposes of a maintained school or for recreation.

6.23 Where alternative provision is proposed, its size, quality and accessibility will be assessed. Alternative provision which, in relation to the existing facility, is smaller, and of inferior quality, is unlikely to be considered satisfactory. When considering these factors, the City Council will take into account the findings of the Playing Pitch Study, and particularly whether the area in which the facility is situated is shown to have a qualitative shortfall or surplus of playing pitches.

6.24 The City Council will liaise closely with Sport England, the NPFA, and other organisations in developing proposals for improving the use and development of sports facilities in the City. There is considerable scope for promoting joint use/dual use initiatives to make better use of sites and facilities. Particular attention will be given to meeting gaps in the overall network of supply as shown by the Playing Pitch Study referred to above.

Allotments

R6: Planning permission will not be granted for development which would result in the loss of existing allotments unless:

- a) **there is no ~~demand~~ need for the allotments or there is a demand need but compensatory provision can be made elsewhere nearby;**
- b) **partial redevelopment of existing allotments will result in more efficient use, and improvements to, the remaining allotments in a specific location;**
- c) **the allotments do not make a valuable contribution to the Open Space Network or their development would not be significantly detrimental to the visual amenity of the surrounding area; and**
- d) **the wildlife interest, as part of a reserve or corridor, can be accommodated without detriment in the proposed scheme.**

6.25 Allotments have an important recreational function, as well as having nature conservation value. The majority are owned by the City Council. The City Council's Allotment Charter gives a commitment to maintaining an adequate supply of allotments commensurate with the level of demand for them. Where planning permission for development of allotments is granted, alternative provision will be made within the locality.

Sports, Leisure, Entertainment and Arts Facilities

R7: Planning permission will be granted for the development of appropriate sports, leisure, entertainment, and arts facilities, in the City Centre and the District Centres, subject to the effects of noise, disturbance and litter on the amenities of nearby occupiers being adequately controlled. Where appropriate, the City Council will seek ~~(by planning obligation with developers or otherwise) to improve sports, leisure, entertainment and arts facilities in the City Centre and elsewhere~~ negotiate planning obligations with developers, or impose conditions, where there are opportunities for the improvement of existing sports, leisure and arts facilities in the City Centre and District Centres.

6.26 Sports, leisure, entertainment and arts facilities are important contributors to the quality of life of people who live and work in the City, and to shoppers and visitors. The City Council will encourage

development of these facilities in existing centres, to enhance their vitality and viability, and to ensure facilities are easily accessible to most people.

6.27 Where these facilities are located close to other uses, particularly in existing centres, it is important that they do not have a detrimental effect on the amenity enjoyed by occupiers of adjoining properties. ~~Where necessary conditions or planning obligations will be required to protect the amenities of nearby occupiers~~ *Where necessary, planning conditions will be imposed or planning obligations negotiated with developers to protect the amenities of neighbouring occupiers.* This applies particularly to uses such as nightclubs in the City Centre, where they are proposed close to properties which have been converted to residential use. *As well as this Policy, and Policy R8 below, Policies S7, S8, and S9 of this Plan also deal with food and drink uses, and large licensed premises, in town centres.*

R8: Planning permission for *appropriate* leisure uses outside the City Centre, and District Centres, and Local Centres will only be ~~considered~~ *granted* where a need has been demonstrated for the development. Where there is a need, it must be shown that no suitable sites are available firstly in the City Centre, ~~or~~ District Centres, *or Local Centres*, or secondly on the edge of the City Centre, ~~or~~ District Centres, *or Local Centres*, before any out of centre locations will be considered.

Subject to the above requirements, planning applications for leisure uses on the edge of, or outside, the City Centre ~~or~~ , District Centres, *or Local Centres* will also be determined having regard to the following criteria:

- a) **the extent to which the proposal would undermine the strategy and objectives of the Local Plan to sustain and enhance the vitality and viability of existing centres;**
- b) **whether the site is accessible, *or can be made accessible*, by a choice of means of transport and without :**
 - i) **causing a detrimental effect on the local highway network; and**
 - ii) **causing an unacceptable increase in traffic locally**
- c) **whether the proposal would add significantly to the overall number and length of car trips;**
- d) ***for edge of centre locations, whether the nature of the development is consistent with the scale and function of the centre;***
- e) ***whether the development would assist in enabling the wider redevelopment of brownfield sites for a variety of uses.***

6.28 Current Government planning policy advice is firstly that a need for additional leisure uses should be demonstrated and secondly that a sequential approach has been applied in selecting the location or the site. The requirement to demonstrate the specific elements of need should be determined in the circumstances of any particular proposal and will be a matter for the City Council to assess. *Planning Policy Guidance Note 6 indicates that some smaller scale leisure uses, such as bingo, restaurants and pubs, are best located and should be encouraged in local centres.*

6.29 *Existing centres are preferred locations for major leisure uses as these are locations where access by a choice of means of transport, not only by car, is easy and convenient. However, the City*

Council recognises that in some cases sites can be made accessible. Where this is possible, and subject to the sequential test having been met, planning conditions and obligations will be used to secure new or improved public transport links and access for pedestrians and cyclists.

Leisure Development in Major Parks and District Parks

R9: Planning permission will be granted ~~applications for the development of appropriate high quality leisure attractions, visitor attractions, multi-use leisure and community facilities, and other ancillary facilities, in the Major Parks and District Parks shown on the Proposals Map, will be considered against the following criteria :- where these enhance the contribution the parks make to the City.~~

a) whether they enhance the diversity and uniqueness of the parks; and

b) whether they enhance the contribution of the parks to the leisure needs of the City.

6.30 Some forms of leisure development, particularly sports uses requiring large areas of land, are unlikely to be appropriate in existing centres. Development of such facilities at existing parks will widen the range of facilities available and enhance the contribution these parks make to the leisure needs of the City. *They can assist in enhancing the recreational, landscape, tourism, wildlife, amenity, cultural and local community contribution of these parks. However, it will need to be clearly demonstrated that these proposals have satisfied the sequential test criteria set out in Policy R8 of this Plan, and that the locations are easily accessible by public transport.*

6.31 Major Parks are of City-wide importance and beyond. They are mostly over 40 hectares (100 acres) and include Wollaton Park, Nottingham Castle, Colwick Country Park, University Park and Highfields Tennis Centre, Victoria Embankment and Bulwell Hall Park. District Parks are those which are large enough to serve one or more districts.

These are key assets in the Open Space Network. Part of their attractiveness lies in their diversity and uniqueness. However, many are under-resourced and in need of major improvements. The City Council will favourably consider proposals which enhance their recreational, landscape, tourism, wildlife, environment, amenity, cultural and local community contribution.

6.32 Some District Parks require upgrading to provide a wider range of facilities. Many provide key opportunities for developing multi-use and integrated indoor and outdoor leisure and community facilities, improving landscape features and creating or improving wildlife habitats.

Development at the Forest Recreation Ground

R10: Planning permission will be granted for a major new sport, leisure and community facility at the Forest Recreation Ground, subject to the following:

- a) satisfactory demonstration of the need for the development and that there are no suitable sites available firstly within existing centres, or if not, on the edge of existing centres;**
- b) suitable design which enhances the character of the Forest Recreation Ground as a major open space and District Park; and**

c) satisfactory proposals for qualitative improvements to existing open space locally.

6.33 The City Council's Leisure 2000 Strategy (revised March 1999) identified the need to develop 'fewer, better quality facilities' and to phase out existing facilities where the repairs would be uneconomic or not offer value for money. Planning permission has already been granted for an extension to the existing Southglade Sports Hall at Southglade Park, incorporating community, swimming and health facilities, to replace the existing Bestwood Baths in a more central location to serve the northern area of the City.

6.34 The proposed development at the Forest will be a 'state of the art' major sports and leisure facility, to replace the Victoria and Noel Street Baths which are not capable of being upgraded to a suitable level and are on small sites which cannot individually accommodate development of the scale proposed. A location at the eastern end of the Forest Recreation Ground is under consideration. This would involve the loss of a putting green and a bowls pavilion, although alternative facilities would be provided for bowls within the new building. One of the bowling greens would be relocated and the location of the football pitches would be slightly changed.

6.35 In order for the proposal to be acceptable at the Forest, it will have to be shown there is a need for the development, there are no other sites available in more sustainable locations, and its impact in terms of the Open Space Network will need to be mitigated by excellent design and compensatory improvements to open space locally, particularly in the Forest Fields area.

Air, Motorised and Shooting Sports

R11: Planning permission for the use of land or the development of facilities for air, motorised and shooting sports will only be granted where the proposal would not:

- a) have an unacceptable detrimental impact on the amenities of neighbouring occupiers;
- b) have an unacceptable detrimental impact on the enjoyment of other recreational uses in the vicinity;
- c) adversely affect features of nature conservation, geological, archaeological or landscape value;
- d) have an unacceptable detrimental impact on the visual amenity or character of the surrounding area; *and*
- e) result in, or aggravate, traffic congestion, or cause a hazard to road safety.

6.36 PPG17 refers to the need to accommodate noise generating sports where a clear demand is identified. The City Council is aware of the demand for facilities for off-road motor sports in particular but, despite extensive efforts, has been unsuccessful in identifying suitable sites. These activities need to be carefully located as they are environmentally intrusive, particularly by way of noise generation. They may also require relatively large areas of land. Nottingham is very largely built up with tightly constrained boundaries. Strategic housing and employment land requirements need to be accommodated, and suitable sites, such as degraded land, former minerals workings or set-aside farming land (as referred to in PPG17) are not available. It is more likely that suitable sites will be found outside the conurbation. However, sites for more specialist sports, such as indoor go-karting,

may be found during the Plan period and any proposals for this type of development would be assessed against the criteria above.

ENFORCEMENT POLICY



Development and Environmental Services

1. Introduction

This document sets out what businesses, individuals and the community as a whole can expect from the Department's enforcement officers. It commits us to good enforcement policies and procedures.

The primary function of the Department's enforcement work is to protect the public and the environment. At the same time equitable and consistent enforcement helps to maintain a level playing field for local business, as well as our service users.

We recognise that the effectiveness of legislation depends upon the compliance of those regulated and that most businesses and individuals want to comply with the law. We will therefore assist and advise wherever possible, whilst taking firm action against those who flout the law or act irresponsibly.

Nottingham City Council has formally adopted Government's Concordat on Good Enforcement. We thereby commit ourselves to the following policies and procedures.

2 Policies

Standards

In consultation with business and other interested parties, we will draw up clear standards setting out the level of service and performance that the public and business can expect to receive. We will publish these standards and our annual performance against them.

Openness

We will provide accessible information and advice in plain language on the legislation that we enforce. We will be open about how we set about our work, consulting local business and other interested parties.

Helpfulness

We believe that prevention is better than cure; we will actively work with local business to advise on, and assist with, compliance.

We will provide a courteous and efficient service, and our staff will identify themselves by name. Officers will carry and be prepared to show clear identification and authorisation documentation. We will offer a contact point and telephone number to encourage further liaison.

Applications for licences, registration etc. will be dealt with efficiently and promptly. We will strive to ensure that wherever practicable, our activities are effectively co-ordinated to avoid unnecessary overlaps and/or delays.

Complaints about our service

We will maintain our information and formal complaints procedures, which are easily accessible to all service users, and which explain all rights of complaint and appeal, including the likely time-scales involved.

Proportionality

We will take into account the costs of compliance for business by ensuring that any enforcement action we take or remedial action we require is proportional to the risks. We will, as far as the law allows, work with business and individuals so that they can meet their legal obligations, without unnecessary expense.

Consistency

We will carry out our duties in a fair, equitable and consistent manner. Whilst officers necessarily exercise judgement in individual cases, we will have arrangements in place to promote consistency, including liaison with other authorities and enforcement bodies.

Human Rights Act 1998 and Regulation of Investigatory Powers Act 2000 (RIPA)

All enforcement activity will be undertaken with due regard to the provisions of the above legislation, which derives from the European Convention on Human Rights especially:

- Article 6 – the right to a fair trial
- Article 8 – the right to respect for private and family life.
- Article 1 of the First Protocol – the protection of property.
- RIPA – the written authorisation of covert human intelligence sources and/or surveillance techniques

3 Procedures

Advice from an officer will be put clearly and simply, in writing on request and including any appropriate time scale. Legal requirements will be clearly distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide an opportunity for discussion of relevant circumstances, unless immediate action is required (e.g. to prevent destruction of evidence) or where fixed penalty opportunities apply.

Where immediate action is taken, reasons for such action will be given at the time, and confirmed in writing within 10 working days.

Where there are rights of appeal against formal action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.

4 Application of our policy

All Officers must refer to this policy when making enforcement decisions. It must be read in conjunction with approved guidance on enforcement action. Regard must also be had to any internal quality procedures.

Enforcement options may include

- Compliance advice
- Written warning
- Legal notices
- Seizure/intervention notice

- Formal caution
- Prosecution

In some circumstances matters may be referred from or to another agency for enforcement action.

Any departure from this policy must be exceptional capable of justification and be fully considered by the Team Leader and Service Manager before a final decision is taken. This proviso shall not apply where a risk of injury or to health is likely to occur due to a delay in any decision being made.

In cases of emergency or where exceptional conditions prevail, the Director of Development and Environmental Services or Assistant Director (Environment and Public Protection), may suspend all or part of this policy where necessary to achieve effective running of the service and/or where there is a risk or injury to health of employees or members of the public.

5 Deciding whether to Prosecute

Before deciding whether a prosecution will be taken against a business or an individual, consideration will be given to a number of factors including Central Government guidance and the Code for Crown Prosecutors. These factors, which are not listed in order of significance, will include the following:-

- **The seriousness of the alleged offence;**
- **The history of the party concerned;**
- **The willingness of the business or the individual to prevent a recurrence of the problem and co-operate with officers;**
- **Whether it is in the public interest to prosecute**
- **The likelihood of success of the prosecution;**
- **Whether any other action (including formal caution) would be more appropriate or effective.**

The rating of the various factors will vary with each situation under consideration.

6 Review

It is intended that this document will be subject to an annual review with additional reviews as and when required to accommodate changes in legislation, local needs and the views of our customers.

If you have any comments on the Policy Statement please contact us by

- writing to
The Assistant Director
(Environment and Public Protection)
Development and Environmental Services
Lawrence House
Talbot Street
Nottingham NG1 5NT
- telephoning 0115 9156503
- fax 0115 9156687
- visiting www.nottinghamcity.gov.uk

Or