



Rutland County Council

Catmose, Oakham, Rutland, LE15 6HP.
Telephone 01572 722577 Facsimile 01572 758307

Ladies and Gentlemen,

A meeting of the **PLANNING AND LICENSING COMMITTEE** will be held in the Council Chamber, Catmose, Oakham, Rutland, LE15 6HP on **Tuesday, 17th December, 2019** commencing at 7.00 pm when it is hoped you will be able to attend.

Yours faithfully

Helen Briggs
Chief Executive

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Please note hard copies of the agenda will not be available at the meeting. If you require a hard copy of the agenda please email your request to governance@rutland.gov.uk or telephone (01572) 720991.

A G E N D A

1) APOLOGIES

To receive any apologies from Members.

2) MINUTES

To confirm the minutes of the Planning and Licensing Committee held on 22 October 2019.

3) DECLARATIONS OF INTERESTS

In accordance with the Regulations, Members are invited to declare any disclosable interests under the Code of Conduct and the nature of those interests in respect of items on this Agenda and/or indicate if Section 106 of the Local Government Finance Act 1992 applies to them.

4) PETITIONS, DEPUTATIONS AND QUESTIONS

To receive any petitions, deputations and questions from members of the Public in accordance with the provisions of Procedure Rule 93.

Any petitions, deputations and questions that have been submitted with prior formal notice will take precedence over questions submitted at short notice. Any questions that are not considered within the time limit shall receive a written response after the meeting and be the subject of a report to the next meeting.

Requests to speak on planning applications will also be subject to the RCC Public Speaking Rules.

The total time allowed for this item shall be 30 minutes.

5) LICENSING ACT 2003 - REVIEW OF STATEMENT OF LICENSING POLICY

To receive Report No. 167/2019 from the Strategic Director for Places.
(Pages 5 - 30)

6) PLANNING APPLICATIONS

To receive Report No. 182/2019 from the Deputy Director for Places.
(Pages 31 - 48)

7) APPEALS REPORT

To receive Report No. 183/2019 from the Deputy Director for Places.
(Pages 49 - 52)

8) ANY OTHER URGENT BUSINESS

To consider any other urgent business approved in writing by the Chief Executive and Chairman of the Committee.

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TO: ELECTED MEMBERS OF THE PLANNING AND LICENSING COMMITTEE

Mr E Baines (Chairman)
Mr I Razzell (Vice-Chairman)
Mr P Ainsley
Mr N Begy
Mr D Blanksby
Mr W Cross
Mrs S Harvey
Miss M Jones
Ms A MacCartney
Mr M Oxley
Mrs K Payne
Mr N Woodley

PLANNING AND LICENSING ACT COMMITTEE

17 December 2019

LICENSING ACT 2003 – REVIEW OF STATEMENT OF LICENSING POLICY

Report of the Strategic Director of Places

Strategic Aim:	<ul style="list-style-type: none"> - Sustainable growth - Safeguarding the vulnerable 	
Exempt Information	No	
Cabinet Member(s) Responsible:	Cllr Gordon Brown - Deputy Leader and Portfolio Holder for Environment, Planning, Property, and Finance	
Contact Officer(s):	Kerry Leishman – Licensing and Business Manager	Telephone 01733 453502 email: Kerry.leishman@peterborough.gov.uk
	Terri Martin – Strategic Regulatory Officer - Licensing	Telephone 01733 453561 email: terri.martin@peterborough.gov.uk
Ward Councillors	All Wards	

DECISION RECOMMENDATIONS

<p>That the Committee:</p> <ol style="list-style-type: none"> 1. Considers the revised Policy and responses received during consultation and amendments made in consideration of those responses; and 2. Recommends to Council to adopt the post consultation revised Statement of Licensing Policy.
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1 PURPOSE OF THE REPORT

1.1 Rutland County Council as the Licensing Authority, has a statutory responsibility under the 2003 Act, to produce a statement of licensing policy. The policy must be reviewed, updated, consulted upon and republished every 5 years, in accordance with Section 5 of the Act. The Statement of Licensing policy was last reviewed in 2014 and therefore is subject to this process.

2 BACKGROUND AND MAIN CONSIDERATIONS

- 2.1 The Statement of Licensing Policy sets out how the Council will administer its functions under the 2003 Act. Without a policy the council may be subject to Judicial Review for failing in its responsibilities to carry out a statutory function.
- 2.2 The Policy was reviewed and revised in accordance with the 2003 Act, statutory guidance issued under section 182 of the 2003 Act and in line with the best practice framework issued by the LGA (Local Government Association).
- 2.3 Whilst the entire Policy has been redrafted, the intent remains unchanged, the revised Policy is in accordance with the requirements of the 2003 Act.
- 2.4 There has been an addition of section 7, which has been inserted following the changes made by the Immigration Act 2016. This requires the licensing authority to ensure that applicants have the right to work in the UK prior to issuing a licence.
- 2.5 A copy of the draft Policy which was subject to consultation is attached at **Appendix A**.
- 2.6 The final Policy must be approved and adopted by Council.

3 CONSULTATION

- 3.1 A consultation process is being carried out from Monday 30 September to Friday 18 October 2019, with those identified in Section 5(3) of the 2003 Act. Those being:

The Chief Officer of Police for the area
The Fire and Rescue Authority for the area
The Director of Public Health for the area
Representatives of holders of premises licences
Representatives of holders of club premises certificates
Representatives of holders of personal licences
Representatives of businesses and residents

- 3.2 The draft policy has been made available on the council's website and copies made available at Rutland County Council office, Catmose, Oakham. There is also a notice on the main notice board in the entrance hall.

4 ALTERNATIVE OPTIONS

Retain the existing policy and be in breach of statutory requirements.

5 FINANCIAL IMPLICATIONS

None identified

6 LEGAL AND GOVERNANCE CONSIDERATIONS

- 6.1 As per paragraph 2.1 of the Policy "*The content of the Policy is aimed only to provide guidance and should not be interpreted as legal advice.....*"
- 6.2 The Council must have regard to the Policy when carrying out its duties under the Act.

- 6.3 Legal Services will rely upon the contents of the Policy in the event of any appeals to the Magistrates Court against decisions of the council and prosecutions.
- 6.4 Having a policy which is consistent and compliant with legislation will assist in protecting the Council from legal challenge.
- 6.5 As per paragraph 6.5 of the Policy *“Nothing in the Policy prevents each licence application being considered on its own merits, nor does it override the right of any individual to apply under the terms of the Licensing Act 2003 for a variety of permissions.”*
- 6.6 As per paragraph 6.6 of the Policy *“This Policy does not seek to override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.”*

7 DATA PROTECTION IMPLICATIONS

- 7.1 A Data Protection Impact Assessments (DPIA) has not been completed as there are no DPA implications in producing and publishing the Policy.

8 EQUALITY IMPACT ASSESSMENT

- 8.1 An Equality Impact Assessment (EqIA) has not been completed as the Policy does not seek to discriminate against any particular group.

9 COMMUNITY SAFETY IMPLICATIONS

- 9.1 The Licensing Act 2003 is far reaching and affects a number of different departments and as such a close working relationship will continue to be developed to ensure delivery of the objectives.

10 HEALTH AND WELLBEING IMPLICATIONS

- 10.1 Please refer to 9.1

11 ORGANISATIONAL IMPLICATIONS

- 11.1 Environmental implications
- 11.2 Please refer to 9.1
- 11.3 Human Resource implications
- 11.4 Please refer to 9.1
- 11.5 Procurement Implications
- 11.6 None identified

12 CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

- 12.1 To comply with the statutory requirements of the Licensing Act 2003 and to ensure that the statement of licensing policy is up to date and remains fit for purpose.

13 BACKGROUND PAPERS

13.1 The Licensing Act 2003

13.2 Guidance issued under Section 182 of the Licensing Act 2003 – April 2018

13.3 Best Practice Framework for the Review of Licensing Policy Statements October 2012 published by the LGA (Local Government Association)

14 APPENDICES

14.1 Appendix A – Draft Rutland County Council Statement of Licensing Policy 2019 consultation document

A Large Print or Braille Version of this Report is available upon request – Contact 01572 722577.



Rutland County Council

STATEMENT OF LICENSING POLICY

LICENSING ACT 2003

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DEFINITIONS

Note: In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

'the Act' means the Licensing Act 2003 (c.17)

'Licensable Activities' means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

'The Guidance' means the guidance issued by the Secretary of State for the Department of Culture, Media and Sport under s.182 of the Act.

'Licensed Premises' includes club premises and events unless the context otherwise requires.

'Designated Premises Supervisor (DPS)' means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

'Regulated Entertainment' is defined as;

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- Boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to that falling within the performance of live music; the playing of recorded music and the performance of dance.

In some circumstances, the provision of regulated entertainment is not licensable, for further information please go to www.gov.uk (and search for entertainment licensing).

'Late Night Refreshment' means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

'Operating Schedule' means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken to promote the Licensing Objectives

'Other Persons' means

Persons who live, or are involved in a business, in the relevant licensing Authorities area, who are likely to be affected by the application and are not a Responsible Authority.

‘Responsible Authority’ means any of the following: -

- The Chief Officer of Police
- The Fire and Rescue Authority
- The enforcing authority for Health and Safety at Work
- The local planning authority
- The local weights and measures authority (Trading Standards)
- The council department responsible for minimising or preventing the risk of pollution of the environment or of harm to human health
- The body representing matters relating to the protection of children from harm
- In relation to a vessel, a navigation authority, the Environment Agency, or the Maritime and Coastguard agency
- The relevant Licensing Authority
- The Director of Public Health
- Home Office (Immigration Enforcement)

‘Relevant Representations’ are representations which can be either in support of an application or against the application, (also called an objection) and must be:

- About the effect of the licensable activity on the promotion of the licensing objectives;
- Are made by a responsible authority or any other person, have not been withdrawn and, in the case of representations made by other persons, they are not in the Council’s opinion frivolous or vexatious.
- Must relate directly to an application and received during the consultation period. Representations received outside the consultation period cannot be considered.
- An objection must relate to the licensable activities requested, how individuals, businesses, communities and the objectives are likely to be adversely impacted by the activity, which the conditions proposed in the operating schedule of the application do not address or do not address sufficiently.

‘Temporary Event Notice (TEN)’ means a Permitted Temporary Activity involving one or more Licensable Activities subject to various conditions and limitations (see section 10). For further information, please go to www.gov.uk (and search for alcohol licensing).

Standard TEN: Must be received no later than 10 working days prior to the event. (Not counting day of receipt of the application and day of the event).

Late TEN: Must be received between 5 and 9 working days prior to the event. (Not counting day of receipt of the application and day of the event).

THE COUNTY OF RUTLAND

Rutland became a Unitary Authority in 1997. Rutland covers a total area of 39,398 hectares. This is mainly an area of mixed farms with small farms predominating. Rutland is a sparsely populated rural County, with a population density of approximately 0.87 people per hectare.

The two main market towns, Oakham and Uppingham, plus 50 villages make up the County. There are 37,369 residents according to the 2011 census. Oakham has a population of c.10, 500 and Uppingham c.4,000, thus neither are large enough to meet the Government definition of 'a town'. The number of residents from ethnic backgrounds other than white (British) account for less than 2% of the population.

Rutland is one of the best kept secrets of the English countryside and is absolutely brimming with things to see and do whether you are a resident or visitor. In fact, the county motto is 'Multum In Parvo', which means 'Much in Little'.

Tourism makes a significant contribution to the local economy within Rutland and provides a major focus for the Service's work. There are estimated to be about two million visitors a year, of those visiting, most are day-trippers.

There are around 1700 businesses operating in Rutland with a majority employing less than 10 people. Small businesses are the norm for Rutland. The two main market towns offer a great choice of boutique shops, bookshops, antique shops, fine art galleries, tearooms and restaurants.

In Oakham you can discover the hidden gems around town, starting at the excellent Rutland County Museum, it takes you to the many historical buildings around the town including Oakham Castle.

Uppingham is the smallest town in Rutland and is a quintessential English market town that has kept its old traditions and traders. The majority of shops are still family run with unique retailers hidden away along ancient alleyways.

Rutland Water is the largest man-made reservoir in Europe and an amazing spot for every type of water sport. Set in 4200 acres of open countryside, Rutland Water lies at the very heart of the county and is as spectacular in beauty as it is in size. Created in the 1970's to meet an ever increasing demand for water, nowadays it's widely regarded as a leading centre for water and land based leisure activities and has year round appeal for fishermen, cyclists, sailors and bird watchers.

Rutland's many attractive villages, set in the wonderful English countryside, are home to picture postcard cottages and traditional country pubs. Rutland has nearly 200 premises licensed under the Licensing Act 2003.

- 1.1 This Statement of Licensing Policy has been produced in accordance with s.5 of the Licensing Act 2003 (the Act) which requires the Council to review and where appropriate renew its contents on a five yearly basis (subject to changes in legislation or otherwise prescribed by the Secretary of State).
- 1.2 In reviewing the Statement of Licensing Policy the Council has considered the Guidance issued under s.182 of the Act.
- 1.3 This policy provides information and guidance to licence applicants, licence holders, objectors and Other Persons on the general approach to be taken by the Council in respect of its obligations under the Act.
- 1.4 This policy is made available in key Council offices and via the Council's website: www.rutland.gov.uk under My Business.
- 1.5 The contents within the policy have been amended in line with Local Government Association (LGA)' Best Practice Framework for the Review of Licensing Policy Statements.

2. DISCLAIMER

- 2.1 The content of the Council's Statement of Licensing Policy is aimed only to provide guidance and should not be interpreted as legal advice. It is strongly recommended that persons obtain their own legal advice if they are not sure of the requirements of the Act and/or the Guidance and Regulations issued in accordance with it.

3. LICENSABLE ACTIVITIES

- 3.1 This policy relates to all those activities identified as falling within the provisions of the Act, provided to the public, to registered club members or with a view to profit as defined within the Act.
- 3.2 The Licensing Act 2003 regulates the following activities:
 - Retail sale of alcohol
 - Supply of alcohol by or on behalf of a club, or to the order of, a member of the club
 - The provision of regulated entertainment
 - The provision of late night refreshment

4. OBJECTIVES

- 4.1 The Council has a duty under the Act to carry out its licensing functions by promoting the licensing objectives, which are:-
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 4.2 Each objective has equal importance.
- 4.3 The Council will also in carrying out its duties have regard to the Guidance, this policy and any responses to consultation regarding this policy.
- 4.4 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not be seen as a means for solving all problems within the community. The Council will therefore continue to work in partnership with its neighbouring authorities, responsible authorities such as the Police, Fire and Rescue Service, Health

Service etc. local businesses, licensed trade, residents and others, towards the promotion and delivery of the objectives.

- 4.5 The Council will expect individual applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 4.6 It is recommended and encouraged that all applicants for authorisations enter into informal discussions prior to the submission of an application in order to avoid potential problems and unnecessary hearings and appeals.

5. CONSULTATION

- 5.1 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing functions and the promotion of the licensing objectives. The Council will continue to consult with these parties upon receipt of applications where relevant, and for the further continuation and development of the Licensing Policy.
- 5.2 In reviewing this Policy, the Council will consult over a three week period from 30 September 2019 to 18 October 2019 with the following:
- (a) Chief Officer of Police for the area;
 - (b) Fire and Rescue Authority for the area
 - (ba) Director of Public Health
 - (c) Persons/bodies representative of local holders of premises licenses;
 - (d) Persons/bodies representative of local holders of club premises certificates;
 - (e) Persons/bodies representative of local holders of personal licenses
 - (f) Persons/bodies representative of businesses and residents in its area;

(And other bodies and groups that the Licensing Authority consider appropriate)

- 5.3 All responses to the consultation will be given due consideration before determining the final policy.

6. FUNDAMENTAL PRINCIPLES

- 6.1 Licensing is about regulating the carrying on of licensable activities by the appropriate control of licensed premises, qualifying clubs, and temporary events together with the people who manage such premises or hold Personal Licences within the terms of the Act.
- 6.2 In circumstances where conditions are required to be attached to the various authorisations, the focus will be on matters which are within the control of the individual licensee and others in possession of relevant authorisations (please see section 15 for more information on licence conditions).
- 6.3 In setting conditions the Council will primarily focus on the direct impact of the activities taking place at, or resulting from the licensed premises on those living, working or engaged in normal activity in the vicinity of the licensed premises.
- 6.4 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. However:
- (a) licensing law is a key aspect of such control and therefore will always form part of an all-round approach to the management of the entertainment evening and night-time economy within Rutland; and

(b) licensees and Certificate Holders should take all reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example, on the pavement, in a beer garden, or with the smoking ban in force, in a smoking shelter, where and to the extent that these matters are within their control.

6.5 Nothing in this policy prevents each licence application being considered on its own merits nor will it override the right of any individual to apply under the terms of the Licensing Act 2003 for a variety of permissions.

6.6 This policy does not seek to override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

6.7 If no relevant representations are received from responsible authorities or any other persons, applications must be granted as applied for. The only conditions which will be applied are those proposed within the operating schedule and any applicable mandatory condition(s).

7. IMMIGRATION ACT 2016 (new edition to Policy)

7.1 Since April 2017 all applicants applying for a personal licence or premises licence will be required to demonstrate that they have the right to work in the UK. The list of documents which an applicant may provide to demonstrate their entitlement to work in the UK is published on gov.uk, at Annex A of Section 182 guidance and on relevant application forms.

7.2 Where an applicant's immigration permission to live and work in the UK is time-limited, or is curtailed or revoked by the Home Office, the licence will lapse and become invalid when the immigration permission expires.

7.3 A person is disqualified from applying for a personal licence or premises licence by reason of their immigration status if:

- The person requires leave to enter or remain in the UK and has not been granted it; or
- The person's leave to enter or remain in the UK is invalid, ceases to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise), or
- Is subject to a condition preventing the person from doing work of that kind.

8. OTHER LEGISLATION

8.1 Crime and Disorder Act 1998: Under this Act local authorities must have regard to the likely effect of the exercise of their functions, and do all they can to prevent crime and disorder in their area.

8.2 The Council will have particular regard to the likely impact of licensing on related crime and disorder in the district, particularly when considering the location, impact, operation and management of all proposed licence/certificate applications, renewals and variations of conditions. Any conditions attached to premises licences and club premises certificates will, so far as possible, consider and reflect the local crime prevention strategies.

8.3 The Council recognises that the Equality Act 2010 places a legal obligation on public authorities and has due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity.

9. OTHER REGULATORY SYSTEMS / POLICIES

9.1 By consultation and liaison, the Council will secure the proper integration of this licensing policy with local crime prevention, community safety, environment, planning, tourism, health and wellbeing, race equality schemes and cultural strategies and any other relevant policy, in addition to plans introduced for the management of the County and the night-time economy.

These strategies may not be directly related to the promotion of the four licensing objectives, but, may indirectly impact upon them.

- 9.2 **Planning, building control and the licensing regimes:** Will be separate to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the planning committee or following appeals against decisions taken by that committee. Where a terminal hour has been set as a condition of planning permission for the use of premises for commercial purposes that are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 9.3 **Cultural Strategies:** The Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. As part of implementing cultural strategies, proper account will be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of the communities.
- 9.4 **Public Spaces:** The Council wishes to promote a broad range of entertainment within its area including live music, dancing and theatre. To promote this policy the Council may, where appropriate, seek to obtain premises licences for Council owned public spaces within the community such as market squares, village greens, etc.
- 9.5 **Travelling Circuses:** Where types of entertainment are present in a performance by a travelling circus they will not be licensable provided that certain qualifying conditions are met. Guidance has listed these qualifying conditions as follows:
- The entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
 - The entertainment takes place between 08.00 and 23.00 on the same day
 - The entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
 - The travelling circus has not been located on the same site for more than 28 consecutive days.

10. TEMPORARY EVENT NOTICES

- 10.1 A temporary event notice (TEN) is required for the sale of alcohol by retail, provision of regulated entertainment and/or the provision of late night refreshment, which is to take place at premises, which are currently unlicensed for the activities involved. Applicants are reminded that a limit of fewer than 500 persons at any one time applies to a temporary event and failure to comply with this limit may lead to the event closure or even prosecution. It is strongly recommended, therefore, that a means of recording the number of persons entering and leaving the premises is put into operation. There is nothing to stop a TEN being given for a premises where a premises licence is already in force although does not cover the type or time of event proposed.
- 10.2 If there are over 500 persons attending the event then this will fall outside the provisions of a temporary event notice and a premises licence will be required.
- 10.3 Applicants are reminded that an authorisation made under a TEN does not remove their obligations under any other legislation including that of statutory nuisance. Where necessary, permissions should be sought from the appropriate body. The Council strongly recommends that applicants familiarise themselves with these responsibilities which amongst others may include:-
- Planning permission
 - Health and Safety
 - Noise Pollution
 - Erection of temporary structures
 - Road closures

- Use of pyrotechnics
- Anti-social behaviour

10.4 As well as the limit on the number of persons permitted under a TEN the following conditions and limitations apply:-

- Duration – they are limited to events lasting for up to 168 hours (7 days);
- Use of the same premises – the same premises cannot be used on more than 15 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used;
- The total number of notices (this includes late and standard TENs) given by an individual within a calendar year (1 January to 31 December) – a Personal Licence Holder is limited to 50 notices in one year and those who do not hold a personal licence, to 5 notices per year.
- The number of late TEN's is limited to 10 in a calendar year for a personal licence holder and two for those who do not hold a personal licence. If these limits are exceeded in a calendar year, the application will be returned as void and the event will not be authorised.
- There must be a minimum period of 24 hours between events authorised under separate TEN's at the same premises by the same premises user or associate.
- Relevant persons - Police and Environmental Health have the opportunity to consider whether they should object, modify or attach conditions to a TEN based on any of the licensing objectives

10.5 When calculating the number of working days for submission of TENs, the day the notice is received and the first day of the event are excluded from the calculation. If a TEN application requests for an event to start before midnight and end after midnight this will count as two days towards the 21 day limitation.

10.6 **Standard and Late Temporary Event Notices:** There are two types of TEN, a standard TEN and a late TEN. These are subject to different processes. A standard TEN is given no later than ten working days before the event to which it relates, and a late TEN is given not before nine and not later than five working days before the event.

10.7 **Standard Temporary Event Notices:** Whilst a minimum of 10 working days' notice must be given to the Council and relevant persons for applications, it should be noted that this gives very little time for the Council to process the application and for the relevant persons to respond. Applicants are therefore encouraged to provide a minimum of 28 days' notice of a licensable event.

10.8 Where a TEN is held on premises where a premises licence or club premises certificate is in place, and the relevant persons believe that allowing the premises to be used in accordance with the TEN would undermine the licensing objectives they can object and/or modify and/or request conditions from the premises licence or club premises certificate to be applied to the TEN.

10.9 Where an objection to a TEN is received from relevant persons and not withdrawn, the licensing authority must hold a hearing to consider the objection, unless all parties agree that this is unnecessary.

10.10 **Late Temporary Event Notices:** are intended to assist premises users who are required for reasons outside their control to provide licensable activities at premises in shorter time scales. However, there is a risk that the event may receive an objection from relevant persons, where this occurs the notice will not be valid, as there is no scope for a hearing or the application of any existing conditions.

11. DUPLICATION

11.1 So far as is possible, this policy is not intended to duplicate existing legislation and other regulatory regimes that already place obligations on the self-employed, employers and

operators of venues both in respect of employers and of the general public when on the premises in question. Therefore, conditions and control measures which would be a duplication of existing legislative requirements, cannot be imposed in the context of licensing law as they are already provided for in other legislation.

12. CUMULATIVE IMPACT

- 12.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Council can consider within its licensing policy statement. This should not, however, be confused with 'need' which concerns the commercial demand for a particular type of premises, e.g. a pub, restaurant or hotel. The issue of 'need' is therefore primarily a matter for the market to decide and does not form part of this licensing policy statement.
- 12.2 The licensing authority can only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is causing a cumulative negative impact on one or more of the licensing objectives.
- 12.3 Cumulative Impact was only ever described in Section 182 Guidance, however, with effect from 06 April 2018 cumulative impact is incorporated within Section 5A of the Licensing Act 2003, following commencement of Section 141 of the Policing and Crime Act 2017 which amended the Licensing Act 2003. This puts Cumulative Impact Assessments on a statutory footing and requires authorities to set out the evidence as to why the authority is of the opinion that a CIP is required for those types of premises and that defined area.
- 12.4 Information which the licensing authority may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes:
- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
 - Statistics on local anti-social behaviour offences;
 - Health-related statistics such as alcohol-related emergency attendances and hospital admissions;
 - Environmental health complaints, particularly in relation to litter and noise;
 - Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
 - Residents' questionnaires;
 - Evidence from local and parish councillors; and
 - Evidence obtained through local consultation.
- 12.5 Section 5A of the Act requires CIA's to be reviewed and re-evaluated every three years in order to establish if the CIA is still relevant to current problems in the defined area.
- 12.6 Where, after considering the available evidence and consulting with relevant individuals and organisations listed within the Act, the council is satisfied that it is appropriate to address the problems caused by an accumulation impact, the council may adopt a 'special policy' and publish a cumulative impact assessment.
- 12.7 If the Council adopts a special policy, it will define the areas affected and there will be a presumption that applications will be refused whenever it receives relevant representations by responsible authorities and other persons, unless the applicant can demonstrate that the operation of the premises involved will not add to the cumulative impact already being experienced.
- 12.8 A special policy will never be absolute. Each application will be considered on its own merits. Licences that are unlikely to add to the cumulative impact, on the licensing objectives, or receive no objections, will be granted, subject to meeting the remaining criteria.
- 12.9 The absence of a special policy however, does not prevent any responsible authority or other persons making representations on a new application for the grant of a licence on the grounds

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

- 12.10 Once away from licensed premises, a minority of consumers will behave badly and unlawfully. The licensing policy is part of a much wider strategy for addressing these problems. Other mechanisms both within and outside the licensing regime are available for addressing such issues. For example:
- Planning controls
 - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority
 - The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
 - Powers of local authorities to designate parts of the local authority area as Public Spaces Protection Orders. Confiscation of alcohol from adults and children in designated areas.
 - Police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices.
 - Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale).
 - Powers to close down instantly premises or temporary events to prevent a nuisance or disorder from continuing, recurring or occurring.
 - The power for responsible authorities and other persons to seek a review of a premises licence or club premises certificate.

13. LICENSING HOURS / ZONING

- 13.1 EMRO's: Early Morning Restriction Orders, are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 13.2 LNL: Late Night Levy, is a levy imposed on businesses which sell alcohol between midnight and 6am or part thereof. Funds raised by this levy are applied to the costs of policing crime and disorder connected to those sales of alcohol.
- 13.3 The Council notes guidance on the late night levy and EMRO's and has considered the options of adopting the provisions, but has no intention at this time of implementing either provision. The Council reserves the right to review this decision in the future.
- 13.4 The Council has not adopted fixed trading hours as a matter of policy. It recognises that flexible licensing hours with regard to the sale of alcohol is important to ensure that the concentrations of customers leaving premises simultaneously are avoided.
- 13.5 The Council recognises that providing consumers with greater choice and flexibility is important to a thriving evening and night-time economy however, this will be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
- 13.6 There is no general presumption in favour of lengthening licensing hours and accordingly the Council may when issuing new licences or following reviews of existing licences reject a proposal or grant it with appropriate conditions and/or different hours from those requested.
- 13.7 Shops, stores and supermarkets will normally be permitted to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons based on the four licensing objectives for restricting those hours. For example, a limitation on licensing hours may be appropriate following Police representations in the case of premises known to be a focus of disorder and disturbance because youths gather there.

14. CHILDREN AND LICENSED PREMISES

- 14.1 There are a great variety of premises for which licences may be sought, including theatres, cinemas, restaurants, cafes, fast food outlets, public houses and clubs, community halls and schools where children may frequent. No statement of policy can properly anticipate every issue of concern that could arise in respect of children in relation to individual premises, and therefore the individual merits of each application will be considered in each case.
- 14.2 It is an offence under the Act to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on the premises.
- 14.3 It is also an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises.
- 14.4 This does not mean that children should automatically be admitted to such premises. The Act does not automatically permit unaccompanied children under the age of 18 to have free access to premises where the consumption of alcohol is not the exclusive or primary activity, or to the same premises even if they are accompanied, or to premises where the consumption of alcohol is not involved.
- 14.5 Subject only to the provisions of the 2003 Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. Conditions requiring the admission of children cannot be attached to licences or certificates.
- 14.6 Where it is deemed appropriate to attach conditions to the licence in relation to access by children, this will be for the prevention of physical, moral or psychological harm to them.
- 14.7 Venue operators seeking premises licences and club premises certificates will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events. It may also be that their own risk assessments have determined that the presence of children is undesirable or inappropriate.
- 14.8 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedules, having regard to their particular type of premises and/or activities:-
- Effective and responsible management of the premises
 - Provision of a sufficient number of people employed or engaged to secure the protection of children, including child performers, from harm
 - Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
 - Limitations on the hours when children may be present in all or parts of the premises
 - Limitations or exclusions by age when certain activities are taking place
 - Imposition of requirements for children to be accompanied by an adult
 - Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs.
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 14.9 Where no relevant representations are made to the Council, any proposed conditions in the operating schedule will be attached as conditions to the licence or certificate, along with any mandatory conditions, and will be enforceable.

- 14.10 Following receipt of any relevant representations, the Council will consider and determine each application, on its merits, as to whether to limit access by children or exclude them altogether from licensed premises by attaching any relevant conditions.
- 14.11 The conditions limiting and restricting access by children may include a combination of those identified in paragraph 14.8, where:-
- Entertainment or services of an adult or sexual nature for example, lap-, table- or pole dancing, topless bar staff or striptease are commonly provided
 - There is a strong element of gambling on the premises (but not where there is a small number of cash prize gaming machines);
 - Premises with a known association to drug activities – taking or dealing;
 - There have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking.
 - The premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 14.12 The Council recognises Leicestershire & Rutland Safeguarding Children Partnership as the responsible authority and competent body to advise on these matters.
- 14.13 **The Portman Group:** The Council commends the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.
- 14.14 **Proof of Age Schemes:** The Council commends proof of age cards accredited under the Proof of Age Standards Scheme (PASS).
- 14.15 **Children and Cinemas:** In the case of premises which are used for film exhibitions conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Council itself.

15. LICENCE CONDITIONS

- 15.1 There are three different types of condition that may be attached to a licence or certificate:
 Proposed: those conditions offered with the operating schedule of the application.
 Imposed: attached by licensing authority following a hearing.
 Mandatory: imposed by the Act and can be amended by the Secretary of State.
 All conditions should be clear, enforceable, evidenced, proportional, relevant, and capable of being understood.
- 15.2 One of the key concepts of the Act is that any conditions (other than the statutory mandatory conditions and those proposed within the application) attached to licences or certificates can only be imposed to licences at a hearing following relevant representations. Conditions will be tailored to the individual style and characteristics of the premises and events concerned.
- 15.3 The Council will only attach conditions to premises licences and club certificates where they are appropriate for the promotion of one or more of the four licensing objectives.
- 15.4 Conditions that are appropriate for the promotion of the licensing objectives should emerge initially through the operating schedule and risk assessment carried out by a prospective licensee or certificate holder at the time of application. However, the licensing Authority cannot simply replicate the wording from an applicant's operating schedule. A condition will be interpreted in accordance with the applicant's intention.
- 15.5 The Council will not impose any conditions unless they are proposed or its discretion has been engaged following relevant representations having been received and upheld. In these circumstances, it may then only impose conditions as are appropriate to promote the licensing objectives arising out of the consideration of representations.

- 15.6 The Council will take into account:
- The character of the surrounding area;
 - The nature and character of the proposed operation;
 - The impact that the activity will have on those living, working or engaged in normal activities in the area concerned.
- 15.7 Conditions will generally be considered inappropriate if they are already adequately covered by other legislation.
- 15.8 The pool of conditions cover, among other things, issues surrounding:
- Crime and disorder, incorporating local crime prevention strategies, e.g. CCTV or SIA door supervisors at certain premises;
 - Public safety (including physical safety);
 - Anti-social behaviour (Inc.: public nuisance, provision of clearance of litter outside premises, fly posting);
 - Protection of children from harm; (includes the protection of children from moral, psychological and physical harm)
- 15.9 In determining what condition(s) should be attached to licences and certificates, to appropriately promote the licensing objectives, the Council will be aware of the need to avoid measures which might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.

16. ENFORCEMENT

- 16.1 The Council will establish arrangements with the responsible authorities on enforcement issues in addition to carrying out their own regular inspections. These protocols will provide for the targeting of agreed problem and high-risk premises, with a light touch to low risk, well managed premises.
- 16.2 Operators are reminded of their obligations to provide appropriate training for staff to ensure the promotion of the licensing objectives, compliance with the Act and conditions of operation.
- 16.3 All decisions and enforcement action taken by the Council will have regard to the relevant provisions of the Act, national guidance, e.g. BRDO (Better Regulation Delivery Office) Regulators' Code and any enforcement policy of the Council. To this end, the key principles of consistency, targeting, transparency and proportionality will be maintained.
- 16.4 Responsible authorities may carry out their own enforcement activities such as test purchasing, on and off sales, underage and proxy sales. Any national guidance will be observed when these activities are conducted.
- 16.5 Premises licences and club premises certificates are subject to an annual fee. The Council must suspend these authorisations for the non-payment of the annual fee. Where disputes or administrative errors arise, there is a grace period of 21 days to resolve (from the due date of the invoice). If the dispute or error is not resolved, a notice of suspension will be given to the premises providing the date (minimum of two working days) when the suspension notice takes effect.
- 16.6 Where an authorisation is suspended, any licensable activities taking place would be unauthorised and subject to further enforcement. Responsible authorities will be notified of suspension notices issued.
- 16.7 With effect from April 2017 (following changes made by the Policing and Crime Act 2017), the Licensing Authority may revoke or suspend (for a maximum period of 6 months) a personal licence where the licence holder is convicted of a relevant or foreign offence and or required to pay an immigration penalty.

17. REVIEWS

- 17.1 The licensing authority works in partnership with the responsible authorities to promote the licensing objectives and will aim to give licensees early warning of any concerns identified at a premises.
- 17.2 Reviews of premises licences represent a key protection for the community where matters arise at the premises in connection with any of the four licensing objectives.
- 17.3 There are certain circumstances (as detailed within guidance), when the crime prevention objective is being undermined, it is expected that revocation of the licence, even in the first instance will be seriously considered.
- 17.4 At any stage following the grant of a Premises Licence a responsible authority or any other person may request a review. Evidence would be required based on one or more of the licensing objectives.
- 17.5 If relevant representations are made about a current licence, the Council will hold a hearing to consider them, unless the Council, the applicant and those making representations agree that the hearing is not necessary.
- 17.6 Additionally a review of the licence will normally follow any action by the Police or Local Authority to close down the premises on grounds of disorder or public nuisance.
- 17.7 No more than one review will normally be permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances or where it arises following a Closure Notice or Order.
- 17.8 Where entertainment is deregulated, between 08.00 and 23.00 and it is having a negative impact on the licensing objectives, a premises licence or club premises certificate can be reviewed to bring the entertainment back under the scope of the authorisation and appropriate conditions can be applied and enforced.
- 17.9 A summary review (or expedited) is appropriate for premises experiencing serious crime or disorder. It is a fast track licence review where the Council can attach interim conditions (where appropriate) to a premises licence where the responsible authority consider that the premises concerned is associated with serious crime or disorder or both. The Council can take the following interim steps:
- Modification of the conditions of the premises licence
 - The exclusion of the sale of alcohol (or other licensable activities) from the scope of the licence
 - Removal of the DPS
 - Suspension of the licence
- 17.10 The decision takes effect immediately or as soon as the Council directs. The Council will have regard to the Guidance when processing summary reviews.
- 17.11 Licensing officers may not initiate their own review of premises licences.

18. DELEGATION / DECISION MAKING / ADMINISTRATION

- 18.1 When determining applications the Council will have regard to the Guidance and this policy. Therefore, determination of applications made under the Act will be made by either the Planning and Licensing Committee, by a Sub-Committee of the Planning and Licensing Committee, or by one or more authorised officers acting in accordance with the Council's Scheme of Delegation. (See table of delegations on page 19)

- 18.2 A decision made by an officer under the Council's Scheme of Delegation, will be considered a decision made by the Council.
- 18.3 The Council will consider relevant representations made both in support of or opposition to any application.
- 18.4 Where a relevant representation is made then the authorised officer will liaise with the applicant and relevant parties to try and reach an agreement between them and the Council, as to the need for final determination by the Planning and Licensing Committee or Sub-Committee.
- 18.5 Where relevant representations are raised which cannot be resolved by mediation, matters will be referred to either of the aforementioned committees for determination.
- 18.6 The licensing authority is also a responsible authority and will make representations and review licenses where it considers appropriate. This does not negate the requirement for other responsible authorities or other persons from acting in their own capacity.
- 18.7 Where the licensing authority utilises the responsible authority provision, there is separation of responsibilities to ensure procedural fairness and eliminate any conflicts of interest. The officer acting as the responsible authority will be a different officer to that who is acting in its capacity as the licensing authority.
- 18.8 In cases where only positive relevant representations are received and upon agreement of the Applicant, the Licensing Authority and the other persons making those representations, it will not be necessary to hold a hearing to determine the application.
- 18.9 Each application will be determined on its individual merits taking into consideration the four licensing objectives.
- 18.10 Where it is determined that it is appropriate to attach conditions to a licence or certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned, on members of the public living, working or engaged in normal activity in the area concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.
- 18.11 If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Council's consideration will balance those representations against the wider benefits of the community.
- 18.12 All parties will receive a fair hearing.
- 18.13 The Council will ensure that Members and Officers having responsibility under the Act will receive appropriate training to administer and enforce the Act.
- 18.14 Upon request, the Planning and Licensing Committee will receive regular reports on decisions made by officers to ensure that an overall picture of the state of licences in the area is maintained.
- 18.15 The Council will give comprehensive reasons for its decisions and such reasons shall also address the extent to which the decision has been made with regard to this Policy and Guidance.

19. APPEALS

- 19.1 **Magistrates' Court Appeals:** Other than in the case of personal licences, all appeals in connection with various decisions made by the Council will be determined by the Magistrates' Court in the area which the premises concerned are situated.

- 19.2 In the case of personal licences, the appeal must be made to the Magistrates' Court in the area in which the Council (or any part of it) which made the decision is situated.
- 19.3 Beginning with the day the appellant was notified by the Council of the decision to be appealed against; the appellant has a period of 21 days to commence his appeal by the issue of a complaint and notice of appeal to the Magistrates' Court. A fee is payable to the Court and the 21 day period is strict and cannot be extended.
- 19.4 The Council will always be a Respondent to the appeal, but in cases where a favourable decision has been made for an applicant licence holder, club or premises user against the representations of a responsible authority or an interested party or the objections of the chief officer of Police, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal and the person who made the relevant representation or the chief officer of Police will be the appellants.
- 19.5 On determining an appeal, the court may:
- Dismiss the appeal;
 - Substitute for the decision appealed against any other decision which could have been made by the Council; or
 - Remit the case back to the Council to dispose of it in accordance with the direction of the court.
- 19.6 The court may make such order as to costs as it sees fit.
- 19.7 The court, on hearing any appeal, may therefore review the merits of the decision on the facts and consider points of law or address both.
- 19.8 In hearing an appeal against any decision made by the Council, the Magistrates' Court will have regard to this licensing policy statement and the Guidance.
- 19.9 The Court can depart from both if it is justified to do so, depending on the individual circumstances.
- 19.10 This Council, therefore, when determining applications will give comprehensive reasons for its decisions.
- 19.11 Any decision made by the Magistrates' Court will be implemented by the Council immediately.

20. REVIEW

- 20.1 This policy statement will be kept under review, consulted on, and will remain in existence for a period of up to five years. It is subject to review and further consultation before 06 January 2025 (subject to changes in legislation prescribed by the Secretary of State).

21. Table: Recommended Delegations of Functions

Matter to be dealt with	Sub Committee	Officers
Application for Personal Licence	If a Police objection	If no objection made
Application for Personal Licence with unspent convictions	All cases	
Application for Premises Licence/Club Premises Certificate	If a relevant representation made	If no relevant representation made
Application for Provisional Statement	If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate	If a relevant representation made	If no relevant representation made
Application to vary designated Premises Supervisor	If a Police objection	All other cases
Request to be removed as designated Premises Supervisor		All cases
Application for transfer of Premises Licence	If a Police objection	All other cases
Applications for interim authorities	If a Police objection	All other cases
Application to review Premises Licence/club Premises Certificate	All cases	
Decision on whether a representation is irrelevant, frivolous, vexatious etc		All cases
Decision to object when Local Authority is a Consultee and not the relevant Authority considering the application	All cases	
Determination of an objection to a Temporary Event Notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If police objection	All other cases
Decision whether to consult other responsible authorities on minor variation applications		All cases
Determination of minor variation application		All cases

22. CONTACT DETAILS

THE LICENSING AUTHORITY:

The Licensing Officer
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP
T: 01572 722577
E: licensing@rutland.gov.uk

www.rutland.gov.uk (under My Business section)

THE RESPONSIBLE AUTHORITIES:

Leicestershire Constabulary

Licensing Department
Leicestershire Constabulary
Mansfield House
74 Belgrave Gate
Leicester
LE1 3GG
T: 01162 484330
E: licensing@leicestershire.pnn.police.uk

Fire and Rescue Authority:

LFRS Headquarters
12 Geoff Monk Way
Birstall
Leicester
LE4 3BU
T: 01162 872241
E: firesafetyadvisors@lfrs.org

Safeguarding Children Board

Leicestershire & Rutland
Safeguarding Children Partnership
Local Safeguarding Business Office
Room 100
County Hall
Glenfield
LE3 8RA
T: 01163 057130
E: james.fox@leics.gov.uk

Environmental Health - Pollution

Environmental Health Team
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP
T: 01572 722577
E: environmentalhealth@rutland.gov.uk

Health and Safety:

e.g. Public houses, nightclubs,
shops, restaurants, takeaways,
Community centres managed by
a committee

Food & Safety Team
Peterborough City Council
Sand Martin House
Bittern Way
Fletton Quays
Peterborough
PE2 8TY
T: 01733 747474
E: foodandsafety@peterborough.gov.uk

Premises **managed** by Rutland
County Council e.g. schools, leisure
centres

Health and Safety Executive
900 Pavilion Drive
Northampton
NN4 7RG
T: 01604 738300

Planning

Head of Planning & Development Control
Rutland County Council
Catmose
Oakham
Rutland
LE15 6HP
T: 01572 722577
E: planning@rutland.gov.uk

Trading Standards

Trading Standards Department
Peterborough City Council
Sand Martin House
Bittern Way
Fletton Quays
Peterborough
PE2 8TY
T: 01733 747474
T: 03454 040506 for consumer advice
E: tstand@peterborough.gov.uk

Public Health

Director of Public Health
Leicestershire County Council
County Hall
Glenfield
Leicester
LE3 8RA
E: phlicensing@leics.gov.uk

Home Office

Home Office (Immigration Enforcement)
Alcohol Licensing Team
Lunar House
40 Wellesley Road
Croydon
CR9 2BY
E: alcohol@homeoffice.gsi.gov.uk

For vessels carrying more than 12 passengers the certifying authority will be: -

Maritime & Coastguard Agency
Surveyor In Charge
Harwich Marine Office
East Terrace
Walton-on-Naze
Essex
CO14 8PY
T: 01255 682107

For Vessels carrying 12 or less passengers the certifying authority will be: -

Environment Agency
Kingfisher House
Goldhay Way
Orton Goldhay
Peterborough
PE2 5ZR
T: 01733 464277

Further information can be found on the following links:

Rutland County Council website; www.rutland.gov.uk/my-business/licensing/

Home Office website: www.gov.uk/government/organisations/home-office

Guidance issued under section 182 of the Act:

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

The Licensing Act 2003: www.legislation.gov.uk/ukpga/2003/17/contents

Information Commissioners Office: ico.org.uk

DRAFT

Rutland County Council

Planning & Licensing Committee – 17th December 2019

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2	2019/0830/FUL	Mr M Powell, 31 Ashwell Road Whissendine. Re-landscaping of front garden to include: Re-positioning of driveway access onto the highway. Erection of an oak framed double bay carport. Creation of additional parking space. Associated hard and soft landscaping.	Approval	41
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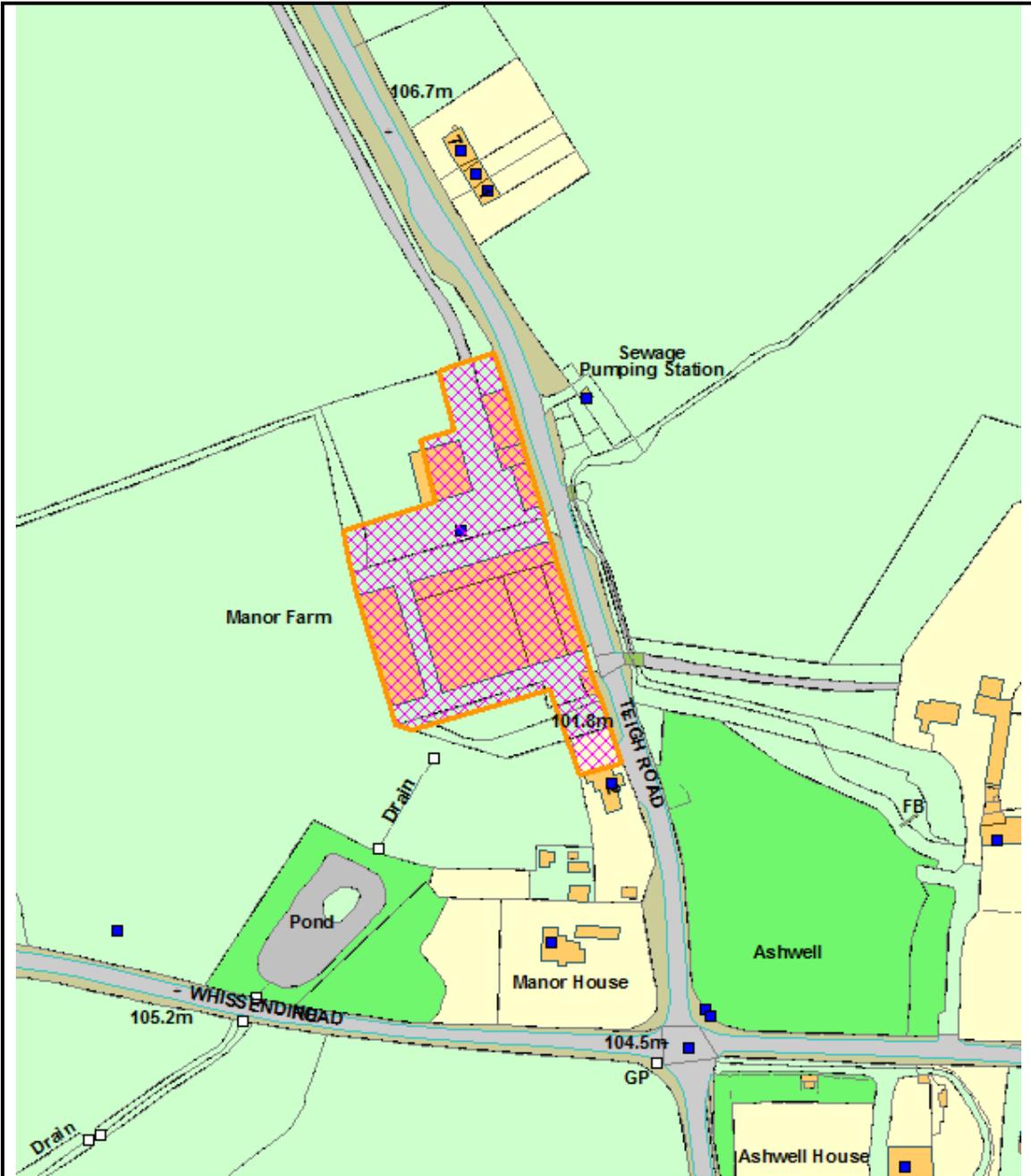
REPORT NO: 182/2019

PLANNING AND LICENSING COMMITTEE

**PLANNING APPLICATIONS TO BE DETERMINED BY THE
PLANNING AND LICENSING COMMITTEE**

**REPORT OF THE DEPUTY DIRECTOR OF PLACES
(ENVIRONMENT, PLANNING, TRANSPORT & HIGHWAYS)**

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Ordnance Survey [100018056]



Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2019/0409/FUL	ITEM 1	
Proposal:	Variation of Condition No. 2 (Car Port and Bin Storage) and (replace the floor in barn B) of Planning Permission 2017/0358/FUL		
Address:	Ashwell Farmyard, Teigh Road, Ashwell, Rutland		
Applicant:	Mrs S Tinkler	Parish	Ashwell
Agent:	Mr Graeme King	Ward	Exton
Reason for presenting to Committee:	Contrary to Development Plan Policy		
Date of Committee:	17 December 2019		

EXECUTIVE SUMMARY

This item was original reported to the Planning and Licensing Committee on 24 October 2017 under application reference number 2017/0358/FUL for conversion of agricultural barns into residential use enabling the retention and reuse of a group of historic barns, with removal of adjacent modern barns of lesser quality, thereby enhancing the character and appearance of the Ashwell Conservation Area. Despite being adjacent to a restraint village. It was resolved to grant planning permission subject to conditions and the completion of a planning obligation to secure a financial contribution towards the offsite provision of affordable housing, in lieu of any on site provision and a speed indicator device to be located on Teigh Road. Planning permission was granted in February 2019 following the completion of the legal agreement.

As with the original application the heritage and sustainability factors overcome the variance from the development plan. Other site specific matters are addressed in the recommended conditions.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. The development shall be begun before the expiration of three years from 9 February 2018.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 1015-10 rev. E (dated July 2019) and 1015-06 rev. A (dated 17.09.19).
Reason: For the avoidance of doubt and in the interests of proper planning.
3. No converted building shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority, by means of a sustainable drainage system. The submitted details shall:
 - (i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - (ii) Include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

4. No development shall proceed on the conversion of barns B, C or D, except in accordance with the measures set out in the "Appendix V-Structural Survey", submitted with the planning application, including both the specified repair works and the retention of other features.
Reason: To ensure that necessary repair works are undertaken and that the structurally sound areas of the barns remain in place, thereby ensuring that the barns remain substantially intact and capable of conversion, in the interests of the preservation of their historic interest and because replacement of these barns with new-built dwellings would be contrary to development plan policy and would not have been granted permission.
5. All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October - March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.
Reason: To maintain a green and well landscaped context for the converted barns, thereby enhancing the character and appearance of this part of the Ashwell Conservation Area, and to assimilate the development into the wider rural area.
6. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C,D, E,G, and H, and the provisions of Article 3, Schedule 2, Part 2 Class A, of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to any of the dwellings, or provision of outbuildings or boundary treatments, shall be erected or carried out except in accordance with drawings showing the siting and design of such enlargement, improvement or other alteration which shall previously have been submitted to and approved, in writing, by the Local Planning Authority.
Reason: Planning permission for conversion to residential use is only granted because of the benefits of retaining these historic buildings (non-designated heritage assets). Such benefits to the character and appearance of the immediate area and wider countryside could be reduced by ad hoc additions and alterations.
7. No structure or other feature exceeding 0.9 metres in height shall be placed within the vehicular sight lines at either of the site access points, as indicated on approved plan 1015-10 rev. E (dated July 2019).
Reason: To ensure the maintenance of inter-visibility between vehicles using the access and those in the existing public highway, in the interests of highway safety.
8. None of the new dwellings shall be occupied unless the two site accesses indicated on plan 1015-10 rev. E (dated July 2019) have been installed in accordance with the cross-section details indicated on that plan.
Reason: To ensure that bound, but porous, surfacing is used within 5 metres of the highway boundary, to avoid displacement of loose material onto the highway in the interests of highway safety, and to ensure that drainage is sustainable.
9. Any gates provided at the vehicular accesses shall be inward opening only and shall be set back a minimum of 6 metres from the nearside edge of the carriageway.
Reason: To enable vehicles using either access to stand clear of the carriageway whilst gates are being opened and closed, in the interest of highway safety.

10. Prior to first residential occupation of any of the new dwellings, the areas within the site identified for its associated parking and turning areas, shall be provided and retained at all times for that sole purpose.
Reason: To ensure that appropriate facilities are available in the interest of highway safety, by avoiding any need for parking on the public highway.
11. None of the new dwellings shall be occupied until a scheme of off-site highway works intended to create a hard surfaced footpath link into the existing pavements within Ashwell village, has been implemented in accordance with details that have been submitted to, and approved in writing by, the Local Planning Authority.
Reason: To provide a footpath link into the village, in the interests of promoting sustainable means of travel and highway safety.

Site & Surroundings

1. The application site (0.8 hectares) comprises a series of agricultural buildings and their associated farmyard, on the western side of Teigh Road. Site levels rise gently from south to north. Four of these buildings are of traditional design and constructed in brick or stone. Other than some limited storage, most of these are now vacant. The exception is the westernmost barn which is currently occupied by a willow weaving business. Other buildings are of more recent functional construction, and were used for grain storage.
2. The site is outside the Planned Limits to Development of Ashwell village, but within its conservation area. None of the existing buildings are listed, but those of traditional design can be regarded as non-designated heritage assets.
3. The site is surrounded by open farmland to the north and west. Further west is the Oakham to Melton railway line, with some commercial buildings along the rail side. To the south is a short stretch of open farmland, two dwellings and the frontage of Whissendine Road. To the east, on the opposite side of Teigh Road, are the walled grounds of Ashwell Old Hall.

Proposal

4. Planning permission was granted under application reference No 2017/0358/FUL for the demolition of the modern agricultural buildings and the smallest of the four historic barns, with the other three traditional farm buildings being converted into nine dwellings. The smallest barn is to be rebuilt, with an extension, to create a tenth dwelling. Individual garden areas are provided for each new dwelling, including within the open area created by demolition of the modern buildings. Smaller new buildings were also proposed, to provide car ports, garden storage and bin stores. Additional landscaping was provided at the north and west of the site.
5. The Current application proposed minor changes to the position and layout of the approved car ports and bin stores and their relationship to the dwelling granted approval and minor changes to the floor construction and removal of the existing concrete floor within Barn B.
6. In relation to the original decision notice, 3 applications have been submitted to discharge conditions. These include application No 2019/392/DIS to discharge condition 5 (external materials) and No 8 (scheme of hard and soft landscaping); Application No 2019/494/DIS to discharge condition No. 7 (Historic Building & Recording) & Condition No. 16

(Programme of Archaeological Work) and application No 2019/0727/DIS to discharge condition 4 (mitigation scheme for owls and bats).

Relevant Planning History

Application	Description	Decision
2017/0358/FUL	Change of use from Agricultural to C3 Residential. Demolition of existing modern metal sheds. Conversion of existing farm buildings to 10 no. dwelling units with associated landscaping.	9 February 2018
2019/0392/DIS	Discharge condition 5 (external materials) and No 8 (scheme of hard and soft landscaping);	11 July 2019
2019/0494/DIS	Discharge condition No. 7 (Historic Building & Recording) & Condition No. 16 (Programme of Archaeological Work).	12 July 2019
2019/0727/DIS	Discharge condition 4 (mitigation scheme for owls and bats).	13 August 2019

Planning Guidance and Policy

National Planning Policy Framework

Chapter 2 - Achieving sustainable development

Chapter 5 - Delivering a sufficient supply of homes

Chapter 11 - Making effective use of land

Chapter 12 - Achieving well-designed places

Chapter 15 - Conserving and enhancing the natural environment

Chapter 16 - Conserving and enhancing the historic environment

The Rutland Core Strategy (2011)

CS19 - Promoting Good Design

CS22 - The Historic and Cultural Environment

CS21 - The Natural Environment

Site Allocations and Policies DPD (2014)

SP15 - Design and Amenity

SP19 - Biodiversity and Geodiversity Conservation

SP20 - The Historic Environment

Consultations

7. **Ecology Unit**
The amendments to the layout appear to relate to the location of the bin stores and car ports. There does not appear to be any variation in the amount of development or hardstanding proposed and we therefore have no comments on this application. We would, however, draw the applicants' attention to the existing conditions relating to ecology on the planning permission.
8. **Archaeology**
We have no objections to the proposals.
9. **RCC Highways**
No Objections
10. **Historic England**
No objections.
11. **Lead Local Flood Authority Officer**
No Objections
12. **Network Rail**
I can confirm that Network Rail have no further comments to make and no objection to the variation of this condition.
13. **Public Protection**
No objection

Neighbour and Parish Representations

14. **Parish Consultation**
Ashwell Parish Council has no objection to this application.
It has been noted that the address on the application letter is given as Ashwell Farmyard, previously the address has been given as Manor Farmyard. Could you clarify, please?

Planning Assessment

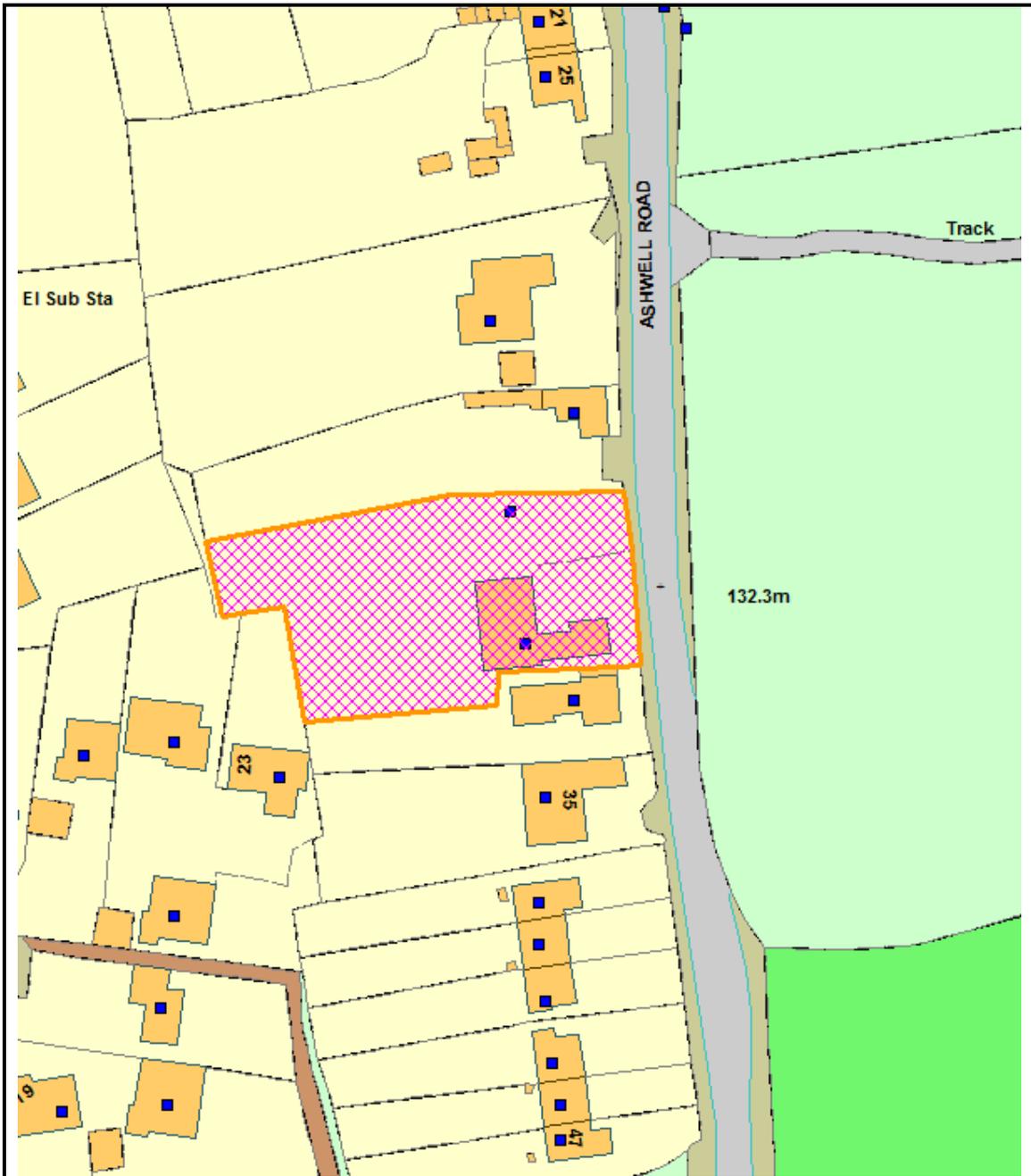
15. The main issues are the minor changes to the layout of the scheme and the floor in barn B.
16. The submitted drawings propose changes to the location of carports and bin stores relating to 2 properties and the removal short length of walling enclosing a landscaped amenity area adjacent barn B and car port 2 serving units 5,6,7,9 and 10. The proposed changes are minor and would not have an adverse impact upon the overall character and appearance of the layout of the development.
17. The second alteration to the scheme is replacement of the floor in barn B. Originally it was intended to keep the existing floor. On closer examination it has been found that the existing floor structure is concrete with a bitumastic tile to give the impression of a cobbled floor. This is not a breathable floor. The tiles are grouped together in four cobbles. It is considered that there is no conservation merit in keeping the existing floor and there the replacement

18. **Impact of the on the character of the area**
There would be no adverse impact as a result of the proposed changes on the street scene or the character and appearance of the Ashwell Article 4 Conservation Area.
19. **Impact on the neighbouring properties**
There would be no adverse impact on the amenities or nearby properties.
20. **Highway issues**
No objection raised by RCC Highways.
21. **Section 106 Heads of Terms**
A deed of variation is required to the original legal agreement and this would need to be completed prior to a decision notice granting approval, as recommended by your officers being issued.
22. **Crime and Disorder**
It is considered that the proposal would not result in any significant crime and disorder implications.
23. **Human Rights Implications**
Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation. It is considered that no relevant Article of that act will be breached.

Conclusion

24. Subject to the prior completion of a deed of variation to the existing planning obligation to secure a financial contribution towards the off-site provision of affordable housing, in lieu of any on-site provision and a financial contribution for a Speed Indicator Device to be located on Teigh Road it is recommended that approval is granted for the variation of the original planning permission.

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Rutland County Council

Catmose,
Oakham,
Rutland
LE15 6HP

Application:	2019/0830/FUL	ITEM 2	
Proposal:	Re-landscaping of front garden to include: Re-positioning of driveway access onto the highway. Erection of an oak framed double bay carport. Creation of additional parking space. Associated hard and soft landscaping.		
Address:	31 Ashwell Road Whissendine Rutland LE15 7EN		
Applicant:	Mr M Powell	Parish	Whissendine Parish Council
Agent:	None	Ward	Whissendine
Reason for presenting to Committee:	Applicant spouse is a Ward Councillor		
Date of Committee:	17 December 2019		

EXECUTIVE SUMMARY

The re-positioning of the existing vehicular access and driveway, the construction of an oak framed double bay carport creation of additional parking space and re-landscaping of the front garden with associated hard and soft landscaping would not have an adverse impact on the amenities of the streetscape. The proposed double carport would not have an adverse impact on neighbouring residential amenities and/or the character of the surrounding area. Off street car parking spaces complies with the Councils Adopted Parking Standards. This application is being reported to the Committee as the applicant is spouse of an elected Ward Councillor for Whissendine.

During the determination of the application the applicant has been requested to amend the current scheme and to provide a detailed drainage drawing showing how water will be prevented from flowing onto the highway.

Subject to the receipt of acceptable drawings showing a drainage scheme that avoids water flowing onto the highway it is recommended approval is granted.

RECOMMENDATION

APPROVAL, subject to the following conditions:

1. The development shall be begun before the expiration of three years from the date of this permission.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers
Reason: For the avoidance of doubt and in the interests of proper planning.
3. No unbound material shall be used in the surface treatment of the vehicular access within 5 metres of the highway boundary, but the construction details used must be porous.
Reason: To avoid displacement of loose material onto the highway in the interests of highway safety and to ensure that drainage is sustainable.
4. Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the nearside edge of the carriageway.
Reason: To enable vehicles using the access to stand clear of the carriageway whilst gates are being opened and closed in the interest of highway safety.

It is also recommended that the following in formatives are added for the applicants attention:

1. You will need to obtain a Highways Licence from Rutland County Council Highways Department before any work can commence on the new access. This will require that the access is built to a standard specification and that contractors are sufficiently insured against public liability whilst operating in the highway.
2. This permission shall not be construed as granting rights to development on, under or over land not in the control of the applicant.
3. The attached planning permission is for development which will involve building up to, or close to, the boundary of the site. Your attention is drawn to the fact that, if you should need access to neighbouring land in another ownership in order to facilitate the construction of the building and its future maintenance, you are advised to obtain permission from the owner of such land for such access before work is commenced.

Site & Surroundings

1. The application site is a two storey detached residential property located on the western side of Ashwell Road. The applications site is above the existing highway and is accessed via a steep driveway

Proposal

2. The current application proposes the re-positioning of the existing vehicular access and driveway, construction of an oak framed double bay carport. Creation of additional parking space and re-landscaping of the front garden with associated hard and soft landscaping.
3. The applicant has stated that the purpose of the project is to take advantage of the double width plot to create a driveway with a shallower gradient than the existing while retaining the overall topographical levels.
4. Planning permission had been previously granted for the construction of a single storey dwelling on the site. The access that would have served this dwelling will be closed as part of the works to reposition the existing access. The existing planning permission for a new dwelling has not being implemented and has time expired.

Relevant Planning History

Application	Description	Decision
APP/2012/0151	Extension of time for implementation of application FUL/2009/0196 - Erection of single-storey dwellinghouse and associated works	02/08/2012
FUL/2009/0196	Erection of single-storey dwellinghouse and associated works.	12/06/2009
RES/2006/0797	Erection of single storey dwellinghouse & associated works.	22/09/2006

Planning Guidance and Policy

National Planning Policy Framework

Chapter 12 - Achieving well-designed places

The Rutland Core Strategy (2011)

SP15 - Design and Amenity

Site Allocations and Policies DPD (2014)

CS19 - Promoting Good Design

Consultations

5. RCC Highways raised objection to the original submission. This is because Highways have concerns about the large impermeable area being created on the driveway. The site slopes significantly towards the highway and therefore any surface water will fall straight towards the road. The applicant has suggested a small section of blocks to aid drainage. However this will not be sufficient for the size of the impermeable area created.
6. RCC Highways have confirmed that in order to address the objection, it would be necessary to provide a detailed drainage drawing showing how water will be prevented from flowing onto the highway. This could be achieved by incorporating solutions such as soakaways/linear drains, ACO drains, permeable paving etc into the proposed design.
7. The applicant would need to obtain a Highways Licence from Rutland County Council Highways department before any work can commence alterations to the access to the property. This will require that the access is built to a standard specification and that contractors are sufficiently insured against public liability whilst operating in the highway

Neighbour and Parish Representations

Whissendine Parish Council – No comments received

Local residents - none

Planning Assessment

8. The main issue is the design of the access and the concerns identified by RCC Highways about the large impermeable area being created on the driveway. This is because the site slopes significantly towards the highway and therefore any surface water will fall straight towards the road and footpath.
9. During the determination of the application the applicant has been requested to amend to the current scheme and to provide a detailed drainage drawing showing how water will be prevented from flowing onto the highway and has been advised that this could be achieved by incorporating solutions such as soakaways/linear drains, ACO drains, permeable paving into the proposed design and to confirm the roofing materials and finish of the side and rear elevations of the oak framed carport.

Impact of the on the character of the area

10. The proposed carport would be sited inside the existing fenced garden area, approximately 11 m back from the front curtilage of the property adjacent the northern boundary and cover part of the site shown to accommodate the dwelling previously granted planning permission. The oak frame carport would have a footprint measuring 6m x 6m with a ridge height of approximately 4.5m. There is a difference in materials to be used for the roof between what is shown on the submitted drawing and what is stated on the application forms. The drawings state that the roof would be covered in tiles to match the existing house and rear (west elevation) and half of one side (southern elevation) would be timber clad. The application forms states that the roof would be cedar shingles or similar and that wooden doors would be attached on the rear elevation to access the garden. It is considered that either of the roofing's materials would be acceptable. However the applicant has been requested clarify which materials would be used.
11. It is not considered that the proposed carport by reason of the size, location and design would have an adverse impact upon the street scene.
12. The proposed driveway way is shown to be constructed from asphalt (black non permeable) and traditional tegula blocks. The scheme would see the closure of the existing access that would have been used to provide access to the new dwelling.
13. The replacement front boundary wall would be similar in height to the existing wall in front of No 31. The existing hedgerow on the southern side of the existing access would be replaced with a wall and piers of similar height of the existing. It is not considered that the proposed hard and soft landscaping scheme is would have an adverse impact upon the streetscene.

Impact on the neighbouring properties

14. The proposed carport would be sited gable to the boundary between No 29 and No 31 Ashwell Road. No 29 is sited along northern boundary of the plot.
15. Although part of the gable elevation will be visible above the existing garden fence it is not considered that the proposed development would have an adverse impact on the residential amenities of No 29 to justify refusal due to loss of light and/or overshadowing to the rear garden area and would be in accordance with Adopted Local Plan Policy.

Conclusion

16. The principal of the alterations to the access and driveway extension are considered acceptable. The proposed carport would not impact on the private amenity of any neighbours properties. Off Street car parking would comply with the Councils adopted standards. Subject to the receipt of acceptable drawings showing a drainage scheme that avoids water flowing onto the highway and confirmation of the roofing materials and finish of the side and rear elevations of the oak framed carport, it is recommended approval is granted

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PLANNING AND LICENSING COMMITTEE

17th December 2019

APPEALS

Report of the Deputy Director of Places

Strategic Aim:	Ensuring the impact of development is managed	
Exempt Information	No	
Cabinet Member Responsible:	Councillor Gordon Brown - Deputy Leader; Portfolio Holder for Planning Policy & Planning Operations	
Contact Officer(s):	Rob Harbour, Deputy Director of Places (Environment, Planning & Transport & Highways)	Tel: 01572 750909 rharbour@rutland.gov.uk
	Justin Johnson, Development Control Manager	Tel: 01572 720950 jjohnson@rutland.gov.uk
Ward Councillors	All	

DECISION RECOMMENDATIONS

That the Committee notes the contents of this report

1. PURPOSE OF THE REPORT

- 1.1. This report lists for Members' information the appeals received since the last meeting of the Planning & Licensing Committee and summarises the decisions made.

2. APPEALS LODGED SINCE LAST MEETING

- 2.1 **APP/A2470/W/19/3237829 – Mr A Freeman – 2019/0005/FUL**
Country Lounge Café & Bar 5 Glaston Road Morcott
Erection of four holiday chalets with associated storage facilities, play area and car parking adjacent to the existing Country Lounge cafe and bar

Delegated Decision - The proposal is considered to be unsustainable tourist development where insufficient evidence has been submitted that the development meets local business or community needs. The scheme is in an unsustainable location which is not physically well related to existing settlements and due to the lack of genuine transport choice will lead to the dependence on car based travel by future occupants of the four holiday chalets. Therefore, it is considered that the development is contrary to Policies SP7 and SP25 of the Rutland Site Allocations and Policies Development Plan Document, Rutland Core Strategy Policies CS1(c), CS4 and CS15 and Paragraphs 83 and 84 of the National Planning Policy Framework (Feb 2019).

3. DECISIONS

3.1 None

4 APPEALS AGAINST ENFORCEMENTS LODGED SINCE LAST MEETING

4.1 None

5. ENFORCEMENT DECISIONS

5.1 None

6. CONSULTATION

6.1 None

7. ALTERNATIVE OPTIONS

7.1 Alternatives have not been considered as this is an information report

8. FINANCIAL IMPLICATIONS

8.1 None

9. LEGAL AND GOVERNANCE CONSIDERATIONS

9.1 As this is only a report for noting it has not needed to address authority, powers and duties.

10. EQUALITY IMPACT ASSESSMENT

10.1 An Equality Impact Assessment (EqIA) has not been completed for the following reason; because there are no relevant service, policy or organisational changes being proposed.

11. COMMUNITY SAFETY IMPLICATIONS

11.1 There are no such implications.

12. HEALTH AND WELLBEING IMPLICATIONS

12.1 There are no such implications

13. CONCLUSION AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

13.1 This report gives details of decisions received since the last meeting for noting.

14. BACKGROUND PAPERS

14.1 There are no such implications

15. APPENDICES

15.1 None

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