

# Licensing & Regulatory Committee

## Agenda

### Date

Wednesday 22 July 2020

### Members of the Licensing & Regulatory Committee

The meeting will comprise the Chairman and  
2 other Members highlighted in bold below

Cllr A D Adams  
Cllr S J Catchpole  
Cllr R R Foulger  
**Cllr S C Gurney (Chairman)**  
Cllr D G Harrison  
**Cllr C Karimi-Ghovanlou**  
**Cllr K S Kelly**  
Cllr D King  
Cllr K G Leggett MBE  
Cllr M L Murrell  
Cllr N C Shaw  
Cllr J L Thomas

### Time

10.00am

### Place

To be hosted remotely at  
Thorpe Lodge  
1 Yarmouth Road  
Thorpe St Andrew  
Norwich

### Contact

Dawn Matthews tel (01603) 430404

Broadland District Council  
Thorpe Lodge  
1 Yarmouth Road  
Thorpe St Andrew  
Norwich NR7 0DU



E-mail: [dawn.matthews@broadland.gov.uk](mailto:dawn.matthews@broadland.gov.uk)



@BDCDemServices

If any member wishes to clarify details  
relating to any matter on the agenda they are  
requested to contact the relevant Head of  
Service.

### Public Attendance

This meeting will be live streamed for public viewing via the following link:  
<https://www.youtube.com/channel/UCZciRgwo84-iPyRImsTCIng>.

## **A G E N D A**

**Page No**

- |          |  |          |
|----------|--|----------|
| <b>1</b> | <b>To receive declarations of interest under Procedural Rule no 8</b>                                      |          |
| <b>2</b> | <b>Apologies for absence</b>   |          |
| <b>3</b> | <b>Licensing Act 2003 – Application for a Premises Licence</b>   | <b>5</b> |
|          | To consider an application in respect of the Berney Arms Café and Outside Area, Reedham, Norfolk, NR30 1SB |          |
|          | A copy of the procedure to be followed is attached   | <b>3</b> |

Trevor Holden  
Managing Director

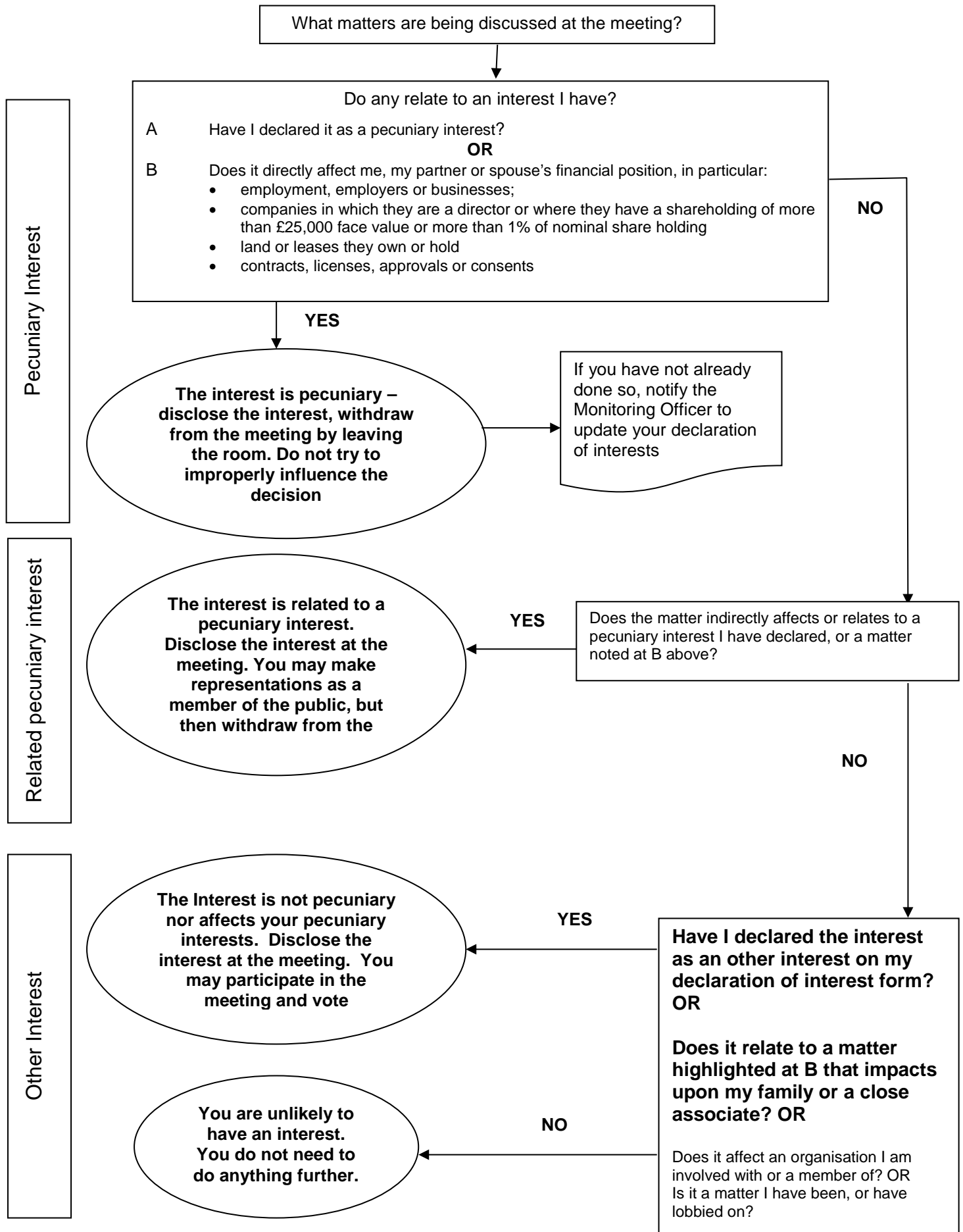
## DECLARATIONS OF INTEREST AT MEETINGS

When declaring an interest at a meeting Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting. Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.

Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.
<p>Does the interest directly:</p> <ol style="list-style-type: none"><li>1. Affect yours, or your spouse / partner's financial position?</li><li>2. Relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner?</li><li>3. Relate to a contract you, or your spouse / partner have with the Council</li><li>4. Affect land you or your spouse / partner own</li><li>5. Affect a company that you or your partner own, or have a shareholding in</li></ol> <p>If the answer is "yes" to any of the above, it is likely to be pecuniary.</p> <p>Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.</p>
<p>Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?</p> <p>If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.</p>
Is the interest not related to any of the above? If so, it is likely to be another interest. You will need to declare the interest, but may participate in discussion and voting on the item.
Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting, and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.

**FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF**  
**PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER**  
**IN THE FIRST INSTANCE**

# DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



## **QUASI-JUDICIAL PROCEDURE RULES**

### **Hearings for licensing matters under the Licensing Act 2003 (“the act”) and the Licensing Act 2003 (Hearings) Regulations 2005 (“the regulations”)**

When dealing with licensing matters, the rules of natural justice must be seen to be applied in that all parties must be afforded an equal opportunity to present their cases. Thus, when determining an application, the Licensing and Regulatory Committee (in these rules “the committee” unless the context requires otherwise) will be required to act in a judicial manner and to conduct the proceedings in accordance with the following rules. In these rules words and expressions not defined in the rules have the same meaning as they have in the act and the regulations.

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#### **1. Declarations of interest**

- 1.1 The committee will receive any declarations of interest under the members’ code of conduct.

#### **2. Apologies for absence**

- 2.1 The committee will receive any apologies for absence.

#### **3. Quorum**

- 3.1 The committee shall comprise three members and a quorum shall be two.

#### **4. Opening remarks by the chairman of the committee**

- 4.1 The chairman will introduce those present at the hearing and will ensure those present understand the procedure to be followed.
- 4.2 The chairman will give brief details of the matter before the committee.
- 4.3 The committee shall determine the matter before them in accordance with this procedure.

#### **5. Admission of the public**

- 5.1 The hearing shall normally take place in public which expression includes:

- (1) any person assisting or representing a party,
- (2) any member of the council who is not a member of the committee making the determination and
- (3) any officer or legal advisor of the council.

- 5.2 The committee may exclude the public (except the committee officer and legal advisor) where it considers that the public interest in doing so outweighs the public interest in the hearing, or part of it, taking place in public.

- 5.3 The public will normally be excluded at the conclusion of the hearing when the committee is deliberating on the determination to be made.

#### **6. Absence of parties**

- 6.1 If a party has told the committee that they do not intend to attend or be represented at the hearing, the hearing may proceed in his absence.

- 6.2 If a party otherwise fails to attend or be represented the committee may
- (1) where necessary in the public interest, adjourn the hearing to a date specified by the committee before the adjournment, or
  - (2) conduct the hearing in the party's absence, considering the matter, representations or notice made by them.

**7. Documents**

- 7.1 The committee may take into account documentary or other information produced by a party in support of their case, representations or notice (as applicable). Such material should be provided to the committee before the hearing.
- 7.2 Documentary or other information provided by parties at the hearing may be considered by the committee provided that all other parties consent.

**8. Report from licensing officer**

- 8.1 The licensing officer or his representative will present their report on the matter to be determined by the committee.
- 8.2 Members of the committee may ask questions of the licensing officer.
- 8.3 The applicant/licence holder or their representative may ask questions of the licensing officer.
- 8.4 The other parties or their representatives may then ask questions of the licensing officer.

**9. The applicant's case**

- 9.1 The applicant/licence holder or his representative will be asked to speak in support of their application.
- 9.2 The applicant/licence holder or their representative may call witnesses.
- 9.3 The committee may then ask questions of the applicant/licence holder or their witnesses.
- 9.4 The other parties or their representatives may then question the applicant/licence holder, their representative or witnesses.
- 9.5 The applicant/licence holder or their representative will be invited to respond to any new point arising from the questions.

**10. The representations of other parties to the hearing**

- 10.1 The representations of the other parties to the hearing will then be considered in turn by the committee in the order determined by the committee and in accordance with the following procedure:
- 10.2 The other parties will be invited to speak in support of their representations.
- 10.3 The other parties or their representatives may call witnesses.
- 10.4 The committee may then ask questions of the other parties or their witnesses.
- 10.5 The applicant/licence holder or their representative may then question the other parties, their representatives or witnesses.

- 10.6 The other parties or their representatives will be invited to respond to any new points arising from the questions.
11. **Closing statements**
- 11.1 Closing statements will then be made in the following order:
- (1) the parties who made representations or their representatives;
  - (2) the applicant/licence holder or their representative.
12. **The committee's decision**
- 12.1 The committee will then consider its decision. This will normally take place in the absence of the public.
- 12.2 During the decision making process, the committee may seek the advice and guidance of its legal advisor.
- 12.3 When it has made a determination the committee will announce its decision in public with a summary of the reasons.
- 12.4 A detailed decision with reasons shall follow no later than five days after the hearing.

**LICENSING ACT 2003  
APPLICATION FOR A PREMISES LICENCE**

**Berney Arms Café and Outside Area, Reedham, Norfolk, NR30  
1SB**

<b>Report Author(s):</b>	Sarah Harris, email <a href="mailto:sarah.harris@broadland.gov.uk">sarah.harris@broadland.gov.uk</a> Claire Norman, email <a href="mailto:claire.norman@broadland.gov.uk">claire.norman@broadland.gov.uk</a>
<b>Portfolio Holder:</b>	Environmental Excellence
<b>Ward(s) Affected:</b>	Marshes (Reedham)
<b>Purpose of the Report:</b>	This report details an application for a Premises Licence.

**Recommendations:**

The Committee must take such steps as it considers necessary for the promotion of the licensing objectives:

Grant the application.

Modify the conditions of the licence, altering or omitting or adding to them.

Reject the whole or part of the application.

**1 SUMMARY**

- 1.1 The Committee is requested, in accordance with the delegation of licensing



functions contained in the Broadland District Council Statement of Licensing Policy to consider an application for a Premises Licence in respect of The Berney Arms Café and Outside Area, Reedham, Norfolk, NR30 1SB. Please note this application does not include the public house on the same site.

## **2 BACKGROUND**

- 2.1 An application has been received from Olive Court Properties Ltd.
- 2.2 The application consists of the following proposals as contained within the Operating Schedule received from the applicant:

Licensable Activity:

- ***E. Live music (indoors and outdoors)***

Monday to Thursday 06.00 to 02.00  
Friday, Saturday 06.00 to 03.00  
Sunday 06.00 to 12.00

Any outside music will finish by midnight and then move inside to the building or marquee. All finish times are next day.

On Bank Holidays when Friday or Monday we want to extend the hours on the Thursday and Sunday to 4.00. On Christmas Eve we wish to extend to 4.00am and on New Year's Eve have a 48 hour licence from opening time on New Year's Eve to closing time New Year's Day.

- ***F. Recorded music (indoors and outdoors)***

Monday to Thursday 06.00 to 02.00  
Friday, Saturday 06.00 to 03.00  
Sunday 06.00 to 12.00

Any outside music will finish by midnight and then move to inside the building or marquee. All finish times are next day.

On Bank Holidays when Friday or Monday we want to extend the hours on the Thursday and Sunday to 4.00. On Christmas Eve we wish to extend to 4.00am and on New Year's Eve have a 48 hour licence from opening time on New Year's Eve to closing time New Year's Day.

- ***J. Supply of alcohol (for consumption on and off the premises)***

Monday to Thursday 06.00 to 02.00  
Friday, Saturday 06.00 to 03.00  
Sunday 06.00 to 24.00

On Bank Holidays when Friday or Monday we want to extend the hours on

the Thursday and Sunday to 4.00. On Christmas Eve we wish to extend to 4.00am and on New Year's Eve have a 48 hour licence from opening time on New Year's Eve to closing time New Year's Day.

- 2.3 It is proposed that the premises will be open as follows:

Monday to Thursday 06.00 to 02.15  
Friday, Saturday 06.00 to 03.15  
Sunday 06.00 to 00.15

- 2.4 The application outlines the steps the applicant intends to take to promote the four licensing objectives, copy attached at **Appendix One**.
- 2.5 A plan showing the location of The Berney Arms and the surrounding area is attached at **Appendix Two**.

### **3 RELEVANT REPRESENTATIONS**

- 3.1 All relevant representations have to relate to one or more of the Licensing Objectives.

The Prevention of Crime and Disorder  
The Protection of Children from Harm  
The Prevention of Public Nuisance  
Public Safety

- 3.2 The responses from the Responsible Authorities are as follows:

**Police** – representation received (see **Appendix Three**)

**Environmental Health (Community Protection)** – representation received (see **Appendix Four**)

**Health and Safety** – representation received (see **Appendix Five**)

**Fire Officer** – no representations

**Planning Officer (Broads Authority)** – representations received (see **Appendix Six**)

**Norfolk Local Safeguarding Children Board** – no representations

**Public Health Norfolk** – no representations

**Licensing Authority** – no representations

- 3.3 The applicant has agreed the conditions proposed by the Police Licensing Officer and the Police representation has subsequently been withdrawn (see **Appendix Three** for further details).

- 3.4 As a result of the applicant's agreement to these further conditions, he requested that the details were forwarded to all other parties who had submitted a representation. Officers therefore circulated the agreed conditions to all parties for their consideration. At the time of writing this report, the RSPB, the Broads Authority and the Community Protection Officer have submitted further responses which are attached to their initial representations. All parties indicated that they wished for their initial representation to stand.

## **4 OTHER PERSONS**

- 4.1 Representations have also been received from other persons. Please see **Appendix Seven** for details of the representations. Representations have been received in objection to the application.
- 4.2 There is a representation within this appendix from Mr Allard who did not wish for his address details to be disclosed. It is a requirement under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with details of those making representations. Therefore Committee will need to consider whether to take this representation into account in determining the application.
- 4.3 A further representation has been received from Natural England (attached at **Appendix Eight**). However, this was received after the end of the consultation period. Again, Committee is requested to determine whether they wish to take this representation into consideration.
- 4.4 All representations have been detailed in full. The Revised Guidance issued under section 182 of the Licensing Act 2003 (April 2018 edition) recommends the benefit of the doubt about any aspect of the representation should be given to the person making the representation. Committee will wish to carefully consider the representations and take into account only those matters which are relevant to the subject area of the representation.

## **5 PROPOSED ACTION**

- 5.1 The Committee must determine this application with a view to promoting the Licensing Objectives.
- 5.2 In making its decision, the Committee must have regard to guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018) and the Council's Licensing Policy. The Committee, when considering the Licensing Policy, will in particular wish to have regard to those sections of the Council's Licensing Policy detailed at **Appendix Nine**. The Committee must also have regard to all of the representations made and the evidence placed before it.

## **6 ISSUES AND RISKS**

- 6.1 **Resource implications** – The Council could incur costs in officer and legal representative time if a person is aggrieved by the decision of the Committee and pursues an appeal to the Magistrates' Court.
- 6.2 **Legal implications** – There are no legal implications other than the issues detailed at 6.1 and 6.3.
- 6.3 **Equality implications** – There are human rights implications associated with this matter. The interests of the applicant have to be balanced against the interests and protection of the wider community. Any actions proposed in respect of the application, must be proportionate to the matter under consideration, the decision making process must be transparent and the applicant must be given full opportunity to make representations. The Committee is therefore required to balance the interests of the applicant against the interests of the community and decide where the balance should lie.
- 6.4 **Environmental impact** – In making their determination Committee is requested to ensure that the principals of the prevention of public nuisance licensing objective are upheld.
- 6.5 **Crime and disorder** – In making their determination Committee is requested to ensure that the principals of the prevention of crime and disorder licensing objective are upheld.

## **7 RECOMMENDATIONS**

- 7.1 The Committee must take such steps as it considers necessary for the promotion of the licensing objectives:
- Grant the application.
  - Modify the conditions of the licence, altering or omitting or adding to them.
  - Reject the whole or part of the application.

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## **APPENDICES**

<b>One</b>	<b>Copy of Application</b>
<b>Two</b>	<b>Location Plan</b>
<b>Three</b>	<b>Comments from Police</b>
<b>Four</b>	<b>Comments from Environmental Health</b>
<b>Five</b>	<b>Comments from Health &amp; Safety</b>
<b>Six</b>	<b>Comments from Planning Officer (Broads Authority)</b>
<b>Seven</b>	<b>Representations received from other persons</b>
<b>Eight</b>	<b>Representation received from Natural England</b>
<b>Nine</b>	<b>Sections of the Council's Licensing Policy</b>

**Application for a premises licence to be granted  
under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We Olive Court Properties Ltd  
(Insert name(s) of applicant)

**apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003**

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description <i>Berney Arms Reedham Great Yarmouth NR30 1SB</i>			
<b>Post town</b>	Great yarmouth	<b>Postcode</b>	<b>NR30 1SB</b>

Telephone number at premises (if any)	<b>None</b>
Non-domestic rateable value of premises	<b>£9000</b>

**Part 2 - Applicant details**

Please state whether you are applying for a premises licence as      Please tick as appropriate

- |  |                                     |                             |
|--|-------------------------------------|-----------------------------|
| a) an individual or individuals *                    | <input type="checkbox"/>            | please complete section (A) |
| b) a person other than an individual *               |                                     |                             |
| i as a limited company/limited liability partnership | <input checked="" type="checkbox"/> | please complete section (B) |
| ii as a partnership (other than limited liability)   | <input type="checkbox"/>            | please complete section (B) |
| iii as an unincorporated association or              | <input type="checkbox"/>            | please complete section (B) |
| iv other (for example a statutory corporation)       | <input type="checkbox"/>            | please complete section (B) |

- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or ☒

I am making the application pursuant to a  
 statutory function or ☐  
 a function discharged by virtue of Her Majesty's prerogative ☐

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

M r <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
Date of birth over		I am 18 years old or		<input type="checkbox"/>	Please tick yes
Nationality					
Current residential address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr <input type="checkbox"/>		Mrs <input type="checkbox"/>		Miss <input type="checkbox"/>		Ms <input type="checkbox"/>		Other Title (for example, Rev)				
<b>Surname</b>						<b>First names</b>						
<b>Date of birth</b>						I am 18 years old or over		<input type="checkbox"/>			Please tick yes	
<b>Nationality</b>												
Current postal address if different from premises address												
Post town							Postcode					
<b>Daytime contact telephone number</b>												
<b>E-mail address (optional)</b>												

**(B) OTHER APPLICANTS**

**Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.**

<b>Name</b> Olive Court Properties Ltd	
<b>Address</b> Devine House 1299 – 1301 London Road Leigh on Sea Essex SS9 2AD	
<b>Registered number (where applicable)</b> 08562305	
<b>Description of applicant (for example, partnership, company, unincorporated association etc.)</b> Limited Company	
<b>Telephone number (if any)</b> <del>07861 219277</del>	

E-mail address (optional)  
Bearneyarms2020@gmail.com

### Part 3 Operating Schedule

When do you want the premises licence to start?

DD		MM		YYYY			
0	1		7	2	0	2	0

If you wish the licence to be valid only for a limited period,  
when do you want it to end?

DD		MM		YYYY			

Please give a general description of the premises (please read guidance note 1)

The premises consists of the old pub building and a building alongside that has been used as a café over the last three years. It is now planned to license the café building as a Pub/Bistro and to hold regattas and similar events in the grounds with marquees etc. Being a riverside location it is expected that people will want to sit by the river and their boats so want to include the most of the site within the licensed premises. It is not proposed to license the old Pub building at this time.

It is proposed to open for breakfast at 06.00 and offer suitable liquor sales all day as every customer will be residential on the site.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- |   |                                     |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A)  | <input type="checkbox"/>            |
| b) films (if ticking yes, fill in box B)  | <input type="checkbox"/>            |
| c) indoor sporting events (if ticking yes, fill in box C)   | <input type="checkbox"/>            |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D)  |                                     |
| e) live music (if ticking yes, fill in box E)   | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F)   | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G)  | <input type="checkbox"/>            |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/>            |



**Provision of late night refreshment** (if ticking yes, fill in box I).

☐

**Supply of alcohol** (if ticking yes, fill in box J)

☒

**In all cases complete boxes K, L and M**

# A

<b>Plays</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of a play take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<b><u>Please give further details here</u></b> (please read guidance note 4)		
Tue					
Wed			<b><u>State any seasonal variations for performing plays</u></b> (please read guidance note 5)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Sat					
Sun					

## B

<b>Films</b> Standard days and timings (please read guidance note 7)			<b><u>Will the exhibition of films take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon					
Tue					
Wed			<b><u>State any seasonal variations for the exhibition of films</u></b> (please read guidance note 5)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Sat					
Sun					

C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			<b><u>Please give further details</u></b> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<b><u>State any seasonal variations for indoor sporting events</u></b> (please read guidance note 5)
Wed			
Thur			
Fri			<b><u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)
Sat			
Sun			

## D

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)			<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)			
Mon						
Tue			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 5)			
Wed						
Thur			<b><u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)			
Fri						
Sat						
Sun						

# E

<b>Live music</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of live music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input checked="" type="checkbox"/>
Mon	0600	0200	<b><u>Please give further details here</u></b> (please read guidance note 4) Any outside music will finish by midnight and then move inside to the building or marquee. All finish times are next day.		
Tue	0600	0200			
Wed	0600	0200	<b><u>State any seasonal variations for the performance of live music</u></b> (please read guidance note 5)		
Thur	0600	0200			
Fri	0600	0300	<b><u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6) On Bank Holidays when Friday or Monday we want to extend the hours on the Thursday and Sunday to 4.00. On Christmas Eve we wish to extend to 4.00am and on New Years Eve have a 48 hour license from opening time on New years eve to closing time New Years Day.		
Sat	0600	0300			
Sun	0600	1200			

# F

<b>Recorded music</b> Standard days and timings (please read guidance note 7)			<b><u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)  Any outside music will finish by midnight and then move inside to the building or marquee. All finish times are next day..		
Mon	0600	0200			
Tue	0600	0200			
Wed	0600	0200			
			<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)		
Thur	0600	0200			
Fri	0600	0300			
Sat	0600	0300			
			<b><u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)  On Bank Holidays when Friday or Monday we want to extend the hours on the Thursday and Sunday to 4.00. On Christmas Eve we wish to extend to 4.00am and on New Years Eve have a 48 hour license from opening time on New Years Eve to closing time New Years Day.		
Sun	0600	1200			

## G

<b>Performances of dance</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon	-----	-----	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Tue	-----	-----			
Wed	-----	-----	<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 5)		
Thur	-----	-----			
Fri	-----	-----	<b><u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Sat	-----	-----			
Sun	-----	-----			



## H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b>Will this entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon	-----	-----		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	-----	-----	<b>Please give further details here</b> (please read guidance note 4)		
Wed	-----	-----			
Thur	-----	-----	<b>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</b> (please read guidance note 5)		
Fri	-----	-----			
Sat	-----	-----	<b>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sun	-----	-----			

# I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)			
Mon						
Tue			<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 5)			
Wed						
Thur			<b><u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u></b> (please read guidance note 6)			
Fri						
Sat						
Sun						

# J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	X
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)  <b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 6) On Bank Holidays when Friday or Monday we want to extend the hours on the Thursday and Sunday to 4.00. On Christmas Eve we wish to extend to 4.00am and on New Years Eve have a 48 hour license from opening time on New years eve to closing time New Years Day.		
Mon	0600	0200			
Tue	0600	0200			
Wed	0600	0200			
Thur	0600	0200			
Fri	0600	0300			
Sat	0600	0300			
Sun	0600	2400			

**State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):**

Name Jeanetted Nina Southgate	
Date of birth 22 <sup>nd</sup> October 1964	
Address c/oStatic Home 2 Berney Arms Great Yarmouth Norfolk	
Postcode	NR30 1SB
Personal licence number (if known) Being Applied For	
Issuing licensing authority (if known)	



**Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children** (please read guidance note 9).

L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)			<b>State any seasonal variations</b> (please read guidance note 5)
Day	Start	Finish	
Mon	0600	02 15	<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</b> (please read guidance note 6) On Bank Holidays when Friday or Monday we want to extend the hours on the Thursday and Sunday to 4.00. On Christmas Eve we wish to extend to 4.00am and on New Years Eve have a 48 hour license from opening time on New Years Eve to closing time New Years Day.
Tue	0600	0215	
Wed	0600	0215	
Thur	0600	0215	
Fri	0600	0315	
Sat	0600	0315	
Sun	0600	0015	

**M** Describe the steps you intend to take to promote the four licensing objectives:

**a) General – all four licensing objectives (b, c, d and e)** (please read guidance note 10)

There is no need for any special measures except the normal duties in operating a licensed premises. The DPS has been trained in licensing law and is fully aware of how to operate a licensed premises under licensing law and to prevent crime and disorder and ensure the site is safe for the public. The local council are bound to visit and give any recommendations to ensure health and safety. If there are any functions organised that may have a level of demographics that may cause trouble then advice will be sought from the Police as to what they recommend for security and other issues. If considered necessary CCTV will be installed.

**b) The prevention of crime and disorder**

A meeting will be requested with the local Broads Beat Police team and Police licensing and to review the systems in place and any recommendations implemented.

**c) Public safety**

A meeting will be requested with the health and safety team of Broadland Council to review the system in place and any recommendation will be implemented.

**d) The prevention of public nuisance**

The site is the remotest pub in England and has no road access for customers and no neighbours. It is never envisaged that public nuisance will be an issue.

**e) The protection of children from harm**

There is nothing proposed that will generally be detrimental to children. If there are any late night functions that require more diligence then they will be restricted to over 18. There is not a local community with children that can be impacted by the trading of the site.

**Checklist:**

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee. ☒
- I have enclosed the plan of the premises. ☒
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☒
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable. ☒
- I understand that I must now advertise my application. ☒
- I understand that if I do not comply with the above requirements my application will be rejected. ☒
- ☐ [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15). ☐


**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.**

#### **Part 4 – Signatures** (please read guidance note 11)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</li> <li>• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or</li> </ul>
--------------------	--

	her proof of entitlement to work, if appropriate (please see note 15)
Signature	
Date	29 <sup>th</sup> May 2020
Capacity	Director

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent** (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14) William Hollocks C/O Beauchamp Arms Ferry Road			
Post town	<b>Langley</b>	Postcode	<b>NR14 6DH</b>
Telephone number (if any)	<del>01861 218277</del>		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) <del>l.hollocks@beauchamparms.co.uk</del>			

### Notes for Guidance

- Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
- In terms of specific regulated entertainments please note that:
  - Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
  - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
  - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
  - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which

combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.

- Live music: no licence permission is required for:
  - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it



takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

3. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
4. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
5. For example (but not exclusively), where the activity will occur on additional days during the summer months.
6. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
7. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
8. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
9. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
10. Please list here steps you will take to promote all four licensing objectives together.
11. The application form must be signed.
12. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
13. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
14. This is the address which we shall use to correspond with you about this application.

**15. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this by providing with this application copies or scanned copies of the following documents (which do not need to be certified).

**Documents which demonstrate entitlement to work in the UK**

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].

- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.

- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - (i) working e.g. employment contract, wage slips, letter from the employer,
    - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
    - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

If the document is not a passport, a copy of the whole document should be provided.

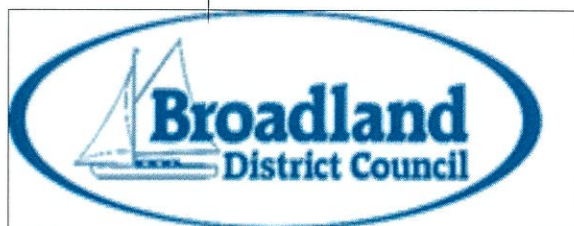
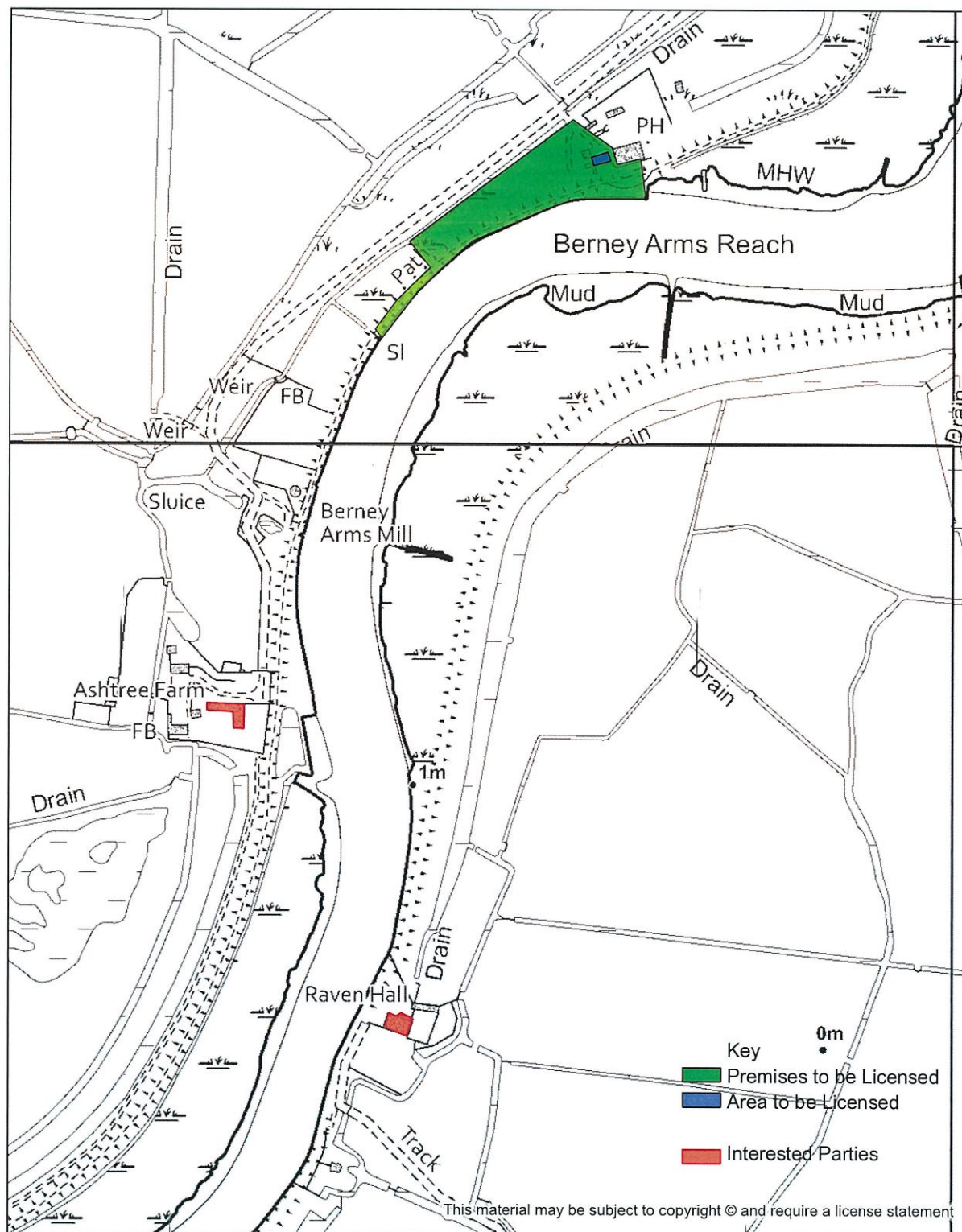
Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

Broadland District Council takes your privacy very seriously and provides the following information in compliance with *Data Protection Legislation*. Under data protection legislation we lawfully process your personal information as a public authority which may involve sharing your information with other regulatory authorities.

Data received as a result of any Licensing application will be retained for the period of your licence and for a period of 7 years once the licence has lapsed. We may need to share your information with other regulatory authorities, any relevant Council Committees and other departments within Broadland District Council to ensure the best possible service.

Under data protection law you have the right to request access to, rectification, restriction or objection to the processing of your personal data, as detailed in our Privacy Policy (on our website). You can contact our Data Protection Officer at [dpo@broadland.gov.uk](mailto:dpo@broadland.gov.uk) or 01603 430615. You also have the right to lodge a complaint with the regulator, the Information Commissioner's Office.

## Licence Application - Berney Arms

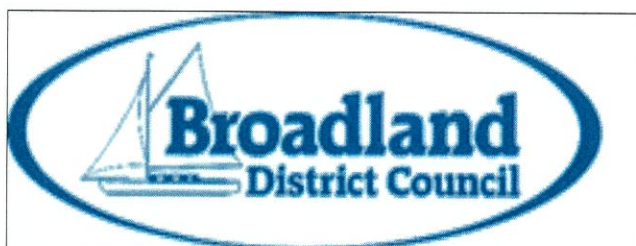
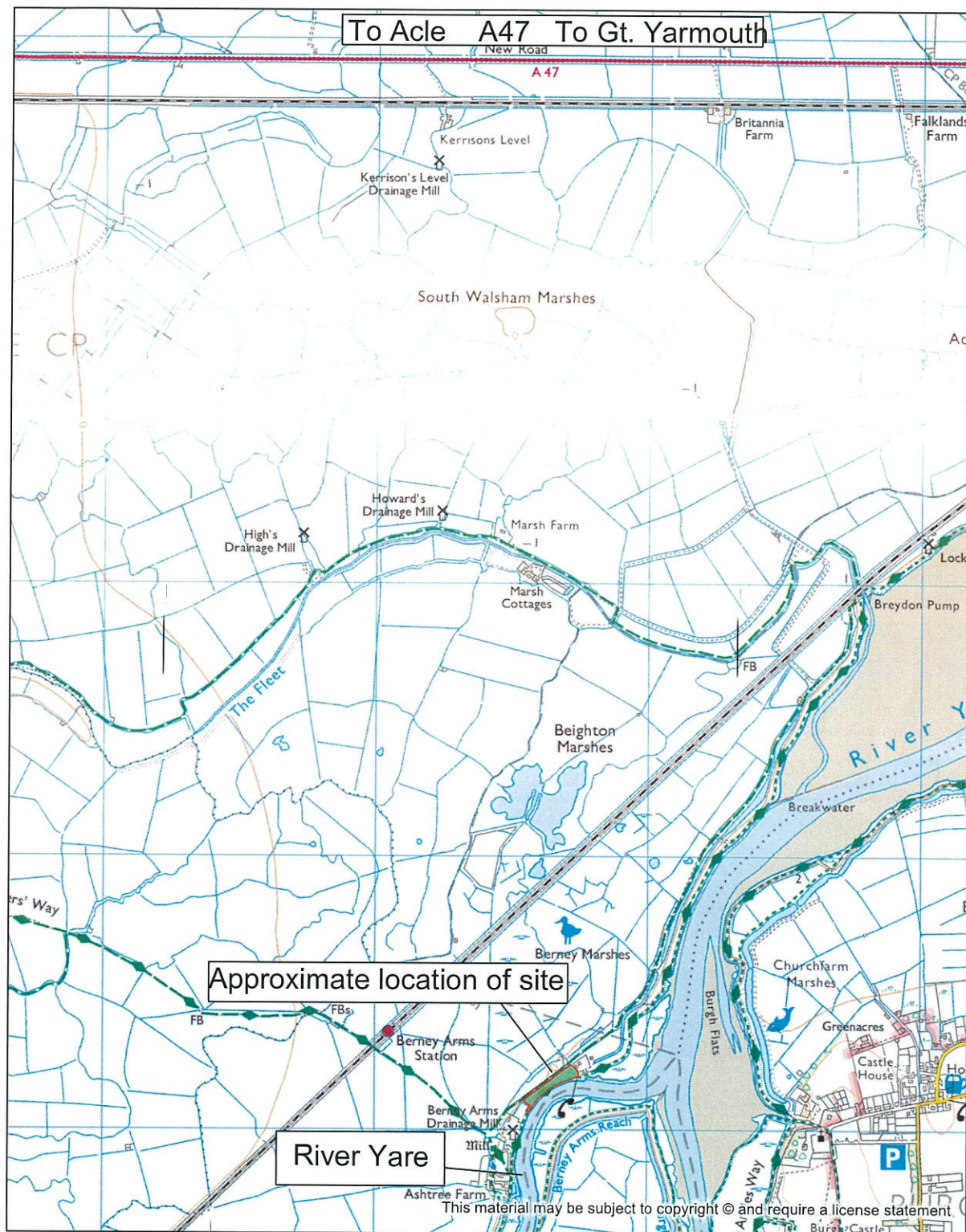


Date: 03/07/2020

Scale: 1:4000



# Map Title



Location of Application Site in Relation to River Yare and A47 Trunk Road

Date: 06/07/2020

Scale: 1:20000



**NORFOLK**  
**CONSTABULARY**  
*Our Priority is You*

Licensing Department  
 Broadland District Council  
 Thorpe Lodge  
 Yarmouth Road  
 Norwich

22nd June 2020

The Licensing Team

Bethel Street Police Station  
 Norwich  
 Norfolk  
 NR2 1NN

Tel: 01603 276020

Fax: 01603 276025

Email: [licensingteam@norfolk.pnn.police.uk](mailto:licensingteam@norfolk.pnn.police.uk)

[www.norfolk.police.uk](http://www.norfolk.police.uk)

Non-Emergency Tel: 0845 456 4567

**Dear Sir/Madam**

### **Berney Arms – Application for a Premises licence Objection**

Norfolk Police have received a copy of the application for a new premises licence for the Café and outside area of the Berney Arms.

This application is requesting live and recorded music 0600 hrs until 0200 hrs Monday- Thursday, 0600-0300 hrs until Friday and Saturday and until midnight on Sundays. It is also requesting the sale of alcohol for consumption both on and off the premises Monday-Thursday 0600-0200 hrs, Friday and Saturdays 0600-0300 hrs and 0600-midnight on Sundays and to open until 4am on Bank Holidays.

Norfolk Police have concerns with this application in the current format as the licence, if granted could be used for activity unsuitable to the area which could undermine the licensing objectives specifically the prevention of crime and disorder and public safety.

The cafe is a small building which can hold approximately 50 people but with the outside area also licensed, the site could potentially accommodate larger numbers of people on a more regular basis. The application gives mention to the holding of large events such as fishing events and boat regattas and the use of marquees.

A licence until 3am for music (4am on bank holidays) has been requested and although gives mention that music will be taken inside the building or a marquee after midnight, this is not a formal condition offered within the operating schedule. As the building is only able to accommodate small numbers and gives the mention of events, this will increase the likelihood of use outside until late which could affect neighbouring properties and the nature reserve.

When determining a licence, the operating schedule is assessed by the authorities to ensure the correct conditions are added to reduce the impact of the activities requested. However, in this case, the operating schedule states "that no special measures are required" and is wanting to potentially operate until late for large numbers of people in a remote location without any conditions imposed.

It would be expected that any premises applying to hold large events and late-night activity would have further measures imposed on the licence to ensure activities are held responsibly. These measures include assessing security, stewarding and medical provisions. This is necessary for this premises due to the location being remote.

The application does give mention of CCTV and this is recommended to deter crime and provide evidence to assist Police with the investigation of crime.

Previous visits to this premises have raised issues in relation to fire safety, clean water supply and customer toilet facilities and these issues need to be addressed prior to any public events taking place.



The Berney Arms has a reputation for the most remote pub in Norfolk meaning access to the site via road and train is restricted. This location makes it difficult for the emergency services to attend hastily if there was an incident of disorder or medical emergency. This licence is increasing the risk by encouraging larger numbers until late which could put more pressure on the emergency services. Therefore, management need to ensure that the site is only used for low risk events and have contingency plans in place.

To give some background, the management Mr Hollocks also own the Beauchamp Arms, Langley and this premises is similar in terms of a riverside location and needing refurbishment.

For the last few years, the Beauchamp Arms has been used as a venue for dance event organisers to hold their events there. Temporary Event Notices were applied for by various organisers but these have recently stopped due to the South Norfolk District Council Noise Pollution team objecting due to excess noise impacting neighbouring properties.

I am concerned that either intentionally or not, the granting of this licence will result in this site being used to host similar events to those that were at the Beauchamp which would be extremely unsuitable for the location and without safeguards.

In terms of the noise levels, it would be for the environmental protection team to comment on this matter however I believe restrictions of the outside area are required and would question whether a licence this late is appropriate for the area.

In order to ensure the premises is used appropriately and to promote the licensing objectives, I request that the following conditions are added to the premises licence:

- **All outside music (including music within a marquee) will cease at midnight.**
- **There will be no use of the outside area after 1am with the exception of 10 occasions a year. The Licensing Authority and Police will be notified in writing at least 7 days in advance.**
- **CCTV to be in operation and recording the main public area and external areas of the building. CCTV footage to record a minimum of 28 days and be available to Police on reasonable request.**
- **For all land-based events with an expected attendance of 100 patrons, a written risk assessment and Event Management Plan will be written outlining security plans, toilet facilities, medical provisions, emergency planning. This document will be provided to Police and Licensing Authority a minimum of 28 days prior to the event date.**
- **The Premises Holder will have a documented water safety policy considering types and timings of events and ensuring water safety equipment is available at all times.**

**With these conditions added to the premises licence, there will be no objections to this.**

Michelle Bartram  
Licensing Officer

## Appendix Three

Hello Claire

Thank you for your email, if the applicant has agreed the conditions there are no outstanding representations from Norfolk Police

Regards

---

**Michelle Bartram**

Licensing Officer

Licensing,

Norfolk Constabulary

Bethel Street Police Station

Norwich, Norfolk, NR2 1NN

Tel: 01603-276020

**From:** Licensing (EH) <[LicensingEH@broadland.gov.uk](mailto:LicensingEH@broadland.gov.uk)>

**Sent:** 02 July 2020 12:20

**To:** Bartram, Michelle <[michelle.bartram@norfolk.pnn.police.uk](mailto:michelle.bartram@norfolk.pnn.police.uk)>

**Subject:** FW: FW: Premises Licence Application - Berney Arms Bistro & Outside Area

Hi Michelle

I have had a response from the Berney Arms, see below.

Are you now in a position to withdraw your representation?

Thanks

Claire

**Claire Norman**

Licensing Technical Administration Officer (Weds)

Licensing and Enforcement Officer (Thurs/Fri)

Working days - Wednesday to Friday

t 01603 430626 (Weds) 01603 430580 (Thurs/Fri)

e [claire.norman@broadland.gov.uk](mailto:claire.norman@broadland.gov.uk)

Two Councils  
One Team



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**From:** Berney Arms <>  
**Sent:** 02 July 2020 12:13  
**To:** Licensing (EH) <[LicensingEH@broadland.gov.uk](mailto:LicensingEH@broadland.gov.uk)>  
**Subject:** Re: FW: Premises Licence Application - Berney Arms Bistro & Outside Area

Claire

Many thanks for your prompt response.

We have agreed to the following conditions and would appreciate if you send it to all the objectors

- **All outside music (including music within a marquee) will cease at midnight.**
- **• There will be no use of the outside area after 1am with the exception of 10 occasions a year. The Licensing Authority and Police will be notified in writing at least 7 days in advance.**
- **• CCTV to be in operation and recording the main public area and external areas of the building. CCTV footage to record a minimum of 28 days and be available to Police on reasonable request.**
- **• For all land-based events with an expected attendance of 100 patrons, a written risk assessment and Event Management Plan will be written outlining security plans, toilet facilities, medical provisions, emergency planning. This document will be provided to Police and Licensing Authority a minimum of 28 days prior to the event date.**
- **• The Premises Holder will have a documented water safety policy considering types and timings of events and ensuring water safety equipment is available at all times.**

William Hollocks

## Appendix Four

Dear Licensing,

I have significant concerns over the submitted license application for the Berney Arms in which the applicant has applied to have regulated entertainment up until 04:00 hours in the morning (Friday & Saturday). The playing of live or amplified music at the application site until the early hours of the morning would not be considered appropriate given the following:

- The use of a marquee for licensable activities such as the playing of live or amplified music is a very ineffective way of containing sound and is generally of little or no effect in this regard. The use of a marquee will not effectively contain loud music and as a consequence the times when such loud music can be played must be severely restricted to reduce the likelihood of people living in the locality and beyond being affected.
- The typical background noise levels in this area are very low and the playing of live or amplified music will be much more prominent and perceptible and will more likely give rise to complaints if the noise is played at a level typical of events during the night-time hours.
- The land is very flat, marshland and any live / amplified music is likely to carry some considerable distance which has the potential to adversely affect residents living in the locality and beyond.
- There would be no restrictions on the type of music that would be played, such as the playing of bass heavy music in which the lower frequency sound will travel significant distances and of a nature that is likely to give rise to complaints. The live music act does allow the playing of live music until 11.00pm without restriction which I feel would be a reasonable time for music in this location to cease for the reasons given above.
- The fabric and structure of the Berney Arms premises itself is probably in need to improvement and it is unlikely to effectively contain loud music. As a consequence the times when such loud music can be played must be restricted to reduce the likelihood of people living in the locality and beyond being adversely affected.
- There is a provision for one-off or occasional licensable events using Temporary Event Notices (TEN's) which would allow the applicant a degree of flexibility subject to suitable and sufficient noise controls and restrictions in operating hours so that the impact of noise on those living in the locality and beyond is effectively controlled.

The applicant has not considered public nuisance at all in their application and has relied completely on how remote the site is without any regard or appreciation of how noise could affect those living in the locality and further afield. The applicant has not provided any detail at all on the type of regulated entertainment that will be offered, how often such regulated entertainment will be provided which provides way to much latitude to the applicant. TEN's would provide the applicant with the flexibility to offer events subject to reasonable control, unless the applicant intends to operate in a manner similar to a late bar / nightclub which would be completely inappropriate for this location.

The proposed provision of regulated entertainment i.e. live / amplified music up until to 04:00 hours is grossly excessive which is likely to give rise to complaints. I have little confidence in the owner / operator of the application site due to significant issues relating to noise complaints at the

Beauchamp Arms which resulted in an objection to two TEN's due to the failure of the owner and promoters of the events in controlling the sound levels at events held at the Beauchamp Arms.

On this basis I am formally objecting to this licence application on the grounds of public nuisance.

Kind Regards

**Mr Ali Pridmore**

Senior Community Protection Officer  
01603 430445

Dear Licensing,

Unfortunately, I will not be withdrawing my objections due the risk of noise disturbance to people living in the locality and further afield. The Berney Arms premises are small and have not been designed or maintained to effectively contain sound from the playing of live / recorded music. The noise breakout from the premises and from any marquee structure will be quite considerable raising the possibility of noise from regulated entertainment causing a public nuisance.

The purpose of the licence application in terms of what the applicant is wanting to achieve is very vague and uncertain. The hours of operation are akin to a late bar / nightclub which is totally unsuited to this particular location. The suggested conditions put forward by the applicant are insufficient in mitigating the risk of public nuisance. The reduction in hours of external music to midnight is still not sufficient and has the potential to cause a public nuisance, especially as any music will not be contained. Furthermore, I do not have any confidence that the design, structure and condition of the Berney Arms is sufficiently robust enough to be capable of adequately containing the sound from regulated entertainment. The premises does not as far as I know have an alternative means of ventilation such as air conditioning which will likely mean doors and / or windows will be opened for ventilation further increasing the breakout of sound from the premises. As a consequence, I will not be withdrawing my objection to this application.

As previously stated, the applicant could hold a limited number of events on site by using TEN's subject to restrictions on time and suitable and sufficient management of noise on site such as use of compressor-limiters, use of house PA system, effective monitoring of sound etc. If the applicant wishes to hold a few events per year then I feel that this could be achieved without the need for the proposed operating hours which seem very excessive and unreasonable given the particular sensitivity of the location.

Additionally, access by road onto the site is time consuming and problematic as the road surface is poor in places and permission has to be sought to cross at least one railway line and therefore I have real concerns for public safety should the emergency services need to attend in a medical emergency, in the event of a fire, or if there was a public order or more serious incident requiring the attendance of the Police which I am sure has been picked up by the relevant consultees.

Kind Regards

Ali

**Mr Ali Pridmore**

Senior Community Protection Officer

t 01603 430445 e [ali.pridmore@broadland.gov.uk](mailto:ali.pridmore@broadland.gov.uk)

## Appendix Five

Dear Madam

I have been forwarded the premises license application for the above-mentioned premises.

I do not have an email address for the applicant and request that you kindly forward my response on to them.

I am very amenable to discussing these matters in more detail with the applicant and am back in the office on Wednesday.

I make representations on the grounds of promoting the Licensing Objective of Public Safety, in my capacity as the representative of the Responsible Authority for Health and Safety.

My observations are as follows:

The premises is in a fairly remote area with very specific access arrangements and is bordered by a stretch of river.

This presents some public safety challenges when operating licensable events.

The site has some limitations of services in terms of power, water supply and drainage.

The requested timing of activities extends well into the early hours and presents challenges regarding lighting and the supervision of the site.

The occupation of the site on a residential basis contributes further to these challenges.

More detail is required of the scope, scale and frequency of the activities applied for, in order for event safety risks to be adequately assessed.

No detail has been provided as to how events will be managed, either during normal operations or in the event of an emergency.

The publication: The Event Safety Guide, previously known as the Purple Guide, produced by the Events Industry Forum provides comprehensive guidance for event organisers to follow.

No specific public safety conditions have been proposed in the application.

The application states that the local council are bound to visit to give any recommendations to ensure health and safety.

This is not the case. Duty-holders have a responsibility to plan and safely manage their activities proactively and independently of input from the regulator.

The outline of an Event Safety Management Plan should already have been produced which demonstrates safety precautions proportionate to the specific hazards and risks presented by the proposed activities.

The application states that a meeting is requested with the health and safety team to review the system in place.

Due to the current covid-19 situation a meeting is not possible.

Notwithstanding my comment above, before the application is determined I would be pleased to receive any information of the event safety system and provide comments.

I would propose that specific public safety conditions would be required when the grant of a premises licence is considered.

These would deal with all the key safety areas detailed in the Event Safety Guide.

However, it is not possible to determine these at this time as the specifics of the proposed activities have not been provided.

Should you wish to discuss my representation further, I am available via the contact details below.

Kindly confirm receipt via my mobile.

Yours faithfully,

David Poole-Gotto

**David Poole-Gotto**

**Senior Environmental Health Officer (Health and Safety and Licensing)**

**Normal Working Days: Wednesday to Friday**

**t** 01603 430610 **e** [david.poole-gotto@broadland.gov.uk](mailto:david.poole-gotto@broadland.gov.uk)

**From:** Angie O'Connor <angie.oconnor@broads-authority.gov.uk>  
**Sent:** 24 June 2020 08:16  
**To:** Licensing (EH) <LicensingEH@broadland.gov.uk>  
**Subject:** RE: Premises Licence Application - Berney Arms Bistro & Outside Area

Dear Claire

Thank you for forwarding the application for a licence in respect of the Berney Arms. Please see below my comments from the Broads Authority as the navigation authority for the area I believe planning have already submitted their thoughts to you already

This area of the Broads is tidal with fast flowing water. Safety of patrons in the vicinity of the water, particularly late at night, would be a concern especially given the remote location of this venue. This remoteness would limit immediate access for emergency vehicles. There is only private access from roads and this is not available for the general public to use. There are moorings available in the immediate vicinity and music and operation of the business after midnight would not be acceptable under our usual set policies for on river or riverside properties.

Please let me know if you need anything further

Kind regards

**Angie O'Connor**  
**Asset Officer**

+44 (0)1603 756057 | Fax: (0)1603 756069  
 Yare House, 62-64 Thorpe Road, Norwich, NR1 1RY

Please see the response from the Broads Authority in respect of the licensing application for the Berney Arms

#### The planning use

The established planning use of the Berney Arms is as a public house, but it has been closed for 3+ years.

The building which it is proposed to use as a bistro has been previously used separately as a café and a shop, but has not traded for probably 5+ years. Its most recent use was as a café, but it has only traded sporadically in the last 5 years and it is likely that this was only on an informal (i.e. unlicensed) basis. There is no planning permission for either of these uses, to the best of my knowledge, but there may be an argument that they are historic and are ancillary to the pub use. If it looked likely that either use (café or shop) was likely to become a significant enterprise then I would expend some resources investigating this, but this does not look probable at this point in time. Subject to appropriate conditions, the use of this building as a café or shop might not be unacceptable, but it would be restricted to use in association with the pub and access would be a key issue.

#### Access



The premises are accessed via a number of farm tracks and unmade roads across the marshes, which cross the railway line via unmanned level crossings in two places before joining the A47 to the north. The Highways Authority would not support any development which increased the use of the junction with the A47 because this would have a detrimental impact on highways safety and Network Rail would not support any development which increased vehicular movements across the level crossings. Vehicular access to the site to support the proposed use, either in terms of deliveries, staff or customers, is not acceptable in planning terms.

I understand that the RSPB have made some detailed comments, including around the access and its ownership and rights of use.

### Amenity

The premises are remote, so, in theory, the potential of impact on the amenity of neighbouring households is limited, however it appears that the proposal is to host licenced events with live or recorded music until 2 or 3am. This would have a significant and adverse impact on both the amenity of nearby occupiers and further afield, as well as disturbing the quiet enjoyment of this part of the Broads.

In addition to the impact on residents, visitors and boat users, there would be a significant impact on the wildlife locally. I understand that the RSPB have made some detailed comments on this point and I would refer you to these.

This area of the Broads is tidal with fast flowing water. Safety of patrons in the vicinity of the water, particularly late at night, would be a concern especially given the remote location of this venue. This remoteness would limit immediate access for emergency vehicles. There is only private access from roads and this is not available for the general public to use. There are moorings available in the immediate vicinity and music and operation of the business after midnight would not be acceptable under our usual set policies for on river or riverside properties.

The Broads Authority as Local Planning Authority and Navigation Authority objects to this applications.

I hope the above is helpful

Kind regards

**Angie O'Connor**  
**Asset Officer**

+44 (0)1603 756057 | Fax: (0)1603 756069  
Yare House, 62-64 Thorpe Road, Norwich, NR1 1RY

## Appendix Six

Good afternoon

Some of these conditions may help to mitigate the issues stated in our previous response but do not cover all the issues we had with the application.

e.g. item two listed below does not specify in what time period these 10 occasions would take place. For example they could all take place in three months

**We therefore wish for our representation to stand.**

Kind regards

**Angie O'Connor**

**Asset Officer Broads Authority**

## Appendix Seven

**From:** PETER ALLARD

**Sent:** 17 June 2020 08:40

**To:** Licensing (EH) <[LicensingEH@broadland.gov.uk](mailto:LicensingEH@broadland.gov.uk)>

**Subject:** Berney Arms, Reedham application !

Dear Sir /Madam,

Reference the Berney Arms, Reedham application for regulated Music Monday to Thursday 0600-0200hrs and 0600-0300hrs on Friday and Saturday and from 1200 on a Sunday.

To the above, I most strongly object. I have lived and spent most of my spare time in this area and continue to do so. The pub and its land lies within an SPA, a Special Protection Area designated by Natural England and another SPA adjoins this immediately to the south so the pub lies within specially important wildlife areas. It also adjoins the Breydon Water Local Nature reserve which is designated a SSSI (a site of Special Scientific Interest) and also a Ramsar Site which is an internationally important wetland site designated by a European convention. The land immediately behind the pub is owned by the Royal Society for the Protection of Birds. They have made a large flood within 100 metres of the building which holds important numbers of birds, especially nesting and roosting populations of rare birds. To have loud music in this area would obviously have a very great impact on all of this and certainly not beneficial after they have spent so much money creating it.

We had problems with loud music a decade or so from Church Farm at Burgh Castle which carried right across the area. It could be heard for miles around the flat landscape. This disturbed all the wildlife for long periods, many of which come here to nest and stay for long periods from all over the country and Europe. The sound intrusion was then unacceptable and it was eventually stopped. People come here for solitude away from the busy world we live in, loud blaring music from dawn to dusk is unacceptable.

There are **NO** public roads to Berney Arms, only a strictly private marshland track. trains are so infrequent now except on a Sunday so how people are going to get this is certainly questionable. The only way is by boat and parties finishing at 03.00 hrs in the morning after drinking will have to leave by this method. Unthinkable !!! There is scarcely any accommodation at the pub which is so run down, I certainly wouldn't want to stay there. Health and safety cannot be monitored there at all so the whole application is fraught with danger and within an environmentally sensitive area backing onto an internationally important nature reserve.

Two houses adjoin the pub, one owned (Ashtree Farm) and lived in by the Royal Society for the Protection of Birds and the other (Raven Hall). Both residents certainly wouldn't want loud music from 0600 hrs to 0300hrs that is for sure. The application is offensive and certainly undesirable with safety and sound intrusion unsatisfactory within an area of Special Protection and other designations. Please reject and refuse this application,  
Yours sincerely, Peter Allard

## Appendix Seven

From: peter Spanton  
Sent: 19 June 2020 09:54  
To: Licensing (EH) <LicensingEH@broadland.gov.uk>  
Subject: Re: Berney Arms

Dear Sir/Ms  
Regarding licensing application for the Berney Arms, Reedham, NR30 1SB.

Peter Spanton Raven Hall, Langley Marsh NR31 9HU

I wish to lodge an objection to this license application.

I am deeply concerned by the music and entertainment license applied for, especially as it indicates a desire for the sale of alcohol late into the night.

This is a very remote and tranquil area which hosts a wide variety of wild animals and birds including short eared and barn owls, marsh harriers, hares and deer, plus otters (which I have personally seen), water voles and many migrating wetland birds.

It is an incredibly peaceful and unchanged marsh environment.

My partner and I took ownership of Raven Hall in August 2019 for precisely these features and fear that the very nature of this special environment will be damaged if this license is granted.

As you will be aware, access to the Berney Arms is very limited.  
River access via the mooring outside is the only realistic entry point.  
Access by car requires driving a single lane track across the RSPB reserve including navigating two unmanned railway crossings.  
This surely cannot be regarded as a safe access route to a licensed premises.

I would assume therefore that the applicant must expect a clientele who arrive by river and come from the cruising community.  
If so why would there be a need for a music license and late night alcohol sales ?  
Plus how do they expect to moor a large number of boats ?

I feel sure that people drinking alcohol late into the night would not necessarily want to navigate a boat in the dark and would require a taxi service, how could that possibly work? Or might we see a large number of boats all leaving at the same time carrying groups of people who may well be intoxicated.

The chance of an accident on the river would seem very high and if there was an accident how would the emergency services attend the venue ?

Our biggest concern is that the premises will become a venue for young drinkers and rave culture. Apart from the noise and detrimental impact on the environment we fear it becoming a lawless establishment as policing it would be extremely difficult for the local licensing officer.

To conclude; we are extremely concerned by this application and the impact it would have on our peace of mind and surroundings and wish in the strongest terms to lodge an objection.  
Regards Peter Spanton

RSPB Norwich Office,  
65 Thorpe Road,  
Norwich,  
NR1 1UD

24<sup>th</sup> June 2020

Licencing Officer  
Broadland District Council  
Thorpe Lodge  
1 Yarmouth Road  
Norwich  
NR7 0DU

To the licencing officer,

### **RSPB Comments in Relation to Berney Arms Proposed Opening Hours and Activities**

Thank you for consulting the RSPB on the proposed licence application for the Berney Arms.

The RSPB **objects** to the application. We consider the application would not be appropriate for the following reasons:

- The activity is likely to cause an adverse effect on the integrity of the Breydon Water Special Protection Area and Site of Special Scientific Interest.
- Increased access to and late-night activity has the potential to significantly increase disturbance to birds foraging and roosting at RSPB Berney Marshes which is functionally linked to and forms an important part of the Breydon Water SPA and SSSI.
- We do not consider the location to be safe for such activity given its remoteness and the nature of the access to the site.
- Access from the A47 is private and the RSPB would not give permission for its use.

For these reasons we consider the application must be refused.

We set out our comments in more detail below.

#### **The RSPB's detailed comments on the Berney Arms licence application**

##### **1. Impact on Breydon Water Special Protection Area (SPA), Ramsar and Site of Special Scientific Interest (SSSI) and Halvergate Marshes SSSI**

The RSPB's primary concern relates to the potential for the music and extended hours to cause disturbance to species using the Breydon Water estuary and adjacent marshes. These sites are of International, European, and National importance. The Berney Arms is directly adjacent the Breydon Water SPA, Ramsar and SSSI and Halvergate Marshes SSSI. Species of migratory bird protected under the SPA designation, and

#### **RSPB England Headquarters**

First Floor  
One Cornwall Street  
Birmingham  
B3 2JN

**Tel:** 01767 693777

**Facebook:** RSPBLoveNature

**Twitter:** @Natures\_Voice

**rspb.org.uk**



The RSPB is part of BirdLife International,  
a partnership of conservation organisations  
working to give nature a home around the world.

which use the estuary and the adjacent Berney Marshes reserve are Bewick's swan, golden plover, avocet, ruff. The number of each of these species found on the estuary and grazing marshes, exceeds 1% of the Great Britain population. In addition, Breydon Water SPA holds more than 1% of the GB population of breeding common tern, and >1% of the European population of lapwing (in excess of 25,000 birds), with the whole SPA supporting more than 20,000 individual wintering birds. The 20,000 figure is a qualifying figure and it should be noted that **in each of the last 10 years the SPA has supported a minimum of 80,000 individual birds peaking at 106,000 in the winter of 2019/20**. In addition, the SPA citation quotes the following species as being 'of interest' due to their numbers being of national significance (i.e. > 1% of the UK winter population) – cormorant, European white-fronted goose, wigeon, shoveler and black-tailed godwit.

Breydon Water and surrounding marshes are used throughout the year by breeding birds, birds on migration to and from breeding grounds, and birds using the area as a winter feeding and refuge location. The following information was provided to Natural England to help inform their Conservation Advice Package for the site and shows the key species and the time of year when species are present.

**Table 13: Example of what an updated seasonality table might look like if additional assemblage species included. Green denotes peak times when species present. Orange denotes occasions when present but in low numbers. Methodology applied to feature species would be required to ensure consistent approach applied to all species.**

Species	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Avocet												
Bewick's swan												
Common tern												
Golden plover												
Lapwing												
Ruff												
Cormorant												
European white-fronted goose												
Wigeon												
Shoveler												
Black-tailed godwit												
Redshank												
Snipe												
Gadwall												
Curlew												
Greenshank												
Whimbrel												
Mediterranean gull												

From the surveys that are conducted throughout the year, the area around Berney Arms is particularly important for foraging black-tailed godwit, redshank and wigeon and wintering black-tailed godwit, redshank, wigeon, ruff, and avocet. The site is also adjacent Burgh Flats which is one of the last areas of mud to be covered at high tide. It also provides an important high tide roost on the estuary. The only other high tide roost is on the saltmarsh at Breydon Bridge, highlighting the importance of Burgh Flats. Increased boat activity and noise in this area could cause significant disturbance to birds roosting and feeding in this area.

## 2. The potential impact of the proposal in-combination with other activities, notably wildfowling

The RSPB is particularly concerned about the cumulative and in-combination impact on protected species from several sources. The other primary source of disturbance results from wildfowling taking place around Berney Marshes and Breydon Water. The RSPB recently submitted information to Natural England regarding wildfowling disturbance related to a proposal for a licence to shoot over the small area of reedbed to the east of Berney Arms.

To provide you with perspective I have enclosed the RSPB's concerns and a map showing the area and source of disturbance resulting from wildfowling (See Appendices 1 & 2).

### **3. The need for a Habitats Regulations Assessment.**

Given the proximity of Berney Arms to the Breydon Water SPA, Ramsar and SSSI and Halvergate Marshes SSSI there is the potential for features of these sites to be impacted. It is our position that as potential impact pathways are present a Likely Significant Effect cannot be ruled out from the proposed activity. In order to ensure that the proposals are appropriate and will not result in an adverse effect on integrity of these sites a HRA must be completed. This will need to consider project alone impacts as well cumulative and in-combination impacts. Until an HRA is completed it is the RSPB's view that decisions on the application cannot be made.

Any factor that could potentially give rise to a Likely Significant Effect must be considered. As stated in 'Guidance on the use of Habitats Regulations Assessments' issued by the Ministry of Housing, Communities & Local Government in July 2019: *"An appropriate assessment must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposed plan or project."*<sup>1</sup> In making decisions about potential impacts, recent European Court Judgments *"...clarified that when making screening decisions for the purposes of deciding whether an appropriate assessment is required, competent authorities cannot take into account any mitigation measures."*<sup>1</sup> The assessment must consider impacts on functionally linked areas that support features such as cold weather refuges and high tide feeding and roosting areas.

The RSPB's expectations of how the Habitats Regulations process should be applied are set out in Appendix 3.

### **4. The RSPB's concerns about access by potential patrons to the Berney Arms**

The tenants at the Berney Arms do not have legal consent to access the property using the concrete road/gravel track from the A47 via the Britannia Farm entrance and Breydon pump. As such we are unsure how they are expecting potential patrons to access the site, which is jointly owned by the RSPB and two other landowners.

If the tenants are expecting patrons and deliveries to be made via the concrete and gravel track this will lead to increased levels of disturbance to protected/designated species within the SPA. Patrons leaving late at night by vehicle would cause light disturbance to roosting geese and other water birds during the winter. The increased levels of disturbance could affect up to 50% of the site and some key roost pools adjacent to the pub, adjacent to the gravel track between Breydon pump and the pub, north of Breydon pump adjacent to the concrete track.

In addition, the condition of the access route is not suitable for a significant increase in vehicle use. During most winters the RSPB repair many of the gravel sections to ensure this remains safe. Historically, there have also been problems with cars trying to get to the pub going off the edge into ditches and other structures. Most recently (10<sup>th</sup> June 2020) Broads Beat officers were called to an abandoned car that had crashed into an RSPB corral on Berney Marshes.

---

<sup>1</sup> <https://www.gov.uk/guidance/appropriate-assessment>

The borders of the track are grazed by cattle, there are five grazed compartments between Breydon pump and Berney Arms, isolated by metal gates. If patrons are getting to the pub via car, there is increased risk of cattle being allowed to roam if gates are left open and for those unfamiliar with livestock, could lead to increased risk of collision with animals.

Previously the system to cross the rail lines involved calling the signal operator to gain permission to cross the line. This has been replaced by a new light (red-do not cross/green-clear to cross) system, which compounds the issue even further if people chose to cross the line when a red light is showing and/or did not close gates.

Given the nature of the road, the rail crossings and the challenges of night driving without knowledge of the site and road conditions, this further increases our concerns about additional usage of the access road.

Equally there are safety concerns regarding access by boat and mooring on one of the most hazardous stretches of river (strong bore) with patrons under the influence of alcohol. This could lead to disastrous outcomes at a remote location that is difficult to access.

## **5. The RSPB's concerns about impacts to Ashtree Farm**

The RSPB is concerned that the increase in noise could significantly impact our tenant at Ashtree Farm.

The proposed duration and frequency of music events could have serious impacts on especially but not exclusively wintering birds, putting them under unnecessary stress and causing them to seek alternative refuges, which are less optimal.

### **Conclusions**

Having considered the proposal carefully, the RSPB objects to the licence application and does not consider it to be appropriate due to the potential adverse effect on integrity of Breydon Water SPA/Ramsar and SSSI and Halvergate Marshes SSSI, safety reasons and noise impacts on residents.

We trust these comments are helpful. Please get in touch if you have any queries.

Yours sincerely

Ian Robinson  
**Conservation Officer**



## **Appendix 1: The RSPB's comments on wildfowling activity adjacent Breydon Water and Halvergate Marshes**

Hi Alex,

I've created a map (attached) showing where the existing wildfowling takes place adjacent to our reserve, with some additional context from the wider area. The reserve (the extent of our freehold, including sporting rights) is shown in a light brownish-purple colour, which has been overlaid with coloured zones to show refuges.

This context is important because of the in-combination impact to birds feeding, roosting (both at high tide and overnight) and heading to and from roost areas is already significant.

### Refuge areas on the reserve.

You asked about this and my comment would be this varies according to species. Lapwing and golden plover are highly susceptible to any disturbance and will repeatedly lift off and fly around when disturbed. Once disturbed these species tend to trigger other species and given the high numbers of lapwing and golden plover using the estuary and marshes (both species peak in excess of 20,000 individuals) any lapwing disturbed for example at the Reedham end of the floodplain can lead to disturbance of birds at Berney and subsequently other birds further east. This sequential, ripple effect is quite common and if disturbance events in any one day are frequent birds will often move to other locations in the landscape. There are many actors which trigger flocks to take flight, including hunting birds of prey, stockmen checking and moving livestock, low flying aircraft. We need to be clear that disturbance isn't wholly a result of wildfowling, but usually a combination of stimuli. We have evidence on the impact of various stimuli, alone and in-combination from winter studies carried out at our reserves at Buckenham and Cantley. Contrary to the study carried out by BASC in Poole Harbour quoted by GYDWA in their proposed management plan for Breydon; walkers (with or without dogs) do not provide the highest level of disturbance to wintering waterfowl.

### Principal roost areas

The lime green blocks – labelled winter refuge areas 1 and 2 on the map -cover most of the reserve south of the railway line between our western boundary and Breydon IDB pump, and the area we've reverted from arable (starting in 1998) to the north of the railway line. These two areas coloured lime green are characterised by grassland dominated by shallow pools of varying size.

These pools are especially important for roosting pink footed geese, wigeon, lapwing, golden plover, shoveler, teal, black-tailed godwit, curlew plus redshank, dunlin, pintail, mallard.

These refuge areas are extensive and have increased in size as a result of the now completed Halvergate Fleet scheme, which has enabled larger areas of marsh to be flooded to a greater extent, with greater ease and for longer periods of time. As we extend the areas of land maintained wet in winter, so bird usage will increase, and external disturbance stimuli will affect birds feeding and roosting over a wider area.

### Impact of New Wildfowling

In reference to your request why commencement of wildfowling adjacent to the site in question (coloured orange on the enclosed map) would be so impactful is based on several factors, one being the flight lines birds take when moving across the landscape. When birds fly between sites they generally move over water, the narrow area of the estuary adjacent Berney Arms channels birds moving from the widest areas of Breydon Water on to the Burgh Flats. This location is also the main passing point for geese and other waterfowl moving off the reserve/main roosts areas and either heading up the Waveney or onto other grassland areas such as Haddiscoe and Somerleyton and Carlton Marshes down the

Waveney. There is continual movement of birds throughout the day between roost and feeding areas but given the geography and habitat make-up we would have serious concerns that wildfowling at the proposed site would be conducted throughout the day creating unacceptable levels of disturbance to birds on the ground and those moving within the landscape. Burgh Flats is also a hugely important area for species such as black-tailed godwit to find food 'early' on a dropping tide. These flats are one of the first areas to become exposed at this western end of the estuary and constitute one of two areas on the estuary which flood last, and therefore provide essential forage areas, which are especially important in cold winters and pre-migration.

#### **Lower intensity shooting - current**

- GYWCA already shoot on land on Burgh marshes (clear area with thick border on the south side). This does not have an impact on roosting birds at Berney as shooters are stationed to the south behind the wall on the opposite side of the estuary to the reserve.
- Infrequent shooting occurs at the eastern tip of Haddiscoe Island (clear area with thick border in a rough C-shape), which adds sporadic disturbance to birds using Burgh Flats and moving in a NE to SW (and vice versa) direction.
- To capture the other location infrequently shot and denoted by clear area with thick border note the area further east and on the north side of Breydon.
- The only other area on the enclosed map (coloured orange) is the area north of the A47 bounded to the north by the River Bure. This is a favoured area for pink footed geese and is important when looking at the issue across the wider landscape. Any birds disturbed from this location will move either close by on the south side of the A47 or will move to Berney or fly higher towards Haddiscoe. There is currently a variable level of wildfowling south of this area and west of the area as mentioned below. I include this information to describe the spatial disturbance of wildfowling around our reserve.

#### **Higher intensity shooting - current**

- Norwich and District Wildfowlers shoot from the marshes adjacent to the western end of the reserve (coloured red). They observe a 50m buffer between our boundary ditch and a nominal point where the shooters wait. You can see from the map legend up to 3 guns use this section.
- The existing RSPB agreement with GYDWCA for wildfowling over Breydon water (coloured darker purple with thin red strips showing land-based shooting locations on the map) allows for up to 4 guns on the north side, 2 guns on the south side with a single boat containing 2 people on the estuary itself.
- The additional 'high use' area on land to the north and west of the reserve is shown in red. Anything up to 5 guns use this area and frequently wildfowlers are seen throughout the day on this section. We are concerned about the sheer level of 'harvesting' taking place here. Shooters have been seen leaving this area with large kit bags full of wildfowl. This area is being targeted with pink footed geese in mind. This species tends to feed on the drier grassland areas during the day and then move to the pools on our reserve to roost overnight. The pools and waterbodies form some defence against terrestrial predators during the night along with an opportunity to bathe and drink.
- We have seen that when the season is over birds quickly start using this area, so it is clearly an area that is of great value for them.

#### Additional Information

Your comment regarding taller habitats i.e. reedbed at the location subject to the notice will not have nesting marsh harrier during the wildfowling season (start September to end January). They will provide hunting areas for marsh and hen harrier, short-eared owl; occasional refuge for bittern, otter and a wintering site for other species such as water rail, bearded tit and water vole. A change in the use of the location and disturbance levels at this point will affect how species use the landscape and may unnecessary stress on these species and force them to forage elsewhere.

Adding the number of guns up to find the highest potential number across the marshes and estuary we get a **range of between 16 and 20**. In GYDWCA's proposed management plan for Breydon they state '*significant disturbance levels would result in a decline of the sport, and is therefore bad for both wildfowler and wildfowl.*' They also state that '*wildfowling is practiced for the most part by lone sportsmen.*' We cannot argue with this statement as guns operate alone, not in close clusters. However, in the context of the landscape their activities are characterised by multiple, '*lone sportsmen*' who in-combination, spatially are having an adverse effect on the behaviour of wildfowl and their sport.

I'm sure you can see, Alex that both the estuary and our reserve are virtually ringed by wildfowlers, which is in our opinion not sustainable and is and will lead to unacceptable disturbance of wintering waterfowl considering the designation of the site. If you look back to the 1990's the levels of wildfowling, then were unsustainable. This led to RSPB negotiating with GYDWA to create specific refuge zones on the estuary. These refuge zones still exist today. What has changed since the 1990's is the extent of our landownership, coupled with a change in water management, which has created the expanse of suitable habitat for breeding waders and a winter refuge for ducks and geese. This is what has driven the increase in waterfowl numbers that we see today.

Our concern is that this proposal to introduce new shooting from and adjacent to the reedbed, located to the east of Berney Arms will lead to a deterioration in numbers and unnecessary displacement of wintering waterfowl, on and adjacent to our site.

Yours sincerely

Ian Robinson (RSPB Conservation Officer, Broads Priority Landscape)

## Appendix 2: Map of refuge areas and wildfowling activity.

Sent as separate attachment

### Appendix 3: The steps the RSPB expects to be undertaken to ensure compliance with the Habitats Regulations.

#### **1.1 The Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017**

- 1.1.1 SACs and SPAs are protected as “European sites” in inshore waters (up to 12 nautical miles from the baselines) under provisions within the Conservation of Habitats and Species Regulations 2017 (Habitats Regulations).
- 1.1.2 The Habitats Regulations set out the sequence of steps to be taken by the competent authority when considering authorisation for a project that may have an impact on a European site and its species before deciding to authorise that project. These are as follows:
  - a. Step 1: consider whether the project is directly connected with or necessary to the management of the SPA and its species (regulation 63 (1)). If not –
  - b. Step 2: consider, on a precautionary basis, whether the project is likely to have a significant effect on the SPA and its species, either alone or in combination with other plans or projects (the Likely Significance Test) (regulation 63 (1)).
  - c. Step 3: make an appropriate assessment of the implications for the SPA and its species in view of its conservation objectives. There is no requirement or ability at this stage to consider extraneous (non-conservation e.g. economics, renewable targets, public safety etc) matters in the appropriate assessment (regulation 63 (1)).
  - d. Step 4: consider whether it can be ascertained that the project will not, alone or in combination with other plans or projects, adversely affect the integrity of the SPA and its species, having regard to the manner in which it is proposed to be carried out, and any conditions or restrictions subject to which that authorisation might be given (the Integrity Test) (regulation 63 (6)).
  - e. Step 5: In light of the conclusions of the assessment, the competent authority shall agree to the project only after having ascertained that it will not adversely affect the integrity of the SPA, alone or in combination with other plans or projects (regulation 63 (5)).
  - f. Step 6: only if the competent authority is satisfied that, there being no alternative solutions and the plan or project must be carried out for imperative reasons of overriding public interest (which, subject to (regulation 64(2)), may be of a social or economic nature), they may agree to the plan or project notwithstanding a negative assessment of the implications for the European site (regulation 64 (1)).
  - g. Step 7: in the event of the no alternative solutions and imperative reasons of overriding public interest tests being satisfied, the Secretary of State must secure that any necessary compensatory measures are taken to ensure that the overall coherence of the Natura 2000 network is protected (regulation 68).
- 1.1.3 It is important to add that in addition to the requirements set out above, any competent authority must exercise its functions so as to secure compliance with the requirements of the Habitats Directive and the Birds Directive; and in particular to take such steps as it considers appropriate to

secure the preservation, maintenance and re-establishment of a sufficient diversity and area of habitat for wild birds<sup>[1]</sup>, having regard to the requirements of Article 2 of the Birds Directive.<sup>[2]</sup>

## 1.2 Appropriate assessment

- 1.2.1 As part of the assessment requirements, regulation 63, Habitats Regulations require the application of the precautionary principle. Meaning that if it cannot be excluded, on the basis of objective scientific information, that it is likely to have a significant effect on a SPA or SAC and its species an appropriate assessment will be required: see *Waddenzee*.<sup>[3]</sup>
- 1.2.2 Following that appropriate assessment, a project may only be granted consent if the competent authority is convinced that it will not have an adverse effect on the integrity of the European site(s) and their species of concern, having applied the precautionary principle and taken account of the conservation objectives for those sites and their habitats and species. *Waddenzee* confirmed that where doubt remains as to the absence of adverse effects on the integrity of the site, approval should be refused<sup>[4]</sup> (subject to the considerations of alternative solutions, imperative reasons of overriding public interest and the provision of compensatory measures as set out in regulations 64 & 68).
- 1.2.3 An appropriate assessment requires all aspects of the project which could affect the site, its species and its conservation objectives to be identified in the light of the best scientific knowledge in the field.<sup>[5]</sup> The competent authority,
- “taking account of the conclusions of the appropriate assessment of the implications...for the site concerned, in the light of the conservation objectives, are to authorise such activity only if they have made certain that it will not adversely affect the integrity of the site. That is the case where no reasonable scientific doubt remains as to the absence of such effects”<sup>[6]</sup>.
- 1.2.4 Defra Circular 01/2005 states at page 20, that the ‘integrity of the site’ should be defined as ‘the coherence of the site’s ecological structure and function, across its whole area, or the habitats, complex of habitats and/or populations of species for which the site is or will be classified’.<sup>[7]</sup> A site can be described as having a high degree of integrity where the inherent potential for meeting site conservation objectives is realised, the capacity for self-repair and self-renewal under dynamic conditions is maintained, and a minimum of external management support is required. When looking at the ‘integrity of the site’, it is therefore important to take into account a range of factors, including the possibility of effects manifesting themselves in the short, medium and long-term”.<sup>[8]</sup>
- 1.2.5 As is clear from the requirements of the Habitats Regulations, the assessment of integrity is to be considered by reference to the impact of the project alone and in-combination with other plans and projects, taking account of the site(s) conservation objectives. As clearly set out in *Waddenzee*, para 61:

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<sup>[1]</sup> As required by Article 3, Birds Directive

<sup>[2]</sup> See regulation 9(1) and 10(1)(2)(3) and (8) of the Habitats Regulations and regulation 6 of the Offshore Regulations. Article 2 Birds Directive imposes a requirement on Member States to maintain all wild bird populations at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or if necessary, to restore the population of these species to that level (Article 2).

<sup>[3]</sup> CJEU Case-127/02; [2004] ECR-7405 at [45].

<sup>[4]</sup> [56]-[57].

<sup>[5]</sup> [61].

<sup>[6]</sup> [59].

<sup>[7]</sup> Please note the Defra Circular 01/2005 is also titled ODPM Circular 6/2005.

<sup>[8]</sup> See too the European Commission Guidance; Wind Energy Developments and Natura 2000, 2011, page 82-83, paragraph 5.5.3.

**61** In view of the foregoing, the answer to the fourth question must be that, under Article 6(3) of the Habitats Directive, **an appropriate assessment of the implications for the site concerned of the plan or project implies that, prior to its approval, all the aspects of the plan or project which can, by themselves or in combination with other plans or projects, affect the site's conservation objectives must be identified in the light of the best scientific knowledge in the field.** The competent national authorities, taking account of the appropriate assessment of the implications of mechanical cockle fishing for the site concerned in the light of the site's conservation objectives, are to authorise such an activity only if they have made certain that it will not adversely affect the integrity of that site. That is the case where no reasonable scientific doubt remains as to the absence of such effects. (emphasis added)

## Appendix 1: Duties in respect of European and internationally important sites

The main protective provisions in respect of SPAs, SACs and Ramsar sites are set out in the Habitats Regulations. The Habitats Regulations transpose, for the most part, the requirements of the Habitats Directive into British law. Articles 6(2) to 6(4) of that Directive set out the main protection regime that must be applied to SPAs and SACs.

*Regulations 61, 62 and 66 of the Habitats Regulations transpose the protective regime of Articles 6(3) and 6(4) for most plans or projects. These regulations set out the main tests that the competent authority would have to apply to any plan or project likely to have a significant effect on European Sites i.e. SPAs and/or SACs<sup>2</sup>. It is Government policy (paragraph 118 of the National Planning Policy Framework (NPPF)) that the same protection is afforded to listed and proposed Ramsar sites. Policy guidance on the interpretation of these legal requirements can be found in national<sup>3</sup> and European<sup>4</sup> guidance documents.*

*Given that the proposals for Berney Arms are not directly connected with or necessary for the management of a European site, it is necessary to consider them against the sequence of steps set out in the Habitats Regulations to be taken by the competent authority when considering authorisation for a project that may have an impact on a European site before deciding to authorise that project.<sup>5</sup>*

These are as follows:

- i. **Step 1:** Under regulation 61(1) (b), consider whether the project is directly connected with or necessary to the management of the European Site(s). If not –
- ii. **Step 2:** Under regulation 61(1)(a) consider, on a precautionary basis, whether the project is likely to have a significant effect on the European Site(s), either alone or in combination with other plans or projects (the Likely Significant Effect [LSE] Test).
- iii. **Step 3:** Under regulation 61(1), make an appropriate assessment of the implications for the European Site(s) in view of its conservation objectives. Regulation 61(2) empowers the competent authority to require an applicant to provide information for the purposes of the appropriate assessment. There is no requirement or ability at this stage to consider extraneous (non-conservation e.g. economics, renewable targets, public safety etc) matters in the appropriate assessment.
- iv. **Step 4:** Pursuant to regulation 61(5) and (6), consider whether it can be ascertained that the project will not, alone or in combination with other plans or projects, adversely affect the integrity of the European Site(s), having regard to the manner in which it is proposed to be carried out, and any conditions or restrictions subject to which that authorisation might be given (the Integrity Test). **See information regarding application by GYDWCA to undertake new wildfowling adjacent to Berney Arms Pub.**
- v. **Step 5:** In light of the conclusions of the assessment and in accordance with regulation 61(5) and (6), the competent authority shall agree to the project only after having ascertained

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<sup>2</sup> Protection extended to cSACs by virtue of Regulation 8.

<sup>3</sup> ODPM Circular 06/2005 Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system.

<sup>4</sup> European Commission (2000) Managing Natura 2000 sites: the provisions of Article 6 of the Habitats Directive 92/43/EEC and European Commission (2007/2012) Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC.

<sup>5</sup> This should be read in conjunction with Regulation 99 (abstraction and works authorised under water legislation) of the Habitats Regulations which is applied by Regulation 60(1) to the general provisions set out in Regulation 61 *et seq.*

that it will not adversely affect the integrity of the European Site(s), alone or in combination with other plans or projects.

- vi. **Step 6:** A competent authority may only derogate from Regulation 61 where there is an absence of alternative solutions, and it is satisfied that there are imperative reasons of public interest that override the protection of the European Site(s) and that compensatory measures have been secured that protect the overall coherence of the Natura 2000 network (Regulations 62 and 66). If there are less damaging alternative solutions, no derogation is permitted, and consent must be refused.

The tests set out in Regulations 61, 62 and 66 are extremely strict as they concern the protection of sites that are of recognised European and international importance. Relevant effects on a site may be direct (e.g. disturbance to populations of protected species, damage to habitat) or indirect (e.g. disturbance [light, noise] caused by vehicles and boats accessing the venue). They may also arise from operations outside the boundary of a site e.g. increased vehicle and boat movements, disturbing birds feeding and roosting causing them to relocate to another less optimal location affording lower levels of protection. The extent to which any such effects can be removed or reduced by mitigation measures will vary.

Where it is not possible to conclude there will be no adverse effect on a site, it is necessary to consider whether there are alternative solutions. European Commission guidance states that this must examine whether there are alternatives to the plan or project that better respect the integrity of the site in question i.e. are there alternatives that are less damaging to the SPA, SAC or Ramsar site? Such alternatives could include different designs, locations or even policy approaches that meet the public interest objectives of the plan or project.

If no such alternatives exist, it would then be necessary to assess whether there are imperative reasons of overriding public interest (IROPI). The grounds for derogating from the protective provisions of the Habitats Directive must be exceptional and not every kind of public interest will be sufficient when weighed against the objectives of the Directive.

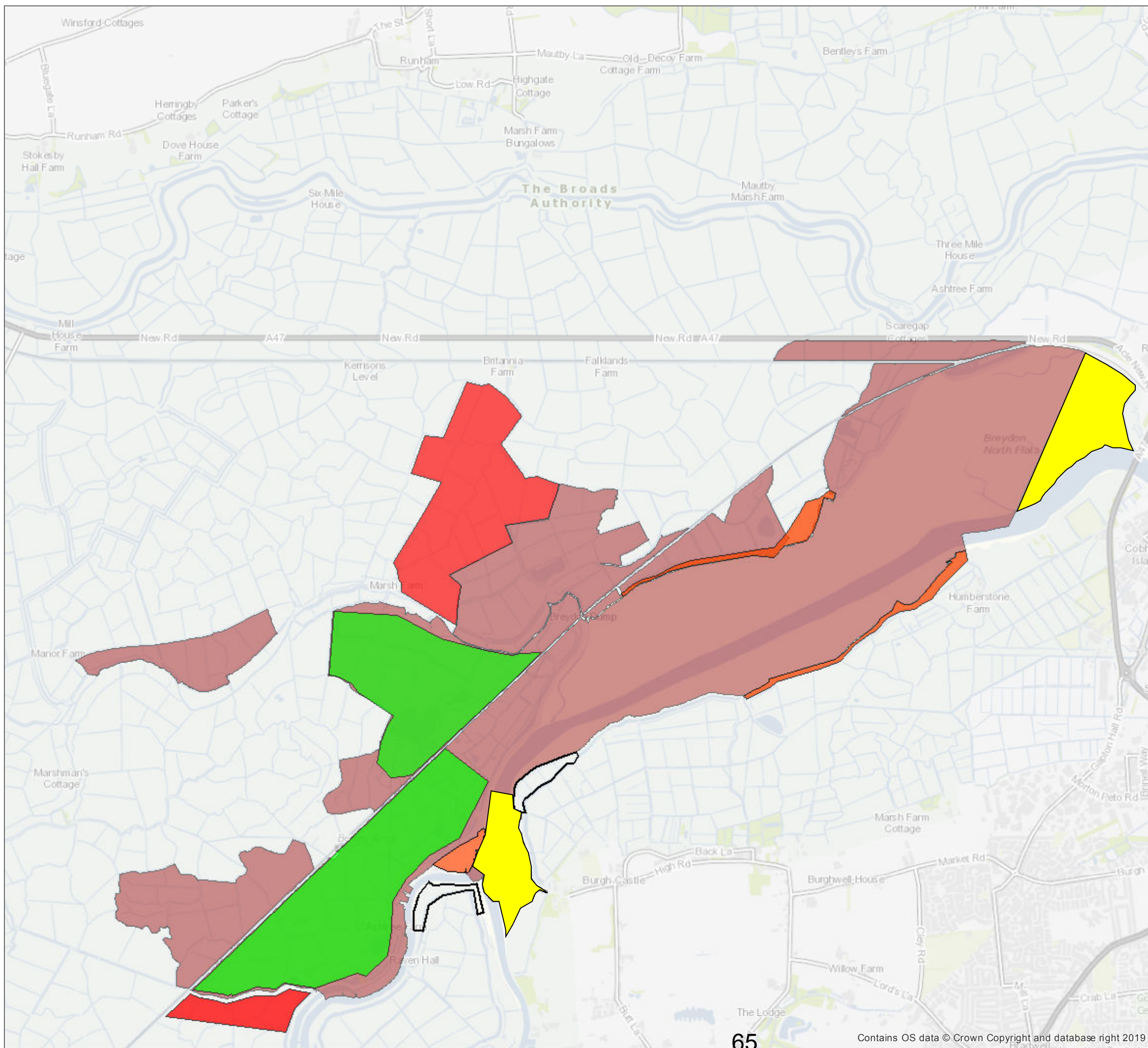
If IROPI is demonstrated, compensatory measures must be secured to protect the coherence of the Natura 2000 network, targeted at the features and supporting ecological functions that are adversely affected. The European Commission has set out more detailed guidance on this matter.<sup>6</sup>

In order to meet the various tests, set out above, it is incumbent upon the applicant to provide sufficient evidence to demonstrate there are no alternative solutions and IROPI can be proven.

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<sup>6</sup> [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/new\\_guidance\\_art6\\_4\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/new_guidance_art6_4_en.pdf)





#### Legend:

- High and rising tide refuge areas
- Winter Refuge 2
- Winter Refuge 1
- Proposed Berney Arms
- NW up to 5 guns
- GYDWA North wall 4 guns
- GYDWA South Wall 2 guns 2 boats
- Burgh Castle Marshes
- Haddiscoe East
- NDWA up to 3 guns
- RSPB Reserves- Public (UK) (polygons)

#### Acknowledgements & Notes:

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N  
  
 Map scale = 1:25,836  
 Date printed: 24/06/2020

0 0.425 0.85 1.7 km



RSPB Norwich Office,  
65 Thorpe Road,  
Norwich,  
NR1 1UD

3<sup>rd</sup> July 2020

Claire Norman  
Licencing Officer  
Broadland District Council  
Thorpe Lodge  
1 Yarmouth Road  
Norwich  
NR7 0DU

Dear Claire,

### **Supplementary RSPB Comments in Relation to Berney Arms Proposed Opening Hours and Activities**

Thank you for providing the up to date information the Police will need regarding the application for a licence at Berney Arms.

The RSPB **still objects** to the application. We consider the application would not be appropriate and maintain our previously stated position, that:

- The activity is likely to cause an adverse effect on the integrity of the Breydon Water Special Protection Area and Site of Special Scientific Interest.
- Increased access to and late-night activity has the potential to significantly increase disturbance to birds foraging and roosting at RSPB Berney Marshes which is functionally linked to and forms an important part of the Breydon Water SPA and SSSI.
- We do not consider the location to be safe for such activity given its remoteness and the nature of the access to the site.
- Access from the A47 is private and the RSPB would not give permission for its use.

For these reasons we consider the application must be refused.

We set out our comments in more detail below.

#### **1. Impact on Breydon Water Special Protection Area (SPA), Ramsar and Site of Special Scientific Interest (SSSI) and Halvergate Marshes SSSI**

The RSPB's primary concern relates to the potential for the music and extended hours to cause disturbance to species using the Breydon Water estuary and adjacent marshes, as we set out in our letter dated June 24<sup>th</sup>, 2020. These sites are of International, European, and National importance. The Berney Arms is directly adjacent the Breydon Water SPA, Ramsar and SSSI and Halvergate Marshes SSSI.

#### **RSPB England Headquarters**

First Floor  
One Cornwall Street  
Birmingham  
B3 2JN

Tel: 01767 693777  
Facebook: RSPBLoveNature  
Twitter: @Natures\_Voice  
rspb.org.uk



The RSPB is part of BirdLife International,  
a partnership of conservation organisations  
working to give nature a home around the world.

The Breydon Water SSSI Citation includes a list of 'Operations likely to damage the special interest.' These are enclosed at the end of this letter. Of particular relevance to the Berney Arms application are references 26 and 27

- **26 Use of vehicles or craft likely to damage or disturb features of interest**
- **27 Recreational or other activities likely to disturb wildfowl and waders**

The recommendations from the Police, namely

- All outside music (including music within a marquee) will cease at midnight.
- There will be no use of the outside area after 1am with the exception of 10 occasions a year. The Licensing Authority and Police will be notified in writing at least 7 days in advance.

in no way mitigate for disturbance to wildlife both on the estuary, especially at Burgh Flats and adjacent to Berney Arms on RSPB Berney Marshes reserve, and for this reason the RSPB considers the activities are commensurate with points 26 and 27 and, as stated above, will have a likely significant effect on both the protected site and features of special interest (species). The natural cycle of tides influences when wildlife is able and needs to make use of the exposed mudflats on the estuary. This is not given consideration in the proposed conditions and any source of disturbance at the wrong time will cause species to expend energy unnecessarily in moving to another, often less optimal area.

Equally, waterfowl use Berney Marshes reserve as a day-time roost and feeding area, and night-time roost in response to the natural cycle of tides and again any source of disturbance will cause species to expend energy unnecessarily in moving to another, often less optimal area.

The RSPB has a particular concern over the sound systems which will be employed and over what distance noise will be projected. We consider there is potential for disturbance as a result of noise to spread further across the estuary and our land at Berney Marshes. This sound in combination with up to 100 patrons would be a significant and unacceptable increase adjacent to a legally protected site. It is not clear that any noise assessment has been carried to understand the potential impact.

## **2. The potential impact of the proposal in-combination with other activities, notably wildfowling**

The RSPB is particularly concerned about the cumulative and in-combination impact on protected species from several sources. The other primary source of disturbance results from wildfowling taking place around Berney Marshes and Breydon Water. The RSPB recently submitted information to Natural England regarding wildfowling disturbance related to a proposal for a licence to shoot over the small area of reedbed to the east of Berney Arms.

In our previous submission I provided the RSPB's concerns and a map showing the area and source of disturbance resulting from wildfowling as presented to Natural England.

The Breydon Water SSSI Citation includes a list of 'Operations likely to damage the special interest.' These are enclosed as Appendix 1.

Specifically reference 28

- **28 Introduction of or changes in game and waterfowl management and hunting practices**

## **3. The need for a Habitats Regulations Assessment.**

Given the proximity of Berney Arms to the Breydon Water SPA, Ramsar and SSSI and Halvergate Marshes SSSI there is the potential for features of these sites to be impacted. It is our position that as potential impact pathways are present a Likely Significant Effect cannot be ruled out from the proposed activity. In order to ensure that the proposals are appropriate and will not result in an adverse effect on integrity of

these sites an HRA must be completed and we understand having spoken to Natural England that in this case Broadland District Council is the competent authority. This assessment will need to consider project alone impacts as well cumulative and in-combination impacts. Until an HRA is completed it is the RSPB's view that decisions on the application cannot be made.

Any factor that could potentially give rise to a Likely Significant Effect must be considered. As stated in 'Guidance on the use of Habitats Regulations Assessments' issued by the Ministry of Housing, Communities & Local Government in July 2019: *"An appropriate assessment must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposed plan or project."*<sup>1</sup> In making decisions about potential impacts, recent European Court Judgments *"...clarified that when making screening decisions for the purposes of deciding whether an appropriate assessment is required, competent authorities cannot take into account any mitigation measures."*<sup>1</sup> The assessment must consider impacts on functionally linked areas that support features such as cold weather refuges and high tide feeding and roosting areas.

#### **4. The RSPB's concerns about access by potential patrons to the Berney Arms**

The tenants at the Berney Arms do not have legal consent to access the property using the concrete road/gravel track from the A47 via the Britannia Farm entrance and Breydon pump. As such we are unsure how they are expecting potential patrons to access the site, which is jointly owned by the RSPB and two other landowners.

Given the nature of the road, the rail crossings and the challenges of night driving without knowledge of the site and road conditions, this further increases our concerns about additional usage of the access road.

The Police requests include the need for risk assessments to be produced and

- The Premises Holder will have a documented water safety policy considering types and timings of events and ensuring water safety equipment is available at all times.

There is no confirmation from our knowledge that access to any event will be by boat only. As owner of neighbouring land and access rights over the gravel track, the RSPB requests confirmation of this.

#### **5. The RSPB's concerns about impacts to Ashtree Farm**

The RSPB is concerned that the increase in noise could significantly impact our tenant at Ashtree Farm. This further supports the need for a noise assessment to be undertaken to understand fully the potential impacts of this application.

#### Conclusions

Having considered the proposal carefully, the RSPB maintains its objection to the licence application and does not consider it to be appropriate due to the potential adverse effect on integrity of Breydon Water SPA/Ramsar and SSSI and Halvergate Marshes SSSI, safety reasons and noise impacts on residents.

We trust these comments are helpful. Please get in touch if you have any queries.

Yours sincerely

Ian Robinson  
**Conservation Officer**

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<sup>1</sup> <https://www.gov.uk/guidance/appropriate-assessment>



## Operations likely to damage the special interest

Site name: Breydon Water, Norfolk

OLD1000454

Ref. No.	Type of Operation
1	Cultivation, including ploughing, rotovating, harrowing, and re-seeding.
2	The introduction of or changes in the grazing regime (including type of stock or intensity or seasonal pattern of grazing and cessation of grazing).
3	The introduction of or changes in stock feeding practice (including changes in the number of animals stocked).
4	The introduction of or changes in the mowing or cutting regime (including hay making to silage and cessation).
5	Application of manure, fertilisers and lime.
6	Application of pesticides, including herbicides (weedkillers).
7	Dumping, spreading or discharge of any materials.
8	Burning.
9	The release into the site of any wild, feral or domestic animal*, plant or seed.
10	The killing or removal of any wild animal*, including pest control.
11	The destruction, displacement, removal or cutting of any plant or plant remains, including herb, and turf.
12	The introduction of or changes in tree and/or woodland management+.
13a	Drainage (including the use of mole, tile, tunnel or other artificial drains).
13b	Modification of the structure of watercourses (eg rivers, ditches, dykes, drains), including their banks and beds, as by re-alignment, re-grading and dredging.
13c	Management of aquatic and bank vegetation for drainage purposes (see also 11).
14	The changing of water levels and tables and water utilisation (including irrigation, storage and abstraction from existing water bodies and through boreholes).
15	Infilling of ditches, dykes, drains, ponds, pools, marshes or pits.
16a	The introduction of or changes in freshwater fishery production and/or management**.
16b	Changes in coastal fishing practice or fisheries management and seafood or marine life collection+*
17	Reclamation of land from sea, estuary or marsh.
18	Bait digging in intertidal areas.
19	Erection of sea defences or coast protection works.
20	Extraction of minerals, including shingle, sand and gravel, topsoil, subsoil, and spoil.
21	Construction, removal or destruction of roads, tracks, walls, fences, hardstands, banks, ditches or other earthworks, or the laying, maintenance or removal of pipelines and cables, above or below ground.
22	Storage of materials.
23	Erection of permanent or temporary structures, or the undertaking of engineering works, including drilling.
26	Use of vehicles or craft likely to damage or disturb features of interest.

- 27           Recreational or other activities likely to disturb wildfowl and waders.
- 28           Introduction of or changes in game and waterfowl management and hunting practice.

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- \*           ‘animal’ includes any mammal, reptile, amphibian, bird, fish or invertebrate.
- +           including afforestation, planting, clear and selective felling, thinning, coppicing, modification of the stand or underwood, changes in species composition, cessation of management.
- \*\*          including sporting, fishing and angling.
- +\*          including the use of traps or fish cages.

## Appendix Eight

I've been made aware that you are currently considering a premises licence application Berney Arms, Reedham, Norfolk, NR30 1SB (café and outside area) for:

- **Regulated Music 0600-0200 Mon-Thursday and until 0300 hrs on Friday and Saturdays and 1200 hrs on a Sunday. (music to go inside at midnight)**
- **Sale of Alcohol – until 2am Monday-Thursdays and until 3am on Fridays and Saturdays**
- **Bank Holidays until 4am.**

**Hours open to the public – 0600-02.15am Monday-Thursday**

**Until 03.15am on Friday and Saturdays.**

**Sunday – 00.15 am**

Please be advised that with this current available information Natural England objects to the licensing proposal. This decision is based on likely disturbance to notified features of the nearby International (Ramsar), European(SAC) and National (SSSI) protected sites. Specifically Natural England considered that the proposal is likely to be damaging to the notified bird features of the site. I can see that with revisions to the proposed timings and incorporated mitigation a similar revised proposal may be acceptable. I advise that, as the competent authority in this case, Broadland DC should undertake a HRA on the current proposals which will likely conclude that an Adverse Ecological Effect is likely; meaning that the application must be refused.

*Alex Prendergast MSc FLS, FISC Level 6*

*Lead Advisor & Field Unit Ecologist - Norfolk and Suffolk Team*

[www.gov.uk/natural-england](http://www.gov.uk/natural-england)

Please note I work Monday-Thursday



# BROADLAND DISTRICT COUNCIL

## LICENSING ACT 2003

### Licensing Policy

#### **Main Principles of the Policy**

- 2.1 Nothing in the 'Statement of Policy' will:
- undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits; and/or
  - override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 2.2 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions may be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees.
- 2.3 When considering these conditions, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. To this end, Town/Parish Councils will be notified of all Premises Licence and Club Premises Certificate applications received.
- 2.4 The Council acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned.
- 2.5 In this respect, the Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:
- pre-existing planning controls;
  - ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments;
  - designation of parts of the District as places where alcohol may not be consumed publicly;
  - regular liaison with Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk, confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder, or excessive noise from the premises;



- the power of the Police, other responsible authority, or a local resident or business to seek a review of the licence or certificate.

## **4 Crime Prevention**

- 4.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 4.2 The Council will expect Operating Schedules to satisfactorily address these issues, as appropriate, from the design of the premises through to the daily operation of the business.
- 4.3 Applicants are recommended to seek advice from Council Licensing Officers and Police, as well as taking account, as appropriate, of local planning and transport policies and tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 4.4 The Licensing Authority would encourage applicants and current licence holders to consider the use of toughened or plastic glasses when serving drinks to members of the public, particularly where they are to be consumed in beer gardens, at outside events or in premises where a risk assessment may indicate the use of toughened or plastic glasses would be of benefit in complying with the public safety licensing objective.
- 4.5 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the district. The Licensing Authority also acknowledges powers contained within the Violent Crime Reduction Act 2006.
- 4.6 Where relevant representations are received the Council will consider attaching conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises. These may include conditions drawn from the Model Pool of Conditions relating to Crime and Disorder. The Council may also consider attaching a condition, where relevant representations are received, requiring a 'safe dispersal policy for customers' which would address:
  - Dispersing customers over an extended period;
  - Ensuring customers leave the premises in an orderly fashion and without bottles or glasses;
  - Offering a Neighbours' Charter to businesses and residents;
  - Placing marshals in high visibility jackets outside premises to promote order and speedy dispersal; and
  - Sending out a 'Rubbish Patrol' following closure in a designated area around the premises.

## **5 Public Safety**

- 5.1 The 2003 Act covers a wide range of premises that require licensing, including, cinemas, concert halls, theatres, nightclubs, public houses, village halls, cafés/restaurants and fast food outlets/takeaways.
- 5.2 Each of these types of premises present a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.
- 5.3 The Council will expect Operating Schedules to satisfactorily address these issues, as appropriate, and applicants are advised to seek advice from Council Health and Safety Officers and the County Fire Officer before preparing their plans and Schedules.
- 5.4 Where relevant representations are received the Council will consider attaching conditions to licences and permissions to promote safety and these may include conditions drawn from the Model Pool of Conditions relating to 'Public Safety'.
- 5.5 Whenever security operatives/door supervisors are employed at licensed premises to carry out any security function they must be licensed by the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises and the provision of door supervisors is an action point for the leisure industry to consider in the Home Office Alcohol Harm Reduction Strategy. If a licensee directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager.

## **6 Prevention of Nuisance**

- 6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the premises.
- 6.2 The concerns mainly relate to noise nuisance, light pollution and noxious smells and due regard will be taken on the impact these may have. The Council will expect Operating Schedules to satisfactorily address these issues, as appropriate. Applicants are advised to seek advice from the Council's Health and Safety and Pollution Control Officers before preparing their plans and Schedules.
- 6.3 Where relevant representations are received the Council will consider attaching conditions to licences and permissions to prevent public nuisance and these may include conditions drawn from the Model Pool of Conditions or local conditions relating to 'Public Nuisance' where relevant representations have been received.

## **7 Children**

## **Access to Licensed Premises**

- 7.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment. The Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm. In all other cases it will be left to the discretion of the licensee.
- 7.2 The Council has a statutory obligation to ensure robust mechanisms are in place for safeguarding arrangements under Section 11 of the Children Act 2004. Therefore the Council will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
  - Where there have been convictions for serving alcohol to minors or with a recorded history for underage drinking.
  - With a known association with drug taking or dealing.
  - Where there is a strong element of gambling on the premises.
  - Where entertainment of an adult or sexual nature is commonly provided.
- 7.3 The Council will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:
- Limitations on the hours when children may be present.
  - Limitations on the parts of premises to which the children might be given access.
  - Limitations on ages below 18.
  - Limitations or exclusion when certain activities are taking place.
  - Requirements for an accompanying adult.
  - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 7.4 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.
- 7.5 The 2003 Act details a number of offences designed to protect children in licensed premises and the Council will work closely with the Police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 7.6 Applicants may wish to consider including a statement within their operating schedule detailing how they will prevent underage drinking at their premises. This may be incorporated within the applicant's proof of age policy.

### **Access to Cinemas**

- 7.7 In the case of premises which are used for film exhibitions, a mandatory condition will apply restricting access 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.
- 7.8 It may also be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions.

### **Children and Public Entertainment**

- 7.9 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions, and additional arrangements are required to safeguard them while at the premises.
- 7.10 Where entertainment requiring a licence is specially presented for children, the Council will require the presence of an appropriate number of adult staff to ensure public safety and their protection from harm.
- 7.11 The Council will expect the submitted Operating Schedules to satisfactorily address these issues.
- 7.12 Where relevant representations are received the Council will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Model Pool of Conditions relating to the Protection of Children from Harm.
- 7.13 The Licensing Authority considers Norfolk County Council Children's Services to be the competent authority for matters relating to the protection of children from harm. However, as an agency regulated under section 11 of the Children Act, this Council is obliged to have in place safeguarding processes.