



# Night-time Uses

## Interim Planning Guidance

**Approved by Cabinet 26 October 2005**



**Development, Environment and Leisure  
Development Services**

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## **NIGHT-TIME USES - INTERIM PLANNING GUIDANCE**

### **1. INTRODUCTION**

This document will be used in conjunction with the Unitary Development Plan, Action Plans and the City Centre Living Strategy (Supplementary Planning Guidance), when determining planning applications.

Cafes, pubs, restaurants and places of entertainment can enliven town centres and support the evening economy but they can also have an impact on the character of the centre, increase anti-social behaviour, and cause a nuisance to nearby residents.

The assumption behind new legislation – The Licensing Act 2003 - is that no closing hours should be specified unless there are exceptional circumstances to limit the hours of opening. In other words, when determining a licence the Licensing Board will have to base its decision on only the four main objectives – the four core objectives detailed in Section 4 of the 2003 Act:

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

It will be the first three criteria that are most relevant to the City Centre and Neighbourhood Centres. These generally all relate to the impact on present and future residents, as well as visitors.

The Council's existing planning policies allow applications for new premises for eating, drinking (formerly Use Class A3, but now A3 and A4 respectively) and nightclubs (formerly Use Class D2, but now no class) only if they do not make the living conditions of nearby residents unacceptable and if they satisfy requirements relating to accessibility, parking and safeguarding the environment. Previous proposals for such uses have had time limits attached depending on assessments of their impact on residential properties. With the new licensing act there is a need to provide clearer guidance on the areas where time limits should still be placed from the point of view of residential amenity, both to inform the industry and to give advice to the Licensing Board.

This is achieved by using a zone-based approach for two areas – Heart of the City and Cathedral and Broomspring area of the Devonshire Quarter - where residential amenity is very important and closing times in general will be no later than 12.30am. An overall criteria-based guideline for the rest of the City will deal with individual applications on their merit.

### **2. CHANGES TO CITY CENTRE LIVING STRATEGY**

The City Centre Living Strategy (CCLS), in Guideline 10, currently identifies parts of the City where different opening times will be applied to new

developments. This will be superseded by the Interim Guidelines 1 and 2, set out below.

Guideline 11 from CCLS, which identifies areas where night-time leisure would be accepted subject to their impact on the amenity of residents, will still apply, as this, and Guideline 2 from this document, are complementary in their requirement for the amenity of residents to be a major factor in any decisions. Plan 1 of CCLS identifies those areas referred to in Guideline 11. For reasons set out in the Consultation Report in Appendix 2, the 12.30 Control Zone (see below) now includes additional property on Burgess Street/Cross Burgess Street and this supersedes the small part of the Guideline 11 boundary for the area centred around The Moor and parts of the NRQ, which formerly included this property.

### 3. GUIDELINE 1: CONTROLLED AREAS

Within the areas shown on Plan 1 of the Guidelines, conditions will be applied to planning approvals which allow the times of opening of drinking establishments (A4) and nightclubs (no class) to no later than 12.30am. This will also apply to hot food takeaways (A5).

Food establishments - cafes/restaurants (A3) will not be time limited unless through applying Guideline 2, they would be considered to have an adverse impact on nearby residents, workers or users of the area.

#### Reason for the Guideline

Plan 1 shows two areas of the City Centre where the existing residential-type character is such that the overall amenity of present and future residents should be protected from undue noise and disturbance after a reasonable time of night. People living in the City Centre cannot expect to experience the same levels of quiet as the more suburban parts of the City. 12.30am represents a relaxation of the current times of closing, but with the advent of the new Licensing Act it is still considered to be a time that allows for most evening activities to take place. It also gives residents a period when noise and disturbance should be much reduced.

Some types of licensed premises clearly generate a lot more noise and disturbance than others and this is taken into account when determining particular types of planning applications. When considering planning applications, the closing times of pubs and clubs (and takeaways) will therefore, be restricted to 12.30am. The later opening of the restaurant/cafe uses is much less of an issue as they tend to have little impact on nearby residents.

The two defined areas also give an opportunity to enhance consumer choice by allowing for a wider provision of leisure facilities. A careful mix of uses (including a strong residential community) backed up by a reasonable time of closing - 12.30am - will create areas where less emphasis is placed on nightclubs and drinking by young people, and hopefully encourage facilities

for eating, drinking and other leisure activities available to all sectors of the community.

If it is considered that unacceptable problems will arise for residents of the area the Council may refuse consent for that development.

#### How the Guideline will be put into practice

Deciding planning applications

Providing appropriate advice to developers

### 4. GUIDELINE 2: CITY CENTRE AND NEIGHBOURHOODS

Leisure, and Food and Drink uses will be allowed if:

- (a) conditions for nearby residents and people working in the area will not be harmed by noise breakout, traffic, parking on nearby streets, odours, street noise, or general disturbance; and
- (b) they are unlikely to lead to anti-social behaviour that would disturb residents, workers or users of the area; and
- (c) neither the parking of cars nor the provision of signs, tables, chairs outside the premises would impair the safety or ease of movement of pedestrians and road users.

In considering the criteria the Council will take into account the cumulative harmful effect of existing leisure and entertainment uses.

The Council may attach conditions to permissions to ensure that these criteria are met.

#### Reasons for the Guideline

People living in the City Centre and in Neighbourhoods close to licensed premises are entitled to protection from unacceptable levels of noise and disturbance. The guideline will be applied when determining planning applications for developments that fall into the Use Class categories drinking establishments (A4), hot food takeaways(A5) and nightclubs (no class).

This would be particularly important for areas outside the Guideline 1 zone as there are significant numbers of existing and proposed residents that could be affected.

#### How the Guideline will be put into practice

Deciding planning applications

Providing appropriate advice to developers

**GUIDELINE 1**

**NIGHT TIME USES - PROPOSED CONTROLLED OPENING AREAS**

**PLAN 1**



## **APPENDIX 1a**

### **CHANGES TO USE CLASSES ORDER**

The Government has now changed the Use Classes Order

The changes are:

Pubs and bars are taken out of A3 and put in a new Use Class A4.

Takeaways are taken out of A3 and put in a new Use Class A5.

Class A3 will therefore be restricted to restaurant or cafe type uses.

A4 and A5 Use Classes will be allowed to change to A1, A2 or A3, but any other change of use will require planning permission.

Nightclubs and 'night-time uses' will be removed from class D2 so that they will require separate planning permission.

So the uses likely to cause most nuisance will be separated out and, hopefully, will be easier to control through planning permission.