



Licensing Seminar – Planning Powers

17th March 2010

The Town and Country Planning Act 1990

- 2 ways in which planning can influence the issues being discussed
 - Involvement at the planning application stage
 - Imposition of planning conditions

Involvement at the planning application stage

- In assessing a new application for a premises officers and external consultees can influence the design and layout of the scheme
- EG. New pub/restaurant
 - Relationship to neighbours
 - Relationship of external areas to building to ensure overlooking
 - Lighting

Involvement at the planning application stage

- Imposition of planning conditions
- Need to meet 5 tests:
 - Necessary
 - Related to the development
 - Related to planning
 - Reasonable, and
 - Enforceable
- These tests restrict the conditions which can be used by planning as we can not impose conditions that are controlled by other legislation

Involvement at the planning application stage

- Imposition of conditions
- Typical conditions which may be imposed relate to operating hours, noise conditions and lighting conditions
- However most premises operate on old or non-existent planning permissions where no or vague conditions apply and therefore no control can be exercised through the planning system to enforce any form of control

Planning Enforcement Controls

- **Enforcement Notice**
 - Relates to operational development such as an unauthorised change of use ie restaurant to pub
 - Erection of a smoking shelter
 - Creation of outside drinking area
- **Breach of Condition Notice**
 - Only relates to a condition already on a permission and therefore cannot be used for old establishments with no conditions or permission
- Both require evidence and a period to serve a notice. Non-compliance can result in a prosecution, but a public interest test has to be identified