



Statutory Licensing Sub-Committee

Date Tuesday 18 September 2018
Time 10.00 am
Venue Council Chamber - County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Application for the Review of a Premises Licence - Cookson Spice, Cookson House, Cookson Terrace, Chester-le-Street (Pages 3 - 38)
5. Application to Transfer a Premises Licence - Lebaneat Wrap House, First Floor, 69 Claypath, Durham (Pages 39 - 58)
6. Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor - Lebaneat Wrap House, First Floor, 69 Claypath, Durham (Pages 59 - 78)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch

Head of Legal and Democratic Services

County Hall
Durham
10 September 2018

To: **The Members of the Statutory Licensing Sub-Committee**

Councillors L Brown, C Hampson, D Hicks, L Marshall and M Wilson

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Statutory Licensing Sub-Committee

18th September 2018

Application for the Review of a Premises Licence



Report of Ian Thompson, Corporate Director, Regeneration and Local Services

Name and Address of Premises: Cookson Spice, Cookson House, Cookson Terrace, Chester-le-Street. DH2 2AN

1. Summary

The Sub-Committee is asked to consider and determine an application by the Home Office, Immigration Enforcement Team to review the premises licence in respect of the above premises currently licensed for the sale of alcohol, the playing of recorded music and the provision of late night refreshment as detailed in the table below:

Licensable Activity	Timings
The Sale by retail of Alcohol (on sales only)	Monday - Sunday: 11:00 – 00:00 hrs.
Recorded Music (Indoors)	Monday - Sunday: 11:00 – 00:00 hrs.
Late Night Refreshment (Indoors & Outdoors)	Monday - Sunday: 23:00 – 00:00 hrs.
Opening times of the premises	Monday - Sunday: 11:00 – 00:30 hrs

A copy of the current premises licence is attached at Appendix 1.

A plan showing the location of the premises is attached at Appendix 2.

2. Details of the Application

On 23rd July 2018, the Licensing Authority received the application from the Home Office, Immigration Enforcement Team asking for a review of the premises licence (ref. no. PLA0067) for Cookson Spice, Cookson Terrace, Chester-le-Street.

The current Premises Licence Holder and Designated Premises Supervisor is Mr Jaman Uddin Ahmed.

The application is deemed by the Licensing Authority to be relevant.

The application for review relates to the following licensing objectives:

- The Prevention of Crime and Disorder

A copy of the application for the review of the premises licence from the Home Office, Immigration Enforcement Team is attached at Appendix 3.

The application for review was advertised in accordance with the regulations.

3. Representations

Within the statutory consultation period, no representations were received by the Licensing Authority in relation to the application.

4. The Parties

The Parties to the hearing will be:

- The Home Office, Immigration Enforcement – applicants
- Mr Jaman Uddin Ahmed - premises licence holder
- Mr Matthew Foster, Mincoffs Solicitors – licence holder's Solicitor

5. Durham County Council Statement of Licensing Policy

The Sub-Committee's attention is drawn to the following relevant parts of the Policy:

- 7.0 The Prevention of Crime and Disorder
- 22.0 Reviews

Relevant information is attached at Appendix 4.

6. Section 182 Guidance

The Sub-Committee's attention is drawn to the relevant parts of the Guidance issued under section 182 of the Licensing Act 2003 as follows:

- 2.1 – 2.6 Crime and Disorder
- 11.1 – 11.29 Reviews

Relevant information is attached at Appendix 5.

7. For Decision

The Sub-Committee is asked to determine the application for the review of the premises licence and to take any of the following steps that it considers necessary for the promotion of the licensing objectives:

- Take no further action
- Modify or add conditions to the licence
- Exclude a licensable activity from the licence
- Remove the Designated Premises Supervisor
- Suspend the licence for a period (not exceeding three months)
- Revoke the licence

Background Papers:

- Durham County Council's Statement of Licensing Policy
- Guidance issued under section 182 of the Licensing Act 2003
(As amended April 2018)

Contact: Yvonne Raine Tel: 03000 265256
E-mail: yvonne.raine@durham.gov.uk

APPENDIX 1 – PREMISES LICENCE



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence number
Issued
Granted

67
19 MAY 2011
20 MAY 2011

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>COOKSON SPICE COOKSON TERRACE</p>	<p>DURHAM COUNTY COUNCIL CIVIC CENTRE NEWCASTLE ROAD CHESTER LE STREET CO DURHAM DH3 3UT</p>
<p>Post town: CHESTER LE STREET</p>	<p>Postcode: DH2 2AN</p>
<p>Telephone number:</p>	

Where the licence is time limited the dates
 Not applicable

Licensable activities authorised by this licence
 Playing of Recorded music
 Provision of late night refreshment
 Sale by retail of alcohol

The opening hours of the premises (all times in 24hr format)

Monday	11:00 – 00:30	Non standard/seasonal timings: none
Tuesday	11:00 – 00:30	
Wednesday	11:00 – 00:30	
Thursday	11:00 – 00:30	
Friday	11:00 – 00:30	
Saturday	11:00 – 00:30	
Sunday	11:00 – 00:30	

Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales
 On Sales only

The times the licence authorises the carrying out of licensable activities (all in 24hr format)

**Recorded music
Indoors only**

Monday	11:00 – 00:00	Further details:
Tuesday	11:00 – 00:00	
Wednesday	11:00 – 00:00	Non standard/seasonal timings:
Thursday	11:00 – 00:00	
Friday	11:00 – 00:00	None
Saturday	11:00 – 00:00	
Sunday	11:00 – 00:00	

**Late night refreshment
Indoors & Outdoors**

Monday	23:00 – 00:00	Further details:
Tuesday	23:00 – 00:00	
Wednesday	23:00 – 00:00	Non standard/seasonal timings:
Thursday	23:00 – 00:00	
Friday	23:00 – 00:00	None
Saturday	23:00 – 00:00	
Sunday	23:00 – 00:00	

**Sale by retail of alcohol
On sales**

Monday	11:00 – 00:00	Further details:
Tuesday	11:00 – 00:00	
Wednesday	11:00 – 00:00	Non standard/seasonal timings:
Thursday	11:00 – 00:00	
Friday	11:00 – 00:00	None
Saturday	11:00 – 00:00	
Sunday	11:00 – 00:00	

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

JAMAN UDDIN AHMED

Registered number of holder, for example company number, charity number (where applicable)

Company no: NOT APPLICABLE

Charity no: NOT APPLICABLE

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the sale by retail of alcohol

JAMAN UDDIN AHMED

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the sale by retail of alcohol

**LICENCE NUMBER:
ISSUED BY:**

Annex 1 – Mandatory conditions

Mandatory conditions where licence authorises supply of alcohol

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence—

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Conditions from April and October 2010

1.—(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4.—(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5. The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the premises Operating Schedule

General

All four licensing objectives

Prevention of Crime and Disorder

CCTV to cover the front and rear of the premises internally and externally. All parts of the premises which members of the public have access to are also covered. Footage to be kept on the system for at least 28 days and made available to Officers of Durham Constabulary and Local Authority. Staff members to be able to operate CCTV system. System to be maintained in good working order.

Public Safety

Fire exits and fire equipment to be clearly marked

Risk assessments in place for health and safety and fire.

Prevention of Public Nuisance

No consumption of alcohol to take place at any time outside of the premises.

Signage to be displayed asking customers to leave in a quiet manner.

To have no drugs policy in place

Protection of Children from Harm

A challenge 25 Policy will be operated in the premises.

A refusals register to be kept and maintained.

Photo driving licence, passport and I.D. with pass logo will only be accepted as forms of I.D.

Children under the age of 16 will only be allowed on the premises accompanied by a adult at all times.

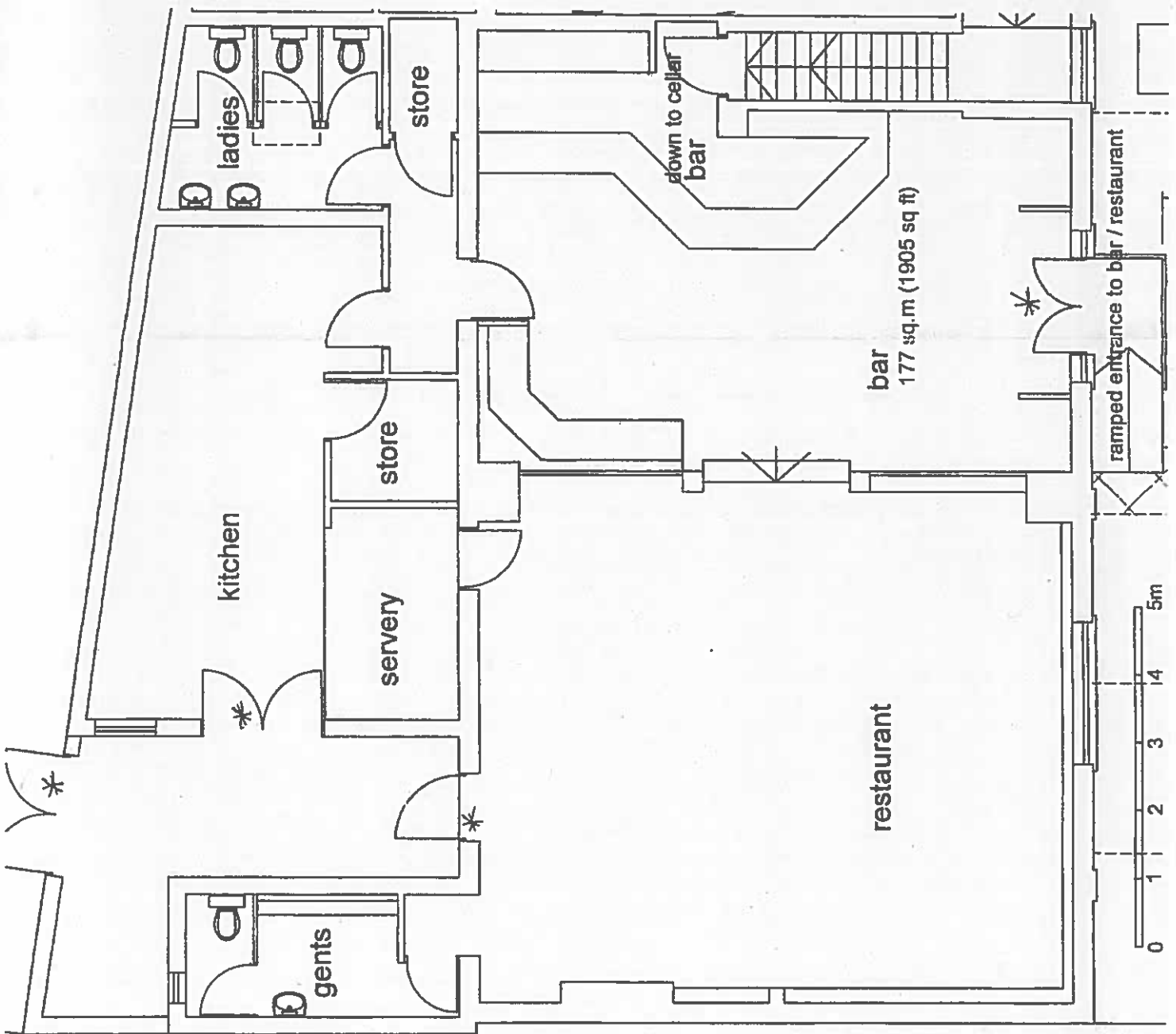
Annex 3 – Conditions attached after a hearing by the licensing authority

Not Applicable

Annex 4 – Plans

Attached

**Signature of Authorised Officer
Head of Environment, Health and Consumer Protection**

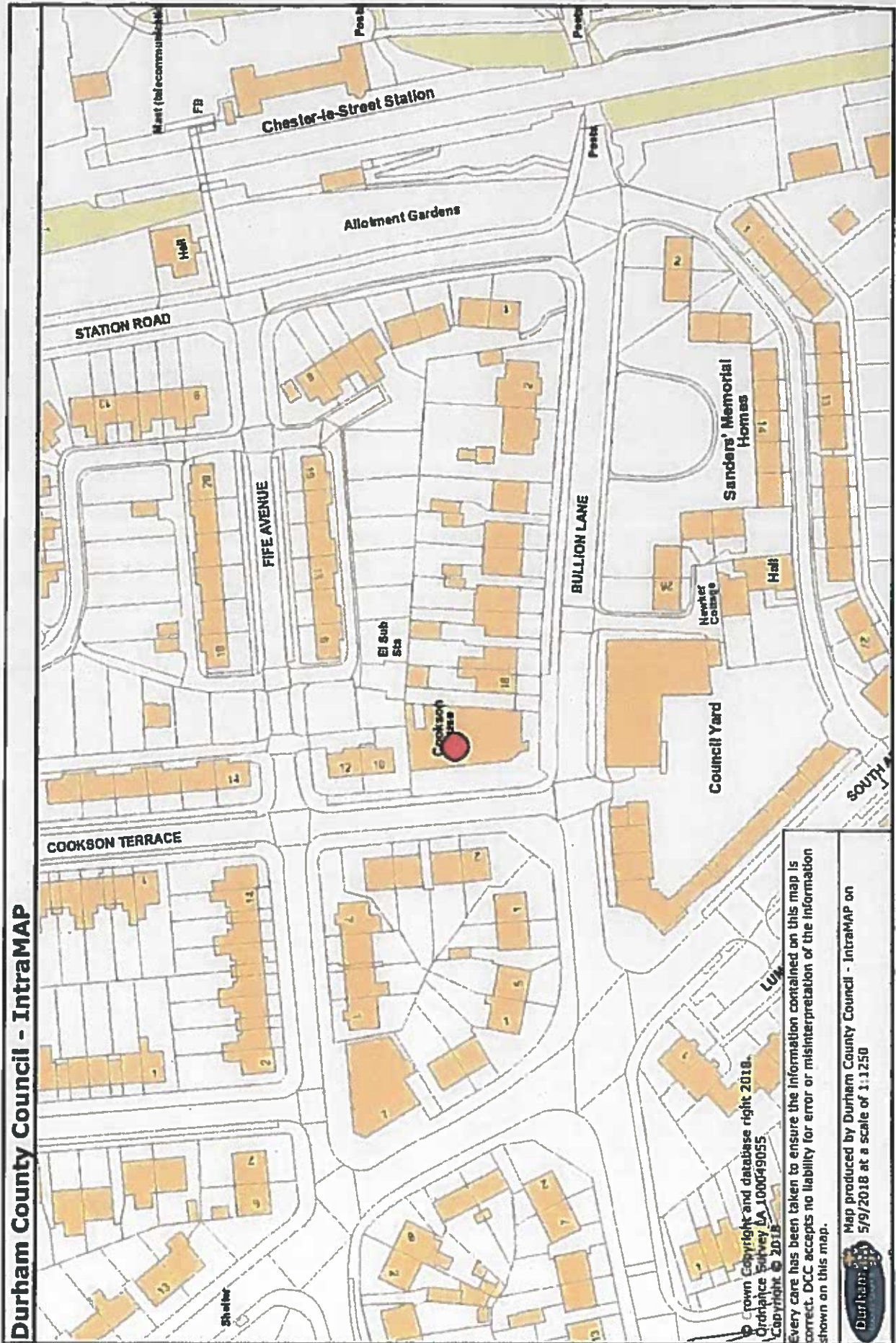


key
* Fire exit

Rev	Description	Date
	Proposed conversion of The Cookson Chester la Street	
	Licensed premises	
NTS	plotted at A3	10.13.21
P.C.Fletcher.		Architect

APPENDIX 2 – PLAN

Durham County Council - IntraMAP



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Map produced by Durham County Council - IntraMAP on
5/9/2018 at a scale of 1:1250



APPENDIX 3 – REVIEW APPLICATION

Licensing Authority: Durham County Council
Reference: AL15873

**Application for the review of a premises licence or club premises certificate 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 Home Office Immigration Enforcement

**apply for the review of a premises licence under section 51 / apply for the review of a club
premises certificate under section 87 of the Licensing Act 2003 for the premises described in
Part 1 below**

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Cookson Spice Cookson House Cookson Terrace Chester Le Street	
Post town	Post code (if known) DH2 2AN

Name of premises licence holder or club holding club premises certificate (if known) Mr Ahmed
--

Number of premises licence or club premises certificate (if known)
--

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates

(please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Home Office Immigration Enforcement Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

Please state the ground(s) for review (please read guidance note 2)

We have grounds to believe the license holder will fail to meet the licensing objectives of prevention of crime and disorder, as illegal working has been identified at this premises.

Section 36 and Schedule 4 of the Immigration Act 2016 (the 2016 Act) amended the Licensing Act 2003 (the 2003 Act) to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of Responsible Authorities (RA) in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences and applications to vary a Designated Premises Supervisor (DPS)), and in some limited circumstances personal licence applications. In carrying out the role of responsible authority, Home Office (Immigration Enforcement) is permitted to make relevant representations and objections to the grant of a licence or request a review of an existing licence as a responsible authority where there is concern that a licence and related licensable activity is prejudicial to the prevention of immigration crime including illegal working.

Please provide as much information as possible to support the application (please read guidance note 3)

An enforcement visit was conducted on 18/11/2017 at 17:45. The officer on duty showed his warrant to the manager AHMED. He served the Notice to Occupier and invited the team to enter under Section 179 of the 2003 Licensing Act. Ahmed confirmed that he was the owner and manager of the business. 4 arrests were made.

The officer interviewed Mr Ahmed regarding the employment of the 4 males who were arrested. This was conducted in the kitchen at his request.

Following the 4 arrests the team conducted 3 Section 25a of Sch.2 Searches on 3 address where passports were seized.

Following the arrests a referral notice was served. A penalty was raised for (Appeal Rights were exhausted on 18/02/2018). An appeal was made against the decision on 16/01/2018 and a decision was made to maintain the penalty. The penalty remains unpaid.

Have you made an application for review relating to the premises before

Please tick ✓ yes

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--	--	--

If you have made representations before relating to the premises please state what they were and when you made them

yes

Please tick ✓

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

23/07/18

.....

Capacity Responsible

Authority.....

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

**Alcohol Licensing Team
Lunar House
40 Wellesley Road**

Post town

Croydon

Post Code

CR9 2BY

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

6. This is the address which we shall use to correspond with you about this application.

**APPENDIX 4 –
STATEMENT OF LICENSING POLICY**

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

7.0 The Prevention of Crime and Disorder

7.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

7.2 As a matter of policy, the Licensing Authority will require every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter.

7.3 The Licensing Authority recommends that all applicants demonstrate in their Operating Schedules that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business have been identified and will be implemented and maintained with the intention of preventing crime and disorder. Procedures to deal with drunken customers, violence and anti social behaviour in and outside premises and the provision of closed circuit 14 television in certain premises should be considered by applicants, licensees and event organisers when addressing this issue.

7.4 The Licensing Authority encourages Personal Licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. The Licensing Authority support involvement in "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

7.5 The Licensing Authority recognises and promotes effective and responsible management of all licensed and authorised premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25'. These are considered to be among the most important control measures for the achievement of all Licensing Objectives. The Licensing Authority will take a positive view of anyone who invests in appropriate training, and in particular nationally accredited qualifications tailored to the Licensing sector. Training records should be kept available for inspection by all enforcement agencies.

7.6 The application for premises licence must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years.

7.7 Someone should always be present on premises or at an event during times when licensable activities are taking place who can discuss any problems or issues

arising from the licensable activities offered on the premises with officers from Licensing Authority and Police. The Licensing Authority considers it to be good practice if the DPS or Premises Licence Holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises.
- At all times when the premises is a "vertical drinking establishment" where little or no seating is provided.
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

7.8 The Licensing Authority will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that particular premises or event. Any such decision will be based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body, in particular the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

7.9 Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives they will need to be licensed by the SIA as a supervisor/manager.

7.10 The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment and hours of trading.

7.11 In addition to the requirement of the Licensing Authority to promote the Licensing Objectives, the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can do to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

7.12 Toughened/Safety Glass Policy: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context).

7.13 Drugs/Knives/Weapons: The Licensing Authority will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands within the premises in order to

prevent tragedies as a result of drug misuse. The Licensing Authority will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The Licensing Authority also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

22.0 Reviews

22.1 The Licensing Act provides a mechanism for reviewing premises licences and Club Premises Certificates where problems associated with premises undermine the licensing objectives following grant or variation.

22.2 At any stage during the life of a premises licence or a club premises certificate, an application for a review can be made to the Licensing Authority by any responsible authority, elected Member or any other person. However, where an application for a review is considered to be frivolous vexatious or repetitious or where an application for a review is considered not relevant to the licensing objectives the Licensing Authority will reject it.

22.3 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community. Unless an application is withdrawn, deemed to be frivolous, vexatious or repetitious or does not relate to the licensing objectives, the Licensing Authority will hold a hearing and take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

22.4 Local residents can request that their licensing authority review a premises licence where activities at licensed premises are undermining one or more of the licensing objectives.

22.5 It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues,
- Asking the licensing department at your council to talk to those who manage the premises on your behalf, or
- Talking to the relevant "responsible authority" (e.g. local authority exercising environmental health functions in relation to noise nuisance, or the police in relation to crime and disorder) about the problem.

22.6 If a request for a review of the premises licence is made by e.g. a local resident, they are required to notify the holder of the premises licence or club premises certificate and the "responsible authorities", by sending them a copy of the request, together with any accompanying documents, on the same day as the request is given to the licensing authority. The licensing authority will advertise the

review to enable others (responsible authorities or other persons) to comment on it. Responsible authorities have the option, if they wish, to comment on any application for a review.

22.7 A licensing authority must act on requests for review unless they consider the request to be irrelevant, repetitive, frivolous or vexatious. Frivolous representations would concern minor issues which the licensing authority could not reasonably be required to take any action to remedy. Representations may be considered vexatious if they appear to be intended to cause aggravation or annoyance without reasonable cause.

22.8 The licensing authority will advertise the fact that a request for review of the licence has been received, and allow a period of 28 days for other persons to make representations to it (such representations can be for or against the activities at the premises in question).

22.9 After the period for making representations has expired, the licensing authority will hold a hearing to consider the request unless the request for review has been withdrawn. The request will in most cases be considered by the licensing sub-committee who will hear representations from all parties involved.

22.10 The licensing authority will invite you to attend the hearing and give the applicant for the review the opportunity to address the licensing sub-committee in support of the request for review. They must then give the authority at least 5 working days' notice (prior to the start of the hearing), advising:

- If they will attend the hearing in person,
- Whether they will be represented by someone else (e.g. councillor / MP / lawyer / residents' association representative / friend),
- If they think that a hearing is unnecessary (if, for example, the parties have come to an agreement before the formal hearing), or
- They may also request permission for another person to attend the hearing, and must advise the licensing authority how that person may be able to assist the authority in relation to the request for review

22.11 Once the sub-committee has listened to and considered all views and evidence, it must decide what (if any) action is appropriate to promote the licensing objectives. Actions can include:

- No action,
- Modifying the conditions of the licence (change, add or remove conditions – Including operating hours),
- Excluding a licensable activity from the licence,
- Removing the designated premises supervisor,
- Suspend the licence for a period (not exceeding 3 months), and
- Revoke the licence.

22.12 The Licensing Authority will not expect a premises licence to be reviewed more than once within any 12 month period on similar grounds, except in exceptional circumstances or where it arises following a Closure Order.

22.13 Appeals against the decisions of the Licensing Authority - There is a right of appeal for all parties concerned with the request for review (i.e. the applicant for the

review, the premises licence holder or any other person who made relevant representations in relation to the application). This means that they can appeal to the magistrates' court if they are not happy with the decision of the licensing authority.

22.14 If there is an appeal against a licensing authority's decision, and you are unsuccessful, the magistrates' court can award costs against the appellant if it sees fit. This would mean that they would have to pay other parties' legal costs as well as your own. However, the Magistrates' Association and the Justices' Clerks Society has advised that awarding costs for a licensing appeal should be an **exception** and not a rule, and any resident with reasonable grounds for appeal should not be penalised.

22.15 If the licence holder appeals against the licensing authority's decision, the appeal will be heard by the magistrates' court. The licensing authority will be the respondent to the appeal and may call the person who brought the review (and any other person or responsible authority) as a witness in support of its case. The decision of the licensing authority in relation to the review will be suspended until the appeal is determined.

22.16 An application to appeal the decision must be made within 21 days of the notice of decision.

22.17 In hearing an appeal against the Licensing Authority's decision, the court will have regard to this policy and the guidance issued under Section 182 of the Licensing Act 2003. However, the court would be entitled to depart from both of these documents if it considers it justified so to do.

22.18 In respect of personal licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other authorisations must be made to the Magistrates' Court where the premises or event is situated.

**APPENDIX 5 -
SECTION 182 GUIDANCE**

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

Section 182 Guidance - The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be

positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more

than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the

representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
 - for unlawful gambling; and
 - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order or illegal working compliance order

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

Statutory Licensing Sub-Committee

18th September 2018

Application to Transfer a Premises Licence



Report of Ian Thompson, Corporate Director, Regeneration and Local Services

Name and Address of Premises: Lebaneat Wrap House, First Floor,
69 Claypath, Durham, DH1 1QT

1. Summary

The Sub-Committee is asked to consider and determine an application to transfer the premises licence for Lebaneat Wrap House First Floor, 69 Claypath, Durham, DH1 1QT.

The application was received from Lebaneat (Wrap House) Ltd – Mr Ahmed Sayed being the Company Director.

A plan showing the location of the premises is attached at Appendix 1.

2. Details of the Application

The application to transfer premises licence number DCCC/PLA0146 was received on 9th August 2018. A copy of the application is attached as Appendix 2.

3. The Representation

On 22nd August 2018, a representation was received from Durham Constabulary's Harm Reduction Unit on behalf of the Chief Officer of Police, objecting to Lebaneat (Wrap House) Ltd as the premises licence holder.

A copy of Durham Constabulary's objection is attached at Appendix 3.

4. The Parties

The Parties to the hearing will be:

- Lebaneat (Wrap House) Ltd (the applicant)
- Durham Constabulary (responsible authority)

5. Durham County Council Statement of Licensing Policy

The Sub-Committee are asked to consider the Council's Statement of Licensing Policy when determining the application.

6. Section 182 Guidance and Licensing Act 2003

The Sub-Committee's attention is drawn to parts 8.99 to 8.102 of the Section 182 Guidance and sections 42 to 45 of the Licensing Act 2003. This is attached at Appendix 4.

7. For Decision

The Sub-Committee is asked to determine the application to transfer the premises licence to Lebaneat (Wrap House) Ltd.

The Sub-Committee's options are to:

- Grant the application, or
- Reject the application, if it considers it necessary to do so for the promotion of the crime prevention objective

Background Papers:

- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)
- Licensing Act 2003

Contact: Karen Robson

Tel: 03000 265104

E-mail: karen.robson2@durham.gov.uk

APPENDIX 1 – LOCATION PLAN



St Michael's Cemetery

Durham S.I. Form Centre

Framson's Quay Laundry Centre

Telephone Exchange

Framson's Quay

Gold Theatre

Millennium Square

Clayton's Quay

St Nicholas Church

PH

PH

PH

PH

PH

PH

PH

PH

PH

PH

PH

PH

Market Place

King Street

APPENDIX 2 – APPLICATION FORM



* required information

Section 1 of 7

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

Sayed

* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? Yes No

Note: completing the Applicant Business section is optional in this form.

Registration number

11431351

Business name

Lebaneat (Wrap House) Limited

If your business is registered, use its registered name.

VAT number

- none

Put "none" if you are not registered for VAT.

Legal status

Private Limited Company

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 7

PREMISES DETAILS

I/we, as named in section 1, apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in section 2 below.

Premises Licence

* Premise licence number

Name Of Current Premises Licence Holder

* Name

Premises Address

Are you able to provide a postal address, OS map reference or description of the premises?

Address OS map reference Description

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Further Details

Please give a brief description of the premises

Continued from previous page...

Restaurant premises

Telephone number at the premises if any

Section 3 of 7

APPLICATION DETAILS

In what capacity are you applying for the premises licence to be transferred to you?

- An individual or individuals
- A limited company/limited liability partnership
- A partnership (other than limited liability)
- An unincorporated association
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales
- Other (for example a statutory corporation)

Please confirm the following:

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

Section 4 of 7

NON INDIVIDUAL 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.

Continued from previous page...

Non Individual Applicant's Name

Name

Details

Registered number (where applicable)

Description of applicant (for example partnership, company, unincorporated association etc)

Address

Is the address the same as (or similar to) the address given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes No

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Contact Details

Are the contact details the same as (or similar to) those given in section one?

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Yes No

E-mail

Telephone number

Other telephone number

Section 5 of 7

FURTHER INFORMATION

Are you the holder of the premises licence under an interim authority notice?

Yes No

Do you wish the transfer to have immediate effect?

Yes No

Continued from previous page...

Have you attached the consent form signed by the existing premises licence holder?

Yes No

Please enter your reasons. What steps have you taken to obtain consent?

The owner has asked Mr Qureshi to fill in the referred form but unfortunately he has not replied or responded to many phone calls. The owner agreed to us providing you with their contact details should you wish to contact them directly.

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)?

Yes No

Have you attached the previous licence?

Yes No

Please enter your reasons

As detailed above, we were unable to gain access to the previous licence.

Section 6 of 7

NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK

Continued from previous page...

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.

Continued from previous page...

- 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.

Section 7 of 7

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £23

Continued from previous page...

DECLARATION

I/WE UNDERSTAND IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. [APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED LIABILITY PARTNERSHIP, BUT NOT COMPANIES OR LIMITED LIABILITY PARTNERSHIPS] 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. I HAVE INCLUDED DOCUMENTS DEMONSTRATING MY ENTITLEMENT TO WORK IN THE UK (PLEASE SEE NOTES ON ENTITLEMENT TO WORK IN SECTION 6).

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

* Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/county-durham/change-3> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

OFFICE USE ONLY

Applicant reference number

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

Date and time submitted

Approval deadline

Error message

Is Digitally signed

**APPENDIX 3 – REPRESENTATION FROM
DURHAM CONSTABULRY**

From: Daniel Darnton Durham.pnn.police.uk
Sent: 22 August 2018 09:43
To: AHS Licensing
Cc: Valerie Craig
Subject: FW: Licensing Act - Transfer and VDPS received
Attachments: VDPS lebaneat .pdf; Transfer Lebaneat .pdf; VDPS Consent form Lebaneat.pdf

Good Afternoon,

Durham Constabulary wish to object to Mrs Oksana Sayed being in place as the DPS as well as Lebaneat Wrap House LTD being the PLH which is linked to the proposed DPS we object under the grounds that we believe this appointment would undermine the objective of the prevention of Crime and Disorder.

In lodging this objection I am mindful the Licensing Act tells us this should only be done in exceptional circumstances.

On 2nd August 2018 a joint visit by police and immigration enforcement was carried out at Lebaneat Wrap House, 69 Claypath, Durham along with other businesses associated with this premises. On this occasion two people were found to be at work within the premises (Wrap House) who did not have the right to work within the United Kingdom, this matter is now subject to investigation by immigration. I note from the application that Mrs Sayed is the manager of this premises and that they are unable to contact the outgoing DPS/PLH. It is my understanding he is no longer associated with the premises. As manager of the premises I would expect Mrs Sayed to have had better management of the employees and to have a full understanding of their right to work, or lack of. The revised guidance issued under section 182 of the Licensing Act 2003 (issued April 2018) states at section 11.27:

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for employing a person who is disqualified from that work by reason of their immigration status in the UK;

It is Durham Constabulary's position that it is a very serious matter to employ workers who do not have the right to work in the UK and as such would qualify as "extreme circumstances."

On behalf of A/Sgt Dean HAYTHORNTHWAITE

Harm Reduction Unit
Meadowfield Office tel 101 ext 75 2351
Darlington Office tel 101 ext 74 2782



Durham Constabulary
Altogether Better Policing

APPENDIX 4 – SECTION 182 GUIDANCE & LICENSING ACT 2003

Section 182 Guidance – Transfer of Premises Licence

8.99 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police in all cases, and the Home Office (Immigration Enforcement) if this licence authorises the sale of alcohol or provision of late night refreshment. Where it is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police and the Home Office (Immigration Enforcement) no later than the first working day after the application is given. However, the responsibility to notify the DPS remains the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.21 to 8.28 applies.

8.100 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police or the Home Office (Immigration Enforcement) raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.

8.101 In exceptional circumstances where the chief of police believes the transfer may under the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

8.102 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicant's backgrounds, it is expected that it would raise the matter immediately with the chief office of police or the Home Office (Immigration Enforcement).

LICENSING ACT 2003

SECTION 42 – APPLICATION FOR TRANSFER OF A PREMISES LICENCE

- (1) Subsection to this section, any person mentioned in section 16(1) (applicant for premises licence) may apply to the relevant licensing authority for the transfer of a premises licence to him.
- (2) Where the applicant is an individual he must be aged 18 or over.
- (2A) Where the applicant is an individual who is resident in the United Kingdom and the premises licence authorises premises to be used for a licensable activity within section 1(1)(a) or (d) he must also be entitled to work in the United Kingdom
- (3) Subsection (1) is subject to regulations under –
 - (a) Section 54 (form etc of applications etc)
 - (b) Section 55 (fees to accompany applications etc)
- (4) An application under this section must also be accompany by the premises licence or, if that is not practicable, a statement of the reasons for the failure to provide the licence.
- (5) The relevant person must give notice of the application to the chief officer of police for the police area (or each police area) in which the premises are situated.
- (5ZA) Where the premises licence authorised premises to be used for a licensable activity within section 1 (1)(a) or (d) the relevant person must also give notice of the application to the Secretary of State.
- 5(A) In subsections (5) and (5ZA) "relevant person² means
 - (a) The relevant licensing authority, in a case where the applicant submitted the application to the relevant licensing authority by means of a relevant electronic facility.
 - (b) The applicant, in any other case
- (6) Where a chief officer of police notified under subsection (5) is satisfied that the exceptional circumstances of the case such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
- (7) The chief of police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (5).
- (8) Where the Secretary of State is given notice under subsection (5ZA) and is satisfied that the exceptional circumstances of the case are such that granting the application would be prejudicial to the prevention of illegal working in licensed premises, the Secretary of State must give the relevant licensing authority a notice stating the reasons for being so satisfied.

- (9) The Secretary of State must give that notice within the period of 14 days beginning with the day on which the Secretary of State is notified of the application under subsection (5ZA)

SECTION 43 – CIRCUMSTANCES IN WHICH TRANSFER APPLICATION GIVEN INTERIM EFFECT

- (1) Where
- (a) An application made in accordance with section 42 includes a request that the transfer have immediate effect, and
 - (b) the requirements of this section are met,
- then, by virtue of this section, the premises licence has effect during the application period as if the applicant were the holder of the licence.
- (2) For this purpose “the application period” means the period which –
- (a) Begins when the application is received by the relevant licensing authority, and
 - (b) Ends –
 - (i) When the licence is transferred following the grant of the application, or
 - (ii) If the application is rejected, when the applicant is notified of the rejection, or
 - (iii) When the application is withdrawn.
- (3) Subject to subsections (4) and (5), an application within subsection (1)(a) may be made only with the consent of the holder of the premises licence.
- (4) Where a person is the holder of the premises licence by virtue of an interim authority notice under section 47, such an application may also be made by that person.
- (5) The relevant licensing authority must exempt the applicant from the requirement to obtain the holder’s consent if the applicant shows to the authority satisfaction-
- (a) That he has taken all reasonable steps to obtain that consent, and
 - (b) That, if the application were one to which subsection (1) applied, he would be in a position to use the premises during the application period for the licensable activity or activities authorised by the premises licence.
- (6) Where the relevant licensing authority refuses to exempt an applicant under subsection (5), it must notify the applicant of its reasons for that decision.

SECTION 44 – DETERMINATION OF TRANSFER APPLICATION

- (1) This section applies where an application for the transfer of a licence is made in accordance with section 42.
- (2) Subject to subsections (3) and (5), the authority must transfer the licence in accordance with the application.
- (3) The authority must reject the application if none of the conditions in subsection (4) applies.

- (4) The conditions are –
 - (a) That section 43(1) (applications given interim effect) applies to the application,
 - (b) That the holder of the premises licence consents to the transfer,
 - (c) That the applicant is exempted under subsection (6) from the requirement to obtain the holder's consent to the transfer.
- (5) Where a notice is given under section 42(6) or (8) and not withdrawn, and subsection (3) above does not apply, the authority must –
 - (a) Hold a hearing to consider it, unless the authority, the applicant and the person who gave the notice agreed that a hearing is unnecessary and
 - (b) Having regard to the notice-
 - (c) (i) where the notice is given under section 42(6), reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so, or
 - (ii) where the notice is given under section 42(8), reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.
- (6) The relevant licensing authority must exempt the application from the requirement to obtain the holder's consent if the applicant shows to the authority's satisfaction-
 - (a) That he has taken all reasonable steps to obtain that consent, and
 - (b) That, if the application were granted, he would be in a position to use the premises for the licensable
- (7) Where the relevant licensing authority refused to exempt an applicant under subsection (6), it must notify the applicant of its reasons for that decision.

Statutory Licensing Sub-Committee

18th September 2018

Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor



Report of Ian Thompson, Corporate Director, Regeneration and Local Services

**Name and Address of Premises: Lebaneat Wrap House, First Floor,
69 Claypath, Durham, DH1 1QT**

1. Summary

The Sub-Committee is asked to consider and determine an application to vary the premises licence for Lebaneat Wrap House to specify an individual as the Designated Premises Supervisor.

The application was received from Lebaneat (Wrap House) Ltd, the premises licence holder.

A plan showing the location of the premises is attached at Appendix 1.

It is a mandatory condition under the Licensing Act 2003 that, where the supply of alcohol is one of the licensable activities, there must be a Designated Premises Supervisor. Guidance states that the Designated Premises Supervisor should normally be the individual who is in day-to-day control of the premises. This is to provide a single point of accountability within the premises should any problems arise.

2. Details of the Application

The application to vary the Designated Premises Supervisor (DPS) was received on 9th August 2018 and names Mrs Oksana Sayed as the proposed Designated Premises Supervisor. A copy of the application is attached as Appendix 2.

Under Section 37 of the Licensing Act 2003, a copy of the application to vary a Designated Premises Supervisor must also be given to the Police. If the Police consider that granting the application would undermine the licensing crime prevention objective, they must give notice to the licensing authority stating their concerns.

3. The Representation

On 22nd August 2018 a representation was received from Durham Constabulary's Harm Reduction Unit on behalf of the Chief Officer of Police, objecting to Mrs Oksana Sayed being named on the premises licence as the Designated Premises Supervisor.

A copy of Durham Constabulary's objection is attached at Appendix 3.

4. The Parties

The Parties to the hearing will be:

- Lebaneat (Wrap House) Ltd (the applicant)
- Mrs Oksana Sayed (the proposed DPS)
- Durham Constabulary (responsible authority)

5. Durham County Council Statement of Licensing Policy

The Sub-Committee's attention is drawn to parts 7.6 and 7.7 of the Council's Statement of Licensing Policy. Relevant information is attached at Appendix 4.

6. Section 182 Guidance and Licensing Act 2003

The Sub-Committee's attention is drawn to parts 4.31 to 4.41 of the Guidance issued under Section 182 and sections 37 - to 41 of the Licensing Act 2003. This is attached at Appendix 5.

7. For Decision

The Sub-Committee is asked to determine the application to vary the premises licence to specify Mrs Oksana Sayed as the Designated Premises Supervisor.

The Sub-Committee's options are to:

- Grant the application, or
- Reject the application, if it considers it necessary to do so for the promotion of the crime prevention objective

Background Papers:

- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)

Contact: Karen Robson

Tel: 03000 265104

E-mail: karen.robson2@durham.gov.uk

APPENDIX 1 – LOCATION PLAN



St Nicholas Cemetery

Durham State Farm Centre

Millennium Square

APPENDIX 2 – APPLICATION FORM



* required information

Section 1 of 4

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? Yes No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 4

PREMISES DETAILS

I/we apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003.

* Premises licence number

Are you able to provide a postal address, OS map reference or description of the premises?

Address OS map reference Description

Address

* Building number or name

* Street

District

* City or town

County or administrative area

Postcode

* Country

Contact Details

E-mail

Telephone number

Other telephone number

Describe the premises. For example, what type of premises it is

Continued from previous page...

Restaurant premises

Section 3 of 4

SUPERVISOR

Full Name Of Proposed Designated Premises Supervisor

* First name

* Family name

* Nationality

* Place of birth

* Date of birth / /
dd mm yyyy

Personal licence number of proposed designated premises supervisor

Issuing authority of that licence

Full Name Of Existing Designated Premises Supervisor

First name

Family name

* Would you like this application to have immediate effect under section 38 of the Licensing Act 2003?

Yes No

The premises licence holder can continue the supply of alcohol if, for example, the existing premises supervisor is suddenly indisposed or unable to work.

I will notify the existing premises supervisor (if any) of this application

It is sufficient for the licensee to inform the existing premises supervisor in writing, without sharing the specific details of the application.

* Will the premises licence or relevant part of it be submitted with this application?

Yes No

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

Electronically, by the proposed designated premises supervisor

As an attachment to this variation

Continued from previous page...

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'

Section 4 of 4

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £23

DECLARATION

I/WE UNDERSTAND THAT 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. [APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED LIABILITY PARTNERSHIP, BUT NOT COMPANIES OR LIMITED LIABILITY PARTNERSHIPS] 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.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

* Date

 / /
dd mm yyyy

Full name

Capacity

* Date

 / /
dd mm yyyy

**APPENDIX 3 – REPRESENTATION FROM
DURHAM CONSTABULRY**

From: Daniel Darnton durham.pnn.police.uk
Sent: 22 August 2018 09:43
To: AHS Licensing
Cc: Valerie Craig
Subject: FW: Licensing Act - Transfer and VDPS received
Attachments: VDPS lebaneat .pdf; Transfer Lebaneat .pdf; VDPS Consent form Lebaneat.pdf

Good Afternoon,

Durham Constabulary wish to object to Mrs Oksana Sayed being in place as the DPS as well as Lebaneat Wrap House LTD being the PLH which is linked to the proposed DPS we object under the grounds that we believe this appointment would undermine the objective of the prevention of Crime and Disorder.

In lodging this objection I am mindful the Licensing Act tells us this should only be done in exceptional circumstances.

On 2nd August 2018 a joint visit by police and immigration enforcement was carried out at Lebaneat Wrap House, 69 Claypath, Durham along with other businesses associated with this premises. On this occasion two people were found to be at work within the premises (Wrap House) who did not have the right to work within the United Kingdom, this matter is now subject to investigation by immigration. I note from the application that Mrs Sayed is the manager of this premises and that they are unable to contact the outgoing DPS/PLH. It is my understanding he is no longer associated with the premises. As manager of the premises I would expect Mrs Sayed to have had better management of the employees and to have a full understanding of their right to work, or lack of. The revised guidance issued under section 182 of the Licensing Act 2003 (issued April 2018) states at section 11.27:

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for employing a person who is disqualified from that work by reason of their immigration status in the UK;

It is Durham Constabulary's position that it is a very serious matter to employ workers who do not have the right to work in the UK and as such would qualify as "extreme circumstances."

On behalf of A/Sgt Dean HAYTHORNTHWAITE

Harm Reduction Unit
Meadowfield Office tel 101 ext 75 2351
Darlington Office tel 101 ext 74 2782



Durham Constabulary
Altogether Better Policing

APPENDIX 4 – STATEMENT OF LICENSING POLICY

STATEMENT OF LICENSING POLICY

7.6 The application for premises licence must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years.

7.7 Someone should always be present on premises or at an event during times when licensable activities are taking place who can discuss any problems or issues arising from the licensable activities offered on the premises with officers from Licensing Authority and Police. The Licensing Authority considers it to be good practice if the DPS or Premises Licence Holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises.
- At all times when the premises is a "vertical drinking establishment" where little or no seating is provided.
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

APPENDIX 5 – SECTION 182 GUIDANCE & LICENSING ACT 2003

Specification of new designated premises supervisors

- 4.31 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.52 to 4.65 of this Guidance.
- 4.32 The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form. The DPS' personal address should not be included in the summary form in order to protect their privacy.
- 4.33 To specify a DPS, the premises licence holder should normally submit an application to the licensing authority (which may include an application for immediate interim effect) with:
- a form of consent signed by the individual concerned to show that they consent to taking on this responsible role, and
 - the relevant part (Part A) of the licence.
- 4.34 If they are applying in writing, they must also notify the police of the application. If the application is made electronically via GOV.UK or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.
- 4.35 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.
- 4.36 The general guidance in Chapter 8 on electronic applications applies in respect of new applications.
- 4.37 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence.
- 4.38 Where there are frequent changes of DPS, the premises licence holder may submit the form in advance specifying the date when the new individual will be in post and the change will take effect.

Police objections to new designated premises supervisors

- 4.39 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.
- 4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- 4.41 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

LICENSING ACT 2003

SECTION 37 – APPLICATION TO VARY LICENCE TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR

37 Application to vary licence to specify individual as premises supervisor

- (1) The holder of a premises licence may –
 - (a) If the licence authorises the supply of alcohol, or
 - (b) If he applied under section 34 to vary the licence so that it authorises such supplies,
Apply to vary the licence so as to specify the individual names in the application (“the proposed individual”) as the premises supervisor.
- (2) Subsection (1) is subject to regulations under-
 - (a) Section 54 (form etc. of applications etc):
 - (b) Section 55 (fees to accompany applications etc):
- (3) An application under this section must also be accompanied by-
 - (a) A form of consent in the prescribed form given by the proposed individual, and
 - (b) The premises licence (or the appropriate part of that licence) or, if that is not practicable, a statement of the reasons for the failure to provide the licence (or part).
- (4) F1 Notice of an application under this section must be given-
 - (a) To the chief officer of police for the police area (or each police area) in which the premises are situated, and
 - (b) To the designated premises supervisor (if there is one)

And that notice must state whether the application is one to which section 38 applies.

- (4a) F2 Notice under subsection (4)(a) is to be given by-
 - (a) The relevant licensing authority, in a case where the holder of the **premises licence submitted the application to the relevant licensing authority** by means of a relevant electronic facility;
 - (b) The holder of the premises licence, in any other case.
- (4b) Notice under subsection (4)(b) is to be given by the holder of the premises Licence.
- (5) Where a chief officer of police notified under subsection (4) is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
- (6) The chief officer of police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (4).

38 Circumstances in which section 37 application given interim effect

- (1) This section applies where an application made in accordance with section 37, in respect of a premises licence which authorises the supply of alcohol, includes a request that the variation applied for should have immediate effect.
- (2) By virtue of this section, the premises licence has effect during the application period as if it were varied in the manner set out in the application.
- (3) For this purpose, "the application period" means the period which-
 - (a) Begins when the application is received by the relevant licensing authority, and
 - (b) Ends-
 - (i) If the application is granted, when the variation takes effect,
 - (ii) If the application is rejected, at the time the rejection is notified to the applicant, or
 - (iii) If the application is withdrawn before it is determined, at the time of the withdrawal.

39 Determination of section 37 application

- (1) This section applies where an application is made, in accordance with section 37, to vary a premises licence so as to specify a new premises supervisor ("the proposed individual").
- (2) Subject to subsection (3), the relevant licensing authority must grant the application.
- (3) Where a notice is given under section 37(5) (and not withdrawn), the authority must-
 - (a) Hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
 - (b) Having regard to the notice, reject the application if it considers it (F1 appropriate) for the promotion of the crime prevention objective to do so.
- (4) Where an application under 37 is granted or rejected, the relevant licensing authority must give notice to that effect to-
 - (a) The applicant,
 - (b) The proposed individual, and
 - (c) The chief office of police for the police area (or each police area) in which the premises are situated.
- (5) Where a chief office of police gave a notice under subsection (5) of that section (and it was not withdrawn), the notice under subsection (4) of this section must state the authority's reasons for granting or rejecting the application.
- (6) Where the application is granted, the notice under subsection (4) must specify the time when the variation takes effect.
That time is the time specified in the application or, if that time is before the applicant is given that notice, such later time as the relevant licensing authority specifies in the notice.

40 Duty of applicant following determination under section 39

- (1) Where the holder of a premises licence is notified under section 39(4), he must forthwith-
 - (a) If his application has been granted, notify the person (if any) who has been replaced as the designated premises supervisor of the variation, and
 - (b) If his application has been rejected, give the designated premises supervisor (if any) notice to that effect.
- (2) A person commits an offence if he fails, without reasonable excuse, to comply with subsection (1).
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.