



## **Statutory Licensing Sub-Committee**

**Date** Tuesday 27 November 2018  
**Time** 10.00 am  
**Venue** Committee Room 2 - County Hall, Durham

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### **Business**

#### **Part A**

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meetings held on 7 September 2018, 2 October 2018 and 30 October 2018 (Pages 3 - 26)
5. Application to Transfer a Premises Licence - Lebaneat Wrap House, First Floor, 69 Claypath, Durham (Pages 27 - 48)
6. Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor - Lebaneat Wrap House, First Floor, 69 Claypath, Durham (Pages 49 - 70)
7. Application for the Review of a Premises Licence following a Closure Order - M & A General Stores, 44 Middle Street, Blackhall (Pages 71 - 118)
8. 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  
19 November 2018

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

Councillors L Brown, P Crathorne, G Darkes, L Kennedy and  
J Maitland

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**DURHAM COUNTY COUNCIL**

At a Special Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Spennymoor - Council Offices, Spennymoor on **Friday 7 September 2018 at 10.00 am**

**Present:**

**Councillor J Maitland (Chairman)**

**Members of the Committee:**

Councillors D Bell, J Blakey and G Darkes

**Also Present:**

G Proud (Council's Solicitor)

Y Raine (Senior Licensing Officer)

M Jolley (General Manager)

R Lee (Operations Director)

J Taylor of Parker Barras

A Fisher of Parker Barras

M Carr (Other Person)

P Swindale (Other Person)

Councillor G Wills on behalf of Sedgefield Town Council (Other Person)

**The Cornerhouse**

S Gallimore, Senior Public Protection Officer, Environmental Health Authority  
(Responsible Person)

T Wilkes (Applicant/Licence Holder)

S Wright (Other Person)

**1 Apologies for Absence**

There were no apologies for absence.

**2 Substitute Members**

There were no substitute Members.

**3 Declarations of Interest**

There were no declarations of interest.

**4 Minutes**

The Minutes of the meeting held on 22 May 2018 were agreed as a correct record and were signed by the Chair.

**5 Application to Vary a Premises Licence - The Cornerhouse, 1 High Street, Sedgefield**

**Councillors J Blakey, G Darkes and J Maitland**

The Committee considered a report of the Senior Licensing Officer regarding an application to vary a premises licence in respect of The Cornerhouse, 1 High Street, Sedgefield (for copy see file of Minutes).

A copy of the application and supporting information had been circulated to Members.

Members were advised that seventeen representations had been received including one from a Responsible Authority, namely Environmental Health. One representation from an Other Person had been withdrawn after receiving clarification of the details of the variation application. The remaining sixteen representations remained which related to the four licensing objectives, copies of which had been circulated with the report.

Additional information had been received from Environmental Health which had been circulated to all parties prior to the meeting and the Officer was in attendance to play the recordings referred to in the report.

Mrs Gallimore, Environmental Health Officer addressed the Sub-Committee and indicated that the playing of films outside would cause a public nuisance.

She referred to a film event which was held on 2 August 2018 where she carried out some noise monitoring. She arrived at 6.55 pm and the movie started at 8.00 pm. The soundtrack to the movie was played on a loop for an hour and 5 minutes before the start of the movie. The first recording played was taken in the rear bedroom with the windows closed then the windows open. Recording three was then played which was taken inside the rear bedroom of a property on North End with the windows open which was the soundtrack to the movie played on a loop.

Mrs Gallimore believed that it was unreasonable for residents to have to hear this 12 times a year. She believed that the events would take place over the summer months and therefore the 12 film events would be over a relatively short period of time which would interfere with the residents use and enjoyment of their home and suggested that the films be played indoors only.

Councillor Darkes sought clarification on the decibel levels. Mrs Gallimore responded that the decibel levels were shown in the table of the report, but the clip shown was 42.8 decibels. Mrs Gallimore was asked if the noise levels were acceptable. Mrs Gallimore responded that the World Health Organisation recommend that 40 decibels inside would cause annoyance.

Mrs Gallimore confirmed that the recordings were taken 6 metres from the boundary of The Cornerhouse.

Mrs Gallimore was then asked to play recording one again and she confirmed that the bass could be heard during the recording and that the film finished at 9.40 pm. Mrs Gallimore explained that if these events were allowed to happen she believed it would be a statutory nuisance. She went on to explain that she would firstly have to decide whether the noise associated with the showing of the film was a nuisance and if it was, she would then serve an abatement notice.

The Applicant asked Mrs Gallimore what the decibel reading was when the windows were closed. Mrs Gallimore confirmed that it was 38.8 decibels but it was audible in every room in the house, and 40 decibels was a guideline and was not the only measure of noise nuisance.

The Applicant referred to washing machines being able to reach 48 decibels which was louder than the film.

Mrs Gallimore was asked if an individual's quality of life in the house would be affected and if the noise from the film was similar annoyance to a washing machine. Mrs Gallimore responded that a washing machine would not go on for an hour and forty minutes so they could not be compared.

Mr Carr an Other Person thanked the Sub-Committee for the opportunity to speak. He indicated that The Cornerhouse was a Grade II listed building in a conservation area in the centre surrounded by old properties. Mr Carr then referred to the plan of the premises and the outside area to the front of the building which was a change of use.

The Council's Solicitor advised Mr Carr that he could refer to the plan and raise concerns but consent of use was not for consideration during the hearing today but no objections were raised to him circulating the additional photographs.

Mr Carr circulated a copy of the photographs to the Applicant and Members of the Sub-Committee and indicated that it was a busy road junction and was unsuitable for drinking at night. He referred to the photographs submitted in support of his representation which showed people leaving at late hours on various dates and times indicated in the papers.

Mr Carr indicated that he assumed the tables would not be there but the Applicant had included the area to the front in his application. He was concerned that there would be more activity into early in the morning and that the tables were still there this morning. He concluded by wishing the Applicant success with his business.

Mrs Wright an Other Person indicated that she did not live right next to the public house but on the 2 August 2018 the noise from the film was audible in every room in her house with the windows open and closed which caused a nuisance.

She referred to the seats to the front of the public house which were a public nuisance and she was concerned that school children use the pathway while patrons are sat outside having a drink. Patrons used filthy language and it was intimidating to walk past and if you said anything you get a mouthful of abuse.

She then referred to a bad experience with patrons herself but this was under different management. Mrs Wright referred to the 25 August 2018 when a resident had to call the police due to loud music as there was no telephone number to contact the premises direct unless you physically went to the premises, so they had no choice but to telephone the police. The noise doesn't stop when the premises close as patrons walk past her house and say goodnight and arrange for lifts or taxis, they urinate in the village and on the police station steps, she could see this happening as she lived opposite. She felt that she could not challenge patrons as they were under the influence of alcohol and were abusive and aggressive which was a big concern.

There had been a couple of incidents where they heard noise which was unacceptable as they could hear the noise all around their home which was affecting the quality of their lives.

Mrs Wright continued that the Environmental Health Officer mentioned quality of life and she stated that their quality of life would suffer, and they were suffering as her husband was ill and went to bed early and did not want to listen to the noise of films and patrons leaving the premises. She felt there was no consideration for residential properties in the area. People were not well, and some have children who live on the door step of where the entertainment happens which filled them with dread of 12 outdoor events in the summer months. The films were shown when they wanted to be in their gardens and another concern was that she believed that house prices would deteriorate if the variation was granted. It was a pretty village and people took pride in their homes. It is fine to say it is about regeneration and to make it nice for people to come to the village, but it was difficult to see this when it was to the detriment of residents and people's health in some cases.

She referred to the noise levels and it should not matter if the windows are open or closed and they should not have to close their windows when an event was taking place as some residents liked to leave their windows open all day and night.

The Chairman asked the Licensing Officer if Durham Constabulary had made representations regarding the application. The Senior Licensing Officer confirmed that there was nothing from Durham Constabulary.

Councillor Wills speaking on behalf of Sedgfield Town Council stated that she had been a resident in Sedgfield for over 40 years. Sedgfield have a lot of entertainment and they supported new enterprises.

She indicated that the Cornerhouse is adjacent to and adjoins residential properties and some of the properties butt up to the beer garden. She also indicated that some properties were across the road, but they could still hear the noise but not as intense.

The lady that Mrs Gallimore dealt with was very close to the premises and there were lots of reasons why noise was a public nuisance and it was not just about decibels. The licence as it stands is very generous and the applicant was now seeking outdoor use, Environmental Health had submitted a report expressing concerns and no one had written in support of the application and the Town Council

did not support the application. The new plan of the premises shows an additional area which is the courtyard and the beer garden which had previously not been part of the premises. The application did not make it clear whether the area is to be used for the variation only or whether for off-sales. This information should appear on the form as the guidance states that the application should be clear.

Councillor Wills continued by stating that the outdoor area was already used for films and the showing of sporting events without permission and cheering could be heard at the other end of the village half a mile away. She firmly endorsed the report of Environmental Health, but this was based on a film event only and the televisions could be just as loud. There were also televisions in the shelters in the beer garden which were fixed as there was nothing which applies to the use of televisions outdoors.

The Applicant had not made any attempts to try and control the use of noise and the consumption of alcohol and the Applicant should offer measures to minimise the impact which they had not seen and was why the variation application should be refused due to public nuisance, noise and unsocial behaviour.

The Senior Licensing Officer advised the Sub-Committee that there were no outdoor activities on the current licence and that televisions were not regulated entertainment so were not part of the premises licence.

Mrs Gallimore confirmed that the use of television is not a licensable activity but residents could make a complaint regarding the noise levels and Environmental Health could then establish whether it was a statutory nuisance via monitoring.

Mrs Swindale, an Other Person stated that what the Applicant was doing was fun for Sedgefield but the business model was not right. She could see the commercial benefits so it was not all negative but there was a lack of engagement and the residents had to suffer the consequences. She was disappointed that the Police had not raised concerns as the residents of Sedgefield had suffered anti-social behaviour. She acknowledged that The Cornerhouse had inherited 'riff raff' and the Applicant was trying to do a good job to address this but the 'riff raff' remained. The seating area to the front was intimidating to walk past and there were children and elderly residents in the area and more needed to be done.

She then referred to transport in Sedgefield which was an issue on an evening and there was a lack of taxis which meant that people were wandering around Sedgefield. She thought keeping noise in house would be a more favourable option. The premises does have a place but noise outside the premises does not have a place, they do need entertainment but outside the premises was not the best way forward.

Councillor Blakey sought clarification on the location of the outside screen to show the films. The Applicant confirmed that the screen was located on the right hand side next to the play area.

Mr Wilkes, the Applicant then addressed the Sub-Committee in relation to the variation of the premises licence. He stated that the site had over £200,000

investment which had created 14 jobs and they wanted to work with residents. The premises did have an historical issue with patrons which had diminished and they worked closely with the Police. The Police had recently undertaken a raid on all premises in Sedgefield and nothing was found in both of his premises.

He then referred to the structures in the beer garden which were temporary and he did not wish to upset residents due to noise and affect their quality of life. They had submitted a previous application which they withdrew after consultation then re-submitted with amendments. The Applicant indicated that they could reduce the times in the beer garden and the showing of films could be by the use of headphones. He explained that the beer garden does contain patrons and if everyone went to the front of the premises for a cigarette this would create problems in that area. He then referred to the noise associated with the bins and advised that following feedback, they now emptied the bins during the day. All drinks outside were served in polycarbonate containers and they were happy to reduce the hours for the beer garden to 10.00 pm and the use of headphones for the showing of films. He advised the Sub-Committee that the film that was recently shown was under a temporary event notice and that the premises did have a telephone and the residents could be furnished with the number. With regard to noise from regulated entertainment he indicated that he was happy to install a noise limiter device.

Councillor Blakey sought clarification if children were allowed in the beer garden on an evening. The Applicant confirmed that children are allowed in the restaurant until 9.00 pm, after 9.00 pm children under 19 were asked to leave.

Councillor Blakey then referred to the noise when the world cup was on and commented that you could not have earphones for a sporting event.

The Applicant responded that the world cup was a large sporting event and that noise was part of the experience but the volume would not be at the same level as films. This was their first event and they were learning and they propose to use headphones for films in future to alleviate concerns.

Councillor Darkes referred to the temporary sheds and sought clarification on their capacity. The Applicant advised that each shed held eight people which had a table for food and a television which was used not just for sport but the likes of 'CBeebies' which could be shown and some people watched the royal wedding in the sheds.

The Chairman asked if smoking was permitted in the beer garden and children's play area. The Applicant confirmed that there was no smoking in these areas. They wanted the premises to be a family friendly pub which was taking time as there was still issues but more and more families were coming to the pub and they were getting to where they wanted to be. They had taken a huge step forward and the residents were using the pub.

Councillor Blakey asked how they dealt with bad language. The Applicant responded that they are not saying that it did not happen but they were monitoring it and had barred a number of patrons and they were continuously trying to keep the

standards high. They had concentrated internally but would look at outside and would manage it as part of the day to day running of the business. If there were school children walking past on a Friday and this was happening, they would look into this and manage it. He also commented that they could furnish residents with their telephone number.

Councillor Blakey asked if they worked with local residents to try and mediate. The DPS stated that they currently had 28 people barred for illicit substance abuse and a further 25 to 30 under serious caution and they had a zero-tolerance policy. They worked closely with the Police and had handed over some information and they were pushing for a family friendly environment and they did not encourage anti-social behaviour.

One of the residents indicated that there had been issues over the years but the last couple of years it had eased but she had noticed an increase in anti-social behaviour in the last couple of months, hence their concerns. They could not control what patrons did but they had to put up with it and some patrons couldn't walk straight.

The DPS took the comments on board and reiterated that 40 people were under caution and they did their utmost to control patrons. He would ensure that it doesn't happen again and that 90% of the patrons were acceptable but they did not serve anyone that was intoxicated. He referred to an incident on Saturday evening where they refused to serve an intoxicated man who had been to another establishment in the village. The Applicant indicated that they could only control their venues.

Councillor Blakey asked if they were part of 'Pubwatch'.

The Applicant confirmed that they were part of Pubwatch which met the first Thursday of every month.

Mrs Wright reiterated her concerns to the Applicant and stated that the increase in anti-social behaviour had occurred in the last few months.

The Applicant stated that they now have people who want to come to their premises and be social and any bad behaviour they intervene. It was difficult to define where the patrons had come from and the Cornerhouse staff would have refused them service. The Applicant suggested that they could take any information to the Police at the Pubwatch meetings.

Mr Carr stated that there had been an increase in noise and disturbance between 12.00 midnight and 12.30 am, details of which he had submitted with his objection to the variation. He stated that the tables and facilities to sit on and climb on were a big problem and Durham County Council had issued an order for the removal of the tables and chairs by 30 August 2018, but the tables were still in situ this morning.

The Council's Legal Officer advised Mr Carr that this information had not been raised before today and was not to be referred to.

The Applicant confirmed that he had received the letter from the Council and he had a meeting yesterday to discuss the issue. He stated that they had inherited the tables and chairs and they had just re-painted them. He advised the Sub-Committee that they would be taking down the tables and chairs and submitting a planning application to have collapsible tables and chairs so there would be no street furniture in situ at the end of the night.

Mr Carr responded that he had not submitted the email from the Highways department prior to the hearing as he thought the tables would have gone. He stated that he was not aware that they were going to be removed but this was good news.

The Applicant was asked to clarify if the televisions in the sheds had restricted volume. The residents then stated that anti-social behaviour in the village and the lack of action had caused some of the residents to suffer with depression. The Applicant was asked how he could assure residents that they can get the balance right so that it was great to live in Sedgfield but the lights were out at a certain time and that the volume on the televisions needed to be limited.

The Applicant responded that house prices, the statistics showed that where there was no public houses, house prices diminished, he then referred to the refurbishment of the Pickled Parsons and he hoped that house prices would have increased. He then referred to anti-social behaviour and 200 youths on the green which resulted in The Cornerhouse losing money, prior to the incident they were just breaking even, so they needed the anti-social behaviour to be resolved. They needed to attract people to enable the business to thrive and have facilities to attract people, but he accepted that there was a balance.

The parties were then invited to sum up.

Mrs Gallimore indicated that she had already addressed the issues regarding noise.

Councillor Wills commented that this was a very good open debate and stated that unless any measures were put into place to control the issues then it would not get any better. She had not seen any attempt to put measures in place, so did residents have to wait and allow things to continue until someone had suffered before something could be done and indicated that prevention was the best medicine. She indicated that even with the use of headphones there was still going to be people shouting so her view had not changed.

Councillor Blakey asked the Environmental Health Officer if she was happy with the proposal to use headphones.

The Environmental Health Officer responded that it was not part of the application, but the use of headphones would minimise the impact, people would be listening through the headphones but there would still be some noise from people shouting. She indicated that she would carry out some monitoring if a further event was held. She then referred to some venues offering silent discos where people wear headphones, but she was not aware of how successful these were in reducing noise and if patrons had the same experience.

The Chairman sought clarification on the 10.00 pm finish. The Environmental Health Officer confirmed that after 10.00 pm this would have a negative impact on residents due to the proximity of the beer garden to the houses which was reasonable as there were other outdoor areas.

The DPS responded that they already had precautionary measures in place where they shut down the beer garden at 9.00 pm to reduce the space for staffing purposes and only have the court yard open to help staff enforce the rules.

Councillor Blakey asked if they had a physical barrier to close off the beer garden.

The Applicant confirmed that it was a chain and notices.

Councillor Wills commented that this area was not part of the licence and could be changed so there was no safeguard.

The Applicant indicated that they would be willing to have a condition for the use of headphones and the beer garden to close at a certain time.

Mr Carr stated that the Applicant had indicated that they would restrict the use of the beer garden to 9.00 pm but noise was still generated externally as patrons moved to the court yard which created just as much noise, so it was just moved from one area to another. Noise echoed and most outdoor areas were prohibited after 10.00 pm.

The Applicant stated that the courtyard was already licensed and in response to a question from the Council's Legal Officer confirmed that the courtyard was used as a smoking area with 3 or 4 picnic benches.

The Applicant then stated that he was more than happy to reduce the hours of the beer garden and for the use of headphone during films and for a noise limiter to be installed for any regulated entertainment.

At 11.45 am the Sub-Committee Resolved to retire to deliberate the application in private. After re-convening at 12.30 pm the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer and additional information, and the written and verbal representations of the Applicant, Responsible Authorities and other persons. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

**Resolved:** That the Premises Licence be varied to include the Provision of Films as a licensable activity as follows:-

Activity	Days & Hours
The Provision of Films Indoors and Outdoors with no more than 12 outdoor Films per year. Outdoor films will only be shown with the use of headphones.	Monday to Sunday 10:00-22:00

The Sub-Committee considered the conditions suggested within the Operating Schedule of the application and believed it was appropriate and proportionate to impose additional conditions upon the licence as follows:-

- a) Outdoor films will only be shown with the use of earphones.
- b) Indoor and Outdoor films will finish by 22:00 hours.
- c) The admission of children to films is to be restricted in accordance with the recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 (currently the British Board of Film Classification (BBFC)).
- d) Patrons must vacate the beer garden by 21.30 hours.
- e) A noise limiter will be installed on the premises for any regulated entertainment.
- f) The volume control on the televisions will be restricted to prevent noise nuisance.
- g) Bins and bottle bins shall not be emptied between 9pm and 8am each day.
- h) Children under the age of 18 will be off the premises by 9pm.

The Sub-Committee did not impose a condition relating to the access to the beer garden after 21.30 hours, but recommended that the Applicant fit a more appropriate barrier or gate, to prevent patrons jumping the barrier and accessing the beer garden after this time.

The Sub-Committee also recommended that the Applicant should get together with the residents to discuss issues as they arise, rather than allowing them to escalate.

The Applicant was reminded that the Environmental Health Team has offered to work with the Licence Holder to resolve the issues regarding noise levels.

**The meeting adjourned for a 5 minute comfort break**

**6 Application to Vary a Premises Licence - The Pickled Parson, 1-2 The Square, Sedgefield**

**Councillors D Bell, J Blakey and J Maitland**

The Committee considered a report of the Senior Licensing Officer regarding an application to vary a premises licence in respect of The Pickled Parson, 1-2 The Square, Sedgefield (for copy see file of Minutes).

A copy of the application and supporting information had been circulated to Members.

The Senior Licensing Officer advised Members that the application was to extend the current hours for the sale of alcohol, regulated entertainment and late-night refreshment to 12.00 Midnight and to amend the premises plan due to internal layout changes.

Representations had been received from fourteen people during the consultation period, one in support of the application and the remainder from other persons objecting to the application. One of the objectors had withdrawn their objection after receiving clarification of the details of the variation application. The remaining twelve objections related to the four licensing objectives.

Responses were received from Durham Constabulary, Planning Authority, Durham Local Safeguarding Children Board, Fire Safety Authority and Environmental Health Authority confirming that they had no comments to make on the variation.

Mr Carr an Other Person, wished to object to the extension of the hours and area of sales applied for. He stated that the premises was a grade II listed building in a residential conservation area with an elevated position that created an echo. He referred to the late evening and night disturbance and he had photographs to show where the premises were located in relation to the residential properties and that his property adjoined The Pickled Parson. Alcohol was currently served up to midnight which would be consumed less than one metre from his window. The external area for the consumption of alcohol was a public footpath which could probably cause an accident.

Mr Carr then referred to the change of use for the existing internal areas which does not mention external areas on the application, yet it shows that they propose to serve alcohol to the external area of the building. He indicated that this is disturbing him and he referred to the latest premises guidance that requires an application to describe the premises, the type of premises, general layout and other relevant information and any areas they intend to use for the consumption of alcohol such as outside areas. He presumed the Applicant was intending to sell alcohol outside the building but the application was for indoors only which was confusing.

Mr Taylor on behalf of the Applicant confirmed that they had not applied for anything next to Mr Carr's property.

Mr Carr then queried if the plan had changed as the plan in the papers included a shaded area next to his property.

Mr Taylor explained that the first application was withdrawn and when it was resubmitted, a new plan was included with the application.

The Senior Licensing Officer confirmed that the plan that was submitted with the application was the plan in the report pack and that there were no licensable activities to take place outdoors. The Applicant was asked to provide a copy of the plan he was referring to, a copy of which was provided to all parties at the hearing.

The two plans were compared and the plan the Applicant had provided included a blue shaded area outside the premises, however, this area was included within the licensable activities taken place on the premises. The Applicant was advised that their application only related to licensable activities indoors and therefore the area should be the boundary of the building as set out on the plan in the report pack.

The Applicant agreed that the application was for indoor only and agreed to revert to the plan in the report. All parties were advised to use the plan in the report but ignore the blue shaded area in front of the bay windows as this was no longer part of the outside area.

Councillor Darkes sought clarification if there was late night entertainment outside. The Applicant confirmed that there was no external activities just the consumption of alcohol.

Mr Carr continued with his representations and stated that he understood that it was public knowledge that Sedgefield Town Council owned the area of land outside the premises. The Town Council had requested the Applicant to remove the benches and seats 6 months ago and had taken legal advice.

The Applicant responded that the land had previously belonged to the premises. A letter had been sent to the premises when it was closed regarding the land ownership and if no response was received the land would be transferred. As the premises were closed no response was provided so they were currently taking legal action to have the land reverted back to the pub.

The Council's Solicitor advised the Sub-Committee that the land ownership was a separate matter and was not for the licensing authority to determine today.

Mr Carr then continued that the Applicant was wanting to extend the licence to midnight but what it does not do is stop people leaving at 12.30 am or 1.00 am which would cause more late night disturbance. They already suffer from late night disturbance with bin bottles being carried across the road as they run two premises in conjunction, which he believed they were going to address.

He then referred to the house across the square who had submitted a representation about the noise levels. Residents were complaining about the noise with the licence at 11.00 pm and where the premises is situated around the square made it difficult for residents.

Mr Carr stated that the residents of number 16 were having more problems than him and that they were also attached to the premises. He then referred to public transport which was limited so taxis and cars were using the access road which was causing noise and disturbance late at night. If the application was granted, then 11.00 pm would be 12.00 midnight and the noise would be even later and indicated that this was referred to in one of the letters of objection. There had been noise issues in the past when the premises had tried other types of music which they also wished to extend. His property was attached to the premises and Environmental Health had previously been involved as they were advised that the noise was a statutory nuisance and any extension to the hours would increase the noise problems.

Mr Carr stated that Councillor Makepeace said that historically the premises had enjoyed an appropriate licence whereas Mr Carr stated that they should leave the hours as they are. Staff come with their own transport and the guidelines recommended that the Applicant should only apply for the hours they intended to operate so he was concerned they would operate 7 days a week up to midnight.

Mr Carr wished the Applicant well and indicated that he had no objection to a Sunday to 10.30 pm and midnight on a Friday and Saturday but they wanted to extend the hours for the rest of the week. He was concerned that they served outside the premises, he showed the plan of the areas so that Members could see how close the houses were to the premises and that there was an issue with taxis.

Mrs Swindale an Other Person addressed the Sub-Committee and referred to the beer garden and sought clarification on what time people will stop being served alcohol outside.

The DPS responded that they currently stopped serving outside at 9.30 pm and generally people don't sit outside any later.

Mrs Swindale then referred to the location which is lovely but there was a risk of a congregation from one pub to another and the residents were currently bothered by noise. She would like to see conditions on the outside area to prohibit the use after a certain time as voices and noise does travel and there were a number of older residents. She did object to the outdoor area and needed to be more assured, they were not a bunch of whiners, but they needed to get the balance right. She indicated that they served beer, but the public could not moderate. They were affected by the Cornerhouse and the Impeccable Pig so they needed some safeguarding and restrictions on people sitting outside.

The Chairman indicated that the application for discussion today was for indoors only.

The Council's Legal Officer advised the Sub-Committee that the outdoor area was not licensed but people could consume alcohol outside.

The DPS indicated that it was not a designated beer garden but people go outside to smoke.

Mrs Swindale responded that patrons were drinking outside so you can't disconnect the outside from the inside.

The DPS responded that it was difficult to Police the outdoor area and there was a suggestion that a condition be imposed to restrict drinks outside.

Councillor Wills speaking on behalf of Sedgefield Town Council indicated that there was no mention of external changes so drinking outside was irrelevant as there were no licensable activities outside and as they had off sales people could go outside to drink alcohol.

She referred to the number of objections against and the one in favour which stated that the premises had always enjoyed an appropriate licence, therefore she questioned what the point of changing the licence was and she objected to the extension of the hours.

She objected to the extension as the premises were raised which echoed sound as there was nothing around to stop it acoustically. Unlike the Cornerhouse The Pickled Parson was in the centre of the village with attached dwellings and all the lofts were interlinked and didn't have any divisions and the noise travelled. She indicated that unless there were measures put into place to soundproof then noise would travel. She then referred to the Impeccable Pig who had looked to stop the noise travelling so it was worth looking into soundproofing to help the situation as noise would continue to transfer and it was a worry that the noise was up to 11.00 pm and the approach should be one of prevention. It was about people living in the area and what they could do before the licence is granted as they would not do anything once the extension had been granted, she was also concerned of the alcohol variation on and off the premises which would be used in other parts of the village. There were five or six other places where alcohol could be purchased in the village and she could see issues in the village again.

She maintained that she did not agree to any changes, noise limitation or sound proofing could help and would be a good gesture as what happened with the Impeccable Pig. She suggested that the Sub-Committee consider no more than eight sessions of live music including Christmas and New Year's Eve as agreed with the Impeccable Pig.

Mr Taylor (on behalf of the Applicant) then addressed the Sub-Committee and indicated that they had spoken to Mr Carr about soundproofing the wall which adjoined the pub which had been carried out. Mr Carr confirmed that this had been carried out and was successful except he could still hear every single chair that moved. The Applicant stated that he would look at putting rubber feet on the chairs to alleviate this problem.

The Applicant then referred to the neighbour on the other side of the premises and indicated that there was a fire escape and a 2 metre gap between the premises but he was more than happy to remind patrons to respect neighbours and was happy to install a noise limiter device. He was only asking for an additional 30 minutes on a Friday and Saturday and the issue with the bins had already been rectified.

In response to a question on the opening hours the Applicant confirmed that the premises were currently 11.00 pm for the sale of alcohol with the premises closing at 11.30 pm and they proposed to close at 12.00 midnight.

The DPS stated that the extension was for Friday and Saturday only and they did not intend to have parties as they had hotel rooms with business men it was to allow an extra glass of wine before bed. They had already added sound limiters on the televisions in the guest rooms to contain the noise. It would not be commercial to staff the business until 12.00 midnight during the week, it was simply for allow business men to consume the last glass of wine.

Mr Carr expressed concern that if the licence was granted to midnight they might run the business correctly but there was nothing to stop this licence being passed on to another person. He referred to The Cornerhouse which had the licence for alcohol to 12.00 midnight and close at 12.30 am but people did not come out at 12.30 am and this was his concern as there was nothing in place to stop it happening.

Councillor Blakey sought clarification of how many off sales they had.

The Applicant responded that people usually purchased alcohol from the shop as it was more expensive to buy from The Pickled Parson.

Mrs Swindale stated that she was not convinced about the outside area, The Pickled Parson had a good reputation, and in the winter months they supplied blankets to make it more comfortable to sit outside and people did sit outside drinking, wrapped in blankets, so you can't discount the indoor and outdoor area. She was not opposed to people sitting outside but there needed to be a cut off time.

The Applicant responded that he could not stop people leaving and sitting outdoors. The Council's Solicitor indicated that a condition could be imposed that drinks were not allowed to be taken outdoors after a certain time.

Mrs Swindale indicated that there should be a condition that the outdoor area is only used for smoking.

The Applicant responded that they currently had off sales as part of the licence.

Mrs Swindale responded that the land was not in the ownership of The Pickled Parson and there needed to be a happy medium as the off sales affected the outdoor area.

The Applicant indicated that they would have signs to ask patrons to respect the neighbours.

Mr Carr stated that people were encouraged to take drinks outside until midnight which did happen as people sit outside with wine glasses and blankets and there were no restrictions to stop this.

Councillor Darkes asked why they had tables outside when they did not own the land.

The Applicant advised the Sub-Committee that they were in dispute over the land and the legal advice was to leave the seats in situ and to keep using the land. The Operations Director stated that she was from the area and there had always been benches outside.

The Applicant continued that they had carried out some sound proofing and they were happy to install sound regulator devices and were more than happy to erect signs next to exits to ask patrons to be quiet and respect neighbours. They had already addressed the issues with the bins.

Councillor Blakey asked if the benches had created anti-social behaviour with the previous owners of The Picked Parson.

The Applicant indicated that they could remove the benches when the premises was closed to stop people sitting outside all night.

The Council's Legal Officer asked if the Applicant would consider no drinking outside after a certain time. The Applicant responded that this would be difficult to manage with off sales.

Mr Carr indicated that the co-op was open until 10.00 pm so there was no need for off-sales. The Applicant indicated that they already had a licence for off-sales but they were happy for off sales to be restricted until 11.00 pm instead of midnight.

Mrs Swindale said that the outside areas needed to be managed and restricted to a certain time to give assurance to residents. She noted that they can't control the people out and about, she did think they were trying to manage the Cornerhouse but they needed assurance that staff know who they are giving plastic glasses to and there had to be a cut off time, she appreciated they could not control the off-sales but they had a responsibility for the premises.

At 1.50 pm the Sub-Committee Resolved to retire to deliberate the application in private. After re-convening at 2.20 pm the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer and the written and verbal representations of the Applicant and other persons. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

**Resolved:** That the Premises Licence be varied to include the Provision of Films as a licensable activity as follows:-

<b>Licensable Activities</b>	<b>Days &amp; Hours</b>
Provision of Live Music, Recorded Music Performance of Dance,	Monday to Sunday, Good Friday and Christmas Day 10:00 until 00:00 hrs.

Similar Entertainment (All Indoors)	From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.  (Remove the condition which prevents regulated entertainment on Good Friday and Christmas Day)
Late Night Refreshment (Indoors)	Monday to Sunday 23:00 until 00:00 hrs. New Year's Eve 23:00 until 05:00 hrs.
Sale of Alcohol (on the premises)	Monday to Sunday, Good Friday and Christmas Day 10:00 until 00:00 hrs.  From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.
Sale of Alcohol (off the premises)	Monday to Sunday, Good Friday and Christmas Day 10:00 until 23:00 hrs.
Proposed Opening Times	Monday to Sunday, Good Friday and Christmas Day 10:00 until 00:00 hrs.  From the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

The Sub-Committee considered the conditions suggested within the Operating Schedule of the application and believed it was necessary and proportionate to impose those conditions upon the licence, together with the following additional conditions:-

- a) No off-sales after 23:00 hours each night.
- b) No drinks to be taken outside after 23:00 hours each night.
- c) Benches to be removed each night when the premises are closed.
- d) Children will be out of the bar area by 21:00 hours each night.
- e) Bins and bottle bins shall not be emptied between 9pm and 8am each day.
- f) A noise limiter will be installed for regulated activities.

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## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 2 October 2018 at 10.00 am**

### **Present:**

**Councillor C Carr (Chairman)**

### **Members of the Committee:**

Councillors P Atkinson and D Brown

### **Also Present:**

Councillor J Maitland

K Robson – Senior Licensing Officer

S Grigor Solicitor, DCC

Mrs J Sivasathiyaselan – applicant and proposed DPS

Ms K Coles – Store Manager

Sgt C Dickenson – Durham Constabulary

PCSO H Robson – Durham Constabulary

### **1 Apologies for Absence**

An apology for absence was received from Councillor J Blakey.

### **2 Substitute Members**

There were no substitute Members.

### **3 Declarations of Interest**

There were no substitute Members.

### **4 Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor - 69 Church Street, Shildon**

The Committee considered an application to vary a Premises Licence to specify an individual as Designated Premises Supervisor in respect of 69 Church Street, Shildon (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to all parties.

Sgt Dickenson, Durham Constabulary advised that a number of complaints had been received regarding Mrs Sivasathiyaselan's husband in January 2018, who was the Premises Licence Holder at the time. The Police had found that Mrs Sivasathiyaselan lived in Great Yarmouth and held a full time job, and therefore had no day to day involvement with the operation of the premises. In view of this Mrs Sivasathiyaselan had removed herself from the position of DPS and due to the serious allegations against her husband an additional condition had been included on the Premises Licence which prevented him from working in the premises during opening hours, unless supervised by staff over the age of 18.

Durham Constabulary remained concerned about the management of the shop as the position remained unchanged; the applicant was DPS at the time of the allegations against her husband and she would be unable to meet her obligations due to the distance of the premises from her home address.

Following Member questions, the Sub-Committee was informed that the case against Mrs Sivasathiyaselan's husband was ongoing and that on a visit to the shop PCSO Robson had been informed by another female present that he had returned to Great Yarmouth. Mrs Sivasathiyaselan could not be contacted during her working hours; Officers had to contact Mrs Sivasathiyaselan using Whatsapp and wait for her to get in touch.

Mrs Sivasathiyaselan was invited to address the Sub-Committee and advised that she would struggle to manage the business without alcohol sales and had put herself forward to be DPS. She would aim to attend the premises 2 or 3 times a week.

Following questions, Members were informed that there was now only one member of staff, Ms K Coles, Store Manager who was to attend a course on Thursday 4 October 2018 to obtain the necessary qualifications to be a Personal Licence Holder. Ms Coles advised that she had managed the premises on her own for one week and confirmed that Mrs Sivasathiyaselan's husband did not work in the shop at all. She worked around 8 and a half hours a day seven days a week; the busiest time for the store was an evening and she therefore closed for a couple of hours during the day when business was quiet.

Following a request for clarification from the Chairman with regard to the hours she had worked in one week, Ms Coles advised that on her own she had worked between 49 and 50 hours' and between 38 and 40 hours when there were other employees. She had been employed at the premises for between four and five weeks.

In response to a question from Councillor Maitland about her safety in the store, Ms Coles advised that Mr Sivasathiyaselan was upstairs and could be called upon, having recently returned from Great Yarmouth. The premises also had a CCTV system.

Sgt Dickenson referred to an alleged assault on Mrs Sivasathiyaselan's husband on 13 September 2018 when he was on the shop floor, and Mrs Sivasathiyaselan confirmed that he was working but that he was being supervised at the time.

All parties were invited to sum up. Sgt Dickenson stated that Mrs Sivasathiyaselan only visited the shop twice per week, and whilst the DPS did not have to be present at all times, the DPS and the Licence Holder had to be responsible for the operation of the premises. The Police should be able to contact them when the need arose.

Through the interpreter Mrs Sivasathiyaselan reiterated that the business would struggle if the application was not granted and she believed it would be possible to carry out the role of DPS for 2-3 days per week. She was unable to attend for more than this at present. Members were asked if the application could be granted today and transferred to Ms Coles as soon as possible.

Mrs Sivasathiyaselan felt that the complaints against her husband were race-related. Councillor Carr assured the applicant that the application before the Sub-Committee would be determined having heard the representations from all parties and in accordance with the Council's Statement of Licensing Policy and Section 182 Guidance.

At the close of representations the Chairman asked if Mrs Sivasathiyaselan felt that the hearing had been conducted fairly. Mrs Sivasathiyaselan confirmed this to be the case.

At 10.45am the Sub-Committee **Resolved** to retire to deliberate the application in private.

After re-convening at 10.50am the Chairman delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer, the representations of Durham Constabulary and those of the applicant Mrs Sivasathiyaselan and Store Manager Ms Coles. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

**Resolved:**

That the application be refused.

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## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 30 October 2018 at 10.00 am**

### **Present:**

**Councillor L Marshall (Chair)**

### **Members of the Committee:**

Councillors D Hicks, A Hopgood and M Wilson

### **Also Present:**

Helen Johnson – Licensing Team Leader  
Kamila Coulson-Patel – Solicitor, DCC  
Mr Hussain-Ahmed – Premises Licence Holder  
Mr Khan – Premises Licence Holder's Solicitor  
Mr Sala – Former Premises Licence Holder

#### **1 Apologies for Absence**

An apology for absence was received from Councillor J Blakey.

#### **2 Substitute Members**

There were no substitute Members.

#### **3 Declarations of Interest**

There were no declarations of interest.

#### **4 Minutes**

The Minutes of the meetings held on 18 and 27 September 2018 were agreed as a correct record and were signed by the Chair.

**5 Application for the Review of a Premises Licence - Best Kebab One, 1a Fore Bondgate, Bishop Auckland**

Members were informed that the application for the review of the Premises Licence in respect of Best Kebab One had been adjourned on 15 October 2018 to allow the Premises Licence Holder, Mr Sala to secure legal representation.

Kamila Coulson-Patel, Solicitor advised the Sub-Committee that on Friday 26 October 2018 the Premises Licence had been transferred from Mr Sala to Mr Hussain-Ahmed.

Responsible Authorities had 14 days to make representation on the transfer, and with the agreement of all parties the Sub-Committee was asked to consider an adjournment until after this period.

**Resolved:**

That the application for the review of the Premises Licence be adjourned until 4 December 2018.

## Statutory Licensing Sub-Committee

27<sup>th</sup> November 2018

### Application to Transfer a Premises Licence



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

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**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) Limited – Mr Ahmed Mohamed Hussein 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 25<sup>th</sup> October 2018. A copy of the application is attached as Appendix 2.

### 3. The Representation

On 6<sup>th</sup> November 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) Limited as the premises licence holder.

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

For Members information - a previous application to transfer the premises licence to Lebaneat (Wrap House) Limited was received by the licensing authority on 9<sup>th</sup> August 2018. Following receipt of an objection from Durham Constabulary, this transfer application was rejected by the Statutory Licensing Sub-Committee at a hearing held on 18<sup>th</sup> September 2018.

#### **4. The Parties**

The Parties to the hearing will be:

- Lebaneat (Wrap House) Limited (the applicant)
- Ms Jane Gilliead, Emag Licensing Limited (agent for 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) Limited.

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)
- The Licensing Act 2003

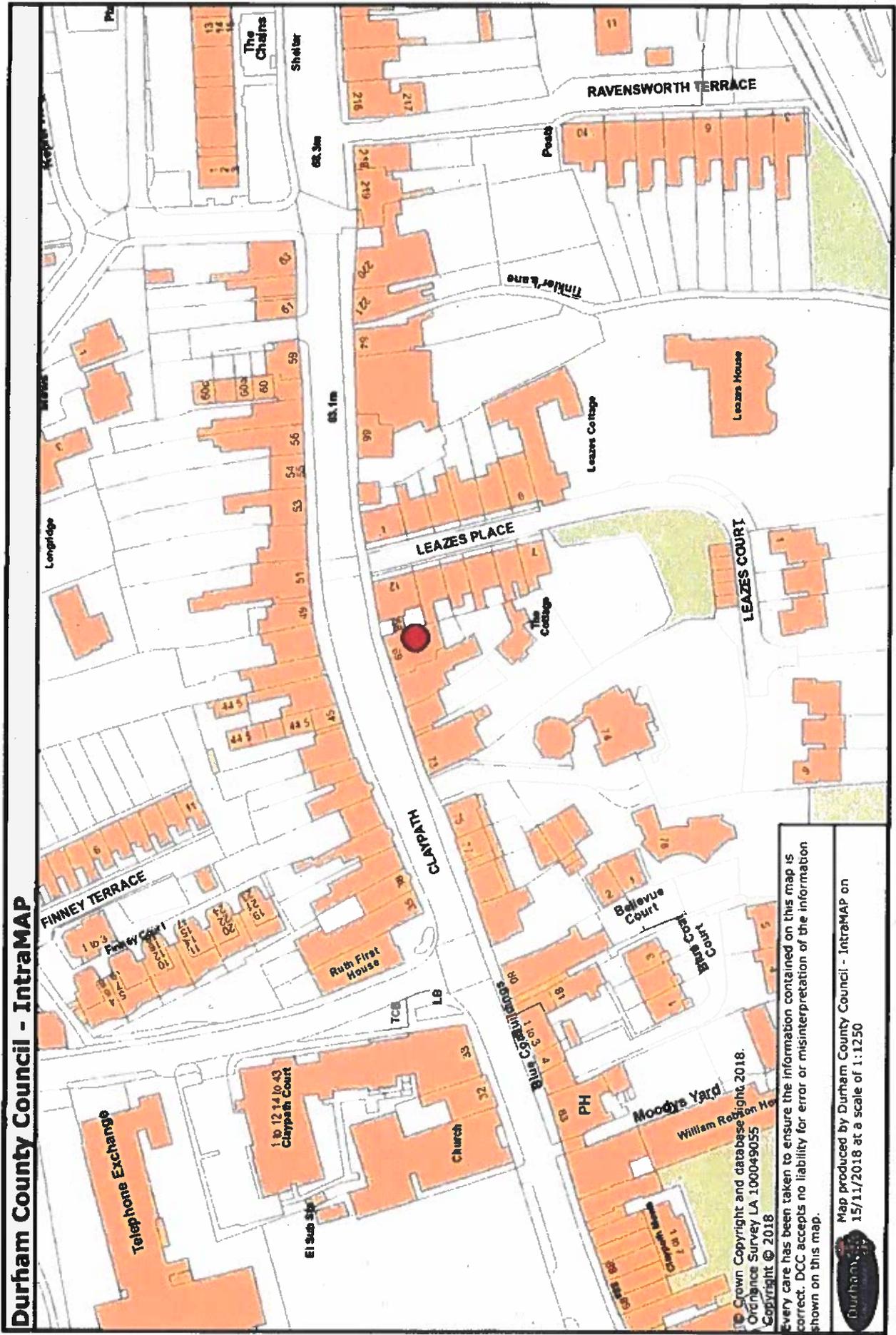
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<b>Contact:</b>	<b>Yvonne Raine</b>	<b>Tel: 03000 265256</b>
		<b>E-mail: <a href="mailto:yvonne.raine@durham.gov.uk">yvonne.raine@durham.gov.uk</a></b>

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## APPENDIX 1 – LOCATION PLAN



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## **APPENDIX 2 – TRANSFER APPLICATION**



\* 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

AHMED MOHAMED HUSSEIN

\* Family name

SAYED

\* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- 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 the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is the applicant's 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) Ltd

If the applicant's business is registered, use its registered name.

VAT number

Put "none" if the applicant is not registered for VAT.

Legal status

Private Limited Company

Continued from previous page...

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Agent 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:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

**Agent 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.

**Agent 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)

Limited Company

**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 previous owner and current holder of the premise licence, has not been contactable for a period of time.

We have tried to accommodate the need for the signed consent however have been unable to do so.

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

The licence is not currently in our possession

**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**

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

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.

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## **APPENDIX 3 – REPRESENTATION FROM DURHAM CONSTABULARY**

## **Yvonne Raine**

---

**From:** Caroline Dickenson <  
**Sent:** 06 November 2018 15:59  
**To:** Carol Graham - Licensing Assistant (N'hoods); Yvonne Raine  
**Cc:** Alcohol Harm Reduction Unit  
**Subject:** Objection to Change of plh and dps at lebaneat Wrap House

Good Afternoon,

Durham Constabulary wish to object to Mr Ahmed Mohamed Hussein SAYED being in place as the DPS and PLH at Lebaneat Wrap House on 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, 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. During the recent licencing hearing on 18th September 2018 when there was an application to change the DPS and PLH for the Wrap House to Mr SAYED's wife, Mr SAYED stated that all the staff employed at the premises were through SAYED Training limited which Mr SAYED confirmed was his company. This shows that Mr SAYED has not carried out the entitlement to work in the UK as per the Sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006. Mr SAYED also confirmed they had not been selling alcohol or carrying out any licensable activities at the premises for the past two years, however during visits conducted by Durham Constabulary there was a fully stocked bar, alcohol was in full view and people being served alcohol which they were consuming at The Wrap House.

Another premises Lebaneat at 47 North Bailey, Durham was also visited on 2nd August 2018 by police and immigration enforcement as this premises is associated with Lebaneat Wrap house and the applicant Mr SAYED. The current PLH of this premises is Mr SAYED and within this premises there was a further two people working at the premises who did not have the right to work within the united kingdom, this matter is also subject to an ongoing investigation by immigration. As the PLH of this company I would expect Mr 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."

**Thankyou**

**Caroline Dickenson  
SGT 484 Dickenson  
Licencing Unit  
Durham police**

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## **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 person<sup>2</sup> 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

27<sup>th</sup> November 2018

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



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

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**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) Limited, 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 25<sup>th</sup> October 2018 and names Mr Ahmed Mohamed Hussein 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 6<sup>th</sup> November 2018 a representation was received from Durham Constabulary's Harm Reduction Unit on behalf of the Chief Officer of Police, objecting to Mr Ahmed Mohamed Hussein 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:

- Mr Ahmed Mohamed Hussein Sayed, Director of Lebaneat (Wrap House) Limited (the applicant and proposed DPS)
- Ms Jane Gilliead, Emag Licensing Limited (agent for the applicant)
- 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 40 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 Mr Ahmed Mohamed Hussein 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:**

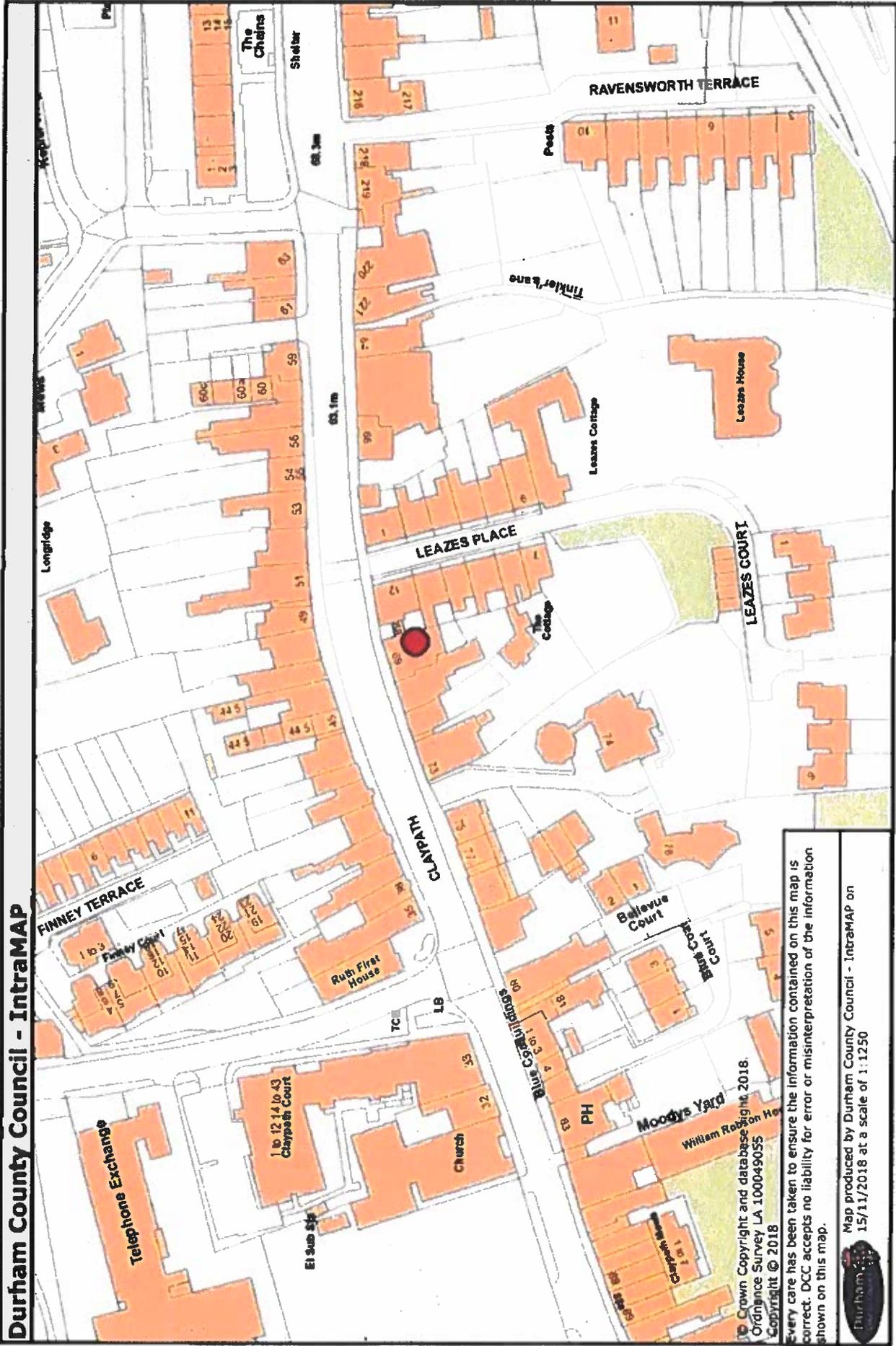
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)

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**Contact: Yvonne Raine                      Tel: 03000 265256**  
**E-mail: [yvonne.raine@durham.gov.uk](mailto:yvonne.raine@durham.gov.uk)**

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## APPENDIX 1 – LOCATION PLAN



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## **APPENDIX 2 – VARY DESIGNATED PREMISES SUPERVISOR APPLICATION**



**County Durham**  
**Application to vary a premises licence to specify an individual as designated premises supervisor**  
**Licensing Act 2003**

For help contact  
[licensing@durham.gov.uk](mailto:licensing@durham.gov.uk)  
Telephone: 03000 261016

\* 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

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

Ahmed Mohamed Hussein

\* Family name

SAYED

\* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

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 the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Continued from previous page...

**Address**

\* Building number or name   
\* Street   
District   
\* City or town   
County or administrative area   
\* Postcode   
\* Country

**Agent Details**

\* First name   
\* Family name   
\* E-mail   
Main telephone number   
Other telephone number

Include country code.

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

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

**Agent 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   
VAT number    
Legal status   
Your position in the business   
Home country

If your business is registered, use its registered name.

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

The country where the headquarters of your business is located.

Continued from previous page...

**Agent Registered Address**

Address registered with Companies House.

Building number or name	<input type="text"/>
Street	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text"/>
Country	<input type="text"/>

**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	<input type="text" value="Lebaneat Wrap House Ltd"/>
* Street	<input type="text" value="First Floor"/>
District	<input type="text" value="69 Claypath"/>
* City or town	<input type="text" value="Durham"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="DH1 1QT"/>
* Country	<input type="text" value="United Kingdom"/>

**Contact Details**

E-mail	<input type="text"/>
Telephone number	<input type="text"/>
Other telephone number	<input type="text"/>

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

<input type="text" value="Restaurant"/>
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Continued from previous page...

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

\* Reasons why the premises licence or relevant part of it will not be submitted with this application

NOT IN POSSESSION

Continued from previous page...

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

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 CONSTABULARY**

## **Yvonne Raine**

---

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**Sent:** 06 November 2018 15:59  
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**Subject:** Objection to Change of plh and dps at lebaneat Wrap House

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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, 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. During the recent licencing hearing on 18th September 2018 when there was an application to change the DPS and PLH for the Wrap House to Mr SAYED's wife, Mr SAYED stated that all the staff employed at the premises were through SAYED Training limited which Mr SAYED confirmed was his company. This shows that Mr SAYED has not carried out the entitlement to work in the UK as per the Sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006. Mr SAYED also confirmed they had not been selling alcohol or carrying out any licensable activities at the premises for the past two years, however during visits conducted by Durham Constabulary there was a fully stocked bar, alcohol was in full view and people being served alcohol which they were consuming at The Wrap House.

Another premises Lebaneat at 47 North Bailey, Durham was also visited on 2nd August 2018 by police and immigration enforcement as this premises is associated with Lebaneat Wrap house and the applicant Mr SAYED. The current PLH of this premises is Mr SAYED and within this premises there was a further two people working at the premises who did not have the right to work within the united kingdom, this matter is also subject to an ongoing investigation by immigration. As the PLH of this company I would expect Mr 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."

**Thankyou**

**Caroline Dickenson  
SGT 484 Dickenson  
Licencing Unit  
Durham police**

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## **APPENDIX 4 – 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.

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**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.

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**Statutory Licensing Sub-Committee**

**27th November 2018**



**Application for the Review of a Premises Licence following a Closure Order**

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

**Name & Address of Premises: M & A General Stores, 44 Middle Street, Blackhall, Hartlepool, TS27 4EA**

**1. Summary**

The Sub-Committee is asked to consider and determine an application by Durham County Council – Licensing Authority to review the premises licence in respect of M & A General Stores, 44 Middle Street, Blackhall, Hartlepool, under Section 167 of the Licensing Act 2003.

The Licensing Authority received notification on Thursday 15<sup>th</sup> November 2018 that a Closure Order had been issued by Peterlee Magistrates Court.

The Closure Order had been applied for by Durham County Council – Trading Standards Department pursuant to Section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 following an investigation into the supply of illicit tobacco products from the premises and seizures of illicit tobacco products from the premises.

Section 167 of the Licensing Act 2003 applies where:

- (a) A magistrates court has made a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014, or the Crown Court has made a closure order on appeal under section 84 of that Act, in relation to premises in respect of which a premises licence has effect; and
- (b) The relevant licensing authority has accordingly received a notice under section 80(9) or 84(7) of that Act

The relevant licensing authority must then review the premises licence.

The premises are licensed for the sale of alcohol as follows:

<b>Licensable Activity</b>	<b>Timings</b>
The Sale of Alcohol (Off sales only)	Monday to Saturday 08:00 hrs – 23:00 hrs Sunday 10:00hrs – 22:30 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 15<sup>th</sup> November 2018 the Licensing Authority received an application from Durham County Council – Licensing Authority (Responsible Authority) for a review of the premises licence (Licence Number DOEP052).

The Premises Licence Holder is Mr Dalvinder Singh and Designated Premises Supervisor is Ms Jaswant Kaur.

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

This application for a review relates to the following licensing objectives:

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

A copy of the application for the review of the premises licence is attached at Appendix 3.

A copy of the Closure Order issued by Peterlee Magistrates Court on 15<sup>th</sup> November 2018 is attached at Appendix 4.

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

## **3. Representations**

The licensing authority has received no representations at the time the report was written. Members will receive details of any representations received in relation to the application prior to or at the meeting.

## **4. The Parties**

The Parties to the hearing will be:

- Durham County Council – Licensing Authority (applicant)
- Mr Dalvinder Singh (premises licence holder)

## **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 Prevention of Crime and Disorder
- 8.0 Public Safety

- 9.0 Prevention of Public Nuisance
- 10.0 Protection of Children from Harm
- 22.0 Reviews

Relevant information is attached at Appendix 5.

## **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
- 2.7 – 2.14 Public Safety
- 2.15 – 2.21 Public Nuisance
- 2.22 – 2.32 Protection of Children from Harm
- 11.1 – 11.29 Reviews

Relevant information is attached at Appendix 6.

## **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)

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**Contact: Helen Johnson**

**Tel: 03000 265101**

**E-mail: [helen.johnson2@durham.gov.uk](mailto:helen.johnson2@durham.gov.uk)**

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## **APPENDIX 1 – CURRENT PREMISES LICENCE**



## LICENSING ACT 2003 PREMISES LICENCE

**Premises Licence Number**  
**Granted**  
**Issued**

<b>DOEP052</b>
<b>24 November 2005</b>
<b>09 November 2017</b>

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<p><b>M &amp; A GENERAL STORE</b>            44 MIDDLE STREET            BLACKHALL            HARTLEPOOL            TS27 4EA</p>	<p>DURHAM COUNTY COUNCIL            ADULT AND HEALTH SERVICES            LICENSING SERVICES            PO BOX 617            DURHAM            DH1 9HZ</p>
<p><b>Telephone number:</b></p>	

<p><b>Where the licence is time limited the dates</b>            N/A</p>
--

<p><b>Licensable activities authorised by this licence</b>            Sale by retail of alcohol</p>
---

<b>Opening Hours of the Premises</b>		
<b>Mon</b>	Not stated	<p><b>Non-standard/seasonal timings</b>            N/A</p>
<b>Tues</b>	Not stated	
<b>Wed</b>	Not stated	
<b>Thurs</b>	Not stated	
<b>Fri</b>	Not stated	
<b>Sat</b>	Not stated	
<b>Sun</b>	Not stated	

<p><b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:</b>            OFF ALCOHOL SALES ONLY</p>
---

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

<b>Sale by retail of alcohol</b>	<b>Further details</b>
Mon 08:00-23:00	N/A
Tue 08:00-23:00	
Wed 08:00-23:00	<b>Non-standard/seasonal timings</b>
Thu 08:00-23:00	Good Friday: 08:00 - 22:30
Fri 08:00-23:00	Christmas Day: 12:00 - 15:00 and 19:00 - 22:30
Sat 08:00-23:00	
Sun 10:00-22.30	

**Part 2**

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
MR DALVINDER SINGH M & A GENERAL STORE 44 MIDDLE STREET BLACKHALL COLLIERY HARTLEPOOL, CLEVELAND TS27 4EA	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	N/A
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
MRS JASWANT KAUR

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>

**Annex 1 – Mandatory conditions**

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol -

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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 either-

- (a) a holographic mark, or
- (b) an ultraviolet feature.

#### **Minimum Price of Alcohol:**

1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition:

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula –

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

This Premises Licence has been granted upon conversion under schedule 8 of the Licensing Act 2003 of the previous Justices' On Licence, and such rights and restrictions that applied to such Licence are hereby incorporated into this Premises Licence, subject to any express terms to the contrary hereinafter specified, and/or any restriction applying to a Premises Licence and/or any licensable activity.

#### **Annex 2 – Conditions consistent with the premises Operating Schedule**

##### **General**

None

**Prevention of Crime & Disorder**

None

**Public Safety**

None

**Prevention of Public Nuisance**

None

**Protection of Children from Harm**

None

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

None

**Annex 4 – Plans attached**

Attached

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

## **APPENDIX 2 – LOCATION PLAN**

**Durham County Council - IntraMAP**



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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

Map produced by Durham County Council - IntraMAP on  
 16/11/2018 at a scale of 1:2500



## **APPENDIX 3 – REVIEW APPLICATION**

# DURHAM COUNTY COUNCIL

## 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 Laura Cloney on behalf of the Durham County Council Licensing Authority

*(Insert name of applicant)*

apply for the review of a premises licence under Section 167 of the Licensing Act 2003 for the premises described in Part 1 below:

#### Part 1 – Premises or club premises details

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> M & A General Store 44 Middle Street Blackhall Hartlepool TS27 4EA	
<b>Post town</b> Hartlepool	<b>Post code (if known)</b> TS27 4EA

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Dalvinder Singh
---

<b>Number of premises licence:</b> DOEP052
---

#### 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**

Name and address Laura Cloney Licensing Enforcement Team Leader Durham County Council EHCP Annand House John Street North Meadowfield Durham DH7 8RS
Telephone number (if any)
E-mail address (optional)

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

- |   |                                 |
|---|---------------------------------|
|   | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | ✓                               |
| 2) public safety                        | ✓                               |
| 3) the prevention of public nuisance    | ✓                               |
| 4) the protection of children from harm | ✓                               |

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

On Monday 12<sup>th</sup> November 2018, a closure notice was served by Durham County Council (DCC) Trading Standards Department in respect of LIFESTYLE EXPRESS STORE, 44 MIDDLE STREET, BLACKHALL COLLIERY, COUNTY DURHAM TS27 4EA under section 76 of the Anti-social Behaviour, Crime and Policing Act 2014.

On Tuesday 13<sup>th</sup> November 2018, an application for a Closure Order was made to Newton Aycliffe Magistrates Court pursuant to section 80 of the Anti-social Behaviour, Crime and Policing Act 2014. In the absence of legal representation for the respondent this hearing was adjourned for a later hearing on Thursday 15<sup>th</sup> November 2018 at Peterlee Magistrates Court where the Closure Order was made by the magistrates.

The application for a Closure Order was requested by DCC Legal Services on behalf of DCC Trading Standards Service following an investigation into the supply of illicit tobacco products from the premises and seizures of illicit tobacco products on Friday 26<sup>th</sup> October 2018.

Lifestyle Express Store is licensed as M & A General Store for the sale of alcohol (off sales only). The name and registered address of the holder of the premises licence is Mr Dalvinder Singh M & A General Store, 44 Middle Street, Blackhall Colliery, Hartlepool, Cleveland TS27 4EA.

The name and address of the designated premises supervisor is Mrs Jaswant Kaur,

The premises are owned by B S T and Jaswant Kaur who is also the DPS. The subject of the investigation carried out by DCC Trading Standards services is F S T

There is a history of illicit tobacco products being sold from licensed retail premises associated with B S T s business activities. Previous investigations in 2017 undertaken by DCC Trading Standards services uncovered illicit tobacco products were stored at and sold from Vine Stores, 42 Middle Street Blackhall Colliery, a licenced premises under his control. This resulted in the revocation of the premises licence for 42 Middle Street and his prosecution for the possession of illicit tobacco products and to knowingly allowing a licensable activity to be carried on otherwise in accordance with an authorisation under the Licensing Act 2003 (The sale of alcohol without a DPS).

Subsequently, Trading Standards services acted on intelligence that F S T continued to sell illicit tobacco products from vehicles parked next to the LIFESTYLE EXPRESS STORE, 44 MIDDLE STREET, BLACKHALL COLLIERY. This was confirmed by directed surveillance operations. Trading Standards surveillance activities indicated that payments for the illicit tobacco products purchased from B S T vehicles were made inside the shop premises prior to the tobacco transactions outside the shop. Following the execution of warrants of entry, searches of F S T s home address, a container near Middle street and a vehicle parked near the shop considerable quantities of illicit tobacco products were seized.

The court upheld the application for the closure order on the basis of the Trading Standard services' argument that the premises were directly associated with the supply of illicit tobacco products.

Notification of the Closure Order was received by Durham County Council Licensing Authority from Peterlee Magistrates Court on Thursday 15<sup>th</sup> November 2018 and is attached.

(1) Section 167 of the Licensing Act 2003 applies where:

- (a) A magistrates court has made a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014, or the Crown Court has made a closure order on appeal under section 84 of that Act, in relation to premises in respect of

- which a premises licence has effect; and
- (b) The relevant licensing authority has accordingly received a notice under section 80(9) or 84(7) of that Act

(2) The relevant licensing authority must review the premises licence

It is the opinion of Licensing Services that LIFESTYLE EXPRESS STORE, 44 MIDDLE STREET, BLACKHALL COLLIERY, COUNTY DURHAM TS27 4EA licensed as M & A General Store is associated with criminal activities namely the supply of illicit tobacco products. Such activities generally undermine and adversely affect the licensing objectives.

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

See box re grounds above

Please tick ✓ yes

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

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**

Please tick ✓

yes

- 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 X
- I understand that if I do not comply with the above requirements my application will be rejected X

**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 **15 November 2018**

.....

Capacity **Licensing Enforcement Team Leader**

.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**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.

## **APPENDIX 4 – CLOSURE ORDER**

Durham County Council  
County Hall  
Durham  
DH1 5UL

Tel: 03000 260000



## **CLOSURE ORDER**

Pursuant to Section 80 of the Anti-social Behaviour, Crime and Policing Act 2014

Premises to be closed: **Lifestyle Express Store**  
**44 Middle Street, Blackhall Colliery, TS27 4EA**

Order Issued: **Thursday 15<sup>th</sup> November 2018**  
Order Expires: **Tuesday 12<sup>th</sup> February 2019**

In County Durham & Darlington Magistrates Court, sitting at Peterlee Magistrates Court, a Closure Order under Section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 was granted.

**ACCESS TO THE PREMISES BY ANY PERSONS, OTHER THAN THE OWNER,  
IS PROHIBITED**

**ANY PERSON WHO CONTRAVENES THIS ORDER SHALL BE LIABLE ON  
SUMMARY CONVICTION TO IMPRISONMENT FOR A PERIOD NOT EXCEEDING  
51 WEEKS AND/OR A FINE**

*[FOR THE AVOIDANCE OF DOUBT, THE FLAT ABOVE THE PREMISES AT 44  
MIDDLE STREET, BLACKHALL COLLIERY IS NOT THE SUBJECT OF THIS  
ORDER]*

If you are affected by this Closure Order you may seek independent legal advice from the Citizens Advice Bureau, Shakespeare House, Shakespeare Street, Seaham, SR7 7JB

Enquiries regarding this Order should be directed to Durham County Council Trading Standards Team on 03000 261 016 or by email at [ehcp@durham.gov.uk](mailto:ehcp@durham.gov.uk)

**BY ORDER OF THE COURT**

## **APPENDIX 5 – 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, licencees 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 dependant 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.

## **8.0 Public Safety**

8.2 Applicants are advised to seek advice on such matters from the Council's Occupational Safety and Health team, Health and safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service, and incorporate any recommendations in their Operating Schedule before submitting their applications.

- First Aid
- Public security
- Event control
- Polycarbonate Glass
- Fire Safety
- Electrical safety
- Building safety
- Transport
- Drink driving issues
- Occupancy levels

## **9.0 Prevention of Public Nuisance**

9.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

9.2 The concerns relate, amongst other things, to litter, light pollution, noxious odours and noise nuisance resulting from music, human voices, ventilation equipment and vehicles. The Licensing Authority will expect applicants to demonstrate that suitable and sufficient measures have been identified, and will be implemented and maintained, with the intention of preventing public nuisance relevant to the individual style, location and characteristics of the premises and events.

9.3 If an external structure or area is to be used by customers, whether for consumption of alcohol or for smoking, the applicant will be expected to offer measures designed to minimise its impact on local residents in respect of both public nuisance and crime and disorder. These measures may include a restriction on hours that areas / structures will be used, appropriate signage requesting customers to consider local residents and monitoring of such areas by staff.

9.4 The placement of tables and chairs outside of licensed premises may give rise to public nuisance including noise and litter. When tables and chairs are situated on the public highway relevant consents will often be required. Enquiries for such consents should be made to the Council's Highway's Section of the Regeneration and Economic Development Department. In predominantly commercial areas such as shopping centres the Licensing Authority, the use of tables and chairs outside may be allowed however, the Council will normally expect them to be removed before the premises close, and any resulting litter/ debris cleared away.

9.5 Applicants should give consideration to reducing potential noise nuisance by, for example (this list is not exhaustive):

- Assessment of likely noise levels in the premises.
- Assessment of likely noise levels if outdoor drinking is allowed.
- The sound insulation the building would provide (e.g. double glazing, double doors / lobbies to entrances, windows used for ventilation).
- The distance and direction to the nearest noise sensitive premises.
- Likely noise sources outside of the premises (e.g. emptying bottle bins, taxis, unruly customers leaving the premises).
- Dispersal of patrons – where necessary the Licensing Authority will expect a dispersal policy for patrons at the end of the evening. The policy will specify such issues as alterations to the style and volume of music played, public address announcements and use of appropriate signage at exits.
- Ways to limit noise / disorder from patrons leaving the premises.

9.6 The extent to which the above matters will need to be addressed will be dependent on the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.

9.7 Applicants are advised to seek advice from Durham County Councils Environmental Health Team and incorporate any recommendations in their Operating Schedule before submitting their applications.

9.8 Takeaways and fast-food outlets: The Licensing Authority expects takeaways and late night refreshment premises to take reasonable steps in clearing litter from outside their premises and along the pavement in either direction as necessary, whilst the premises are open and at the end of the working day. These premises should maintain clean, dirt or grease free frontages. Such premises should also provide notices displayed advising customers of the location of bins and patrons should use the bins any provided.

## **10.0 Protection of Children from Harm**

10.1 While the Act does not prohibit children from having free access to any licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from physical, moral or psychological harm and the effects of alcohol on parenting.

10.2 The Act makes it an offence for any child under the age of 16 who is not

- accompanied by an adult from being present:
- At any time on pub premises, or other premises being used exclusively or primarily for the supply of alcohol for consumption on those premises; or
  - Between the hours of midnight and 05:00 hours on restaurant premises or other premises that supply alcohol for consumption on the premises
  - The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to Individual premises where it is necessary to prevent physical, moral or psychological harm.

10.3 The Licensing Authority may consider the following when dealing with a licence application where children may have limited access:

- Limitations on the hours when children may be present.
- Limitations on under 18s
- Limitations or exclusion when certain activities are taking place.
- Requirements for an accompanying adult to be present.
- Full exclusion of people under 18 from the premises when certain licensable activities are taking place (e.g. entertainment of a sexual nature).
- Limitations on the parts of premises to which children might be given access.
- Any other limitations appropriate to the application and according with the four licensing objectives.

10.4 The Licensing Authority will work closely with the Police and the Council's Trading Standards service to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. Alcohol must not be served to persons under the age of 18, except in limited circumstances allowed by the law, and then only after verifying a person's proof of age e.g. 16 and 17 year-olds may drink beer, wine or cider with a table meal in relevant premises, where accompanied by an adult aged 18 years or over. The currently accepted verifications for proof of age are a passport, a photo card driving licence or a proof of age scheme such as Challenge 25.

10.5 The Licensing Authority is aware of young persons' vulnerability to alcohol and events which are aimed at children under the age of 18 years on licensed premises will not be supported by the licensing authority unless the applicant can demonstrate that all safeguards for children have been addressed such as the removal of alcohol advertising.

10.6 The Licensing Authority, Durham Constabulary Alcohol Harm Reduction Unit and the Local Safeguarding Children Board have produced a "good practice guide" for an event catering for under-18's and mixed events of under and over 18's. This guide is highly recommended by the Licensing Authority and should be adhered to by licence holders and event organisers.

10.7 Recorded staff training programmes, the use of a refusals register, in-store signage and limited access to alcoholic drink can all reduce the likelihood of illegal sales and proxy sales and are to be encouraged.

10.8 The Licensing Authority commends the use of the 'Portman Group' Code of Practice on the naming, packaging and the promotion of alcoholic drinks in all licensed premises.

**10.9 Access to Cinemas:** In the case of premises requiring an licence to show films, applicants should include in the operating schedule arrangements for restricting access only to those children who meet the required age limit, in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Local Authority.

**10.10** The Act provides that it is mandatory for Licensing Authorities to include a condition in all premises licences and club certificates authorising the exhibition of film, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the Licensing Authority itself.

**10.11** Should the Licensing Authority need to adopt its own system of film classification the information regarding such classifications will be published on the Local Authority's website.

**10.12 Children and Public Entertainment:** Many children go to see and / or take part in an entertainment arranged especially for them. For example, children's film shows and dance or drama school productions, and additional arrangements may be required to safeguard them while at the premises.

**10.13** Where entertainment requiring a Licence is specifically presented for children, the Licensing Authority will normally expect the presence of at least one member of staff from the Licensed premises for every 50 children present to ensure their safety and protection from harm and to control their access and egress from the premises. The Council will require those caring for or supervising children to have undergone an appropriate Criminal Record check with the Disclosure and Barring Service.

**10.14** With regard to this Licensing Objective, the Licensing Authority considers Durham County Council Safeguarding Children Board to be the competent authority for matters relating to the protection of children from harm. A protocol exists between Durham Local Safeguarding Children Board and Durham Constabulary. All safeguarding concerns identified as a result of premises, personal applications and all variations to licences are covered by this protocol.

**10.15** Applicants are advised to seek advice from the Local Safeguarding Children Board and incorporate any recommendations in their Operating Schedule before submitting their applications

## **DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY**

### **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 6 – 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.

## **Public safety**

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
  - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
  - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

## **Ensuring safe departure of those using the premises**

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
  - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

## **Maintenance and repair**

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

## **Safe capacities**

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

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<sup>1</sup> S 177 of the 2003 Act now only applies to performances of dance.  
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those premises should be.

- 2.14** Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## **Public nuisance**

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## **Protection of children from harm**

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
  - it is known that unaccompanied children have been allowed access;
  - there is a known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
  - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
  - restrictions on the parts of the premises to which children may have access;

- age restrictions (below 18);
- restrictions or exclusions when certain activities are taking place;
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.
- 2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

### **Offences relating to the sale and supply of alcohol to children**

- 2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that

each of the enforcement arms should be aware of the warnings each of them has given.

### Table of relevant offences under the 2003 Act

<b>Section</b>	<b>Offence</b>	<b>Prosecuting Authority</b>
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

## **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 repetitive 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](http://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)<sup>10</sup>;
  - 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.