



Statutory Licensing Sub-Committee

Date Tuesday 17 September 2019
Time 10.00 am
Venue Council Chamber, Spennymoor - Council Offices,
Spennymoor

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meetings held on 2 April 2019, 9 April 2019, 14 May 2019, 29 May 2019 and 5 July 2019 (Pages 3 - 48)
5. Application for the Review of a Premises Licence - Cookson Spice, Cookson House, Cookson Terrace, Chester-le-Street (Pages 49 - 186)
6. 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
9 September 2019

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

Councillors L Brown, P Crathorne, C Hampson, D Hicks and
M Wilson

Contact: Jill Errington Tel: 03000 269703

This page is intentionally left blank

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 2 April 2019 at 10.00 am**

Present:

Councillor P Crathorne (Chair)

Members of the Committee:

Councillors L Brown and L Kennedy

Also Present:

Councillor D Bell

Karen Robson – Senior Licensing Officer

Gill Proud – Solicitor, DCC

Nicola Anderson – Licensing Authority

Laura Cloney – Licensing Authority

Graham Blount – Trading Standards

PCSO Michelle Williamson – Durham Constabulary

Shadab Azam – Premises Licence Holder

1 Apology for Absence

An apology for absence was received from Councillor A Hopgood.

2 Substitute Members

Councillor L Brown substituted for Councillor Hopgood.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Review of a Premises Licence - News and Booze, 1 Catherine Terrace, New Kyo, Stanley, Co Durham

The Committee considered a report of the Senior Licensing Officer regarding an application for the review of a Premises Licence in respect of News and Booze, 1 Catherine Terrace, New Kyo, Stanley (for copy see file of Minutes).

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

In presenting the report Karen Robson, Senior Licensing Officer advised that Responsible Authorities Environmental Health and the Home Office Immigration Team were not in attendance but written representations were included in the report bundle at Appendix 5.

Following a question from Gill Proud, Solicitor the Senior Licensing Officer confirmed that the Premises Licence had been transferred to Mr Azam on 28 March 2013.

In response to being asked if he had any questions of the Licence Holder, Mr Azam began to present his case. The Chair asked Mr Azam if he understood everything that had been said and he confirmed that he did. It was then explained to the Licence Holder that he would be given an opportunity to present his case later in the hearing and that this was simply to clarify any points put forward by the Officer. He confirmed that he understood and had no questions at this stage.

Nicola Anderson, Durham County Council Licensing Authority was invited to address the Sub-Committee as Applicant. The Officer stated that the Licensing Authority as a Responsible Authority had deemed it necessary to bring an application for the review of the Premises Licence due to an accumulation of issues at the premises.

Referring to the grounds for review within the report bundle the Officer highlighted the key points.

On 5 December 2018 as part of a joint enforcement operation with Immigration and Environmental Health, a visit was made to the premises where it was found that the named DPS was no longer involved with the premises, a person was found working in the shop who did not have the necessary status to do so, and the premises was in a run-down state. The premises had also failed a number of test purchases.

During the visit Mr Azam confirmed that he was no longer the DPS and was given advice about making application to vary the DPS and contact details for the Licensing Authority. Mr Azam had advised that he was a Personal Licence Holder and therefore the process for transferring the DPS should have been straightforward.

Other fundamental failings included that the Premises Licence was not on display and that there was only one fire extinguisher on the premises when there should be several in accordance with conditions on the Premises Licence.

These failings showed non-compliance with the Licensing Act 2003 and the Council's Statement of Licensing Policy.

A further visit was made to the premises on 3 January 2019 when Mr Azam stated that he had not received the application form to vary the DPS. The application was then submitted by Mr Azam that day but was returned to him as it was incorrect. A correctly completed application was submitted on 21 January 2019 and Mr Azam was now both Premises Licence Holder and DPS.

Nicola Anderson then referred to the male found working illegally in the shop. Employing illegal workers encouraged people to take risks to enter the UK dangerously and left them vulnerable to exploitative employers. It also had an impact on the wages of legal workers and led to exploitation of working conditions. This showed a clear disregard by Mr Asam of the licensing objective 'prevention of crime and disorder'.

The premises had failed test purchases on 22 January 2016 and 14 July 2016, and more recently on 14 December 2018. Mr Azam was notified after each test purchase but had made no effort to ensure that staff were trained. This showed a blatant disregard for the licensing objective 'protection of children from harm'.

The number of defects found on the premises which were included in the report bundle also showed a disregard for the licensing objective 'public safety'.

The Council's Statement of Licensing Policy stated that 'Once licensed, it is essential that premises are managed, maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the Act'.

Following a question from Councillor L Brown, Mrs Anderson stated that the premises had operated without a DPS since Mr Azam took over in 2013. Mr Azam stated that his Uncle who lived above the shop was the DPS. When he had taken over the premises in 2013 he had thought everything was in his own name. Between 2013 and 2018 his Uncle lived upstairs and was still responsible.

The Sub-Committee then heard the representations of PCSO Michelle Williamson. PCSO Williamson gave details of the test purchase made on 14 December 2018. The employee was issued with a Fixed Penalty Notice and Mr Azam was notified. A couple of further visits had been made since that test purchase. The Police supported the review application.

Following a question from Councillor L Brown, PCSO Williamson advised that the Premises Licence would normally stipulate how long CCTV recordings must be retained. The Senior Licensing Officer clarified that the Premises Licence specified that CCTV must be in operation but did not state how long it must be kept.

Following a further question of the Officer, Members were informed that the employee who sold the alcohol had said that she was working there to cover the Christmas holidays, possibly for a few weeks. The only training she had received was on the use of the till, the lottery and to stack shelves. The employee was not aware of Challenge 25 or the refusals register.

Graham Blount of Trading Standards was then invited to address the Sub-Committee. The Officer stated that the premises had come to the attention of Trading Standards more than once through intelligence. There had been issues relating to underage sales and youth anti-social behaviour in Annfield Plain for a few years.

Following the failed test purchases in 2016 Mr Azam had been offered training. A further test purchase was carried out in September 2016 when the sale was refused.

The offer of free training was not taken up following the failed test purchases but it had been stated that one member of staff had attended training in 2011. Trading Standards always recommended training as it was unfair on the member of staff who received the Fixed Penalty Notice.

Graham Blount explained that Trading Standards were concerned about the management of staff at the premises and it was critical that this was addressed. There were issues in the Stanley area and this was why test purchases had been carried out at this licensed premise and others in the area.

Following questions, Graham Blount stated that the shop was 3 – 4 miles from Stanley but closer if using the railway lines, where the anti-social behaviour was taking place.

At this point Mr Azam was invited to address the Sub-Committee. He stated that the building works inside the property had been completed and Health and Safety had visited and confirmed that all the works had been done. He now had an accident book and first aid kit. CCTV could now show footage beyond 20 days. A discussion ensued about the quality of the footage. Mr Azam advised that the shop was burgled on 16 or 17 December 2018 and the police had said that the footage from the incident was not clear. One week's footage was clear but beyond that was very poor. Mr Azam offered to extend the length of time CCTV footage was retained beyond one month if requested.

Mr Azam was asked by the Chair what he intended to put in place to prevent underage sales. He stated that in December 2018 he had been experiencing family problems. He managed a fish shop and the lady working there suggested that her daughter, who already worked at two other licensed premises, could work at News and Booze.

Mr Azam referred to the two incidents from 2016 and asked for confirmation whether the sales were made by him or his employees. Graham Blount confirmed the sales were made by his employees.

Mr Azam then referred to an incident involving three girls who tried to purchase alcohol without ID. When Mr Azam refused, the father of one of the girls entered the shop asking why he had refused to serve his daughter and subjected him to verbal abuse.

The refusals register had not been available at the time of the visit as it had been taken by the police. He then received a new book.

Following a further question from the Chair about Challenge 25, Mr Azam stated that his wife had attended training and he had asked for information about training but it was not received. He would attend any training available to him. Graham Blount clarified that an offer of training was included in a letter from Trading

Standards in 2016, and was included in the report bundle. Mr Azam replied that he only had one member of staff now and he had attended training in 2011 with his wife.

Mr Azam apologised for the underage sales. The lady already worked at licensed premises and accepted that he had not checked with her what experience she had, however he would send her on any training offered.

Councillor L Brown asked about the presence of an illegal worker in the premises. Mr Azam stated that his Uncle lived upstairs before he moved to Scotland but did not work in the shop. He had given him permission to carry out mobile phone repairs.

Nicola Anderson stated that at the visit when Immigration Officers were present they had asked about the mobile phone repairs and Mr Azam had denied that there was anyone living upstairs and that the phones were sent to Newcastle for repair. Mr Azam said that he did not say this and that his cousin lived in Newcastle. He did not know why the male had said he was working in the shop; he had given him permission to live there but not to work. He confirmed that he was paying the fine issued by the Home Office.

Following a further question Mr Azam confirmed the name of his Uncle who had sold the premises to him. His Uncle moved to Scotland in October/November 2018.

Following a further discussion about the CCTV footage Mr Azam confirmed that he understood how important it was to have good quality CCTV at the premises. A new box had been fitted and the footage was now clear.

With regard to the training provided in 2011 Graham Blount confirmed that it was arranged in conjunction with all licensed premises in the Stanley area. He also confirmed that Mr Azam's wife had attended and that Mr Ahmed was the licence holder at the time. Mr Azam said that he had worked in the premises since 2007 with his Uncle. Graham Blount advised that Mr Azam attended training in December 2012 and his wife in November 2011.

Mrs Anderson asked Mr Azam what 'right to work' checks he carried out. Mr Azam replied that he or his wife asked for ID, passport, National Insurance number before an employee started work. The Senior Licensing Officer confirmed that Immigration could provide a list of checks that needed to be carried out when employing persons.

The Licensing Enforcement Team Leader asked how training was now carried out in relation to underage sales. Mr Azam replied that he provided the training but if there was somewhere that provided training he would send his employees. He told his staff 'no ID no sale'. For the first month of their employment they worked on the shop floor, and after one month when they were aware of the whole system, they worked on the till.

The point was made that the person who had failed the test purchase in December 2018 had not been working in the premises for one month. Mr Azam accepted this

and reiterated that at the time he was having family problems and this was the reason for her employment. He had three or four staff missing in the fish shop, and two in News and Booze. He now only had one employee, the same person who was working in the shop in December 2018.

Nicola Anderson stated that the employee had said that she had not been working there very long but Mr Azam advised that she had started work in September/October last year.

The Chair asked Mr Azam if he was aware of, and had read, the Council's Statement of Licensing Policy. Mr Azam confirmed that he had.

All parties were invited to sum up.

Mrs Anderson stated that there had been a fundamental failing by the Licence Holder to manage the premises, and breaches of licensing conditions had occurred over a sustained period. The Licence Holder had not demonstrated an ability to manage the premises to adhere to the licensing objectives at any stage. Section 182 Guidance prescribed certain criminal activity which should be treated particularly seriously, including the employment of a person disqualified from working by reason of their immigration status in the UK and the sale of alcohol to children, which the Guidance expected that revocation should be seriously considered.

PCSO Williamson stated that having heard the representations she did not feel that Mr Azam had put any training in place to support staff.

Mr Blount stated that underage sales and alcohol related problems continued in the area. The training Mr Azam received was a very long time ago and he did not consider that staff, who ultimately 'carried the can', had not received the correct training.

Mr Azam apologised for the underage sales in 2016, and in December 2018 which was due to family problems. He had now sorted everything out and asked for ID before selling alcohol. He knew everybody in the area but if there was anyone new in the shop he asked for ID and refused the sale if it could not be produced.

At 11.15am the Sub-Committee **Resolved** to deliberate the application in private.

After re-convening at 11.45am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee considered the report of the Senior Licensing Officer, the verbal and written representations of the Applicant, the Police and Trading Standards, the written representations of Environmental Health, Durham Local Safeguarding Children's Board and the Home Office Immigration Enforcement Team, and the verbal representations of the Licence Holder. Member 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 revoked.

This page is intentionally left blank

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Spennymoor - Council Offices, Spennymoor on **Tuesday 9 April 2019 at 11.00 am**

Present:

Councillor J Maitland (Chair)

Members of the Committee:

Councillors P Crathorne and L Kennedy

Also Present:

Councillor J Blakey

Yvonne Raine – Senior Licensing Officer

Sarah Grigor – Solicitor, DCC

Lee Smurtwaite – on behalf of Northumberland Taverns, Applicants

Tim Robson – TJR Licensing on behalf of Applicants

Councillor Roger Cornwell - City of Durham Parish Council

Councillor Victoria Ashfield - City of Durham Parish Council

Councillor Carole Reeves - City of Durham Parish Council

1 Apology for Absence

An apology for absence was received from Councillor D Brown.

2 Substitute Members

Councillor Crathorne substituted for Councillor Brown.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Grant of a Premises Licence - Former Walkabout Premises, 13-15 North Road, Durham

The Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of the former Walkabout premises, 13-15 North Road, Durham (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to Members, together with additional information from the City of Durham Parish

Council maintaining its objection following an amendment to the application which add additional conditions relating to noise control measures at the premises.

Mr McKeon, other person also maintained his objections.

Councillor Cornwell of the City of Durham Parish Council provided a list of residential properties in the immediate vicinity of the premises which was circulated to all parties present.

Councillor Cornwell was invited to address the Sub-Committee on behalf of the City of Durham Parish Council, and commenced by asking a question of Mr Smurthwaite about his position with Northumberland Taverns. Mr Smurthwaite confirmed that he was not a Director of the company.

Mr Cornwell stated that the Parish Council had been told that The Loft would close if this application was granted but this was not apparent in the report bundle. He clarified that the Parish Council were not challenging the noise limitation measures within the premises.

The Applicants had said that the proposals reflected what had happened in the past as the former Walkabout, but this was 10 years ago and it had been a welcome move in the City to convert flats above the shops for students which now meant that there were high numbers in the immediate area. This would inevitably lead to disruption with up to 900 people leaving the premises between 2.00am and 2.30am. The Parish Council considered that the application should be refused or measures imposed to limit the impact of noise on those living in the flats.

Councillor Crathorne noted that 900 referred to full capacity and questioned the likelihood of this at all times.

Parish Councillor Cornwell acknowledged that those numbers could not be guaranteed but there could be up to 400 at an event without the need to notify the Police. There could be above 500 and up to 900 without any limitation other than the need to contact the Police.

Following a question from Councillor Kennedy, Mr Cornwell confirmed that the flats were mainly occupied by students who paid over £9k per year for their education and required a good night's sleep. People assumed that students were up at all hours but this was not the case and they had as much right as anyone else to a good night's sleep.

Parish Councillor Ashdale stated that, together with Mr McKeon, she had visited all the student flats on North Road on 7 April 2019, and had spoken to at least one resident in each property. The students had said that they were unaware of the application. The Parish Council had visited students in support of their right to a comfortable life in Durham. Most students wanted to work hard while in the City. They had made them aware of the potential for double the numbers of people in the premises. All those with bedrooms facing North Road said they were affected nightly by noise and more so at weekends. Some of the students regularly slept with ear buds or listening to music. A post graduate had said that they had changed

their sleeping arrangements so that they could sleep later in the morning, however most were undergraduates with lectures to attend and could not do this. Those with rooms facing away from North Road were not as badly affected. She had asked the students to make written representation but the visit was too close to the hearing. However she was able to represent the students.

Councillor Kennedy noted that Councillor Ashdale had said that she could represent the students but no letters or signatures had been received from any student. Councillor Ashdale replied that she had no ulterior motive but represented the students as a Parish Councillor represented constituents. She had no reason to misrepresent their views.

Councillor Crathorne asked the Senior Licensing Officer to confirm that no written representations had been received. The Officer confirmed that they had not received any written representations or telephone calls from students.

Mr Smurthwaite made the point that the Applicants already had a very good relationship with their neighbours and had not had a single complaint in respect of the two nightclubs The Loft which had a capacity of 800.

Mr McKeon was invited to address the Sub-Committee. Mr McKeon commenced by referring to the standard of proof which in the Licensing Act 2004 stated that it was not to criminal level. It was difficult to get students involved in the process as they were only present for half the year. All the students they had visited had gone home for the Easte break. He appreciated that the gold standard was to bring witnesses but they were relying on names and addresses and were given permission to be contacted. He understood that this would be sufficient.

He was a resident of Neville Street and lived there when Walkabout opened. Neville Street was narrower than North Road with one-way traffic and was a route to student colleges. Very few residents now lived in the area. He now slept in his bathroom away from the noise. Students in North Road did not have another room to sleep in.

The takeaway at the bottom of the street was licensed to 3.00am. Some students had windows overlooking North Road and the takeaway.

Mr McKeon continued that noise limitation in the building did not recognise the noise in the street. The University had appointed an Officer to deal with concerns of residents but ironically it was the students who were being affected. The lack of sleep caused serious problems.

Councillor Crathorne asked if students were already making a noise in the street, prior to the submission of the application. Mr McKeon confirmed that to be the case. The Councillor also noted that there was a taxi rank and public house at that end of North Road. Mr McKeon said that the public house was not frequented by students but by locals.

Councillor Ashdale stated that noise levels would increase by 33% and mostly students would walk up Neville Street where Mr McKeon resided. There was a

strong likelihood of numbers increasing on both Neville Street and North Road. 10 years ago there had been no student accommodation on North Road. The Councillor also made the point that those students in North Road who did go out some evenings would want to be able to sleep on other nights.

Councillor Maitland noted Mr McKeon's comments that the clientele in the public house differed to these premises but she did not consider that this could be guaranteed. When the flats opened the landlords must have been aware that Walkabout may re-open. Councillor Maitland also noted that Notices would have been displayed about proposals for the premises, both in respect of planning and licensing applications.

Parish Councillor Ashdale stated that the students did appreciate that being in the centre of the City they would experience levels of noise but they were increasingly saying that their lives were being disturbed. As temporary residents of the City the students did not think they had the right to complain and the University had not explained that they could.

Mr McKeon continued that the students and the locals did not mix. He advised that during term time Mr Smurthwaite held student nights when no locals would visit the premises.

Following a question from Councillor Blakey Mr McKeon advised that locals visited Bishopgate, although 10 years ago they frequented Walkabout.

Parish Councillor Cornwell clarified that the public house operated normal pub hours and attracted permanent residents. Mr Smurthwaite had said that the premises would only be open during term time so he was pitching the venue at students.

Mr T Robson was invited to address the Sub-Committee on behalf of the Applicants. Mr Robson provided background to his licensing experience and stated that the Applicants had asked him to create a training procedure to ensure the safe operation of the premises, focussing on the safety of young people.

The premises was once the Royal Cinema with a seating capacity of 1090, and as such was a more fortified building than those of recent times. The premises was known Walkabout in 2003 until 2009, and in 2010 became a live music venue. After closing Mr Smurthwaite took over the premises in 2012, opening as a late night bar and Chinese buffet until 2013. The premises would improve the appearance of North Road and was to be a pub/eatery during the day and a bar at night.

The nightclub would not be open every day of the week and was aimed primarily at student clientele.

Mr Smurthwaite understood why the representations had been made and a number of conditions had been included to alleviate concerns. The requirements of Durham Constabulary had been accepted and would happily be implemented. The provisions of Section 150(4) would not be included. The applicants did not feel it

was appropriate for accompanied 16 or 17 year olds to be allowed alcohol with food.

Environmental Health had conducted a detailed site visit and concerns had been addressed through condition. The representation had been withdrawn.

Turning to the objections of the Parish Council, these related to breakout of noise from the premises but there was no mention of noise outside. Nevertheless door supervisors would ensure that customers kept noise levels down, and there would be notices on the door to this effect. The venue was designed to minimise the breakout of noise. The application now included sufficient and appropriate noise control measures.

He appreciated the concerns of Mr McKeon about quality of life and it was saddening that he had been forced to move to his bathroom for sleep. He had also expressed concern about noise from The Loft and Studio and also the public house. However whilst he sympathised with Mr McKeon, there was no evidence that noise levels would increase as a result of customers leaving the new venue. The company's Business Plan was to close The Loft which backed onto Crossgate. He had an unvalidated document from a student who lived directly above the foodstore on North Road asking when Walkabout was going to re-open. He was one of seven students who lived in the flat and who had all said that they had no issues with The Loft and Studio, similarly from the students in the flat above his own. Mr McKeon's representations were generic and about other premises. There had been no physical representations from any students and no complaints about noise. Individuals had been asked to write but had not. The names and addresses of the students referred to had not been provided. Mr McKeon accepted that there had been no complaints from students. In his experience residents complained about students, and this was still an issue in the City.

Mr Robson referred to the Thwaites case and the consideration of 'real' evidence to support objections. There had been no real evidence that the premises would exaggerate noise in North Road and experts had said that enough had been done to alleviate concerns in this regard.

Mr Smurthwaite addressed the Sub-Committee. He explained that Northumberland Taverns operated The Loft and Studio with a combined capacity of 840. They were moving the business downstairs purely for commercial reasons. The venue was better in terms of sound-proofing than The Loft. They were part of Pubwatch and had good dialogue with Agencies. Customers were successfully dispersed from the premises and it was incorrect to say that students just travelled up Neville Street. First year students went into the City Centre and the Viaduct area held less than a third of the total number of students. All they were doing was switching venues – it was not a new business. They operated one of the biggest capacity venues in the City without problem. Customers would be safe and being located on the ground floor they would be dispersed more efficiently.

Following a question from Councillor Kennedy regarding the taxi rank 'corridor', Mr Smurthwaite explained that the premises had a corridor where people were kept safely until there were available taxis. Mr Robson added that the company was

wary of young students wandering the streets and this was a safe room for them to wait.

Councillor Cornwell asked what percentage of students used taxis. Mr Smurthwaite confirmed that this was between 40 and 50%. Customers were clicked in and out so they could ensure that everyone was dispersed and he was the last person to leave.

Councillor Ashdale argued that this was second hand information and no more first hand than the information she had provided about the students' views. Mr Smurthwaite clarified that he was the Licence Holder and personally clicked customers in and out of the premises.

Councillor Maitland asked if they called for taxis for their customers and was advised that if any of their customers were intoxicated they would pay for a taxi to take them safely home. Councillor Cornwell expressed concern that the premises should not serve customers who were intoxicated, and Mr Smurthwaite clarified that they were not served alcohol but did allow them into the venue to ensure their safety.

Mr McKeon stated that at a PACT meeting it had been said by a PCSO that the main problems affecting residents was noise caused by students going home after a night out. The Chair stated that there were no Police representatives in attendance to confirm that this was said, and the Police had not made representation about the application.

Mr Smurthwaite responded that he had a good relationship with the Police. He was aware that student parties could cause problems in the City, not licensed premises. Student parties could go on all night and he considered it to be preferable for students to visit nightclubs where their safety could be ensured.

All parties were invited to sum up.

Councillor Cornwell referred to their original letter of representation and confirmed that the Parish Council were not pursuing their concerns about noise breakout from the premises but the impact of up to 900 people emerging after 2.00am which would cause significant disturbance to residents. The residents in North Road were entirely students who queued for student accommodation and may not have chosen to live on North Road. These students were 19 years old and it was entirely reasonable for their complaints to be relayed through their Councillor.

The Parish Council would wish the Sub-Committee to refuse the application but if granted, he asked the Sub-Committee to consider the following:

- Imposing a limit on capacity to that currently in place for The Loft
- Members examine the Business Plan to confirm that The Loft will close
- the hours of operation be restricted to the Framework hours.

Mr Robson stated that he would oversee policies and procedures at the premises. Measures had been put in place to address concerns and prevent public nuisance,

and there was no guarantee that students would all walk up Neville Street. No representations were received from students and the Fire Authority had no issues with capacity. The hours requested were reasonable and this was what the premises needed to be viable.

Mr Smurthwaite stated that the company currently operated two late night venues and with the new venue there would be no change to hours, security and their policies. The existing venues had not had any problems in 8 years of operation.

At 12.40pm the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 1.00pm the Chair delivered the Sub-Committee's decision.

In reaching their decision the Sub-Committee had considered the report of the Senior Licensing Officer, the verbal and written representations of the City of Durham Parish Council and other person, and the verbal representations of the Applicant and his representative. 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 granted as follows:

This page is intentionally left blank

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Committee Room 2 - County Hall, Durham on **Tuesday 14 May 2019 at 10.00 am**

Present:

Councillor P Crathorne (Chair)

Members of the Committee:

Councillors D Brown, C Hampson and D Hicks

Also Present:

Yvonne Raine – Senior Licensing Officer

Catherine Hazell – Solicitor, DCC

88 Front Street, Chester-le-Street

Lindsay Morton – Applicant

Clive Morton – Applicant's husband

Councillor Beatty Bainbridge – local Member and other person

Derek Briggs – other person

PCSO Michelle Williamson – Durham Constabulary

PC Iain Robertson – Durham Constabulary

Khan's Foodstore

Laura Brooks – Team Leader, DCC Trading Standards

Mohammed Imtiaz Khan – Licence Holder

Tim Robson – TJR Licensing Consultants on behalf of Licence Holder

PCSO Michelle Williamson – Durham Constabulary

Sean Barry – Public Health

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 meetings held on 6 February 2019 and 19 March 2019 were agreed as a correct record and were signed by the Chair.

6 Consideration of the Ongoing Suitability to Continue to Hold a Personal Licence

This item was withdrawn.

7 Application for the Grant of a Premises Licence - 88 Front Street, Chester-le-Street

Members: Councillor P Crathorne (Chair), D Brown and D Hicks.

The Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of 88 Front Street, Chester-le-Street (for copy see file of Minutes).

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

Mr Clive Morton referred to the letters of objection which had all been sent together in one envelope. This was confirmed by the Senior Licensing Officer who advised that all individuals had been written to in order to validate the letters, as explained in the report.

PCSO Williamson was invited to address the Sub-Committee. The Officer, in accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, requested that the public be excluded from the hearing to make representations in private. With the agreement of the Chair all parties left the hearing with the exception of Members, Police Officers, the Legal Adviser, and the Applicant and her husband.

Following the Police representations all parties returned.

Councillor Bainbridge was invited to address the Sub-Committee. The Councillor stated that her objections were on the grounds of the licensing objective 'protection of children from harm.' The shop was used by lots of young people from the Academy as they sold a wide range of snack foods. Referring to the plan of the layout she wished to draw the Sub-Committee's attention to the central display which made it more difficult for Mrs and Mrs Morton to observe the children at lunchtimes. Mr and Mrs Morton observed the children from outside the premises. However she was aware that Mrs Morton was working with the Police to improve the layout.

Mr and Mrs Morton clarified that they observed the children outside because they also had stock on display to the outside of the premises. The alcohol would be kept

behind the counter which would be manned at all times. There would be three members of staff in the shop with one behind the till at all times.

Mr Briggs was invited to address the Sub-Committee. He had been made aware that alcohol was on the premises before Mrs Morton had made application for a Premises Licence. He advised that there had just been one person in the shop when he had visited. A lot of schoolchildren were in the street at lunchtime for around an hour and a half. He was concerned that older children would buy alcohol for younger children. There was another shop 5 doors down which sold alcohol and he had objected to their application at the time on the same grounds. It was easy for one person to be distracted and for alcohol to be stolen. This was an issue in Chester-le-Street. He had seen Mr and Mrs Morton outside the store observing the children.

Mr Briggs was also concerned about night sales which may attract the wrong type of person and could result in disorder and public offences, another concern in Chester-le-Street.

There was a café/ice cream parlour through the back of the shop which led onto the street. Residents did not want anymore alcohol on the street.

Councillor Hampson asked Mr Briggs if he was aware of any reports of children with alcohol on a lunchtime. Mr Briggs confirmed that there had been reports of children going to the Riverside Park to drink alcohol and was a regular place for them to go to.

Following questions from Members, Mr Briggs confirmed that there was alcohol in the shop before the submission of the application. PCSO Williamson clarified that Mr Briggs had contacted the Licensing Authority and that on investigation had found that alcohol was kept behind a curtain but that none was available for sale.

Mrs Morton confirmed that alcohol was on the premises but was covered up and not sold. The shop was only open between 8.30am and 5.00pm Monday to Saturday and they were always gone after 5.00pm. The café and shop were entirely separate. In her experience if children wanted to buy alcohol they would go to the larger stores.

The Applicant was then invited to address the Sub-Committee. She asked that they be given a chance, she had held a licence in the past without problem. The opening hours had been revised so no-one would be able to purchase alcohol on an evening as they closed before 5.00pm.

Members asked questions of the Applicant. Mrs Morton confirmed that Challenge 25 would be implemented and they were already experienced in the sale of age restricted products. The café was separate to the shop and could not be accessed by customers. She had owned the shop since January 2019 and had a wide range of customers, not just children. Mrs Morton confirmed that the store was viable now but people had asked to buy alcohol, for example on their way home from work. The store would close at 5.00pm but would attract customers from local businesses who closed earlier than that.

Following questions from PCSO Williamson, Mrs Morton confirmed that the application for the sale of alcohol was amended to be in line with the hours the shop was open ie 8.00am to 5.00pm Monday to Saturday. There were three full time members of staff present in the shop now and it would not be a problem if this was added as a condition.

Councillor Bainbridge clarified that the café and shop were linked, but only the staff could walk between the two. Mr Morton stated that he and his son could not work in the café as they did not have a hygiene certificate and would therefore always be in the shop. Mr Morton stated that she did sometimes work in the café but this was not very often.

All parties were then invited to sum up. None had anything further to add.

At 11.10am the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 12.05pm 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 verbal and written representations of Responsible Authorities, other persons, local Councillor and the Applicant and her husband. 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 granted with the condition agreed with the Local Safeguarding Children's Board and with the following conditions to be attached to the licence. In addition to this the Sub-Committee refused to specify on the licence the Applicant as Designated Premises Supervisor. The Sub-Committee confirmed that the licensable hours for the sale of alcohol for consumption off the premises should be brought in line with the hours the shop is open, therefore being 8am to 5pm Monday to Saturday.

The additional conditions to be added to the licence in addition to the condition mediated with the Local Safeguarding Children Board:

Prevent of Crime and Disorder:

- CCTV system to be installed in the premises, including camera at the entrance to the shop and above the sales counter, to the satisfaction of Durham Constabulary, to be operating during licensable activities, and footage must be available and downloaded upon request by a Responsible Authority. Staff must be trained on operating and downloading the CCTV footage. CCTV footage to be kept for 28 days.

Protection of children from harm:

- All incidents at the premises will be recorded in an incident book maintained by the premises licence holder. Details to be recorded in the book include: time and date of incident, name or full description of any person involved, whether the incident was recorded on CCTV and signature of person making the entry. The book to be made available to a Responsible Authority upon request.
- Operation of a Challenge 25 policy where all patrons believed to be under the age of 25 who seek to purchase alcohol will be asked to provide proof of age identification which is endorsed with the government PASS holographic logo.
- A refusals register must be in place in the premises and used to keep a record of all attempted purchases of alcohol where a person believed to be under 25 is challenged and no identification is provided and the sale is therefore refused.
- The refusals register should confirm the date and time of the refusal, a description of the person refused, the goods asked for, any significant comments made or behaviour of the person refused and the signature of the person making the entry.
- The refusals register should be checked for completion and signed off on a regular basis by the DPS or premises licence holder. The refusals register must be available at all times for inspection by the police or other Responsible Authority.
- Persons known to be or suspected of buying alcohol on behalf of children will be refused and reported to the police.
- Notices are to be displayed concerning the Challenge 25 policy.
- All staff to receive full training on the law surrounding the sale of age restricted products and the operation of the Challenge 25 scheme. Refresher training to be provided every year. Written Training records to be made and to be available for inspection on request of a Responsible Authority.
- At least two staff to be on the premises at all times licensable activities are taking place.

8 Application for the Review of a Premises Licence - Khan's Foodstore, 25-27 West Road, Annfield Plain, Stanley

Members: Councillor P Crathorne (Chair), D Brown and C Hampson.

The Committee considered a report of the Senior Licensing Officer regarding an application for the review of a Premises Licence in respect of Khan's Foodstore, 25-27 West Road, Annfield Plain (for copy see file of Minutes).

A copy of the application and supporting documentation had been circulated to Members, together with additional information received from the Licence Holder's Licensing Consultant.

Laura Brooks of DCC Trading Standards, the Applicant was invited to address the Sub-Committee. Ms Brookes advised that in March 2018 Trading Standards had received intelligence from Durham Constabulary that the premises was possibly selling alcohol to young people under the age of eighteen, and were increasingly concerned about anti-social behaviour in the area

As part of an Operation with the Police, two test purchases had been carried out at the premises on 13 December 2018 and 21 December 2018, details of which were included in the report bundle. The premises failed both test purchases. A visit was made to the premises on 15 January 2019 to discuss the circumstances of the two underage test purchases with Mr Khan, and it was noted that there was no refusals register or any training records. At that time the business did not present steps that would promote the licensing objective 'protection of children from harm'.

However, since the visit Mr Khan had demonstrated a commitment to uphold the licensing objectives and the proposed additional conditions would achieve this. Mr Khan had been working with Mr Robson, Licensing Consultant and all staff had received training. Trading Standards had conducted a further visit to the premises the day before the hearing and now had confidence that the business would have no difficulty in promoting the licensing objectives.

The person who made the sales on both test purchases was no longer working in the premises. It had also come to light that Mr Khan intended to spend time out of the country over the next few months and had indicated that application would be made for a member of staff to take over as DPS.

In conclusion Ms Brooks asked the Sub-Committee to consider the proposed additional conditions as an appropriate means of dealing with the application.

PCSO Michelle Williamson of Durham Constabulary was invited to address the Sub-Committee. The Officer stated that she supported the review application and had been part of the Operation, attending the premises on 21 December 2018 with a colleague. She confirmed that a Fixed Penalty Notice had been issued to the member of staff.

Mr Sean Barry of Public Health referred to the letter of representation in the report bundle and had nothing further to add other than to emphasise the health risks to children when alcohol was available to them, both in terms of their physical development and behaviour. He supported the proposed additional conditions.

Mr Tim Robson addressed the Sub-Committee on behalf of the Licence Holder. He advised that Mr Khan did a lot of charity work and had been unable to attend the original hearing date as he had been out of the country.

Mr Khan acknowledged that the sale of alcohol to underage people was totally unacceptable and would not be tolerated. Mr Robson assured Members that he had done his utmost to ensure that all persons working in the premises would not undermine the licensing objectives. All members of staff had been trained, including in the sale of age restricted products, dealing with intoxicated customers, Challenge 25 (which had been implemented) and identifying fake ID. A strict and solid underage sales policy had been implemented to ensure that refusals and challenges were recorded in a register. All staff had passed the accredited examination.

In view of Mr Khan's charity work out of the country he had agreed to amend the DPS. The proposed DPS had spent five hours in a training environment to assess her suitability, and would be taking the DPS course this week, after which she would apply for her Personal Licence. An application would then be submitted to vary the DPS.

With the premises he had done everything possible to ensure that alcohol sales were carried out in a responsible manner and training would continue. A policy and procedure manual had been included in the additional bundle. Mr Khan was willing to accept the additional conditions proposed.

Mr Khan stated that he had held a licence for 36 years and in that time there had been no issues. The member of staff who made the underage sales had made a mistake and there had been no underage sales prior to that.

All parties were invited to sum up. None had anything further to add.

Councillor Hicks stated that he was pleased to see the steps taken by the premises as this was a very serious matter.

At 12.55pm the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 13.05pm 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 from the Licence Holder, and the verbal and written representations of the Licence Holder and his representative, the Applicant and Responsible Authorities. 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 following conditions be added to the Premises Licence:

The Prevention of Crime and Disorder

- CCTV footage must be available and downloaded upon request by a Responsible Authority.
- All incidents occurring at the premises will be recorded in an Incident Book maintained by the Premises Licence Holder or a nominated member of staff. The details which will be recorded in the Incident Book are: the time and date of the incident, the name or full description of any person(s) involved (including staff members), whether the incident was recorded on CCTV, and the signature of the person making the entry. This book will be available at all times for inspection by the Police and other Responsible Authorities upon request.
- Persons known to be, or suspected to be, buying alcohol or tobacco on behalf of children will be refused and reported to the Police.

The Protection of Children from Harm

- Adherence to the law surrounding the ban on the sale of alcohol and tobacco to those under 18.
- The operation of a documented Age Certification Policy (Challenge 25) where all patrons believed to be under the age of 25 who seek to purchase age restricted goods will be asked to provide proof of age in the form of a UK Driving Licence, Passport, Military ID card or photo identification which is endorsed with the government PASS holographic logo.
- A refusals register must be in place at the premises and used to keep a record of all attempted test purchases of alcohol and tobacco where a person believed to be under 25 is challenged and no identification is provided and the sale is therefore refused.
- The refusals register should record: the date and time of the refusal, a description of the young person refused, the goods asked for, any significant comments made or behaviours exhibited by the person and the signature of the person making the entry.
- The register should be checked for completion and signed off on a regular basis by the DPS or Premises Licence Holder. The refusal register must be kept available at all times for inspection by the Police and other Responsible Authorities upon request.
- Persons known to be or suspected of buying on behalf of children will be refused and reported to the Police.
- Notices to be displayed concerning the law surrounding the ban on the sale of alcohol to children and explaining the Challenge 25 scheme.

- All staff to receive full training on the law surrounding the sale of age restricted products and the operation of the Challenge 25 scheme. Regular reminders to staff as to their obligations with respect to the above.
- All staff training records and reminders to be put in writing and kept as a record of training which must be kept on the premises and be available at all times for inspection by the Police and other Responsible Authorities on request.

This page is intentionally left blank

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - County Hall, Durham on **Wednesday 29 May 2019 at 1.00 pm**

Present:

Members of the Committee:

Councillors J Blakey, L Brown and M Wilson

Also Present:

S Grigor – Council's Solicitor

K Robson – Senior Licensing Officer

Inspector R Stockdale – Durham Constabulary

PCSO H Robson – Durham Constabulary

A Dickman - Applicant

C Dickman - Applicant

Councillor J Blakey (in the Chair)

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 Consideration of a Temporary Event Notice - Port of Call, 6 North Terrace, Seaham

The Committee considered the report of the Senior Licensing Officer regarding an application for a temporary event notice (TEN) in respect of the Port of Call, 6 North Terrace, Seaham.

A copy of the location plan and application form had been circulated.

The temporary event notice was for the premises to extend the sale of alcohol and the provision of regulated entertainment for the screening of a TV Boxing Event on Sunday 2 June 2019 from 01:00 hours until 04:00 hours.

An objection was received from Durham Constabulary on the basis that the event would undermine the licensing objectives, namely the prevention of crime and disorder and the prevention of public nuisance. Durham County Council's Environmental Health Department confirmed that they had no comments to make in relation to the TEN.

Inspector Stockdale speaking on behalf of Durham Constabulary indicated that Durham Constabulary were objecting to the TEN for the boxing match as this would undermine the licensing objectives. The boxing match was taking place in New York on the Saturday evening to Sunday morning. Due to the time difference and the fluid times the boxing match was to commence the boxing match may not be finished or even started when the TEN finishes at 4.00 am. If the TEN runs out before the boxing match was finished what would happen, this was also an exceptional night as there was also the Chelsea and Arsenal football match taking place that evening which would add to crime and disorder, as people would be drinking watching the football match. People would stay out to watch the boxing, so there would be a large amount of drinking time.

She then referred to the location of the premises as shown on the map circulated within the report that showed that the premises were in an area where there were a number of residential properties.

When leaving the premises patrons would turn left or right and would be walking through residential housing, there was also residential dwellings to the rear of the premises. There was a strong community view around noise from premises and residents wanted the licensable hours limited due to public nuisances and at least 5 residents were prepared to attend a meeting for a different premises. The policy recognised the need to live, but to bear the community in mind.

If the TEN was ended at 4.00 am, 100 patrons would be leaving the premises on mass in high spirits, play fighting which could progress. There would be a lot of noise and anti-social behaviour while people were trying to sleep. Looking at the infrastructure the last bus to Sunderland was 11.30 pm and 10.08 pm to Durham. Taxis did not operate after midnight unless pre-arranged appointment and the boxing times were fluid. There would also be no takeaways open, so patrons would be spilling out into a residential area with no amenities available.

She then referred to the restrictions around planning law and that it had been confirmed this morning that no planning permission had been granted for the premises to open beyond 11.00 pm. She needed to bring this to the attention of the committee and she would be taking further advice.

Speaking on behalf of the community, Inspector Stockdale indicated that the community did not support a 4.00 am closure of the premises due to the fear of crime. TENs were designed for legitimate community events not an opportunity to extend drinking times which would be to the benefit of the minority and residents would suffer.

Councillor Brown sought clarification if the Applicant had previously had a TEN. The Applicant confirmed that they had never had a TEN from Durham County Council.

The Council's Solicitor asked Durham Constabulary if there were any issues associated with the premises. Durham Constabulary confirmed that there had been an incident recently but overall, there was no issues with the premises and they had worked with the Port of Call to reduce licensing activities.

The Council's Solicitor then asked if there were anti-social problems in the area. Durham Constabulary responded that there were anti-social behaviour issues on the Front Street, Seaham which was a social location that was thriving but at a detriment to the public, which was why the community were in high voice.

The Council's Solicitor then asked if there were any other licences premises in the area and if there were any problems. Durham Constabulary advised that there were other licensed premises in the area, but they had not applied for a TEN for this event and the problems associated with the area were not linked to the Port of Call.

Councillor Brown sought clarification if other premises in the area terminated at 11.00 pm. Durham Constabulary responded that it was 11.30 pm but there were issues with planning permission.

Councillor Blakey asked if other premises had obtained a TEN for the boxing event. Durham Constabulary responded that there were no other TENS for this event in the Seaham area but there had been TEN applications for other areas with they had looked at on an individual basis.

The Senior Licensing Officer advised Members that there was insufficient time for other premises to now serve a TEN notice for this event.

The Applicants were invited to address the Sub-Committee and indicated that any anti-social behaviour was not linked to their premises. The event would be ticketed with a maximum of 100 people with 2 door staff. He had contacted local taxi firms who had confirmed that they would be operating later if there would be a reassurance that there would be customers. Other premises in the area were open until 1.00 am, he had previously worked with Amy Guest to agree operating hours that worked with residents.

The Applicant's continued that a previous TEN for a football event they had to empty the bar then open it up again which they did not have any issues with as it was not all about drinking and boxing fans were asking if there were going to be open and serving food.

The Senior Licensing Officer advised that the TEN would not allow the serving of food as they had not applied for this element.

The Applicant responded that in the past Sunderland City Council had asked them to provide food which they hadn't applied for but was a condition asked for by the police.

The Applicant stated that they would withdraw the food element and just serve bar snacks.

Councillor Blakey sought clarification of what measures were in place if the match was outside of the TEN.

The Applicant responded that he had contacted Sky who had assured him that the match would be concluded by 4.00 am as the chances of all fights going the full 12 rounds was limited.

Councillor Wilson asked how they would ensure that residents were not disturbed when patrons were leaving the premises.

The Applicant responded that they would have door supervisors on the door and would ensure that patrons were not dispersed all at once.

At 1.25 pm the Sub-Committee **Resolved** to retire to deliberate the application in private. After re-convening at 1.45 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, together with the written and verbal representations of the Applicant and Durham Constabulary. 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 for the TEN be approved with the voluntary condition that the event be ticketed, and door staff be employed.

5 Consideration of a Temporary Event Notice - Port of Call, 6 North Terrace, Seaham

The Committee considered the report of the Senior Licensing Officer regarding an application for a temporary event notice (TEN) in respect of the Port of Call, 6 North Terrace, Seaham.

A copy of the location plan and application form had been circulated.

The temporary event notice was for the sale of alcohol from a mobile bar to be positioned on the pedestrianised pavement outside of the Port of Call, Seaham for the Seaham carnival event. The sale of alcohol (on and off sales) was for Saturday 20 July 2019 and Sunday 21 July 2019 from 09:00 hours until 22:00 hours.

An objection was received from Durham Constabulary on the basis that the event would undermine the licensing objectives, namely the prevention of crime and disorder and the prevention of public nuisance. Durham County Council's Environmental Health Department confirmed that they had no comments to make in relation to the TEN.

Durham Constabulary had provided additional information that had been circulated to all parties prior to the meeting.

The Applicant had provided a copy of an e-mail from Seaham Town Council which had not been circulated in advance of the meeting and had not been verified. The Chairman accepted the additional information and a copy was provided to all parties at the hearing.

The Senior Licensing Officer read out the e-mail which confirmed that the Applicant would be required to apply for a licence if they wished to sell alcohol at the event.

Inspector Stockdale speaking on behalf of Durham Constabulary indicated that Durham Constabulary were objecting to the TEN for a pavement bar which would undermine the licensing objectives. The Carnival had been held since 2000 and was previously known as East Durham Show. The event involved the showing of films on Terrace Green and two fair grounds. The first night was ladies night and the second night was for families and children, that was hosted by Seaham Town Council. The event expected to attract 10,000 to 17,000 visitors depending on the weather and was a family event, that was encouraging families to come together.

Inspector Stockdale then referred to legislation and the sale of alcohol to children which could not be supported by the licensing authority unless safeguarding was addressed. The bar area would be in the public domain and there was a chance that children could be next to the bar area. A lot of work had been undertaken with schools and the feedback was that children felt intimidated and did not like being surrounded by adults drinking alcohol.

They would expect the mobile bar to operate challenge 25, she then referred to an incident that took place on the 23 May 2019 where the premises had declined to serve a customer which resulted in some disorderly behaviour which moved outside into the public domain. It was a well-run establishment but unfortunately subject to behaviour which was outside of their control. She referred to Public Health not been consulted on TENS, but they did support alcohol free life styles for children.

Durham Constabulary had provided some images of the area that were shared with all parties at the hearing.

Inspector Stockdale then referred to the area to the front of the premises that was owned by Durham County Council and that she had received an e-mail this morning from Highways confirming that the Port of Call did not have permission for a bar outside the premises. She also advised members that as the premises had not produced any public liability insurance they were not authorised for tables and chairs outside the premises.

Durham Constabulary wanted to ensure the event was safe for children and people in attendance. Bars in the area had off sales in place, they were not looking to restrict current businesses but wanted to encourage people to go into the bar to purchase alcohol so that drunkenness could be monitored, their issue was with an external bar. No further premises in the area had applied for a TEN for the event.

Inspector Stockdale referred to the location of the external bar which was in a bottle necked area and the pavement area was used to move people, so they were not encouraging anything to be placed on the pavement so that they could ensure that people could be evacuated. The area where stalls were to be located was around the Tommy statue which was only for food with no alcohol. They were working with local off licences in the area to limit the sales over the carnival weekend. The police were happy to work with the premises, they were not looking to change the licence for off sales, but the placement of an outside bar was detrimental to the safeguarding of children.

Councillor Brown asked if there were any open-air bars at the carnival.

Durham Constabulary responded that there were food areas, but none were selling alcohol. Seaham Town Council had refused stalls for alcohol and had

not given permission for the Port of Call to have a bar outside of the premises.

Councillor Blakey asked the width of the pavement outside of the premises. Durham Constabulary responded that it was an average width pavement, but the event would be pedestrianised, and children were encouraged to play and dance. Local bands would be playing on the Saturday with tribute bands on the Sunday.

In response to questions, it was confirmed that there would be no stalls on the North of the parade and they were working with premises to ensure that no tables and chairs would be on the pavement for the event, Durham Constabulary provided details of the road closure.

Durham Constabulary then referred to the e-mail from Paul Fletcher encouraging the TEN and indicated that this was a breakdown in communication as the Deputy Mayor for Seaham Town Council had confirmed that there was no need for alcohol sales as they were not authorising such activity.

The Applicant referred to the public liability insurance that had been submitted and the licence renewed for the outside furniture. Durham Constabulary responded that the monies had been paid on the 16 May 2019, but the licence had not been granted as they were waiting for the insurance documents, this had been confirmed prior to the meeting.

The Applicant indicated that they had been advised that the fee had not been paid so they paid it again but a couple of weeks later the cheque was cashed so they paid the fee twice, the public liability insurance documentation was with the cheque.

Durham Constabulary indicated that they were not saying that the application had not been submitted but the licence had not been granted.

The Applicant addressed the Sub-Committee and indicated that the idea of the TEN came from a pub watch meeting with Amy Guest. He referred to outside bars which had been happening for a number of years but there had been some problems last year which was not relating to their premises, but someone had brought a bar onto the sea front. He referred to the likes of Asda and Aldi and the only way they could compete with chain stores was by quality of service and they could offer cold line poured drinks from a keg. He indicated that people could purchase a bottle of spirits and who would stop them drinking when they had too much. He then referred to the incident on the 23 May 2019 and advised members that they had never served the gentleman in question, but he would not leave the premises, so he asked the door staff to remove him, but they did have to call the police as the incident

was out of control. They would not serve anyone who was intoxicated but people who have purchased alcohol from supermarkets would continue to drink.

Durham Constabulary advised members that the event had security in place. The Applicant responded that if a group of people were drinking in a field who would let staff know, they would have staff on the door and inside the premises, so they would be right next to the mobile bar.

Durham Constabulary asked how they would control off sales from the pavement as once they had purchased the drink they would go off into the crowds. The Applicant responded that if patrons were drunk they would refuse to serve but buying from a supermarket there was no control.

Durham Constabulary advised that if there was disorder then they would regulate and restrict sale.

Councillor Wilson sought clarification on why they required the TEN from 9.00 am when then carnival did not start until 12.00 noon and asked the size of the bar.

The Applicant responded that 9.00 am was to mimic the bar licence and confirmed that the bar was the size of a table and chairs and that drinks would be served in disposable plastic glasses.

Durham Constabulary advised Members that all drinks that weekend would be served in disposable plastic glasses. She then referred to the other premises with an outside bar that the Applicant mentioned and advised that the mobile bar in question had been challenged and had not been placed outside for a period of time.

At 2.20 pm the Sub-Committee Resolved to retire to deliberate the application in private. After re-convening at 2.30 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, together with the written and verbal representations of the Applicant and Durham Constabulary. 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 for a TEN be refused.

DURHAM COUNTY COUNCIL

At a Special Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - County Hall, Durham on **Friday 5 July 2019 at 9.30 am**

Present:

Members of the Committee:

Councillors D Bell, J Blakey and D Brown

Also Present:

C Hazell (Council's Solicitor)
H Johnson (Licensing Team Leader)
Sgt Haythornthwaite (Durham Constabulary)
Inspector Jones (Durham Constabulary)
J Morg (Durham Constabulary)
R Edge (Applicant's Solicitor)
A Toshie (Manager of Lux Bar)
V Bell (Security at Lux Bar)

Cllr J Blakey (in the Chair)

1 Declarations of Interest

There were no declarations of interest.

2 Application for Summary Licence Review - Lux Bar, 28-30 Front Street, Consett

Consideration was given to the application received from Durham Constabulary for steps to be taken prior to a review hearing in relation to the Premises Licence for Lux Bar, 28-30 Front Street, Consett (for copy, see file of Minutes).

The Licensing Team Leader advised that the Licensing Authority had received a summary licence review application under Section 53A of the Licensing Act 2003 from Durham Constabulary on 3 July 2019. In accordance with the provisions of the Act the application must be considered within 48 hours of receipt. The Officer informed Members of the steps the

Sub-Committee could consider in accordance with the legislation, and a full hearing would be required within 28 days (by 31 July 2019).

Sgt Haythornthwaite, speaking on behalf of Durham Constabulary indicated that they had submitted the summary licence review application for Lux Bar, Consett as the premises was associated with serious crime.

On 1 July 2019 a male was assaulted inside Lux Bar by 2 males by means of being struck to the face and hit over the head with a bottle then further attacked once the victim fell to the ground. The male had been left in need of hospital treatment for a significant wound to his head and face as well as extensive injuries to the body. The incident had been investigated as a wounding with intent which was the most serious level of assault which was caught on CCTV.

One of the offenders was known to the premises which he referred to as Male 1. Male 1 had been barred from the premises but the management had allowed him entry into the premises and agreed to keep an eye on him which resulted in a serious assault.

On 27 May 2019, Male 1 and another offender (referred to a male 2) attacked a male inside Lux Bar. Male 2 was already banned from local licensed premises under the Pubwatch scheme so there were failings by the premises on this occasion too. Following the attack one of the offending males then returned to the scene unchallenged and collected his bottled drink before leaving the premises. On this occasion male 2 should not have been in the premises and one of the attackers returned unchallenged and could have easily carried out a further attack.

Since Lux Bar obtained their licence there had been 6 reported assaults associated with the premises. In the last 9 weeks there had been 3 very serious assaults.

On 5 June 2019 a member of Durham Constabulary had met with a representative of Lux Bar to express significant concerns and to seek assurances that the licensing objectives would be actively promoted. Since that meeting a barred male had been allowed entry into the premises.

The person with the day to day control of the premises, Mr Toshi was the husband of the only Director and when the Designated Premises Supervisor (DPS) was asked what he does at the premises the DPS responded that he did nothing and just helped behind the bar occasionally. It became apparent that they had no knowledge of the conditions attached to their premises licence and they were breaching several of them regularly.

Durham Constabulary concluded by indicating that the public were at risk of harm and they would seek revocation of the premises licence.

There were no questions of Durham Constabulary.

Mr Edge, The Applicant's Solicitor indicated that the expedited review was a quick process which happened within a 48 hour period. He had spoken to Mr Toshi and his wife and had spoken to Durham Constabulary just prior to the meeting. He admitted that there had been failings in the period that Mr Toshi had taken over and he had sacked 2 security companies.

Mr Toshi owned restaurants which he had ran for a number of years successfully and was his area of expertise. It was not unfair to say that a night club license and conditions and hours were widely different to that of a restaurant and his client admitted that he was out of his depth.

They were aware that this was their last chance, and they wished to work with responsible officers and come to some mediation. They offered interim steps that would be a full suspension of the premises licence until the full hearing and the immediate removal of the DPS from the premises licence. They were not asking for the DPS to be removed as an escape goat as this was only part of the problem and they would continue working with the police. If they could not find a compromise that was acceptable to the police, with robust policies in place and a change in management, Mr Toshi would accept that he had bitten off more than he could chew and would convert the premises to a bar/restaurant which was the expertise of Mr Toshi. By converting the premises to a bar/restaurant he would not be faced with what he had at the minute which was a vertical drinking establishment that required a well experienced full team and staff highly trained in dealing with these issues. They would attend Pubwatch meetings and ensure that the information was given to the head of security, so that they were aware who should be refused entry into the premises.

Councillor Brown indicated that he understood that it was a complex problem and asked if the problems were associated with the premises or customers and were the issues going to be moved elsewhere.

The Applicant's Solicitor indicated that he was not from the area but had looked at the crime maps and it would appear that the area was not the best place for a nightclub. People who were banned under Pubwatch this was what it meant but they had disregard and go back to pubs and clubs and try and gain entry. They even try and gain entry by saying I know your family and I know where you live, the door staff at Lux Bar were local people and the only way around this was to employ people from outside the area.

Councillor Blakey asked why male 1 was allowed into the premises when he was known to them and why was male 2 allowed entry when he was on a complete ban.

The Applicant's Solicitor responded that the Pubwatch scheme worked well but not all DPS's attended regularly and did not fully understand the policy on how the information was distributed.

Sgt Haythornthwaite referred to body camera footage from the 27 May 2019 that they had not had time to produce for the hearing today, but he had viewed the footage and one of the door staff had said that the male was on Pubwatch and should not be in the premises, so they were aware that he was on Pubwatch.

The Chairman asked if male 2 had been drinking in any other establishments.

Durham Constabulary stated that there had been some discussion around the DPS's understanding of his role and the amount of time at the premises, not what they would look for in a DPS. Mr Toshi was at the premises all the time and was the husband of the Director and was the driving force around the premises and should be engaging as well.

The Licensing Team Leader sought clarification if Mr Toshi was going to be the DPS.

The Applicant's Solicitor responded that they did not want to make any quick rash decisions but the current DPS had been removed from the Licence. Mr Toshi had indicated to him that he had booked himself onto another PLH course, he had changed the security company 3 times in a 7 month period and by completing the course he would know what was expected of him.

In summing up, the Applicant's Solicitor indicated that they had offered suspension of the licence which would give him time to sit down with Mr Toshi and his wife and to introduce a set of robust conditions to the satisfaction of the Police. If the Police, then still sought revocation of the premises licence then they would have a further conversation to convert the premises to a restaurant/cocktail bar and remove the vertical drinking element. Cocktail bars did not attract people who were committing these types of acts.

At 10.10 am the Sub-Committee **Resolved** to retire to deliberate the application in private.

After re-convening at 10.20 am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee had considered the

application, and the verbal representations of the Applicant and Durham Constabulary.

Resolved:

That the Premises Licence be suspended and the DPS be removed with immediate effect.

This page is intentionally left blank

DURHAM COUNTY COUNCIL

At a Special Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber - County Hall, Durham on **Friday 5 July 2019 at 10.00 am**

Present:

Members of the Committee:

Councillors D Bell, J Blakey and D Brown

Also Present:

C Hazell (Council's Solicitor)

Y Raine (Senior Licensing Officer)

P Chidiac (Applicant)

P J Maryanski (Proposed DPS)

Sgt D Haythornthwaite (Durham Constabulary)

S Mooney (Durham Constabulary – Force Solicitor)

Insp Siobhan Jones (Durham Constabulary)

J Morg (Durham Constabulary)

Councillor J Blakey (in the Chair)

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 Application for the Grant of a Premises Licence - Lebaneat, 47 North Bailey, Durham

The Committee considered a report of the Senior Licensing Officer regarding an application for the grant of a Premises Licence in respect of Lebaneat, 47 North Bailey, Durham (for copy of report, see file of Minutes).

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

The Senior Licensing Officer presented the report and advised the Sub-Committee that she had been provided with some information from Companies House that showed that the applicant had significant control of the company. All parties to the hearing were provided with a copy of the documentation.

The Senior Licensing Officer advised Members that the premises currently had a premises licence to permit the sale of alcohol and the provision of late night refreshments which was revoked at a meeting of the Council's Statutory Licensing Committee on the 5 February 2019, following a review from Durham Constabulary, the appeal hearing for this licence would take place on the 10 July 2019 at the Magistrates Court.

The application was for the sale of alcohol for consumption on and off the premises and the provision of recorded music indoors from 12:00 hrs until 23:00 hrs Monday to Sunday and from 12:00 hrs until 23:30 hrs on Christmas Day and Good Friday. Both activities were also requested from the end of permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

During the consultation period one representation had been received from Durham Constabulary. Comments not amounting to a representation were received from Durham County Council Planning Authority. The Environmental Health Department, Durham Safeguarding Partnership, Fire Safety Authority and the Public Health Department all responded to the consultation with no comments.

Mr Mooney who was representing Durham Constabulary indicated that they were objecting to the application as the granting of the licence would undermine the licensing objective of the prevention of crime and disorder, details of which were outlined in the papers.

The premises had a history of multiple incidents of employing illegal workers and numerous incidents had occurred. The decision to make a review application had not been made lightly and revocation of the licence was sought some 5 months ago.

The police accepted that the applicant was not in a position of ownership at that time, but Mr Sayed had a history of putting others forward but would still be running the premises.

Mr Chidiac the applicant lives outside of the area but intended to run the business and his own premises. He understood that Mr Chidiac had a 51% share in the company but Mr Sayed still had 49% share but there was no formal agreement or documentation to access to confirm if this was a permanent arrangement and where does the premises sit under Lebaneat. Would the recruitment still come from Mr Sayed's company and it was not clear if Mr Chidiac was an investor on the basis of the 51/49 share split. Mr Sayed would still have substantial control over the premises. Only a clear break would suffice for these premises.

Previously, the Sub-Committee had serious concerns over the use of the Licensing Act. The employing of illegal workers was not an isolated incident and was why the licence was revoked on the 5 February 2019.

The Police accepted that the matters were subject to an appeal at court next week but noted that Mr Maryanski ran the premises on a day to day basis but had no previous experience in the licensing trade and the premises required a strong DPS. They believed that Mr Maryanski was part of the premises during the immigration raid so there would be no clean break and asked the Sub-Committee to reject the premises licence application.

Sgt Haythornthwaite then addressed the Sub-Committee and indicated that Mr Sayed made a promise at the meeting held on 5 February 2019 that he would not employ workers without the right to work. However, on the 23 February 2019 when a collision took place a delivery driver working for Mr Sayed under the Lebaneat chain under Lebaneat Express left the scene of the accident but later returned and said he was the driver but he did not work for Mr Sayed he was helping out but did not have the right to work in the UK. Durham Constabulary had ongoing concerns about Mr Sayed who holds 49% shares in the company. They had not had an opportunity yet to go through what that exactly meant but he was still a shareholder in the business.

Mr Chidiac, the Applicant then addressed the Sub-Committee and indicated that Mr Sayed had made a lot of mistakes but asked that the Sub-Committee not look at what had happened in the past and judge him. He assured members that Mr Sayed would not be involved in the premises he would just be supplying the food and he would not be employing staff from Mr Sayed's company.

He had experience in restaurants and worked with a lot of restaurants. Mr Sayed had approached him some 7 months ago as he wanted someone to assist him and they agreed he would have 51 percent of the shares and that Mr Sayed would not get involved with the business. The premises would be run by himself and Mr Sayed would probably only be on the premises once a week.

Councillor Bell asked who would be employing staff.

Mr Chidiac responded that he would be employing staff in the premises as he had the biggest influence and the final decision.

The Chairman asked Mr Chidiac if he had any knowledge of illegal workers and the collision with the delivery driver.

Mr Chidiac responded that he was not aware of any illegal workers and was only aware of the traffic collision when he read the police report.

Mr Mooney asked Mr Chidiac to explain the investment and what arrangements were in place.

Mr Chidiac explained Mr Sayed had an investment in the business, but it was his business.

Mr Mooney then asked if Mr Chidiac had plans in the future to own the remaining shares.

Mr Chidiac responded that not at the moment, but they had been talks of him taking over the whole business in the future.

Mr Mooney then asked if they had any documentation from the purchase to show the arrangements for the business and if the business was still called 'Lebaneat'.

Mr Chidiac responded that he did not have any documentation, but he held 51% of the shares and that the premises would still be known as 'Lebaneat'.

In response to questions from Mr Mooney, Mr Chidiac confirmed that they purchased food from the head office and this arrangement was in place until they got the food right. They did not use the agency to hire employees and this had been done via an advert. He explained the process for the hiring of staff and the arrangements in place for the safeguarding of illegal workers and that they used an agency for the checking of documents.

DC Haythornwaite asked Mr Maryanski who he reported to.

Mr Maryanski indicated that he used to report to Anna, but he now reported directly to Mr Chidiac.

DC Haythornwaite asked if there was any correlation between Lebaneat Ltd and the Lebaneat wrap house.

Mr Chidiac confirmed that they were separate companies.

Mr Mooney asked what experience Mr Chidiac had in the restaurant industry.

Mr Chidiac responded that he had previously managed restaurants then he set up his own wholesale company. He was not required to be at his wholesale business all the time and planned to be in Durham a minimum of 2 days as the traveling was not an issue.

Mr Mooney asked Mr Maryanski how long he had worked at the premises.

Mr Maryanski responded that he started working at Lebaneat last July as a Chef then head Chef and was now training to be a manager. He would like to have his own business in the future.

Mr Mooney asked Mr Maryanski if he was present when immigration attended the premises and if he had any previous experience as a chef.

Mr Maryanski confirmed that he was at the premises when immigration visited and that he had no previous experience in the licensing trade.

DC Haythornthwaite asked Mr Chidiac if he had invested in other customers restaurants and was he aware of the restaurants history and what motivated him to invest.

Mr Chidiac responded that he had not invested in other customers restaurants and was not aware of all the issues with the premises and that he had invested in the business as it was a good price.

In response to a question, Mr Chidiac confirmed that Ms Cotoi did not work at the premises.

In Summing up, Mr Mooney indicated that Durham Constabulary were objecting to the application as they believed that Mr Sayed still had control and influence over the business. Mr Sayed had employed illegal workers and the premises were subject to a lot of concerns. Assurances had been made but this premise was still shown on their website and they were still purchasing supplies from Lebaneat and Mr Sayed still had a 49% share in the business. There were no documents to show the setup of the business.

He asked Members to look at the incident that took place on the 23 February 2019 and asked that the application be refused.

At 11.15 am the Sub-Committee Resolved to retire to deliberate the application in private.

After re-convening at 11.50 am the Chair delivered the Sub-Committee's decision. In reaching their decision the Sub-Committee considered the report of the Senior Licensing Officer, the verbal and written representations of Responsible Authorities and the Applicant. Members had also taken into account the Council's Statement of Licensing Policy and S182 Guidance issued by the Secretary of State.

Resolved: That the application be refused.

Statutory Licensing Sub-Committee

17th September 2019

**Application for the Review of a
Premises Licence**



Ordinary Decision

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

**Councillor Brian Stephens, Cabinet Portfolio Holder for
Neighbourhoods and Local Partnerships**

Electoral division(s) affected:

Chester-le-Street West Central

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application by Durham County Council's Licensing Authority to review the premises licence in respect of Cookson Spice, Cookson House, Cookson Terrace, Chester-le-Street DH2 2AN.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 On 22nd July 2019, the application was received from the Licensing Authority (Responsible Authority) asking for a review of the premises licence (ref. no. PLA0067) for Cookson Spice, Chester-le-Street.
- 4 On 11th July 2019, the Licensing Authority received an application to transfer the premises licence with immediate effect from Mr Jaman Uddin Ahmed to Mr Mohamed Khalid.
- 5 On 12th July 2019, the Licensing Authority received a letter from Mr Jaman Uddin Ahmed requesting to be removed as the designated premises supervisor. Mr Khalid has stated the premises will not be used for any licensable activities.
- 6 During the consultation period the Licensing Authority received three representations in support of the review application. These were from Durham Constabulary, Home Office Immigration Enforcement Team and the Council's Durham Safeguarding Children Partnership.

- 7 The Environmental Health Department, Public Health Department, Planning Authority and Fire Authority all responded to the consultation with no comments.

Recommendation(s)

- 8 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 9 The Sub-Committee is recommended to give appropriate weight to:
- (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representations (including supporting information) presented by all parties;
 - (c) Durham County Council's Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 7;
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018). The relevant parts of the guidance are attached at Appendix 8

Background

- 10 Background information

Applicant	Durham County Council Licensing Authority	
Type of Application: Review of a Premises Licence	Date received: 22nd July 2019	Consultation ended: 19th August 2019
Current Premises Licence Holder	Mr Mohamed Khalid	
Current Designated Premises Supervisor	N/A	

- 11 The premises licence in respect of Cookson Spice, Cookson Terrace, Chester-le-Street currently permits the sale of alcohol, the playing of recorded music and the provision of late night refreshment as detailed in the table below:

Licensable Activities	Days & Hours
Sale of Alcohol (for consumption on the premises)	Monday to Sunday: 11:00 – 00:00 hrs
Recorded Music (Indoors)	Monday to Sunday: 11:00 – 00:00 hrs
Late Night Refreshment (Indoors & Outdoors)	Monday to Sunday: 23:00 – 00:00 hrs
Opening Hours	Monday to Sunday: 11:00 – 00:30 hrs

12 A copy of the premises licence is attached at Appendix 3.

Details of the application

13 The review application by the Licensing Authority was received by the Licensing Authority on 22nd July 2019.

14 The application is deemed by the Licensing Authority to be relevant and the application was advertised in accordance with the regulations.

15 The application for review relates to the following licensing objectives:

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

16 A copy of the review application and supporting documents are attached at Appendix 4.

The Representations

17 During the consultation period, the Licensing Authority received three representations in support of the review application from the following responsible authorities, Home Office Immigration Enforcement Team, Durham Constabulary and Durham Safeguarding Children Partnership.

Copies of the representations are attached at Appendix 5.

18 Responses were received from the following Responsible Authorities, confirming that they had no comments to make in relation to the review application:

- Environmental Health

- Public Health
- Planning Department
- Fire Authority

19 Additional information has been submitted by the premises licence holder. This is attached at Appendix 6.

The Parties

20 The Parties to the hearing will be:

- Nicola Anderson, Licensing Enforcement Officer, Licensing Authority (Applicant)
- Mr Mohamed Khalid (Premises Licence holder)
- Sgt Caroline Dickenson, Durham Constabulary (Responsible Authority)
- Mark Thorley, Home Office Immigration Enforcement Team (Responsible Authority)

Options

21 The options open to the Sub-Committee are:

- (a) To take no further action;
- (b) To modify or add conditions to the licence;
- (c) Exclude a licensable activity from the licence;
- (d) Remove the Designated Premises Supervisor (currently there is no DPS therefore this is not an option);
- (e) Suspend the licence for a period (not exceeding three months);
- (f) Revoke the licence.

Main implications

Legal Implications

22 The Committee should be aware of several stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

Consultation

23 The review application was subject to a 28 day consultation.

See Appendix 1

Conclusion

24 The Sub-Committee is asked to determine the application for the review of the premises licence for Cookson Spice, Cookson House, Cookson Terrace, Chester-le-Street DH2 2AN.

Background papers

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

Other useful documents

- None

Contact: Helen Johnson

Tel: 03000 265101

Appendix 1: Implications

Legal Implications

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that:

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this, it was stated that any condition attached to the licence should be an enforceable condition.

Consultation

The premises licence review application was subject to a 28 day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

The notice of application was displayed on the premises for a period of 28 days.

Notice of the application was displayed at the Council's Head Office at County Hall, Durham.

In addition, details of the application were available to view on the Council's website throughout the 28 day consultation period.

Appendix 2: Location Plan

* COOKSON SPICE, COOKSON TERRACE, CHESTER-CE-STREET



Appendix 3: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

PLA0067
19 May 2011
18 September 2018

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
COOKSON SPICE COOKSON HOUSE COOKSON TERRACE CHESTER-LE-STREET DH2 2AN	DURHAM COUNTY COUNCIL REGENERATION & LOCAL SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number:	

Where the licence is time limited the dates N/A

Licensable activities authorised by this licence Recorded Music Late Night Refreshment Sale by retail of alcohol
--

Opening Hours of the Premises		
		Non-standard/seasonal timings
Mon	11:00-00:30	
Tue	11:00-00:30	
Wed	11:00-00:30	
Thu	11:00-00:30	
Fri	11:00-00:30	
Sat	11:00-00:30	
Sun	11:00-00:30	

Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales: ON SALES ONLY
--

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

<p>Recorded Music Indoors</p> <p>Mon 11:00-00:00 Tue 11:00-00:00 Wed 11:00-00:00 Thu 11:00-00:00 Fri 11:00-00:00 Sat 11:00-00:00 Sun 11:00-00:00</p>	<p>Further details Non-standard/seasonal timings</p>
<p>Late Night Refreshment Indoors and Outdoors</p> <p>Mon 23:00-00:00 Tue 23:00-00:00 Wed 23:00-00:00 Thu 23:00-00:00 Fri 23:00-00:00 Sat 23:00-00:00 Sun 23:00-00:00</p>	<p>Further details Non-standard/seasonal timings</p>
<p>Sale by retail of alcohol</p> <p>Mon 11:00-00:00 Tue 11:00-00:00 Wed 11:00-00:00 Thu 11:00-00:00 Fri 11:00-00:00 Sat 11:00-00:00 Sun 11:00-00:00</p>	<p>Further details Non-standard/seasonal timings</p>

Part 2

<p>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</p>	
<p>Registered number of holder, for example company number, charity number (where applicable)</p>	
<p>Company no:</p>	<p>N/A</p>
<p>Charity no:</p>	<p>N/A</p>

<p>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</p>
--

<p>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</p>
--

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 responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

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

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

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

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

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

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.

The responsible person must ensure that –

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

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

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.

Annex 2 – Conditions consistent with the premises Operating Schedule

General

None

Prevention of Crime & Disorder

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

Public Safety

Fire exits and fire equipment to be clearly marked.
Risk assessments in place for health and safety and fire.

Prevention of Public Nuisance

No consumption of alcohol to take place at any time outside of the premises.
Signage to be displayed asking customers to leave in a quiet manner.
To have a no drugs policy in place.

Protection of Children from Harm

A challenge 25 policy will be operated in the premises.
A refusals register to be kept and maintained.
Photo driving licence, passport and ID with pass logo will only be accepted as forms of ID.
Children under the age of 16 will only be allowed on the premises accompanied by an adult.

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

Statutory Licensing Sub-Committee - 18th September 2018

The Premises Licence Holder shall operate a system which ensures compliance with immigration legislation and proves employees' right to work status is evidenced before they commence employment.

Employees' right to work documents will be retained on the premises and made available for the Licensing Authority, Police and Home Office immigration enforcement officers, upon request. Such documents will be retained for a period of two years after employees cease working at the premises.

The Premises Licence Holder shall receive training in relation to immigration after three months, six months and annually thereafter. Records of training for new members of staff shall take place on those occasions and all records of training shall be made available to the Licensing Authority, Police and Home Office immigration enforcement officers, upon request.

Annex 4 – Plans attached

Attached

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

**Appendix 4: Review application and supporting documents from
Durham Constabulary**

Durham County Council PO Box 617 Durham DH1 9HZ

**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 **Nicola Anderson, on behalf of the Licensing Authority**
(Insert name of applicant)

Apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

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

Name of premises Licence Holder/DPS or club holding club premises certificate (if known) Mohammed Khalid
--

Number of premises licence or club premises certificate (if known) PLA0067
--

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 Nicola Anderson, Licensing Enforcement Officer Environment, Health and Consumer Protection Licensing Services (Enforcement) Annand House Meadowfield Durham DH78RS
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 | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

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

Durham County Council's Licensing Enforcement section (representing Licensing as a Responsible Authority under the Licensing Act 2003) wish to review this premises licence with a view to seeking the revocation of the premises licence. This follows a visit to the premises on 23 May 2019 involving Immigration Officers and a Licensing Enforcement Officer. *At the time of the visit, immigration offences and failure to comply with Premises Licence conditions were identified which undermines the Licensing objectives.*

Immigration offences have previously been committed by Mr Jaman Ahmed at Cookson Spice. The Premises Licence was reviewed by Officers from the Home Office Immigration team in September 2018. This followed several arrests having been made during an immigration visit to the premises in 2017. At the time of the hearing in 2018 Mr Ahmed was in the process of paying a civil penalty of £37,000 for the offences. At the Committee hearing it was suggested that Mr Ahmed had no real procedures in place to ensure that he did not employ workers without the right to work in the UK, but prior to the hearing he had sought the assistance of a Licensing Law firm and training from a Licensing Consultant, TJR Licensing. They had produced documentation for Cookson Spice evidencing new procedures and a new approach to address these employment issues. The decision of the Committee on that date was to allow Mr Ahmed to retain his licence with additional conditions relating to right to work documentation and immigration training for staff. A copy of the notice of decision for the hearing is attached as Appendix 1.

At the time of the inspection at the premises on the 23rd of May 2019 the Licensing Enforcement Officer (LEO) identified the following defects and non-conformities:

- 1. The documentation in connection with the conditions added by the Statutory Licensing Sub-Committee on 18th September 2018 was not complete and training records were poor.**

The licence condition states that:

The Premises Licence Holder/DPS shall operate a system which ensures compliance with immigration legislation and proves employees' right to work status is evidenced before they commence employment.

Employees' right to work documents will be retained on the premises and made available for the Licensing Authority, Police and Home Office immigration enforcement officers, upon request. Such documents will be retained for a period of two years after employees cease working at the premises.

The Premises Licence Holder/DPS shall receive training in relation to immigration after three months, six months and annually thereafter. Records of training for new members of staff shall take place on those occasions and all records of training shall be made available to the Licensing Authority, Police and Home Office immigration enforcement officers, upon request.

The Licence Holder/DPS produced a file which was kept on the top of the fridge. On checking the file, the Licence Holder/DPS could not locate the documentation. He then stated that _____ had taken the documentation to send to immigration. On being reminded that the documentation must be available for inspection by officers from Licensing and Immigration, the Licence Holder/DPS started looking

through a pile of paperwork under the counter and produced incomplete records of Right to Work documentation.

He said the waiter who was working that night had only started that night and he intended completing the right to work documentation with him that night. The waiter only had his driving licence with him. The Licence Holder/DPS did not seem to understand that right to work documentation should be completed before the employee started work, nor that a driving licence was not sufficient documentation to prove a right to work.

The training records that were produced were poor. One that was produced gave the job title as Voluntary. Only 3 certificates were produced. These stated that staff were given an awareness and understanding of current immigration legislation.

2. Immigration officers had received intelligence that there were people working in the restaurant who didn't have the necessary status to allow them to do so. Officers arrested 3 people in the kitchen and a fourth was asked to leave the premises.

The revised Guidance under s182 of the Licensing Act 2003 states the following:

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.*

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.

This situation undermines the prevention of crime and disorder licensing objective.

Immigration officers who removed the four males confirmed the following information:

The first arrested male Indian male, admitted working for 2-3 days at Cookson Spice (but wasn't certain exactly how long) and claimed to have found the job online by ringing around. He stated he was having short term financial difficulties and needed money to live and pay for re-sits. He stated he was to be paid £30 per day but had not been paid yet. He knew he was not allowed to work and apologised. He was accordingly served immigration paperwork as a person who was found working in breach of his visa conditions. Subject was due to be removed on 06/06/19 however he refused to leave the Detention Centre. A new removal date of 13/07/19 with Escorts has been set.

The second male Nigerian male, admitted during interview that he had helped out in the kitchen on three or four occasions receiving £25 cash and food on each occasion. Subject was fully aware that he was not allowed to work and claims to have told his friend who is the owner of the premises

that he was not allowed to work. The owner of the premises collected subject from his friends address in South Shields and would also take him home at the end of the night. He was accordingly served immigration paperwork as a person who was found working in breach of his visa conditions was due to be removed on 09/06/19 however a last-minute Human-Rights application lodged and he was released on immigration bail.

The third male arrested Bangladesh male, was interviewed the following day. He admitted to working illegally and he claimed to have worked there for two or three months getting paid £100 - £150 per week working Thursday, Friday and Saturday evenings 5pm until midnight as a chef. He was employed by and he did not produce any right to work paperwork. Subject remains detained however, he has now claimed asylum. This will be assessed, and a decision made whilst he remains in Immigration Detention.

The fourth male who was asked to leave the premises Bangladesh male having an outstanding asylum claim with no right to work. He did not admit to working illegally although he admitted that he was picked up and brought to the restaurant by Jaman Ahmed. He claimed that he was intending to see Durham (bearing in mind the restaurant is in Chester-le-Street) however, it was 8pm and he claimed to have been in the restaurant since 4pm and was found in the kitchen area where he claimed that he was just having food. was asked to leave the premises and has been named on the Civil Penalty Referral form as a suspected illegal worker. Claiming to have no cash and intending to get a bus home, was given £25 cash by Jaman Ahmed prior to leaving the premises.

3. The Premises Licence Holder/DPS who is also the DPS could not locate the licence for the premise.

Section 57 of the Licensing Act 2003 states:

(5) A constable or an authorised person may require the person who, by virtue of arrangements made of the purposes of sub-section (2) is required to have the premises licence (or a certified copy of it) in his custody or under control to produce the licence (or such a copy) for examination.

The Licence Holder/DPS/Designated Premises Supervisor (DPS) tried to hand over several documents asking if this was the licence. The Licence Holder/DPS/DPS did not appear to understand what his licence was or where it was.

4. The CCTV was not working.

S136 of the Licensing Act 2003 states that a person commits an offence if he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation or he knowingly allows a licensable activity to be so carried on.

The licence condition states that:

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

The Licence Holder/DPS said he could not operate the CCTV system. He did not think it recorded for 28 days. He thought it just wiped itself and records for 1 day. He then suggested that we got a memory stick and downloaded it.

5. There was no leave quietly signage

The licence condition states that:

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

The Licence Holder/DPS offered no explanation as to why there was no signage.

6. There was no refusals register

The licence condition states that:

A refusals register to be kept and maintained.

When asked about the refusals register the Licence Holder/DPS pointed to the Challenge 25 poster that was up. The Licence Holder/DPS did not appear to understand what was being requested.

This undermines the prevention of public nuisance and protection of children from harm licensing objective

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

A further visit was made to the premises on 5th June 2019 when a Police Officer seized the paperwork held at Cookson Spice in relation to immigration training and right to work checks carried out on employees. This documentation is attached as Appendix 2.

Mr [redacted] was interviewed on 26th June 2019 under caution with a view to legal proceedings being issued against him for non-compliance with his licence conditions. A copy of the transcript of the interview is attached as Appendix 3.

When asked about not being able to produce the licence Mr Ahmed said the licence was on the wall. The summary was on display but when pressed as to whether the licence was on the premises, he said he thought it was in a folder.

During the interview Mr [redacted] suggested that his CCTV system might have been recording for the required number of days. He said the mouse doesn't work on the system and he can't put the password in. A technician has told him he needs a new system, but he thinks it does record for 28 days. Mr [redacted] said the system is not maintained, it is PAT tested (electrical test) but that is all.

Mr [redacted] said he did have a refusals register it had just been moved.

When asked about the Challenge 25 policy he had in place at the premises Mr [redacted] could not give a satisfactory answer as to what he understood the policy to mean and stated that training will be done in this area with [redacted] from TJR Licensing later.

Mr [redacted] was asked about the training he received regarding immigration. He said it had taken place once since the last committee hearing and this was at the end of February with [redacted]. He had been told what documents he needed to check. Mr [redacted] said that he had a new starter and he had made her go away three times to get the correct documentation for him before she started. Mr [redacted] still did not appear to see the significance of the fact that he was going to complete the paperwork after the waiter had commenced work and stated that he gives 24 hours to produce all the required documents.

Mr [redacted] still maintained in the interview that [redacted] had sent some paperwork to immigration.

When questioned about the training documentation he said a friend had been in the restaurant on the day of the inspection and that is why he had put his role down as voluntary. Mr [redacted] initially said that [redacted] had completed the certificates but when questioned further he said he wasn't sure who had written them out.

Mr [redacted] was asked about the people found in the kitchen. Mr [redacted] stated they were all there as it was Ramadam and they had come to break their fast. He said that they were not in the actual kitchen but in the vestibule between the restaurant and the kitchen. He said he had never met any of the males prior to that night. He was not sure why they had come to his restaurant, but he was happy to feed them as they had plenty of food. He said they did not work there, and he had never given any of them any money.

was interviewed as part of the investigation. He maintained that he had never removed any documentation from the premises regarding the immigration paperwork. He said that he had delivered training in respect of immigration right to work which had been developed by Mincoffs Solicitors and approved by Immigration. He said that he felt at the end of the training that Mr [redacted] had a good understanding of the procedure for completing the right to work documentation and templates of what was required were left for him but confirmed there were no formal tests at the end of the training to check the knowledge.

also explained that he had checked that the premises had CCTV (although he did not undertake a full check of the CCTV to see if it complied with the licence condition) and on his visit he noted that the summary licence was on display along with the Challenge 25 posters.

On the 11th of July 2019 the Licensing Authority received an application to transfer the premises licence for Cookson Spice from Mr Jaman Ahmed to Mr Khalid who states he is the landlord at the premises.

On 18th July 2019 Mr Ahmed was removed as the Designated Premises Supervisor at the premises but as Mr Ahmed still holds a lease at the premises. It is the submission of the Licensing Authority that it remains entirely appropriate to review the Premises Licence.

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/DPS or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date 22nd July 2019

.....

Capacity Responsible Authority

.....

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

Post town

post Code

Telephone number (if any)

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

Notes for Guidance

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

THE COUNTY COUNCIL OF DURHAM

Licensing Act 2003 (the Act) Committee

NOTICE OF DETERMINATION

Date of Hearing : 18th September 2018
Date of Determination : 18th September 2018
Committee Members : 1. Councillor C. Carr (Chair)
2. Councillor L. Brown
3. Councillor C. Hampson

1. Type of application or hearing

1.1 Review of the premises licence at Cookson Spice, Cookson House, Cookson Terrace, Chester-le-Street, DH2 2AN

2. Applicant

2.1 Home Office, Immigration Enforcement Team

3. Representation

3.1 On 23rd July 2018, the Licensing Authority received an application from the Home Office, Immigration Enforcement Team, asking for a review of the premises licence for Cookson Spice, Cookson Terrace, Chester-le-Street

4. Witnesses

4.1 The Committee heard from the following:

- Yvonne Raine, Senior Licensing Officer
- Mark Thorley, Home Office, Immigration Enforcement
- Jaman Uddin Ahmed, the Premises Licence Holder
- Matt Foster, Mincoffs Solicitors on behalf of the Premises Licence Holder

4.2 The Sub-Committee also took into account written submissions of all parties, as provided within the hearing bundle.

5. Licensing Act 2003

- 5.1 The Sub-Committee has taken into account the relevant provisions of the Act.

6. Section 182 Guidance

- 6.1 The Sub-Committee has considered and taken account of the most recent edition of the Secretary of State Section 182 Guidance issued April 2018.

7. Licensing Policy

- 7.1 The Sub-Committee has considered and taken account of the Council's licensing policy.

8. Licensing Objectives

- 8.1 The Sub-Committee has taken account of the statements and written representations and the oral evidence given, with respect to the licensing objective triggered by the objection:

- Prevention of Crime & Disorder

9. Evidence

Representations of the Senior Licensing Officer, Yvonne Raine

- 9.1 Ms Raine re-iterated the contents of her report, outlining the representations made and the issues involved.
- 9.2 It was confirmed that additional information had been supplied by the Premises Licence Holder and the Applicant. Copies had been passed over to all relevant parties.

Representations of the Home Office

- 9.3 Mark Thornley spoke on behalf of the Home Office. He confirmed that an enforcement visit had taken place on 18th November 2017. Entry was pursuant to Section 179 of the Licensing Act 2003. Mr Ahmed had confirmed that he was the owner and manager of the premises.
- 9.4 Unfortunately four arrests had been made on the basis of immigration offences. Consequently passports were seized and searches were carried out at personal addresses.

- 9.5 There were no records at all on the premises, although it was conceded that sometimes records are kept off-premises, sometimes with accountants. Following a search of the premises and house searches, there were no employment records.
- 9.6 During the premises search an interview took place in the kitchen, at Mr Ahmed's request, and the Home Office followed this with the imposition of a Civil Penalty. This was appealed at the local county court but the decision to serve this penalty was upheld.
- 9.7 Mr Ahmed was now in the process of paying the Civil Penalty but this was for a large amount, £37,000. A payment plan was now in place.
- 9.8 This was not the first such visit to these premises. On 3rd March 2016 there had been one arrest made but that person was later released due to checks made. He suspects that the release of this person gave Mr Ahmed a false sense of security that it was satisfactory to carry on as he had been doing.
- 9.9 No proper checks had been carried out in this latest incident. Those checks were clearly defined on the Home Office website and so they were readily available.
- 9.10 There were mitigating factors in that Mr Ahmed had now employed a licensing consultant and had gone through thorough training. New systems had been introduced so great efforts had been made which was rare in his experience, although it was stressed these systems should have been in place in any event.
- 9.11 The Home Office had suggested the imposition of conditions, which were to be found at Page 55 of the hearing bundle.

Representations of the Applicant

- 9.12 Matthew Foster spoke on behalf of Cookson Spice. He confirmed that these premises were in an area that historically had issues with crime and disorder. Prior to this development the premises had involvement with the police. Aside from the issues discussed today, there have been no reported issues with these premises.
- 9.13 His client was both the premises licence holder and the designated premises supervisor. He took responsibility for what had happened.
- 9.14 Mr Ahmed has had a difficult time. He suffers with dyslexia and he had no doubt this contributed to the offences, which he acknowledged were serious.
- 9.15 He had done his best to rectify the situation and he hoped to keep the premises in line with the new conditions that were being offered.
- 9.16 Mr Ahmed had already been prosecuted and was struggling to keep the business going due to the penalty imposed. His client was asking for another chance.

- 9.17 It was acknowledged that their starting point may well be a revocation. But he felt that the Sub-Committee had been provided with information which allowed them to step back from a revocation. If he had 'tipped up' today and had done absolutely nothing then it would be quite right to look at revocation. His client had given the Sub-Committee plenty of reasons to step back from that.
- 9.18 Licensing Consultant, spoke to the Sub-Committee. He confirmed the training that had been given stressing that many in the UK had not put this sort of training in place. This was to all staff.
- 9.19 On 15th August 2018 he had spoken to the whole of the staff, including all kitchen staff. He had been told about Mr Ahmed's dyslexia and so had tailored the training to suit. He had fully explained the documents that had been introduced into the business.
- 9.20 He had suggested that the premises obtain an ultra-violet reader to assist with identifying original documentation.
- 9.21 He can confirm that Mr Ahmed certainly knows about the seriousness of the situation and there was an offer to do initial refresher training after three months and then subsequently every six months.
- 9.22 The Sub-Committee asked a number of questions of the Licence Holder.
- 9.23 He confirmed he took food hygiene laws extremely seriously. He had been running this business for seven years.
- 9.24 They had a turnover of staff as it was a busy business, especially at weekends. He now had a system of employing insisting on a passport, driving licence, national insurance number and only taking referrals through the job centre. He had previously put trust in the individuals but there was a change of focus now, only taking referrals from the job centre.
- 9.25 He fully intended to use an ultra-violet machine and was looking to acquire his own photocopier for administrative duties.
- 9.26 Once refresher training was completed full records would be signed and kept. This hopefully satisfied both the licensing authority and the Home Office.
- 9.27 Mr Foster provided a final summary confirming this was a decision of great importance to his client. He was already struggling to make ends meet with the large fine that had been imposed.
- 9.28 There was now a recognition, from the Home Office, that the proposed conditions would satisfy them. This would make Home Office visits much easier.
- 9.29 He asked the Sub-Committee to step back from a revocation and that conditions would be fit and proper for this licence.

10. Decision

10.1 It is deemed that the premises licence may continue with the addition of further conditions at Annex 3 of the licence:

10.1.1 *The Premises Licence Holder shall operate a system which ensures compliance with immigration legislation and proves employees' right to work status is evidenced before they commence employment.*

10.1.2 *Employees' right to work documents will be retained on the premises and made available for the Licensing Authority, Police and Home Office immigration enforcement officers, upon request. Such documents will be retained for a period of two years after employees cease working at the premises.*

10.1.3 *The Premises Licence Holder shall receive training in relation to immigration after three months, six months and annually thereafter. Records of training for new members of staff shall take place on those occasions and all records of training shall be made available to the Licensing Authority, Police and Home Office immigration enforcement officers, upon request.*

11. Reasons

11.1 In reaching its decision, the Sub-Committee has considered carefully the Report of the Licensing Officer and the representations made.

11.2 This Sub-Committee must concern itself with the four licensing objectives as laid down in statute:

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

11.3 The Sub-Committee must have regard to the Licensing Act 2003, the Section 182 Guidance and the Council's Licensing Policy.

11.4 It is clear that there has been significant issues with regard to illegal workers at these premises. The Sub-Committee had heard that four workers had been arrested as having no grounds to work in the UK. As a result it was revealed that the licence holder had no real procedures or checks and balances to ensure that such workers were not employed at these premises.

11.5 As a result, the Home Office chose to impose a Civil Penalty. The amount of that penalty was challenged by way of appeal at the local county court but was upheld.

- 11.6 The fine was significant, totalling £30,960. The licence holder was also ordered to pay the Home Office costs of £5,960. The Sub-Committee had heard that the licence holder would struggle to make the required payments but that it would be impossible without the continuation of this licence.
- 11.7 The licence holder's personal circumstances should not be a factor in considering the continuation of this licence. What was impressive was that the licence holder had sought the views of a licensing law firm and had sought training from a licensing consultant, TJR Licensing. They had made representations on behalf of the licence holder and had produced documentation evidencing new procedures and a new approach to employment issues.
- 11.8 The licence holder had offered additional conditions to be placed on his licence and the Home Office representative had indicated that these conditions would be a satisfactory outcome to this matter. The Home Office were certainly not looking to revoke this licence and felt it could continue, in compliance with the licensing objectives.
- 11.9 The Sub-Committee are therefore confident that the appropriate and proportionate response to this review is to impose further conditions on these premises.
- 11.10 The Sub-Committee have considered the review and determined, having regard to the four licensing objectives, that this premises licence may continue with the conditions as previously outlined.

Signed

(Chair)

Dated

26th September 2018

PLEASE NOTE:

- A licence holder has a right of appeal against the decision of a Licensing Authority (or a part of it) as does a person who has made relevant representations, where applicable.
- An appeal must be made to the Justices' Chief Executive for the Magistrates Court covering the area in which the premises are situate.
- It is done by Notice given to the Magistrates Court and it must be done, together with the payment of any fee charged for lodging the appeal, within 21 days beginning with the day on which the person appealing was notified by the Licensing Authority in writing of the decision appealed against.
- If you wish to consider making an appeal you are advised to contact the relevant Magistrates Court.
- You may consider it is in your interests to seek legal advice on the matter but if you do it is important to do this quickly in view of the time limit imposed.



Immigration Compliance Training

Cookson Spice, Cookson Terrace, Chester Le Street

Course Date 28th February 2019

NAME IN CAPITALS	ROLE IN VENUE	SIGNATURE
	WAITER.	
	WAITER.	
	WAITER	
	MANAGERS.	
	VOLUNTARY	
	CHEFS.	
	TANDOORI CHEFS.	

I certify that the above names individuals attended this course and received the training

Tim Robson – Tutor

28/2/19



TJR Licensing, Consultancy and Training.

**Record of Training Given to a Member of Staff Regarding awareness
and understanding of Current Immigration Legislation
Trainers Declaration.**

Cookson Spice, Cookson Terrace, Chester Le Street

I hereby confirm that I have delivered training to; JAMMAN

In relation to age restricted products and I feel confident that he/she fully understands the legislation, liabilities, policies and procedures to be complied with namely.

- Immigration legislation Compliance

Position in premises; MANAGER

Candidate Signature;

Name of Premises; **Cookson Spice, Cookson Terrace, Chester Le Street**

Trainer Name **Tim Robson Cert.Ed. MIOL, BII**

Signature

Date 28th February 2019

It is recommended that refresher training is given every six months.



TJR Licensing, Consultancy and Training.

**Record of Training Given to a Member of Staff Regarding awareness and understanding of Current Immigration Legislation
Trainers Declaration.**

Cookson Spice, Cookson Terrace. Chester Le Street

I hereby confirm that I have delivered training to

In relation to age restricted products and I feel confident that he/she fully understands the legislation, liabilities, policies and procedures to be complied with namely.

- Immigration legislation Compliance

Position in premises;

Voluntary

Candidate Signature;

Name of Premises; **Cookson Spice, Cookson Terrace, Chester Le Street**

Trainer Name **Tim Robson Cert.Ed. MIOL, BII**

Signature

Date 28th February 2019

It is recommended that refresher training is given every six months.

EMPLOYEES 'RIGHT TO WORK' PACK

Tick when completed

- Enclosed copies of original personal documents
- Validity of the documents checked
- Signed & dated declaration on copies of personal documents

To be signed on completion of the pack

Employer's signature:

Date: 30/07/2018

Print Name:

Employee's signature:

Date: 30-07-2018

Print Name: JAMAL AHMED

COOKSON SPACE

Pre-employment check

Checks framed by law	Check done by	Date	Type of document
Identity <ul style="list-style-type: none">• Passport birth certificate or driving licence• Certificate of registration Biometric Residence Permit and/or immigration documents	JAMIN JDDIN	30-07-2018	PASSPORT DRIVING LICENCE
Right to work in the UK			

THIS PAGE IS RESERVED FOR OFFICIAL OBSERVATIONS

BRITAIN AND MORE

BRITAIN AND MORE



THE DATE ON WHICH THIS RIGHT TO WORK CHECK WAS MADE IS 30-07-2018.

EMPLOYEES 'RIGHT TO WORK' PACK

Tick when completed



Enclosed copies of original personal documents



Validity of the documents checked



Signed & dated declaration on copies of personal documents

To be signed on completion of the pack

Employer's signature:

Date: 06-08-2018

Print Name:

Employee's signature:

Date: 06-08-2018

Print Name: JAMAR

COOKSON SPACE

Pre-employment check

Checks framed by law	Check done by	Date	Type of document
Identity <ul style="list-style-type: none"> • Passport, birth certificate or driving licence • Certificate of registration, Biometric Residence Permit and/or immigration documents 	JAMAN UDDIN		PASSPORT DRIVING LICENCE
Right to work in the UK			

Notes:

The date on which this right to work check was made [/ /]

Signature:

Print Name:

In the presence of [employee]

Signature:

Print Name:

DATE FOR REVIEW:

(Only applicable if employee has time limited permission to work in the UK)



1 Employer PAYE reference
Office number Reference number

2 Employee's National Insurance number

3 Title - enter MR, MRS, MISS, MS or other title

Surname or family name

First or given name(s)

4 Leaving date DD MM YYYY
29 07 2018

5 Student Loan deductions
 Student Loan deductions to continue

6 Tax Code at leaving date

If week 1 or month 1 applies, enter 'X' in the box below.
Week 1 / Month 1

7 Last entries on P11 Deductions Working Sheet
Complete only if Tax Code is cumulative. If there is an 'X' at box 6 there will be no entries here.
Week number Month number **04**

Total pay to date
£ _____ P

Total tax to date
£ _____ P

8 This employment pay and tax. If no entry here, the amounts are those shown at box 7.
Total pay in this employment
£ _____ P
Total tax in this employment
£ _____ P

9 Works number/Payroll number and Department or branch (if any)

10 Gender. Enter 'X' in the appropriate box
Male Female

11 Date of birth DD MM YYYY

12 Employee's private address

Postcode

13 I certify that the details entered in items 1 to 11 on this form are correct.
Employer name and address

Postcode

Date DD MM YYYY
14 **08** **2018**

To the employee

The P45 is in three parts. Please keep this part (Part 1A) safe. Copies are not available. You might need the information in Part 1A to fill in a Tax Return if you are sent one.

Please read the notes in Part 2 that accompany Part 1A. The notes give some important information about what you should do next and what you should do with Parts 2 and 3 of this form.

Tax credits

Tax credits are flexible. They adapt to changes in your life, such as leaving a job. If you need to let us know about a change in your income, phone 0845 300 3900.

To the new employer

If your new employer gives you this Part 1A, please return it to them. Deal with Parts 2 and 3 as normal.





1 Employer PAYE reference
Office number Reference number

| _____

2 Employee's National Insurance number

3 Title - enter MR, MRS, MISS, MS or other title

4 Leaving date DD MM YYYY

29 **07** **2018**

5 Student Loan deductions

Student Loan deductions to continue

6 Tax Code at leaving date

If week 1 or month 1 applies, enter 'X' in the box below.
Week 1 / Month 1

7 Last entries on P11 *Deductions Working Sheet*
Complete only if Tax Code is cumulative. If there is an 'X' at box 6 there will be no entries here.

Week number Month number **04**

Total pay to date

£ _____ P

Total tax to date

£ _____ P

To the employee

This form is important to you. Take good care of it and keep it safe. Copies are not available. Please keep Parts 2 and 3 of the form together and do not alter them in any way.

Going to a new job

Give Parts 2 and 3 of this form to your new employer, or you will have tax deducted using the emergency code and may pay too much tax. If you do not want your new employer to know the details on this form, send it to your HM Revenue & Customs (HMRC) office immediately with a letter saying so and giving the name and address of your new employer. HMRC can make special arrangements, but you may pay too much tax for a while as a result of this.

Going abroad

If you are going abroad or returning to a country outside the UK ask for form P85 *Leaving the United Kingdom* from any HMRC office or Enquiry Centre.

Becoming self-employed

You must register with HMRC within three months of becoming self-employed or you could incur a penalty. To register as newly self-employed see The Phone Book under HM Revenue & Customs or go to www.hmrc.gov.uk to get a copy of the booklet SE1 *Are you thinking of working, working for yourself?*.

Claiming Jobseeker's Allowance or Employment and Support Allowance (ESA)

Take this form to your Jobcentre Plus Office. They will pay you any tax refund you may be entitled to when your claim ends, or at 5 April if this is earlier.

Not working and not claiming Jobseeker's Allowance or Employment and Support Allowance (ESA)

If you have paid tax and wish to claim a refund ask for form P50 *Claiming tax back when you have stopped working* from any HMRC office or Enquiry Centre.

Help

If you need any further help you can contact any HMRC office or Enquiry Centre. You can find us in The Phone Book under HM Revenue & Customs or go to www.hmrc.gov.uk

To the new employer

Check this form and complete boxes 6 to 18 in Part 3 and prepare a form P11 *Deductions Working Sheet*. Follow the instructions in the Employer Helpbook E13 *Day-to-day payroll*, for how to prepare a P11 *Deductions Working Sheet*

EMPLOYEES 'RIGHT TO WORK' PACK

Tick when completed

Enclosed copies of original personal documents

Validity of the documents checked

Signed & dated declaration on copies of personal documents

To be signed on completion of the pack

Employer's signature

Date 13-08-2018.

Print Name JAWAN.

Employee's signature

Date 13-08-2018.

Print Name

COOKSON SPICE

Pre-employment check

Checks framed by law	Check done by	Date	Type of document
<ul style="list-style-type: none">• Basic criminal record check• Identity check• Employment history• Credit check• Health check• Driving license• Right to work• References	JANUARY	13-08-2018	PASSPORT H. M. Revenue & CUSTOMS

0113

EMPLOYEES 'RIGHT TO WORK' PACK

Tick when completed



Enclosed copies of original personal documents



Validity of the documents checked



Signed & dated declaration on copies of personal documents

To be signed on completion of the pack

Employer's signature:

Date:

Print Name:

Employee's signature:

Date: 28/2/19

Print Name:

COOKSON SPICE

Pre-employment check

Checks framed by law	Check done by	Date	Type of document
Identity <ul style="list-style-type: none"> • Passport, birth certificate or driving licence • Certificate of registration, Biometric Residence Permit and/or Immigration documents 			
Right to work in the UK			

Notes:

The date on which this right to work check was made [/ /]

Signature:

Print Name:

In the presence of employee

Signature:

Print Name

DATE FOR REVIEW:

(Only applicable if employee has time limited permission to work in the UK)



TJR Licensing, Consultancy and Training.

**Record of Training Given to a Member of Staff Regarding awareness
and understanding of Current Immigration Legislation
Trainers Declaration.**

Cookson Spice, Cookson Terrace, Chester Le Street

I hereby confirm that I have delivered training to;

In relation to age restricted products and I feel confident that he/she fully understands the legislation, liabilities, policies and procedures to be complied with namely.

- Immigration legislation Compliance

Position in premises; *waiter*

Candidate Signature:

Name of Premises; **Cookson Spice, Cookson Terrace, Chester Le Street**

Trainer Name **Tim Robson Cert.Ed. MIOL, BII**

Signature

Date 28th February 2019

It is recommended that refresher training is given every six months.

PROVISIONAL



PROVISIONAL DRIVING LICENCE

Appendix 5: Representations

WITNESS STATEMENT**Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9**

URN

Statement of Sgt 484 DICKENSON

Age if under 18: (if over 18 insert 'over 18') Occupation: Police SGT 484

This statement (consisting of _____ page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature

Date 17th August 2019

Tick if victim wishes to personally read their Victim Personal Statement aloud in Court: Tick if witness evidence is visually recorded (supply witness details on rear)

I am a Police Sergeant with Durham Constabulary, presently stationed in the Alcohol Harm Reduction Unit. I have responsibility for licenced premises within County Durham and Darlington and I hold a National Certificate for Licensing Practitioners. I am a current member of the National Police Chiefs Council Licensing Sub Group dealing with up to date licensing issues.

Durham Constabulary are fully supportive of the application made by Durham Council to seek a review of the premises licence for Cookson Spice.

This is the third time the premises has been visited by immigration officers and illegal worker have been arrested at the premises. The first occasion on 3rd March 2016 whereby one worker was arrested, the second visit on 18th November 2017 whereby four arrests were made and now the third occasion on 23rd May 2019 whereby four males were encountered and three were arrested with the forth being asked to leave the premises.

At the time of the immigration visits in May 2019 the Premises licence holder and Designated premises supervisor was Mr Jaman AHMED. AHMED was already in the process of paying a civil penalty of £37,000 which was a result of the previous immigration visit in November 2017.

AHMED had been subject to a licencing review on 18th September 2018 where by the decision was made by the committee not to revoke his licence however only 8 months later here he is again found to have a number of illegal workers at the premises and he was breaching a number of the conditions of his licence.

The current landlord of the property is a Mohamed KHALID who has provided a letter to Durham Constabulary dated 10th July whereby he has advised Jaman AHMED that he was to removed as designated premises supervisor with immediate effect and that he (Mohamed KHALID) would be taking over as the premises licence holder.

Durham Constabulary received an application on 11th July 2019 to transfer the premises licence to Mohamed KHALID. At the time of writing this statement no application has been received to add a DPS.

The change of PLH to the landlord of the property again doesn't offer any confidence to Durham Constabulary that there will be any changes in the running of this buisness. I would have expected a responsible landlord to know what is going on at their properties and when Cookson Spice was subject to review procedures last year, to intervene then or at least have a closer eye on the business to ensure this didn't happen again. It would appear

the landlord is now only taking action as the licence is in jeopardy.

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 the way Jaman AHMED has conducted himself since been given a 2nd chance by the sub licencing committee to improve shows that he has a total disregard for the Licencing Act, sub licencing committee decisions and the promotion of the licencing objectives and continues to exploit people for profit.

Signature:

Signature witnessed by:

Durham Safeguarding Children Partnership
Transformation and Partnerships
Durham County Council
County Hall
Durham
DH1 5UL

Ref SB/2019/081

Date: 7th August 2019

Durham County Council
Licensing Services
PO Box 617
Durham
DH1 9HZ

To whom it may concern

Re: Review Application for Cookson Spice, Cookson House, Chester le Street, DH2

By way of background, as a responsible authority under the Licensing Act, Durham Durham Safeguarding Children Partnership (DSCP) examines all licensing applications to ensure that safeguards are in place to protect children and young people from harm.

Durham SCP recognises that children and young people's access to alcohol can make them vulnerable to exploitation; become victims of crime as well as the possibility of becoming an offender themselves. This is supported by analysis, both locally and nationally.

The use of age verification policies, refusal register and the supervision and training of staff on licensed premises can make a significant contribution in ensuring that licensed premises restrict the availability of alcohol to all children and young people.

Durham SCP has received an application from Durham Licensing Authority for a review of a premises licence under the Licensing Act 2003, in respect of the premises:

Evidence presented in the application of review raises concerns about the protection of children from harm. In particular my concerns centre on the following:

- Failure to maintain agreed licensing conditions relating to application of age verification scheme and maintenance of refusals register.

Durham SCP believe the role of the premises licence holder and designated premises supervisor are positions of responsibility. Based on the evidence provided in this review it is apparent that the conditions of licence are not being adhered to and the premises licence holder and designated premises supervisor are not fulfilling their roles in respect to the premises licence.

Therefore, on behalf of the Durham Safeguarding Children Partnership, I would support the application by Durham Licensing Authority to review the premises licence.

Yours sincerely

Mark Quinn
Quality & Performance Coordinator
Durham Safeguarding Children Partnership

Helen Johnson - Licensing Team Leader (N'hoods)

From: Thorley Mark
Sent: 29 July 2019 10:15
To: Helen Johnson - Licensing Team Leader (N'hoods)
Subject: FW: Application for a review of a premises licence - Cookson Spice, Cookson Terrace, Chester-le-street
Attachments: Immigration Representations Cookson Spice.docx

Helen,

Please see attached, I was advised to forward to yourself.

Regards,

Mark

Mark Thorley

A/Chief Immigration Officer (3755)

Immigration, Compliance and Enforcement Team – North East and Cumbria

Immigration Enforcement

From: Thorley Mark
Sent: 29 July 2019 10:10
To: 'licensing@durham.gov.uk' <licensing@durham.gov.uk>
Subject: FW: Application for a review of a premises licence - Cookson Spice, Cookson Terrace, Chester-le-street

Morning Nicola,

Please see attached – can you let me know if this is acceptable or if it needs any further details etc

Kind Regards,

Mark

Mark Thorley

A/Chief Immigration Officer (3755)

Immigration, Compliance and Enforcement Team – North East and Cumbria

Immigration Enforcement

Helen Johnson - Licensing Team Leader (N'hoods)

From: AHS Licensing
Sent: 15 August 2019 12:05
To: Helen Johnson - Licensing Team Leader (N'hoods)
Subject: FW: Cookson Spice Cookson House Cookson Terrace Chester-Le-Street Durham AL26110

From: Nicola Anderson
Sent: 14 August 2019 09:47
To: AHS Licensing <Licensing@durham.gov.uk>
Subject: FW: Cookson Spice Cookson House Cookson Terrace Chester-Le-Street Durham AL26110

From: ISD Alcohol Reviews
Sent: 13 August 2019 16:42
To: Nicola Anderson
Cc: Thomas Phil
Subject: RE: Cookson Spice Cookson House Cookson Terrace Chester-Le-Street Durham AL26110

Good afternoon,

In relation to your review application re the above premises I can confirm that a subsequent visit was made which had resulted in the encounter of four illegal workers.

A civil penalty of £25,000.00 has been issued to the business owner of which he is paying off via a direct debit payment system which has been set up for him.

Regards

Paul Wynter

*Interventions and Sanctions Directorate | Alcohol and LNR licensing Team
Immigration Enforcement*

Immigration Representations Cookson Spice

I wish to submit representations regarding Cookson Spice following an illegal working visit conducted by North East ICE Arrest Team, accompanied by Durham Licensing to Cookson Spice, 12 Cookson Terrace, Chester-Le-Street DH2 2AN on 23/05/2019.

Intelligence was received that the business was employing illegal workers.

A previous visit to Cookson Spice on 18/11/2017 resulted in the arrest of 4 Immigration Offenders and a subsequent Licensing Review held on 18/09/2018; resulted in a Statutory Licensing Sub Committee imposing the following conditions:

The Premises Licence Holder shall operate a system which ensures compliance with immigration legislation and proves employees' right to work status is evidenced before they commence employment. Employees' right to work documents will be retained on the premises and made available for the Licensing Authority, Police and Home Office immigration enforcement officers, upon request. Such documents will be retained for a period of two years after employees cease working at the premises. The Premises Licence Holder shall receive training in relation to immigration after three months, six months and annually thereafter. Records of training for new members of staff shall take place on those occasions and all records of training shall be made available to the Licensing Authority, Police and Home Office immigration enforcement officers, upon request.

A visit was subsequently conducted with 3 Immigration Offenders arrested with a further Immigration Offender asked to leave the premises as he held no right to employment.

Out of the three persons arrested 2 were served Immigration Paperwork as having Worked in Breach of their Visa Conditions and both were removed from the United Kingdom on 06/06/2019 to India and Nigeria respectively.

The third male a Bangladeshi National, who had previously been served Immigration paperwork as having Overstayed his visa has since claimed Asylum and is currently on Immigration Bail.

With the fourth male escorted out of the premises the Civil Penalty pack was referred to our Civil Penalty team for consideration of £20,000 per Illegal Worker a total of £80,000 as they have previously found to employ illegal workers. This is ongoing and is being processed by the team.

The previous Civil Penalty of £25,000 for the visit in 2017 is still outstanding.

Mr.Ahmed has shown a blatant disregard to the requirements of his Licence-when asked for documentation regarding his employees right to work and subsequent checks completed, the required documentation was piecemeal and unacceptable.

What records produced were of poor quality and not up to the required standard required by the Home Office. Mr. Ahmed was fully aware of the expectations required as an employer following his previous Licensing Review. The fact that 4 Immigration Offenders were encountered working within his business afterwards suggests that any further conditions imposed would only be ignored.

Appendix 6: Additional Information from licence holder

Helen Johnson - Licensing Team Leader (N'hoods)

Subject: FW: Review of premises licence Cookson Spice and witness statement
Attachments: 11.pdf; 22.pdf; 33.pdf; 44.pdf; 55.pdf; 66.pdf; 77.pdf; 88.pdf; 99.pdf; 111.pdf

From: Khalid Khalid

Sent: 31 August 2019 13:13

To: caroline.dickinson

Helen Johnson - Licensing Team Leader (N'hoods)

Karen Robson

Subject: Review of premises licence Cookson Spice and witness statement

Dear Ms Dickinson,

I refer to your witness statement and our telephone conversation of 29th August 2019. May I take this opportunity to address the issues raised in your statement regarding the landlords role as a premises licence holder.

Background

We purchased these licensed premises, now known as Cookson Spice, from Admiral Tavern in December 2009. The premises licence was transferred from the vendor to my daughter's and [redacted] (**copy attached**). The premises was extensively refurbished and placed on the open market for lease. Eventually the lease was granted to two partners [redacted] and Mr Jamam Ahmed commencing 18th March 2011 and ending 17th March 2032. The lease was registered with the land registry on 25th May 2011 (**copy attached**). The copy lease has already been forwarded to Ms Helen Johnson by our solicitor and has been acknowledged. The request was made by the leaseholders to transfer the premises licence to Mr Jamam Ahmed. The premises licence was transferred to Mr Jamam Ahmed on 21st March 2011 (**copy attached**). We as landlords expect the leaseholders to comply with all of the rules and regulations in force to operate their business but unfortunately this was not the case.

We are extremely disappointed and alarmed as to Mr Ahmed's conduct in these premises for the following reasons:

1. Not complying with the licence conditions
2. Employing illegal immigrants
3. Not informing the landlord of the ongoing investigations

We learned of the above issues through the third parties.

Action taken by the landlords

The landlords instructed Mr Ahmed to surrender his D.P.S and transfer the premises licence to Mohamed Khalid with immediate effect. The notice was issued to Mr Ahmed on 10th

July 2019 and forwarded to Ms Karen Robson. The notice is self explanatory. **(copy attached)**

We are in the process of reviewing the tenant's lease.

I as a premises licence holder have ensured that all the alcohol has been removed from the premises.

I will also monitor the premises on a regular basis to ensure that no alcohol is sold from these premises.

Therefore, currently there is no requirement to appoint a designated premises supervisor.

As long as the lease holder operates the business from these premises **I will not permit him or others to sell any alcohol from these premises.**

We have considerable investment in these licenced premises and in future would like some reputable law abiding entity to operate these premises.

Should you require any further information then please contact me.

Yours sincerely

M Khalid

Consent of premises licence holder to transfer

I/we Admiral Taverns (58) LTD
[full name of premises licence holder(s)]

the premises licence holder of premises licence number _____
[insert premises licence number]

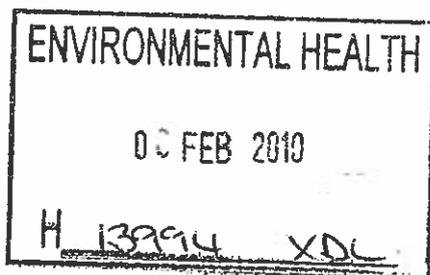
relating to

Cookson, Cookson Terrace, Chester Le Street
[name and address of premises to which the application relates] DH2 2AW

hereby give my consent for the transfer of premises licence number

67
[insert premises licence number]

to COOKSON PARTNERS.
H.K. RIAZ AND F.K. CHAUDHRY
[full name of transferee]



By _____
County Council
Bills
Secretary

signed TRANCHEWAL'S
name APPLICANTS SIGNED
(please print)
dated 5th FEBRUARY 2010



Official copy of register of title

Title number DU328575

Edition date 25.05.2011

- This official copy shows the entries in the register of title 31 May 2011 at 11:03:12.
- This date must be quoted as the "search from date" in an official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 31 May 2011.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website www.landregistry.gov.uk or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it.*
- This title is dealt with by Land Registry Durham Office.

A: Property register

This register describes the land and estate comprised in the title.

COUNTY DURHAM

- 1 (25.05.2011) The Leasehold land shown edged with red on the plan of the above title filed at the Registry and being Bar and Restaurant at The Cookson, Cookson Terrace, Chester Le Street (DH2 2AN).

NOTE: Only the ground floor and cellar are included in the title.
- 2 (25.05.2011) The mines and minerals together with ancillary powers of working are excepted.
- 3 (25.05.2011) Short particulars of the lease(s) (or under-lease(s)) under which the land is held:
Date : 18 March 2011
Term : From 18 March 2011 and ending on 17 March 2022
Parties : (1) and
(2) and Jaman Uddin Ahmed
- 4 (25.05.2011) The Lease prohibits or restricts alienation.
- 5 (25.05.2011) The title includes any legal easements referred to in clause LR11.1 of the registered lease but is subject to any rights that are granted or reserved by the lease and affect the registered land.
- 6 (25.05.2011) The landlord's title is registered.



**Application to transfer premises licence
granted under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/we JAMAN UDDIN AHMED..... (insert name(s) of applicant) apply to transfer the premises licence under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

67

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description

COOKSON COOKSON TERRACE

Post town

CHESIER-LE-STREET

Post code

DH2 2AN

Telephone number at premises (if any)

Please give a brief description of the premises

PUBLIC HOUSE / RESTAURANT

Name of current premises licence holder

H.K. RIAZ - F.K. CHAUDHRY COOKSON PARTNER SHIP

Current postal address
if different from
premises address

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

SECOND INDIVIDUAL APPLICANT (IF APPLICABLE)

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

Please tick

I am 18 years old or over

Current postal address
if different from
premises address

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

(B) OTHER APPLICANTS

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

Name
Address
Registered number (where applicable)

Description of applicant (for example, partnership, company, unincorporated association etc.) <i>Proprietor</i>
Telephone number (if any)
E-mail address (optional)

Part 3

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

Do you wish the transfer to have immediate effect?

If not when would you like the transfer to take effect?

Day	Month	Year
<i>21</i>	<i>03</i>	<i>2011</i>

I have enclosed the consent form signed by the existing premises licence holder Please tick ✓

If you have not enclosed the consent for referred to above, please give the reasons why not. What steps have you taken to try and obtain consent?

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) Please tick ✓

I have enclosed the premises licence

If you have not enclosed the premises licence referred to above please give the reasons why not

ENCLOSED.

Please tick ✓

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I understand that if I do not comply with the above requirements my application will be rejected

<input checked="" type="checkbox"/>

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent. (See guidance note 3. **If signing on behalf of the applicant please state in what capacity.**

X
X
X

Signature

Date

Capacity

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Part B
Consent of individual premises licence holder to transfer
under the Licensing Act 2003

We COOKSON PARTNERS..... (full name of premises licence holder(s))
the premises licence holder of premises licence number 67.....
(insert premises licence number) relating to COOKSON COOKSON TERRACE
CHICKER-LE-STREET DH2 2AN.....
COOKSON..... (name and address of premises to which the application relates)
hereby give my consent for transfer of premises licence number
67..... (insert premises licence number) to MR. JAMAN UDDIN AHMED
(full name of transferee). COOKSON PARTNERS.

..... (use print)
21st MARCH 2011..dated

10th July 2019

Dear Mr Ahmed,

I am writing to you to confirm the action taken by me as your landlord in relation to the premises licence held for the business. As you are aware we had originally applied for the premises licence, which was transferred to you when you took over the business. The basis of this agreement was that you protected the premises licence and didn't do anything to jeopardise the licence. Given what has transpired at the premises we have taken the action of transferring the licence back, to which you have consented.

We are also writing to inform you that you are removed as designate premises supervisor effective immediately. This means that no sales of alcohol can take place at the premises. It also means you are not permitted to sell hot food after 23.00 or play recorded music (background music still being permitted). If we discover that you are in breach of these stipulations, we will immediately inform the Licensing Authority. The penalty for carrying out an unauthorised activity under s.136 of the Licensing Act 2003 is an unlimited fine and up to 6 months in prison. We will also, in these circumstances, take steps to terminate your lease.

We would ask you to sign the acknowledgement on the copy letter enclosed. Please call me if you require me to explain any of this to you.

Yours sincerely

Mokamed Khalid

I acknowledge the receipt of your letter and that I consent to transfer the premises licence and undertake for all the above conditions for continuation of my lease.

Name

Jamaan

Signed

Dated

11/7/19

Premises Licence

Khalid Khalid

Thu 11/07/2019 13:29

To: Karen.Robson

 1 attachments (364 KB)

Licence Cookson.pdf;

Dear Ms Robson,,

I am writing to you as the landlord of Mr Ahmed, who operates Cookson Spice, Cookson Terrace, Chester-le-Street, DH2 2AN. I am now the holder of the premises licence. My contact details are contained within the recent application you received.

As a result of issues Mr Ahmed has experienced at the premises we (as a business) have made the decision to take back the premises licence from Mr Ahmed, and write to confirm he is to be removed as the designated premises supervisor. The licence will be held by us and will not be traded so long as Mr Ahmed is involved in the business. We have written to Mr Ahmed to confirm the same and he is aware that he is no longer authorised to carry out any licensable activities at the premises. **I have attached a copy of the letter for your information.**

I understand that there is currently an ongoing investigation and consideration is being given to reviewing the premises licence. Should you require any further information that Mr Ahmed is no longer to be involved in licensable activities at the premises I would be prepared to submit a minor variation to add an appropriately worded condition to the premises licence.

If we ever become aware of Mr Ahmed carrying out licensable activities from the premises he will be reported to you immediately. We will be carrying out period checks of the premises to make sure that this is not the case.

Yours sincerely
Mohamed Khalid

These are the notes referred to on the following official copy

Title Number

The electronic official copy of the document follows this message.

This copy may not be the same size as the original.

Please note that this is the only official copy we will issue. We will not issue a paper official copy.



SEQ50

DATED

18 March 2011

LEASE

relating to

**BAR AND RESTAURANT AT THE COOKSON, COOKSON TERRACE,
CHESTER LE STREET**

between

and

AND JAMAN UDIN AHMED
b



COPY

**WE CERTIFY THAT THIS
DOCUMENT IS A TRUE COPY
OF THE ORIGINAL**
PATTERSON, GLENTON & STRACEY

CONTENTS

CLAUSE	
1.	Interpretation 3
2.	Grant 7
3.	Ancillary rights 8
4.	Rights excepted and reserved 9
5.	Third Party Rights 11
6.	The Annual Rent 11
7.	Review of the Annual Rent 11
8.	Insurance 14
9.	Rates and taxes 17
10.	Utilities 17
11.	Common items 17
12.	VAT 18
13.	Default interest and interest 18
14.	Costs 18
15.	Compensation on vacating 19
16.	No deduction, counterclaim or set-off 19
17.	Registration of this lease 19
18.	Assignments 19
19.	Underlettings 20
20.	Sharing occupation 22
21.	Charging 22
22.	Prohibition of other dealings 22
23.	Registration and notification of dealings and occupation 22
24.	Closure of the registered title of this lease 23
25.	Tenant's covenants for repair 23
26.	Landlord's covenant for repair 24
27.	Decoration 24
28.	Alterations 25
29.	Signs 25
30.	Returning the Property to the Landlord 25
31.	Use 26
32.	Compliance with laws 27
33.	Encroachments, obstructions and acquisition of rights 28
34.	Breach of repair and maintenance obligations 29
35.	Indemnity 29
36.	Landlord's covenant for quiet enjoyment 29
37.	Guarantee and indemnity 30
38.	Re-entry and forfeiture 30
39.	Liability 30
40.	Entire agreement and exclusion of representations 31
41.	Notices, consents and approvals 31

42.	Governing law and jurisdiction	32
43.	Contracts (Rights of Third Parties) Act 1999.....	32
44.	Landlord and Tenant (Covenants) Act 1995	32
45.	Break clause for the Tenant.....	32

SCHEDULE

SCHEDULE	GUARANTEE AND INDEMNITY	35
1.	Guarantee and indemnity	35
2.	Guarantor's liability	35
3.	Variations and supplemental documents	36
4.	Guarantor to take a new lease or make payment.....	37
5.	Rent at the date of forfeiture or disclaimer.....	38
6.	Payments in gross and restrictions on the Guarantor	38
7.	Other securities.....	38

PRESCRIBED CLAUSES

LR1. Date of lease 18 March 2011

LR2. Title number(s)

LR2.1 Landlord's title number(s)

LR2.2 Other title numbers

None

LR3. Parties to this lease

and

Landlord

and Jaman Uqin Ahmed

Tenant

Other parties

none

LR4. Property

In the case of a conflict between this clause and the remainder of this lease then, for the purposes of registration, this clause shall prevail.

See the definition of "Property" in *Clause 1.1* of this lease.

LR5. Prescribed statements etc.

LR5.1 Statements prescribed under rules 179 (dispositions in favour of a charity), 180 (dispositions by a charity) or 196 (leases under the Leasehold Reform, Housing and Urban Development Act 1993) of the Land Registration Rules 2003.

None.

LR5.2 This lease is made under, or by reference to, provisions of:

None.

LR6. Term for which the Property is leased

The term as specified in this lease at *Clause 1.1* in the definition of "Contractual Term".

LR7. Premium

None.

LR8. Prohibitions or restrictions on disposing of this lease

This lease contains a provision that prohibits or restricts dispositions.

LR9. Rights of acquisition etc.

LR9.1 Tenant's contractual rights to renew this lease, to acquire the reversion or another lease of the Property, or to acquire an interest in other land

None.

LR9.2 Tenant's covenant to (or offer to) surrender this lease

None.

LR9.3 Landlord's contractual rights to acquire this lease

None.

LR10. Restrictive covenants given in this lease by the Landlord in respect of land other than the Property

None.

LR11. Easements

LR11.1 Easements granted by this lease for the benefit of the Property

The easements as specified in clause 3 of this lease.

LR11.2 Easements granted or reserved by this lease over the Property for the benefit of other property

The easements as specified in clause 4 of this lease.

LR12. Estate rentcharge burdening the Property

None.

LR13. Application for standard form of restriction

None.

LR14. Declaration of trust where there is more than one person comprising the Tenant

The Tenant is more than one person. They are to hold the Property on trust for themselves as joint tenants.

The Tenant is more than one person. They are to hold the Property on trust for themselves as tenants in common in equal shares.

The Tenant is more than one person. They are to hold the Property on trust

THIS LEASE is dated

18 March 2011

PARTIES

(1)

(2)

UDIN AHMED of
P

and JAMAN
(Tenant).

AGREED TERMS

1. INTERPRETATION

1.1 The definitions and rules of interpretation set out in this clause apply to this lease.

Act of Insolvency:

- (a) the taking of any step in connection with any voluntary arrangement or any other compromise or arrangement for the benefit of any creditors of the Tenant or any guarantor; or
- (b) the making of an application for an administration order or the making of an administration order in relation to the Tenant or any guarantor; or
- (c) the giving of any notice of intention to appoint an administrator, or the filing at court of the prescribed documents in connection with the appointment of an administrator, or the appointment of an administrator, in any case in relation to the Tenant or any guarantor; or
- (d) the appointment of a receiver or manager or an administrative receiver in relation to any property or income of the Tenant or any guarantor; or
- (e) the commencement of a voluntary winding-up in respect of the Tenant or any guarantor, except a winding-up for the purpose of amalgamation or reconstruction of a solvent company in respect of which a statutory declaration of solvency has been filed with the Registrar of Companies; or
- (f) the making of a petition for a winding-up order or a winding-up order in respect of the Tenant or any guarantor; or
- (g) the striking-off of the Tenant or any guarantor from the Register of Companies or the making of an application for the Tenant or any guarantor to be struck-off; or
- (h) the Tenant or any guarantor otherwise ceasing to exist (but excluding where the Tenant or any guarantor dies); or
- (i) the presentation of a petition for a bankruptcy order or the making of a bankruptcy order against the Tenant or any guarantor.

The paragraphs above shall apply in relation to a partnership or limited partnership (as defined in the Partnership Act 1890 and the Limited Partnerships Act 1907 respectively) subject to the modifications referred to in the Insolvent Partnerships Order 1994 (SI 1994/2421) (as amended), and a limited liability partnership (as defined in the Limited Liability Partnerships Act 2000) subject to the modifications referred to in the Limited Liability Partnerships Regulations 2001 (SI 2001/1090) (as amended).

Act of Insolvency includes any analogous proceedings or events that may be taken pursuant to the legislation of another jurisdiction in relation to a tenant or guarantor incorporated or domiciled in such relevant jurisdiction.

Annual Rent: rent at an initial rate of _____ per annum and then as revised pursuant to this lease and any interim rent determined under the LTA 1954.

Building: The Cookson, Cookson Terrace, Chester-le-Street DH2 2AN shown edged in red on Plan 2.

Contractual Term: a term of years beginning on, and including the date of this lease and ending on, and including ~~17th~~ March 2032.

CDM Regulations: the Construction (Design and Management) Regulations 2007.

Default Interest Rate: four percentage points above the Interest Rate.

Guarantor: any person or persons who become a guarantor of this Lease under the provisions of this Lease or otherwise.

Insurance Rent: the aggregate in each year of:

- (a) a fair proportion of the gross cost of the premium before any discount or commission for insurance of the Building, other than any plate glass, for its full reinstatement cost (taking inflation of building costs into account) against loss or damage by or in consequence of the Insured Risks, including costs of demolition, site clearance, site protection and shoring up, professionals' and statutory fees and incidental expenses, the cost of any work which may be required under any law and VAT in respect of those costs, fees and expenses; and
- (b) the gross cost of the premium before any discount or commission for insurance for loss of Annual Rent from the Property for three years;
- (c) a fair proportion of the gross cost of the premium before any discount or commission of public liability insurance in relation to the Landlord's interest in the Building, and

insurance premium tax payable on the above.

Insured Risks: means fire, explosion, lightning, earthquake, storm, flood, bursting and overflowing of water tanks, apparatus or pipes, impact by aircraft and articles dropped from them, impact by vehicles, riot, civil commotion and any other risks against which the Landlord decides to insure against from time to time and **Insured Risk** means any one of the Insured Risks.

Interest Rate: interest at the base lending rate from time to time of National Westminster Bank plc, or if that base lending rate stops being used or published then at a comparable commercial rate reasonably determined by the Landlord.

Landlord's Neighbouring Property: each and every part of the adjoining and neighbouring property in which the Landlord has an interest (if any).

LTA 1954: Landlord and Tenant Act 1954.

Permitted Use: use as a Bar/Restaurant including sales of takeaway meals provided that any such sales are ancillary to the primary use as a Bar/Restaurant

Plan 1: the plan attached to this lease marked "Plan 1".

Plan 2: the plan attached to this lease marked "Plan 2".

Property: the parts of the ground floor of the Building edged red on Plan 1 bounded by and including:

- a) The floorboards thereof;
- b) The plaster finishes of the ceiling;
- c) The interior plaster finishes of exterior walls and columns;
- d) The plaster finishes of all interior walls and columns that adjoin another part of the Building;
- e) The doors and windows within the interior, structural walls and columns that adjoin another part of the Building and their frames and fittings;
- f) One half of the thickness of the interior, non-structural walls that adjoin another part of the building;
- g) The doors and windows within the interior, non-structural walls and columns that adjoin another part of the building and their frames and fittings;

But excluding:

- h) The windows in the exterior walls and their frames and fittings;
- i) The whole of the interior structural walls and columns within that part of the Building other than their plaster finishes and other than the doors and windows and their frames and fittings within such walls;
- j) any Service Media in, on, under or over that land (whether in existence at the date of this lease or installed during the perpetuity period) that are used by that land in common with any other part of the Building;
- k) the cellar located below the ground floor of the Building.

Rent Commencement Date: 3 months after the date of this lease being (8th June 2011

Rent Payment Dates: 1st day of every calendar month

Reservations: all of the rights excepted, reserved and granted to the Landlord by this lease.

Review Date: 1st March 2014 and every third anniversary of that date.

Service Media: all media for the supply or removal of heat, electricity, gas, water, sewage, air-conditioning, energy, telecommunications, data and all other services and utilities and all structures, machinery and equipment ancillary to those media.

Third Party Rights: all rights, covenants and restrictions affecting the Building including the matters referred to at the date of this lease in the property register and the charges register of title number DU230452.

VAT: value added tax chargeable under the Value Added Tax Act 1994 or any similar replacement or additional tax.

- 1.2 A reference to this lease, except a reference to the date of this lease or to the grant of this lease, is a reference to this deed and any deed, licence, consent, approval or other instrument supplemental to it.
- 1.3 A reference to the **Landlord** includes a reference to the person entitled to the immediate reversion to this lease. A reference to the **Tenant** includes a reference to its successors in title and assigns. A reference to a **guarantor** is a reference to any guarantor of the tenant covenants of this lease including a guarantor who has entered into an authorised guarantee agreement.
- 1.4 In relation to any payment, a reference to a **fair proportion** is to a fair proportion of the total amount payable, determined conclusively (except as to questions of law) by the Landlord.
- 1.5 The expressions **landlord covenant** and **tenant covenant** each has the meaning given to it by the Landlord and Tenant (Covenants) Act 1995.
- 1.6 Unless the context otherwise requires, references to the **Building** and the **Property** are to the whole and any part of it.
- 1.7 The expression **neighbouring property** does not include the Building.
- 1.8 A reference to the **term** is to the Contractual Term and statutory continuation of this lease.
- 1.9 A reference to the **end of the term** is to the end of the term however it ends.
- 1.10 References to the **consent** of the Landlord are to the consent of the Landlord given in accordance with clause 41.4 and references to the **approval** of the Landlord are to the approval of the Landlord given in accordance with clause 41.5.

- 1.11 A **working day** is any day which is not a Saturday, a Sunday, a bank holiday or a public holiday in England.
- 1.12 Unless otherwise specified, a reference to a particular law is a reference to it as it is in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under it and all orders, notices, codes of practice and guidance made under it.
- 1.13 A reference to laws in general is to all local, national and directly applicable supranational laws in force for the time being, taking account of any amendment, extension, application or re-enactment and includes any subordinate laws for the time being in force made under them and all orders, notices, codes of practice and guidance made under them.
- 1.14 Any obligation in this lease on the Tenant not to do something includes an obligation not to agree to or suffer that thing to be done and an obligation to use best endeavours to prevent that thing being done by another person.
- 1.15 Unless the context otherwise requires, where the words **include(s)** or **including** are used in this lease, they are deemed to have the words "without limitation" following them.
- 1.16 A **person** includes a corporate or unincorporated body.
- 1.17 References to **writing** or **written** do not include faxes or email.
- 1.18 Except where a contrary intention appears, a reference to a clause or Schedule, is a reference to a clause of, or Schedule to, this lease and a reference in a Schedule to a paragraph is to a paragraph of that Schedule.
- 1.19 Clause, Schedule and paragraph headings do not affect the interpretation of this lease.

2. GRANT

- 2.1 The Landlord lets with full title guarantee the Property to the Tenant for the Contractual Term.
- 2.2 The grant is made together with the ancillary rights set out in clause 3, excepting and reserving to the Landlord the rights set out in clause 4, and subject to the Third Party Rights.
- 2.3 The grant is made with the Tenant paying the following as rent to the Landlord:

- (a) the Annual Rent and all VAT in respect of it;
- (b) the Insurance Rent; and
- (c) all interest payable under this lease ; and
- (d) all other sums due under this lease.

3. ANCILLARY RIGHTS

3.1 The Landlord grants the Tenant the following rights (the Rights):

- (a) the right of support and protection from those parts of the Building that afford support and protection for the Property at the date of this lease and to the extent that such support and protection exists at the date of this lease;
- (b) the right to use and to connect into any Service Media at the Building that belong to the Landlord and serve (but do not form part of) the Property which are in existence at the date of this lease or are installed or constructed during the period of 125 years from commencement of the Contractual Term;
- (c) the right to attach any item to any part of the Building adjoining the Property so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease;
- (d) the right to enter any part of the Building that adjoins the Property so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease; and
- (e) the non exclusive right for the Tenant and their licencees to park a car on any of the spaces marked 'pub parking for five cars' on Plan 1 for all purposes connected with the Permitted Use

3.2 The Rights are granted in common with the Landlord and any other person authorised by the Landlord.

3.3 The Rights are granted subject to the Third Party Rights and the Tenant shall not exercise any of the Rights so as to interfere with any Third Party Right.

3.4 The Tenant shall exercise the Rights only in connection with its use of the Property for the Permitted Use.

3.5 The Tenant shall comply with all laws relating to its use of any part of the Building pursuant to the Rights.

3.6 In relation to the Rights mentioned in clause 3.1(b), the Landlord may, at its discretion, re-route or replace any such Service Media and that Right shall then apply in relation to the Service Media as re-routed or replaced.

3.7 In relation to the Right mentioned in clause 3.1(c), where the Tenant requires the consent of the Landlord to carry out the works to the Property, the Tenant may only exercise that Right when that consent has been granted and in accordance with the terms of that consent.

3.8 In relation to the Right mentioned in clause 3.1(d), the Tenant shall:

- (a) except in case of emergency, give reasonable notice to the Landlord and the occupier of that part of the Building of its intention to exercise that Right;
- (b) where reasonably required by the Landlord or the occupier of the relevant part of the Building, exercise that Right only if accompanied by a representative of the Landlord and/or the tenant and/or the occupier of the relevant part of the Building;
- (c) cause as little damage as possible to the Building and to any property belonging to or used by the Landlord or the tenants or occupiers of the other part of the Building;
- (d) cause as little inconvenience as possible to the Landlord and the tenants and occupiers of the relevant part of the Building as is reasonably practicable; and
- (e) promptly make good (to the satisfaction of the Landlord) any damage caused to the Building (or to any property belonging to or used by the Landlord) by reason of the Tenant exercising that Right.

3.9 Except as mentioned in this clause 3, neither the grant of this lease nor anything in it confers any right over any other part of the Building or any neighbouring property nor is to be taken to show that the Tenant may have any right over any such part of the Building or any neighbouring property, and section 62 of the Law of Property Act 1925 does not apply to this lease.

4. RIGHTS EXCEPTED AND RESERVED

4.1 The following rights are excepted and reserved from this lease to the Landlord for the benefit of the Building and the Landlord's Neighbouring Property and to the extent possible for the benefit of any neighbouring or adjoining property in which the Landlord acquires an interest during the term:

- (a) rights of light, air, support and protection to the extent those rights are capable of being enjoyed at any time during the term;
- (b) the right to use and to connect into Service Media at, but not forming part of, the Property which are in existence at the date of this lease or which are installed or constructed during the period of 125 years from the commencement of the Contractual Term; the right to install and construct Service Media at the Property to serve any part of the Building (whether or

not such Service Media also serve the Property); and the right to re-route any Service Media mentioned in this paragraph;

- (c) at any time during the term, the full and free right to develop any part of the Building (other than the Property or any part of the Building over which rights are expressly granted by this lease) and the Landlord's Neighbouring Property and any neighbouring or adjoining property in which the Landlord acquires an interest during the term as the Landlord may think fit;
- (d) the right to erect scaffolding at the Property or the Building and attach it to any part of the Property or the Building in connection with any of the Reservations;
- (e) the right to attach any structure, fixture or fitting to the boundary of the Property in connection with any of the Reservations; and
- (f) the right to re-route and replace any Service Media over which the Rights mentioned in clause 3.1(b) are exercised;
- (g) the right to enter the Property on reasonable notice to use the access stairway to the cellar.

notwithstanding that the exercise of any of the Reservations or the works carried out pursuant to them result in a reduction in the flow of light or air to the Property or loss of amenity for the Property provided that they do not materially adversely affect the use and enjoyment of the Property for the Permitted Use.

4.2 The Landlord reserves the right to enter the Property:

- (a) to repair, maintain, install, construct re-route or replace any Service Media or structure relating to any of the Reservations;
- (b) to carry out any works to any other part of the Building; and
- (c) for any other purpose mentioned in or connected with:
 - (i) this lease;
 - (ii) the Reservations; and
 - (iii) the Landlord's interest in the Property, the Building or the Landlord's Neighbouring Property.

4.3 The Reservations may be exercised by the Landlord and by anyone else who is or becomes entitled to exercise them, and by anyone authorised by the Landlord.

4.4 The Tenant shall allow all those entitled to exercise any right to enter the Property, to do so with their workers, contractors, agents and professional advisors, and to enter the Property at any reasonable time (whether or not during usual business hours) and, except in the case of an emergency, after having given reasonable notice (which need not be in writing) to the Tenant.

- 4.5 No party exercising any of the Reservations, nor its workers, contractors, agents and professional advisors, shall be liable to the Tenant or to any undertenant or other occupier of or person at the Property for any loss, damage, injury, nuisance or inconvenience arising by reason of its exercising any of the Reservations except for:
- (a) physical damage to the Property; or
 - (b) any loss, damage, injury, nuisance or inconvenience in relation to which the law prevents the Landlord from excluding liability.

5. THIRD PARTY RIGHTS

- 5.1 The Tenant shall comply with all obligations on the Landlord relating to the Third Party Rights insofar as those obligations relate to the Property and shall not do anything (even if otherwise permitted by this lease) that may interfere with any Third Party Right.
- 5.2 The Tenant shall allow the Landlord and any other person authorised by the terms of the Third Party Right to enter the Property in accordance with its terms.

6. THE ANNUAL RENT

- 6.1 The Tenant shall pay the Annual Rent and any VAT in respect of it by twelve equal instalments in advance on or before the Rent Payment Dates. The payments shall be made by banker's standing order or by any other method that the Landlord requires at any time by giving notice to the Tenant.
- 6.2 The first instalment of the Annual Rent and any VAT in respect of it shall be made on the Rent Commencement Date and shall be the proportion, calculated on a daily basis, in respect of the period from the Rent Commencement Date until the day before the next Rent Payment Date.

7. REVIEW OF THE ANNUAL RENT

- 7.1 In this clause the **President** is the President for the time being of the Royal Institution of Chartered Surveyors or a person acting on his behalf, and the **Surveyor** is the independent valuer appointed pursuant to clause 7.7.
- 7.2 The amount of Annual Rent shall be reviewed on each Review Date to equal:
- (a) the Annual Rent payable immediately before the relevant Review Date (or which would then be payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it) or, if greater;
 - (b) the open market rent agreed or determined pursuant to this clause.

- 7.3 The open market rent may be agreed between the Landlord and the Tenant at any time before it is determined by the Surveyor.
- 7.4 If the open market rent is determined by the Surveyor, it shall be the amount that the Surveyor determines is the best annual rent (exclusive of any VAT) at which the Property could reasonably be expected to be let:
- (a) in the open market;
 - (b) at the relevant Review Date;
 - (c) on the assumptions listed in clause 7.5; and
 - (d) disregarding the matters listed in clause 7.6.
- 7.5 The assumptions are:
- (a) the Property is available to let in the open market:
 - (i) by a willing lessor to a willing lessee;
 - (ii) as a whole;
 - (iii) with vacant possession;
 - (iv) without a fine or a premium;
 - (v) for a term equal to the unexpired residue of the Contractual Term at the relevant Review Date or a term of 21 years commencing on the relevant Review Date, if longer; and
 - (vi) otherwise on the terms of this lease other than as to the amount of the Annual Rent but including the provisions for review of the Annual Rent , and other than the provision in this lease for a rent-free period;
 - (b) the willing lessee has had the benefit of any rent-free or other concession or contribution which would be offered in the open market at the relevant Review Date in relation to fitting out works at the Property;
 - (c) the Property may lawfully be used, and is in a physical state to enable it to be lawfully used, by the willing lessee (or any potential undertenant or assignee of the willing lessee) for any purpose permitted by this lease;
 - (d) the Landlord and the Tenant have fully complied with their obligations in this lease;
 - (e) if the Property, or any means of access to it or any Service Media serving the Property, has been destroyed or damaged, it has been fully restored;
 - (f) no work has been carried out on the Property or on the Building that has diminished the rental value of the Property;
 - (g) any fixtures, fittings, machinery or equipment supplied to the Property by the Landlord that have been removed by or at the request of the Tenant, or

any undertenant or their respective predecessors in title (otherwise than to comply with any law) remain at the Property; and

- (h) the willing lessee and its potential assignees and undertenants shall not be disadvantaged by any actual or potential election to waive exemption from VAT in relation to the Property.

7.6 The matters to be disregarded are:

- (a) any effect on rent of the fact that the Tenant or any authorised undertenant has been in occupation of the Property;
- (b) any goodwill attached to the Property by reason of any business carried out there by the Tenant or by any authorised undertenant or by any of their predecessors in business;
- (c) any effect on rent attributable to any physical improvement to the Property carried out before or after the date of this lease, by or at the expense of the Tenant or any authorised undertenant with all necessary consents, approvals and authorisations and not pursuant to an obligation to the Landlord (other than an obligation to comply with any law);
- (d) any effect on rent of any obligation on the Tenant to fit out the Property or to reinstate the Property to the condition or design it was in before any alterations or improvements were carried out; and
- (e) any statutory restriction on rents or the right to recover them.

7.7 The Surveyor shall be an independent valuer who is a Member or Fellow of the Royal Institution of Chartered Surveyors. The Landlord and the Tenant may, by agreement, appoint the Surveyor at any time before either of them applies to the President for the Surveyor to be appointed. Any application to the President may not be made earlier than three months before the relevant Review Date.

7.8 The Surveyor shall act as an expert and not as an arbitrator. The Surveyor shall determine the open market rent and shall have power to determine any issue involving the interpretation of any provision of this lease, his jurisdiction to determine the matters and issues referred to him or his terms of reference. The Surveyor's decision shall be given in writing, and the Surveyor shall provide reasons for any determination. The Surveyor's written decision on the matters referred to him shall be final and binding in the absence of manifest error or fraud.

7.9 The Surveyor shall give the Landlord and the Tenant an opportunity to make written representations to the Surveyor and to make written counter-representations commenting on the representations of the other party to the Surveyor. The parties will provide (or procure that others provide) the Surveyor with such assistance and documents as the Surveyor reasonably requires for the purpose of reaching a decision.

- 7.10 If the Surveyor dies, or becomes unwilling or incapable of acting, or unreasonably delays in making any determination, then either the Landlord or the Tenant may apply to the President to discharge the Surveyor and clause 7.7 shall then apply in relation to the appointment of a replacement.
- 7.11 The fees and expenses of the Surveyor and the cost of the Surveyor's appointment and any counsel's fees, or other fees, incurred by the Surveyor shall be payable by the Tenant.
- 7.12 If the revised Annual Rent has not been agreed by the Landlord and the Tenant or determined by the Surveyor on or before the relevant Review Date, the Annual Rent payable from that Review Date shall continue at the rate payable immediately before that Review Date. No later than five working days after the revised Annual Rent is agreed or the Surveyor's determination is notified to the Landlord and the Tenant, the Tenant shall pay:
- (a) the shortfall (if any) between the amount that it has paid for the period from the Review Date until the Rent Payment Date following the date of agreement or notification of the revised Annual Rent and the amount that would have been payable had the revised Annual Rent been agreed or determined on or before that Review Date; and
 - (b) interest at the Interest Rate on that shortfall calculated on a daily basis by reference to the Rent Payment Dates on which parts of the shortfall would have been payable if the revised Annual Rent had been agreed or determined on or before that Review Date and the date payment is received by the Landlord.
- 7.13 Time shall not be of the essence for the purposes of this clause.
- 7.14 If at any time there is a guarantor, the guarantor shall not have any right to participate in the review of the Annual Rent.
- 7.15 As soon as practicable after the amount of the revised Annual Rent has been agreed or determined, a memorandum recording the amount shall be signed by or on behalf of the Landlord and the Tenant and endorsed on or attached to this lease and its counterpart. The Landlord and the Tenant shall each bear their own costs in connection with the memorandum.
8. **INSURANCE**
- 8.1 Subject to clause 8.2, the Landlord shall keep the Building (other than any plate glass) insured against loss or damage by the Insured Risks for the sum which the Landlord considers to be its full reinstatement cost (taking inflation of building costs

into account). The Landlord shall not be obliged to insure any part of the Property installed by the Tenant.

8.2 The Landlord's obligation to insure is subject to:

- (a) any exclusions, limitations, excesses and conditions that may be imposed by the insurers; and
- (b) insurance being available in the London insurance market on reasonable terms acceptable to the Landlord.

8.3 The Tenant shall pay to the Landlord on demand:

- (a) the Insurance Rent;
- (b) any amount that is deducted or disallowed by the insurers pursuant to any excess provision in the insurance policy in so far as the excess is attributable to the Property; and
- (c) any costs that the Landlord incurs in obtaining a valuation of the Property for insurance purposes and a fair proportion of any costs that the Landlord incurs in obtaining a valuation of the Building for insurance purposes.

8.4 The Tenant shall:

- (a) give the Landlord notice immediately any matter occurs that any insurer or underwriter may treat as material in deciding whether or on what terms to insure or to continue to insure the Property;
- (b) not do or omit anything as a result of which any policy of insurance of the Building or any neighbouring property may become void or voidable or otherwise prejudiced, or the payment of any policy money may be withheld, nor (unless the Tenant has previously notified the Landlord and has paid any increased or additional premium) anything as a result of which any increased or additional insurance premium may become payable;
- (c) comply at all times with the requirements and recommendations of the insurers relating to the Property and the exercise of the Rights by the Tenant;
- (d) give the Landlord immediate notice of the occurrence of any damage or loss relating to the Property arising from an Insured Risk or of any other event that might affect any insurance policy relating to the Property;
- (e) not effect any insurance of the Property (except any plate glass at the Property), but if it becomes entitled to the benefit of any insurance proceeds in respect of the Property (other than in respect of plate glass) pay those proceeds or cause them to be paid to the Landlord; and
- (f) pay the Landlord an amount equal to any insurance money that the insurers of the Building refuse to pay by reason of any act or omission of the Tenant

or any undertenant, their workers, contractors or agents or any person at the Building with the actual or implied authority of any of them.

- 8.5 The Landlord shall, subject to obtaining all necessary planning and other consents, use all insurance money received (other than for loss of rent) in connection with any damage to the Building to repair the damage for which the money has been received or (as the case may be) in rebuilding the Building (as the case may be). The Landlord shall not be obliged to:
- (a) provide accommodation or facilities identical in layout or design so long as accommodation reasonably equivalent to that previously at the Property is provided; or
 - (b) repair or rebuild if the Tenant has failed to pay any of the Insurance Rent; or
 - (c) repair or rebuild the Building after a notice has been served pursuant to clause 8.7 or clause 8.8.
- 8.6 If the Building is damaged or destroyed by an Insured Risk so as to make the Property unfit for occupation and use, then, unless the policy of insurance in relation to the Building has been vitiated in whole or in part in consequence of any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person at the Building with the actual or implied authority of any of them, payment of the Annual Rent, or a fair proportion of it according to the nature and extent of the damage, shall be suspended until the Building has been reinstated so as to make the Property fit for occupation and use or until the end of three years from the date of damage or destruction, if sooner.
- 8.7 If, following damage to or destruction of the Building, the Landlord considers that it is impossible or impractical to reinstate the Building, the Landlord may terminate this lease by giving notice to the Tenant. On giving notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance (other than any insurance for plate glass) shall belong to the Landlord.
- 8.8 Provided that the Tenant has complied with its obligations in this clause, the Tenant may terminate this lease by giving notice to the Landlord if, following damage or destruction of the Building by an Insured Risk, the Building has not been reinstated so as to make the Property fit for occupation and use within three years after the date of damage or destruction. On giving this notice this lease shall determine but this shall be without prejudice to any right or remedy of the Landlord in respect of any breach of the tenant covenants of this lease. Any proceeds of the insurance (other than any insurance for plate glass) shall belong to the Landlord.

9. RATES AND TAXES

9.1 The Tenant shall pay all present and future rates, taxes and other impositions payable in respect of the Property, its use and any works carried out there, other than:

- (a) any taxes payable by the Landlord in connection with any dealing with or disposition of the reversion to this lease; or**
- (b) any taxes, other than VAT and insurance premium tax, payable by the Landlord by reason of the receipt of any of the rents due under this lease.**

9.2 If any such rates, taxes or other impositions are payable in respect of the Property together with other land (including any other part of the Building) the Tenant shall pay a fair proportion of the total.

9.3 The Tenant shall not make any proposal to alter the rateable value of the Property or that value as it appears on any draft rating list, without the approval of the Landlord.

9.4 If, after the end of the term, the Landlord loses rating relief (or any similar relief or exemption) because it has been allowed to the Tenant, then the Tenant shall pay the Landlord an amount equal to the relief or exemption that the Landlord has lost.

10. UTILITIES

10.1 The Tenant shall pay all costs in connection with the supply and removal of electricity, gas, water, sewage, telecommunications, data and other services and utilities to or from the Property upon demand by the Landlord.

10.2 The Tenant shall comply with all laws and with any recommendations of the relevant suppliers relating to the use of those services and utilities.

11. COMMON ITEMS

11.1 The Tenant shall pay the Landlord on demand a fair proportion of all costs payable by the Landlord for the maintenance, repair, lighting, cleaning and renewal of all Service Media, structures and other items not on the Building but used or capable of being used by the Building in common with other land.

11.2 The Tenant shall comply with all reasonable regulations the Landlord may make from time to time in connection with the use of any of those Service Media, structures or other items.

12. VAT

12.1 All sums payable by the Tenant are exclusive of any VAT that may be chargeable. The Tenant shall pay VAT in respect of all taxable supplies made to it in connection with this lease on the due date for making any payment or, if earlier, the date on which that supply is made for VAT purposes.

12.2 Every obligation on the Tenant, under or in connection with this lease, to pay the Landlord or any other person any sum by way of a refund or indemnity, shall include an obligation to pay an amount equal to any VAT incurred on that sum by the Landlord or other person, except to the extent that the Landlord or other person obtains credit for such VAT under the Value Added Tax Act 1994.

13. DEFAULT INTEREST AND INTEREST

13.1 If any Annual Rent or any other money payable under this lease has not been paid by the date it is due, whether it has been formally demanded or not, the Tenant shall pay the Landlord interest at the Default Interest Rate (both before and after any judgment) on that amount for the period from the due date to and including the date of payment.

13.2 If the Landlord does not demand or accept any Annual Rent or other money due or tendered under this lease because the Landlord reasonably believes that the Tenant is in breach of any of the tenant covenants of this lease, then the Tenant shall, when that amount is accepted by the Landlord, also pay interest at the Interest Rate on that amount for the period from the date the amount (or each part of it) became due until the date it is accepted by the Landlord.

14. COSTS

14.1 The Tenant shall pay the costs and expenses of the Landlord including any solicitors' or other professionals' costs and expenses (incurred both during and after the end of the term) in connection with or in contemplation of any of the following:

- (a) the enforcement of the tenant covenants of this lease;
- (b) serving any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;
- (c) serving any notice in connection with this lease under section 17 of the Landlord and Tenant (Covenants) Act 1995;
- (d) the preparation and service of a schedule of dilapidations in connection with this lease; or
- (e) any consent or approval applied for under this lease, whether or not it is granted.

14.2 Where the Tenant is obliged to pay or indemnify the Landlord against any solicitors' or other professionals' costs and expenses (whether under this or any other clause of this lease) that obligation extends to those costs and expenses assessed on a full indemnity basis.

15. COMPENSATION ON VACATING

Any right of the Tenant or anyone deriving title under the Tenant to claim compensation from the Landlord on leaving the Property under the LTA 1954 is excluded, except to the extent that the legislation prevents that right being excluded.

16. NO DEDUCTION, COUNTERCLAIM OR SET-OFF

The Annual Rent and all other money due under this lease are to be paid by the Tenant or any guarantor (as the case may be) without deduction, counterclaim or set-off.

17. REGISTRATION OF THIS LEASE

Promptly following the grant of this lease, the Tenant shall apply to register this lease at HM Land Registry. The Tenant shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly. Within one month after completion of the registration, the Tenant shall send the Landlord official copies of its title.

18. ASSIGNMENTS

18.1 The Tenant shall not assign the whole of this lease without the consent of the Landlord, such consent not to be unreasonably withheld.

18.2 The Tenant shall not assign part only of this lease.

18.3 The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may give its consent to an assignment subject to all or any of the following conditions:

(a) a condition that the assignor (and any former tenant who because of section 11 of the Landlord and Tenant (Covenants) Act 1995 has not been released from the tenant covenants of this lease) enters into an authorised guarantee agreement which:

(i) is in respect of all the tenant covenants of this lease;

(ii) is in respect of the period beginning with the date the assignee becomes bound by those covenants and ending on the date when the assignee is released from those covenants by virtue of section 5 of the Landlord and Tenant (Covenants) Act 1995;

- (iii) imposes principal debtor liability on the assignor (and any former tenant);
 - (iv) requires (in the event of a disclaimer of liability under this lease) the assignor (or former tenant, as the case may be) to enter into a new tenancy for a term equal to the unexpired residue of the Contractual Term; and
 - (v) is otherwise in a form reasonably required by the Landlord,
- (b) a condition that a person of standing acceptable to the Landlord enters into a guarantee and indemnity of the tenant covenants of this lease in the form set out in the Schedule (but with such amendments and additions as the Landlord may reasonably require).

18.4 The Landlord and the Tenant agree that for the purposes of section 19(1A) of the Landlord and Tenant Act 1927 the Landlord may refuse its consent to an assignment if any Annual Rent or other money due under this lease is outstanding.

18.5 Nothing in this clause shall prevent the Landlord from giving consent subject to any other reasonable condition, nor from refusing consent to an assignment in any other circumstance where it is reasonable to do so.

19. UNDERLETTINGS

19.1 The Tenant shall not underlet the whole of the Property except in accordance with this clause nor without the consent of the Landlord, such consent not to be unreasonably withheld.

19.2 The Tenant shall not underlet part only of the Property.

19.3 The Tenant shall not underlet the Property:

- (a) together with any property or any right over property that is not included within this lease;
- (b) at a fine or premium or reverse premium; nor
- (c) allowing any rent free period to the undertenant that exceeds the period as is then usual in the open market in respect of such a letting.

19.4 The Tenant shall not underlet the Property unless, before the underlease is granted, the Tenant has given the Landlord:

- (a) a certified copy of the notice served on the undertenant, as required by section 38A(3)(a) of the LTA 1954, applying to the tenancy to be created by the underlease; and

- (b) a certified copy of the declaration or statutory declaration made by the undertenant in accordance with the requirements of section 38A(3)(b) of the LTA 1954.

19.5 Any underletting by the Tenant shall be by deed and shall include:

- (a) an agreement between the Tenant and the undertenant that the provisions of sections 24 to 28 of the LTA 1954 are excluded from applying to the tenancy created by the underlease;
- (b) the reservation of a rent which is not less than the full open market rental value of the Property at the date the Property is underlet and which is payable at the same times as the Annual Rent under this lease (but this shall not prevent an underlease providing for a rent-free period of a length permitted by clause 19.3(c));
- (c) provisions for the review of rent at the same dates and on the same basis as the review of rent in this lease, unless the term of the underlease does not extend beyond the next Review Date;
- (d) a covenant by the undertenant not to underlet the whole or part of the Property;
- (e) a covenant by the undertenant, enforceable by and expressed to be enforceable by the Landlord (as superior landlord at the date of grant) and its successors in title in their own right, to observe and perform the tenant covenants in the underlease and any document that is supplemental or collateral to it and the tenant covenants in this lease, except the covenants to pay the rents reserved by this lease; and
- (f) provisions requiring the consent of the Landlord to be obtained in respect of any matter for which the consent of the Landlord is required under this lease,

and shall otherwise be consistent with and include tenant covenants no less onerous (other than as to the Annual Rent) than those in this lease and in a form approved by the Landlord, such approval not to be unreasonably withheld.

19.6 In relation to any underlease granted by the Tenant, the Tenant shall:

- (a) not vary the terms of the underlease nor accept a surrender of the underlease without the consent of the Landlord, such consent not to be unreasonably withheld;
- (b) enforce the tenant covenants in the underlease and not waive any of them nor allow any reduction in the rent payable under the underlease; and
- (c) ensure that in relation to any rent review the revised rent is not agreed without the approval of the Landlord, such approval not to be unreasonably withheld.

20. SHARING OCCUPATION

20.1 The Tenant may share occupation of the Property with any company that is a member of the same group (within the meaning of section 42 of the LTA 1954) as the Tenant for as long as that company remains within that group and provided that no relationship of landlord and tenant is established by that arrangement.

20.2 The Tenant may share occupation with one other person if and for so long as the following conditions are satisfied:

- (a) the identity of the other occupier and the terms of the arrangement are first approved by the Landlord;
- (b) the other occupier occupies part of the Property in order to trade from it for the purposes of a trade that is separate from that of the Tenant;
- (c) the other occupier uses the relevant part of the Property only for the Permitted Use;
- (d) the other occupier occupies no more than 50% of the internal floor area of the Property and the Tenant remains in occupation of the remainder of the Property;
- (e) the arrangement is by way of licence, is personal to the parties and does not create any relationship of landlord and tenant; and
- (f) the arrangement is consistent with the terms of this lease and is documented in writing.

21. CHARGING

21.1 The Tenant shall not charge the whole of this lease without the consent of the Landlord, such consent not to be unreasonably withheld.

21.2 The Tenant shall not charge part only of this lease.

22. PROHIBITION OF OTHER DEALINGS

Except as expressly permitted by this lease, the Tenant shall not assign, underlet, charge, part with or share possession or share occupation of this lease or the Property or hold the lease on trust for any person (except pending registration of a dealing permitted by this lease at HM Land Registry or by reason only of joint legal ownership).

23. REGISTRATION AND NOTIFICATION OF DEALINGS AND OCCUPATION

23.1 In this clause a **Transaction** is:

- (a) any dealing with this lease or the devolution or transmission of, or parting with possession of any interest in it; or
- (b) the creation of any underlease or other interest out of this lease, or out of any interest, underlease derived from it, and any dealing, devolution or transmission of, or parting with possession of any such interest or underlease; or
- (c) the making of any other arrangement for the occupation of the Property.

23.2 In respect of every Transaction that is registrable at HM Land Registry, the Tenant shall promptly following completion of the Transaction apply to register it (or procure that the relevant person so applies). The Tenant shall (or shall procure that) any requisitions raised by HM Land Registry in connection with an application to register a Transaction are dealt with promptly and properly. Within one month of completion of the registration, the Tenant shall send the Landlord official copies of its title (and where applicable of the undertenant's title).

23.3 No later than one month after a Transaction the Tenant shall:

- (a) give the Landlord's solicitors notice of the Transaction; and
- (b) deliver two certified copies of any document effecting the Transaction to the Landlord's solicitors and
- (c) pay the Landlord's solicitors a registration fee of £50 (plus VAT).

23.4 If the Landlord so requests, the Tenant shall promptly supply the Landlord with full details of the occupiers of the Property and the terms upon which they occupy it.

24. CLOSURE OF THE REGISTERED TITLE OF THIS LEASE

Immediately after the end of the term (and notwithstanding that the term has ended), the Tenant shall make an application to close the registered title of this lease and shall ensure that any requisitions raised by HM Land Registry in connection with that application are dealt with promptly and properly; the Tenant shall keep the Landlord informed of the progress and completion of its application.

25. TENANT'S COVENANTS FOR REPAIR

25.1 The Tenant shall keep the Property clean and tidy and in good repair and condition.

25.2 The Tenant shall not be liable to repair the Property to the extent that any disrepair has been caused by an Insured Risk, unless and to the extent that:

- (a) the policy of insurance of the Property has been vitiated or any insurance proceeds withheld in consequence of any act or omission of the Tenant, any

undertenant or their respective workers, contractors or agents or any person on the Property with the actual or implied authority of any of them; or

- (b) the insurance cover in relation to that disrepair is excluded, limited, is unavailable or has not been extended as mentioned in clause 8.2.

25.3 The Tenant shall clean the inside and outside of all windows at the Property as often as is necessary.

25.4 The Tenant shall replace any plate glass or other window that becomes cracked or broken as soon as possible.

26. LANDLORD'S COVENANT FOR REPAIR

26.1 The Landlord shall use its reasonable endeavours to keep those parts of the Building that afford support and protection for the Property and those Service Media over which the Tenant is granted rights by this lease in a reasonable state of repair. Without prejudice to its obligations under clause 8, the Landlord shall not be obliged to carry out any repair where the need for any repair has arisen by reason of the occurrence of an Insured Risk.

26.2 The Tenant shall pay the Landlord on demand a fair proportion of the costs incurred by the Landlord in keeping the structure and exterior of the Building (except that the Tenant shall not be liable for any costs incurred by the Landlord in the repair maintenance and renewal of the roof of the Building) and the Service Media belonging to the Landlord at it (other than any parts of the Building or Service Media that are part of the Property or have been let to another tenant) in good repair and condition and in redecorating the exterior of the Building as often as is reasonably necessary. Without prejudice to its obligations under clause 8, the Tenant shall not be required to make any payment under this clause in respect of any work carried out by the Landlord by reason of the Landlord's obligations in clause 8.

27. DECORATION

27.1 The Tenant shall decorate the outside and the inside of the Property as often as is reasonably necessary and also in the last three months before the end of the term.

27.2 All decoration shall be carried out in a good and proper manner using good quality materials that are appropriate to the Property and the Permitted Use and shall include all appropriate preparatory work.

27.3 All decoration carried out in the last three months of the term shall also be carried out to the satisfaction of the Landlord and using materials, designs and colours approved by the Landlord.

27.4 The Tenant shall replace the floor coverings at the Property within the three months before the end of the term with new ones of good quality and appropriate to the Property and the Permitted Use.

28. ALTERATIONS

28.1 Except in accordance with clause 29, the Tenant shall not make any external or structural alteration or addition to the Property and shall not make any opening in any boundary of the Property.

28.2 The Tenant shall not make any internal, non-structural alteration to the Property without the consent of the Landlord, such consent not to be unreasonably withheld.

28.3 The Tenant shall not install any Service Media at the Property nor alter the route of any Service Media at the Property without the consent of the Landlord, such consent not to be unreasonably withheld.

29. SIGNS

29.1 Subject to clause 29.2, the Tenant shall not attach any signs, fascia, awnings, placards, boards, posters and advertisements (Signs) to the exterior of the Property or display any inside the Property so as to be seen from the outside.

29.2 The Tenant may attach a sign and an awning of a size and design approved by the Landlord, such approval not to be unreasonably withheld appropriate to the nature and location of the Property and the Permitted Use and may display such trade posters and advertisements of a design, size and number and in positions that are appropriate to the nature and location of the Property and to the Permitted Use.

29.3 The Tenant shall allow the Landlord to fix to and keep at the Property any sale or re-letting board as the Landlord reasonably requires.

30. RETURNING THE PROPERTY TO THE LANDLORD

30.1 At the end of the term the Tenant shall return the Property to the Landlord in the repair and condition required by this lease.

30.2 If the Landlord gives the Tenant notice no later than three months before the end of the term, the Tenant shall remove items, including any Signs, it has fixed to the Property, remove any alterations it has made to the Property (except to the extent that such removal would leave the Property insecure) and make good any damage caused to the Property by that removal.

- 30.3 At the end of the term, the Tenant shall remove from the Property all fittings and chattels belonging to or used by it and all stock (whether or not belonging to it)].
- 30.4 The Tenant irrevocably appoints the Landlord to be the Tenant's agent to store or dispose of any fittings, chattels, stock or items it has fixed to the Property and which have been left by the Tenant on the Property for more than ten working days after the end of the term. The Landlord shall not be liable to the Tenant by reason of that storage or disposal. The Tenant shall indemnify the Landlord in respect of any claim made by a third party in relation to that storage or disposal.
- 30.5 If the Tenant does not comply with its obligations in this clause, then, without prejudice to any other right or remedy of the Landlord, the Tenant shall pay the Landlord an amount equal to the Annual Rent at the rate reserved immediately before the end of the term for the period that it would reasonably take to put the Property into the condition it would have been in had the Tenant performed its obligations under this clause. The amount shall be a debt due on demand from the Tenant to the Landlord.
31. USE
- 31.1 The Tenant shall not use the Property for any purpose other than the Permitted Use.
- 31.2 The Tenant shall not place or keep any items on any external part of the Property (whether or not such items are for sale).
- 31.3 The Tenant shall keep the windows of the Property appropriately dressed and lit.
- 31.4 The Tenant shall not leave any refuse outside the Property on any street or pavement outside the Property except at such times and in such manner as accord with the arrangements for the collection of refuse from the Property by the local authority.
- 31.5 The Tenant shall load and unload goods only at such times as accord with any by laws or parking restrictions imposed by the local authority.
- 31.6 The Tenant shall not allow any noise, music, flashing lights, fumes or smells to emanate from the Property so as to cause a nuisance or annoyance to any other tenants or occupiers of the Building or any neighbouring property.
- 31.7 The Tenant shall not use the Property for any illegal purposes nor for any purpose or in a manner that would cause loss, damage, injury, nuisance or inconvenience to the Landlord, the other tenants or occupiers of the Building or of any neighbouring property.

- 31.8 The Tenant shall not overload any structural part of the Building nor any Service Media at or serving the Property.
- 31.9 The Tenant shall not park any vehicle on any parking space marked 'resident parking for three cars' and visitor parking for three cars' as shown on Plan 1.
- 31.10 The Tenant shall use their reasonable endeavours to prevent their agents, licencees, customers and invitees from parking any vehicle in or on the aforesaid parking spaces (as specified in clause 31.9 above).
- 31.11 The Tenant shall use their reasonable endeavours to prevent their agents, licencees, customers and invitees from parking any vehicle in or on the lane to the east side of the Building
- 31.12 Nothing in this lease shall impose or be deemed to impose any restriction on the use of any other part of the Building or any neighbouring property.

32. COMPLIANCE WITH LAWS

- 32.1 The Tenant shall comply with all laws relating to:
- (a) the Property and the occupation and use of the Property by the Tenant;
 - (b) the use of all Service Media and machinery and equipment at or serving the Property;
 - (c) any works carried out at the Property; and
 - (d) all materials kept at or disposed from the Property.
- 32.2 Without prejudice to any obligation on the Tenant to obtain any consent or approval under this lease, the Tenant shall carry out all works that are required under any law to be carried out at the Property whether by the owner or the occupier.
- 32.3 Within five working days after receipt of any notice or other communication affecting the Property or the Building (and whether or not served pursuant to any law) the Tenant shall:
- (a) send a copy of the relevant document to the Landlord; and
 - (b) in so far as it relates to the Property, take all steps necessary to comply with the notice or other communication and take any other action in connection with it as the Landlord may require.
- 32.4 The Tenant shall not apply for any planning permission for the Property without the Landlord's consent.

- 32.5 The Tenant shall comply with its obligations under the CDM Regulations, including all requirements in relation to the provision and maintenance of a health and safety file.
- 32.6 The Tenant shall supply all information to the Landlord that the Landlord reasonably requires from time to time to comply with the Landlord's obligations under the CDM Regulations.
- 32.7 As soon as the Tenant becomes aware of any defect in the Property, it shall give the Landlord notice of it. The Tenant shall indemnify the Landlord against any liability under the Defective Premises Act 1972 in relation to the Property by reason of any failure of the Tenant to comply with any of the tenant covenants in this lease.
- 32.8 The Tenant shall keep the Property equipped with all fire prevention, detection and fighting machinery and equipment and fire alarms which are required under all relevant laws or required by the insurers of the Property or reasonably recommended by them or reasonably required by the Landlord and shall keep that machinery, equipment and alarms properly maintained and available for inspection.
- 32.9 The Tenant shall pay on demand a fair proportion of the costs incurred by the Landlord in complying with all laws relating to Building and the Service Media belonging to the Landlord at it (other than any parts of the Building or Service Media that are part of the Property or have been let to another tenant). Without prejudice to its obligations under clause 8, the Tenant shall not be required to make any payment under this clause in respect of any work carried out by the Landlord by reason of the Landlord's obligations in clause 8.

33. ENCROACHMENTS, OBSTRUCTIONS AND ACQUISITION OF RIGHTS

- 33.1 The Tenant shall not grant any right or licence over the Property to any person.
- 33.2 If any person makes or attempts to make any encroachment over the Property or takes any action by which a right may be acquired over the Property, the Tenant shall:
- (a) immediately give notice to the Landlord; and
 - (b) take all steps (including any proceedings) the Landlord reasonably requires to prevent or license the continuation of that encroachment or action.
- 33.3 The Tenant shall not obstruct the flow of light or air to the Property or any other part of the Building nor obstruct any means of access to the Property or any other part of the Building.

- 33.4 The Tenant shall not make any acknowledgement that the flow of light or air to the Property or any other part of the Building or that the means of access to the Property or any other part of the Building is enjoyed with the consent of any third party.
- 33.5 If any person takes or threatens to take any action to obstruct the flow of light or air to the Property or obstruct the means of access to the Property the Tenant shall:
- (a) immediately notify the Landlord; and
 - (b) take all steps (including proceedings) the Landlord reasonably requires to prevent or secure the removal of the obstruction.

34. BREACH OF REPAIR AND MAINTENANCE OBLIGATIONS

- 34.1 The Landlord may enter the Property to inspect its condition and state of repair and may give the Tenant a notice of any breach of any of the tenant covenants in this lease relating to the condition or repair of the Property.
- 34.2 If the Tenant has not begun any works needed to remedy that breach within two months following that notice (or if works are required as a matter of emergency, then immediately) or if the Tenant is not carrying out the works with all due speed, then the Landlord may enter the Property and carry out the works needed.
- 34.3 The costs incurred by the Landlord in carrying out any works pursuant to this clause (and any professional fees and any VAT in respect of those costs) shall be a debt due from the Tenant to the Landlord and payable on demand.
- 34.4 Any action taken by the Landlord pursuant to this clause shall be without prejudice to the Landlord's other rights, including those under clause 38.

35. INDEMNITY

The Tenant shall keep the Landlord indemnified against all expenses, costs, claims, damage and loss (including any diminution in the value of the Landlord's interest in the Building and loss of amenity of the Building) arising from any breach of any tenant covenants in this lease, or any act or omission of the Tenant, any undertenant or their respective workers, contractors or agents or any other person on the Property or any other part of the Building with the actual or implied authority of any of them.

36. LANDLORD'S COVENANT FOR QUIET ENJOYMENT

The Landlord covenants with the Tenant, that, so long as the Tenant pays the rents reserved by and complies with its obligations in this lease, the Tenant shall have quiet enjoyment of the Property without any interruption by the Landlord or any person claiming under the Landlord except as otherwise permitted by this lease.

37. GUARANTEE AND INDEMNITY

37.1 The provisions of the Schedule apply.

37.2 If an Act of Insolvency occurs in relation to a guarantor, or if any guarantor (being an individual) dies or becomes incapable of managing his affairs the Tenant shall, if the Landlord requests, procure that a person of standing acceptable to the Landlord enters into a replacement or additional guarantee and indemnity of the tenant covenants of this lease in the same form as that entered into by the former guarantor.

37.3 For so long as any guarantor remains liable to the Landlord, the Tenant shall, if the Landlord requests, procure that that guarantor joins in any consent or approval required under this lease and consents to any variation of the tenant covenants of this lease.

38. RE-ENTRY AND FORFEITURE

38.1 The Landlord may re-enter the Property (or any part of the Property in the name of the whole) at any time after any of the following occurs:

- (a) any rent is unpaid 21 days after becoming payable whether it has been formally demanded or not;
- (b) any breach of any condition, or tenant covenant, in this lease;
- (c) an Act of Insolvency.

38.2 If the Landlord re-enters the Property (or any part of the Property in the name of the whole) pursuant to this clause, this lease shall immediately end, but without prejudice to any right or remedy of the Landlord in respect of any breach of covenant by the Tenant or any guarantor.

39. LIABILITY

39.1 At any time when the Landlord, the Tenant or a guarantor is more than one person, then in each case those persons shall be jointly and severally liable for their respective obligations arising by virtue of this lease. The Landlord may release or compromise the liability of any one of those persons or grant any time or concession to any one of them without affecting the liability of any other of them.

39.2 The obligations of the Tenant and any guarantor arising by virtue of this lease are owed to the Landlord and the obligations of the Landlord are owed to the Tenant.

39.3 In any case where the facts are or should reasonably be known to the Tenant, the Landlord shall not be liable to the Tenant for any failure of the Landlord to perform

any landlord covenant in this lease unless and until the Tenant has given the Landlord notice of the facts that give rise to the failure and the Landlord has not remedied the failure within a reasonable time.

40. ENTIRE AGREEMENT AND EXCLUSION OF REPRESENTATIONS

40.1 This lease constitutes the entire agreement and understanding of the parties relating to the transaction contemplated by the grant of this lease and supersedes any previous agreement between the parties relating to the transaction.

40.2 The Tenant acknowledges that in entering into this lease it has not relied on nor shall have any remedy in respect of, any statement or representation made by or on behalf of the Landlord.

40.3 Nothing in this lease constitutes or shall constitute a representation or warranty that the Property may lawfully be used for any purpose allowed by this lease.

40.4 Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

41. NOTICES, CONSENTS AND APPROVALS

41.1 Except where this lease specifically states that a notice need not be in writing, or where notice is given in an emergency, any notice given pursuant to this lease shall be in writing.

41.2 A written notice shall be delivered by hand or sent by pre-paid first class post or recorded delivery. A correctly addressed notice sent by pre-paid first class post shall be deemed to have been delivered at the time at which it would have been delivered in the normal course of the post.

41.3 Section 196 of the Law of Property Act 1925 shall otherwise apply to notices given under this lease.

41.4 Where the consent of the Landlord is required under this lease, a consent shall only be valid if it is given by deed, unless:

- (a) it is given in writing and signed by a person duly authorised on behalf of the Landlord; and
- (b) it expressly states that the Landlord waives the requirement for a deed in that particular case.

If a waiver is given, it shall not affect the requirement for a deed for any other consent.

- 41.5 Where the approval of the Landlord is required under this lease, an approval shall only be valid if it is in writing and signed by or on behalf of the Landlord, unless:
- (a) the approval is being given in a case of emergency; or
 - (b) this lease expressly states that the approval need not be in writing.
- 41.6 If the Landlord gives a consent or approval under this lease, the giving of that consent or approval shall not imply that any consent or approval required from a third party has been obtained, nor shall it obviate the need to obtain any consent or approval from a third party.

42. GOVERNING LAW AND JURISDICTION

- 42.1 This lease and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 42.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this lease or its subject matter or formation (including non-contractual disputes or claims).

43. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this lease shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 [but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act.

44. LANDLORD AND TENANT (COVENANTS) ACT 1995

This lease creates a new tenancy for the purposes of the Landlord and Tenant (Covenants) Act 1995.

45. BREAK CLAUSE FOR THE TENANT

- 45.1 In this clause 45, the following definitions apply:

Break Date: each of 1st March 2018 or 1st March 2025

Break Notice: Written notice to terminate this lease in the form set out in the Form annexed to this lease specifying the Break Date.

Original Tenant:

- 45.2 The Original Tenant may terminate this lease by serving a Break Notice on the Landlord at least six months before the Break Date.
- 45.3 A Break Notice served by the Original Tenant shall be of no effect if, at any time prior to the Break Date, it has assigned or contracted to assign this lease.
- 45.4 A Break Notice served by the Original Tenant shall be of no effect if, at the Break Date:
- (a) the Original Tenant has not paid any part of the Annual Rent, or any VAT in respect of it, which was due to have been paid; or
 - (b) vacant possession of the whole of the Property is not given; or
 - (c) there is a subsisting material breach of any of the tenant covenants of this lease relating to the state of repair and condition of the Property.
- 45.5 Subject to clause 45.3 and clause 45.4, following service of a Break Notice this lease shall terminate on the Break Date.
- 45.6 Termination of this lease on the Break Date shall not affect any other right or remedy that either party may have in relation to any earlier breach of this lease.
- 45.7 The Break Notice shall be in the form annexed to this lease.
- 45.8 The Break Notice shall be signed by each and every person who together constitute the Original Tenant or by a person or persons who is or are expressed to sign on behalf of and with the authority of each and every person who together constitute the Original Tenant.
- 45.9 A Break Notice delivered or sent by the Original Tenant in accordance with clause 45 shall be deemed to have been served on the Landlord:
- (a) if delivered by hand, on the day of delivery, except that if delivery occurs after 5.00 pm on a Working Day or on a day that is not a Working Day, then the notice shall be deemed to have been served on the next Working Day;
 - (b) if sent by pre-paid first-class post or recorded delivery, on the second Working Day after posting (for the avoidance of doubt, not including the date of posting itself).

- 45.10 The Break Notice shall be delivered or sent by the Original Tenant so that it shall be deemed to have been served on the Landlord as provided by clause 45.2 not less than six months before the Break Date stated in the Break Notice (and for the avoidance of doubt, the day of deemed receipt shall not be taken into account in calculating the period of six months).
- 45.11 Time shall be of the essence in respect of all time periods and limits in this clause 45
- 45.12 Neither section 196 of the Law of Property Act 1925 nor clause 41 shall apply to a Break Notice, but those sections and clause 41 shall apply to any other notice served pursuant to this clause.
- 45.13 If this lease terminates in accordance with clause 45 then, within 14 days after the Break Date, the Landlord shall refund to the Original Tenant the proportion of the Annual Rent, and any VAT paid in respect of it, for the period from and excluding the Break Date up to and excluding the next Rent Payment Date, calculated on a daily basis.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule Guarantee and indemnity

1. GUARANTEE AND INDEMNITY

1.1 The Guarantor guarantees to the Landlord that the Tenant shall:

- (a) pay the rents reserved by this lease and observe and perform the tenant covenants of this lease and that if the Tenant fails to pay any of those rents or to observe or perform any of those tenant covenants, the Guarantor shall pay or observe and perform them; and**
- (b) observe and perform any obligations the Tenant enters into in an authorised guarantee agreement made in respect of this lease (the **Authorised Guarantee Agreement**) and that if the Tenant fails to do so, the Guarantor shall observe and perform those obligations.**

1.2 The Guarantor covenants with the Landlord as a separate and independent primary obligation to indemnify the Landlord against any failure by the Tenant:

- (a) to pay any of the rents reserved by this lease or any failure to observe or perform any of the tenant covenants of this lease; and**
- (b) to observe or perform any of the obligations the Tenant enters into in the Authorised Guarantee Agreement.**

2. GUARANTOR'S LIABILITY

2.1 The liability of the Guarantor under paragraphs 1.1(a) and 1.2(a) shall continue until the end of the term, or until the Tenant is released from the tenant covenants of this lease by virtue of the Landlord and Tenant (Covenants) Act 1995, if earlier.

2.2 The liability of the Guarantor shall not be affected by:

- (a) any time or indulgence granted by the Landlord to the Tenant; or**
- (b) any delay or forbearance by the Landlord in enforcing the payment of any of the rents or the observance or performance of any of the tenant covenants of this lease (or the Tenant's obligations under the Authorised Guarantee Agreement) or in making any demand in respect of any of them; or**
- (c) any refusal by the Landlord to accept any rent or other payment due under this lease where the Landlord believes that the acceptance of such rent or payment may prejudice its ability to re-enter the Property; or**
- (d) the Landlord exercising any right or remedy against the Tenant for any failure to pay the rents reserved by this lease or to observe or perform the tenant covenants of this lease (or the Tenant's obligations under the Authorised Guarantee Agreement); or**

- (e) the Landlord taking any action or refraining from taking any action in connection with any other security held by the Landlord in respect of the Tenant's liability to pay the rents reserved by this lease or observe and perform the tenant covenants of the lease (or the Tenant's obligations under the Authorised Guarantee Agreement) including the release of any such security; or
- (f) a release or compromise of the liability of any one of the persons who is the Guarantor, or the grant of any time or concession to any one of them; or
- (g) any legal limitation or disability on the Tenant or any invalidity or irregularity of any of the tenant covenants of the lease (or the Tenant's obligations under the Authorised Guarantee Agreement) or any unenforceability of any of them against the Tenant; or
- (h) the Tenant being dissolved, or being struck off the register of companies or otherwise ceasing to exist, or, if the Tenant is an individual, by the Tenant dying or becoming incapable of managing its affairs; or
- (i) without prejudice to paragraph 4, the disclaimer of the Tenant's liability under this lease or the forfeiture of this lease; or
- (j) the surrender of part of the Property, except that the Guarantor shall not be under any liability in relation to the surrendered part in respect of any period after the surrender, or

by any other act or omission except an express written release of the Guarantor by the Landlord.

2.3 The liability of each of the persons making up the Guarantor is joint and several.

2.4 Any sum payable by the Guarantor shall be paid without any deduction, set-off or counter-claim against the Landlord or the Tenant.

3. VARIATIONS AND SUPPLEMENTAL DOCUMENTS

3.1 The Guarantor shall, at the request of the Landlord, join in and give its consent to the terms of any consent, approval, variation or other document that may be entered into by the Tenant in connection with this lease (or the Authorised Guarantee Agreement).

3.2 The Guarantor shall not be released by any variation of the rents reserved by, or the tenant covenants in, this Lease (or the Tenant's obligations under the Authorised Guarantee Agreement) whether or not:

- (a) the variation is material or prejudicial to the Guarantor; or
- (b) the variation is made in any document; or
- (c) the Guarantor has consented, in writing or otherwise, to the variation.

3.3 The liability of the Guarantor shall apply to the rents reserved by and the tenant covenants in this lease (and the Tenant's obligations under the Authorised Guarantee Agreement) as varied except to the extent that the liability of the Guarantor is affected by section 18 of the Landlord and Tenant (Covenants) Act 1995.

4. GUARANTOR TO TAKE A NEW LEASE OR MAKE PAYMENT

4.1 If this lease is forfeited or the liability of the Tenant under this lease is disclaimed and the Landlord gives the Guarantor notice not later than six months after the forfeiture or the Landlord having received notice of the disclaimer, the Guarantor shall enter into a new lease of the Property on the terms set out in paragraph 4.2.

4.2 The rights and obligations under the new lease shall take effect from the date of the forfeiture or disclaimer and the new lease shall:

- (a) be granted subject to the right of any person to have this lease vested in them by the court and to the terms on which any such order may be made and subject to the rights of any third party existing at the date of the grant;
- (b) be for a term that expires at the same date as the end of the Contractual Term of this lease had there been no forfeiture or disclaimer;
- (c) reserve as an initial annual rent an amount equal to the Annual Rent payable under this lease at the date of the forfeiture or disclaimer or which would be payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it (subject to paragraph 5) and which is subject to review on the same terms and dates provided by this lease;
- (d) otherwise be on the same terms as this lease (as varied if there has been any variation).

4.3 The Guarantor shall pay the Landlord's solicitors' costs and disbursements (on a full indemnity basis) and any VAT in respect of them in relation to the new lease and shall execute and deliver to the Landlord a counterpart of the new lease within one month after service of the Landlord's notice.

4.4 The grant of a new lease and its acceptance by the Guarantor shall be without prejudice to any other rights which the Landlord may have against the Guarantor or against any other person or in respect of any other security that the Landlord may have in connection with this lease.

4.5 The Landlord may, instead of giving the Guarantor notice pursuant to paragraph 4.1 but in the same circumstances and within the same time limit, require the Guarantor to pay an amount equal to six months Annual Rent and the Guarantor shall pay that amount on demand.

5. RENT AT THE DATE OF FORFEITURE OR DISCLAIMER

If at the date of the forfeiture or disclaimer there is a rent review pending under this lease, then the initial annual rent to be reserved by the new lease shall be the greater of:

- (a) the Annual Rent previously payable (or which would have been payable but for any abatement or suspension of the Annual Rent or restriction on the right to collect it) under the lease prior to forfeiture or disclaimer; and
- (b) the open market rent of the Property at the relevant Review Date, as determined by the Landlord before the grant of the new lease.

6. PAYMENTS IN GROSS AND RESTRICTIONS ON THE GUARANTOR

6.1 Any payment or dividend that the Landlord receives from the Tenant (or its estate) or any other person in connection with any insolvency proceedings or arrangement involving the Tenant shall be taken and applied as a payment in gross and shall not prejudice the right of the Landlord to recover from the Guarantor to the full extent of the obligations that are the subject of this guarantee and indemnity.

6.2 The Guarantor shall not claim in competition with the Landlord in any insolvency proceedings or arrangement of the Tenant in respect of any payment made by the Guarantor pursuant to this guarantee and indemnity. If it otherwise receives any money in such proceedings or arrangement, it shall hold that money on trust for the Landlord to the extent of its liability to the Landlord.

6.3 The Guarantor shall not, without the consent of the Landlord, exercise any right or remedy that it may have (whether against the Tenant or any other person) in respect of any amount paid or other obligation performed by the Guarantor under this guarantee and indemnity unless and until all the obligations of the Guarantor under this guarantee and indemnity have been fully performed.

7. OTHER SECURITIES

7.1 The Guarantor warrants that it has not taken and covenants that it shall not take any security from or over the assets of the Tenant in respect of any liability of the Tenant to the Guarantor. If it does take or hold any such security it shall hold it for the benefit of the Landlord.

7.2 This guarantee and indemnity is in addition to any other security that the Landlord may at any time hold from the Guarantor or the Tenant or any other person in respect of the liability of the Tenant to pay the rents reserved by this lease and to observe and perform the tenant covenants of this lease. It shall not merge in or be affected by any other security.

7.3 The Guarantor shall not be entitled to claim or participate in any other security held by the Landlord in respect of the liability of the Tenant to pay the rents reserved by this lease or to observe and perform the tenant covenants of this lease.

Form of Break Notice

On the Letterhead of the Original Tenant

To [the Landlord]

Address of [the Landlord]

[By Hand][By first class post][By recorded delivery]

[DATE]

[BUILDING NUMBER/NAME], [STREET], [LOCALITY], [COUNTY], [TOWN],
[POSTCODE], England

We refer to clause 45 of a lease dated and made between (1)

and JAMAN UDIN

AHMED (the Lease).

By this notice we are exercising our right to terminate the Lease pursuant to clause 45 of the Lease.

The Break Date for the purposes of that clause 45 is

Signed by

.....

On behalf of and with the authority of the Original Tenant

Signed as a deed by

X

in the presence of

**Ian W Farrer
Solicitor
South Shields**

Signed as a deed by

X

in the presence of

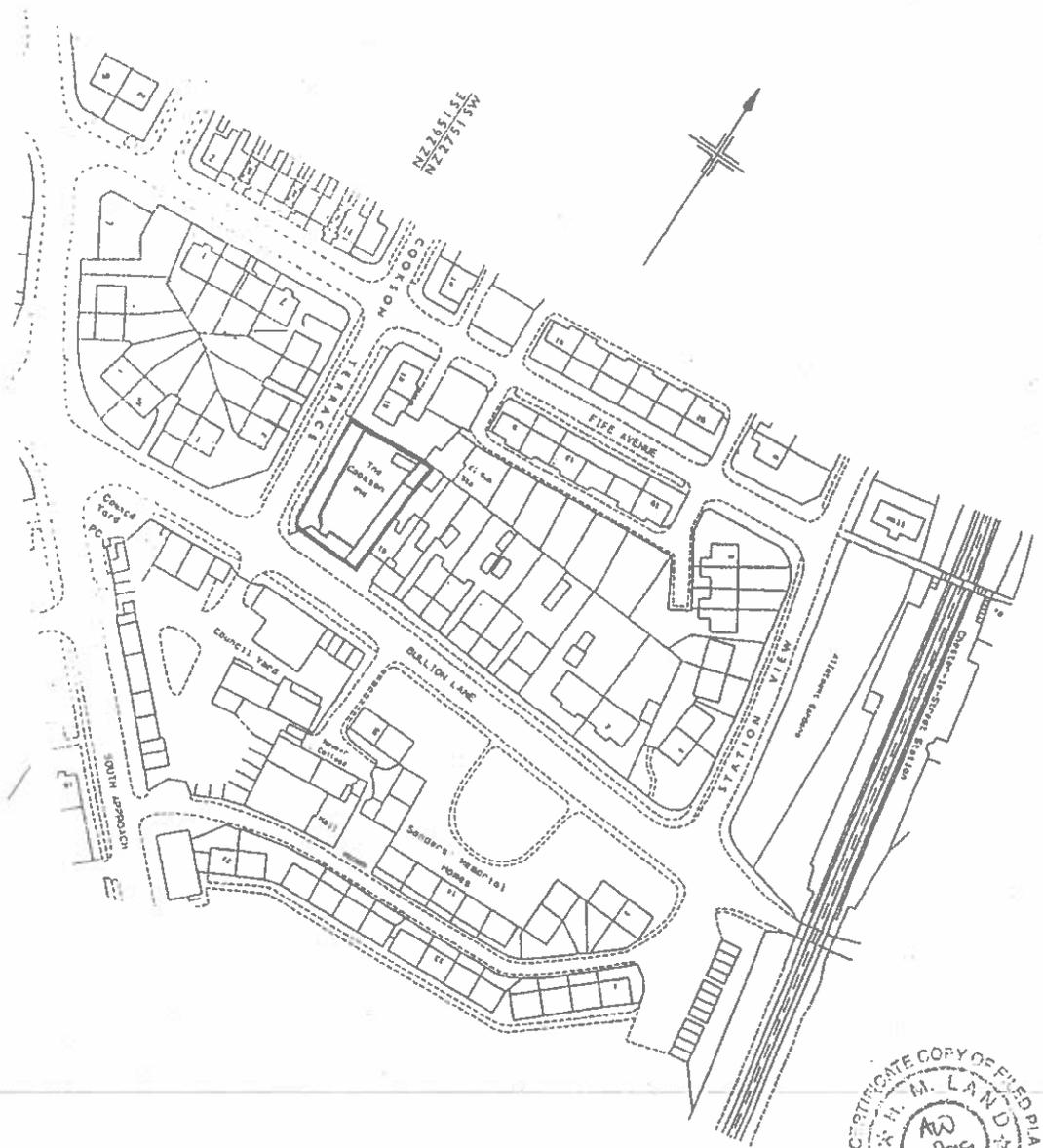
**Ian W Farrer
Solicitor
South Shields**

Signed as a deed by

in the presence of

Signed as a deed by
Jaman Udin Ahmed
in the presence of

L H T		TITLE NUMBER	
H.M. LAND REGISTRY		DU 230452	
ORDNANCE SURVEY PLAN REFERENCE	NZ 2751 O	Scale 1/1250	
COUNTY	DURHAM	DISTRICT	CHESTER-LE-STREET
			© Crown Copyright



Appendix 7: Statement of Licensing Policy

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

7.0 The Prevention of Crime and Disorder

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8.0 Public Safety

8.1 The Act covers a wide range of premises that require Licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants.

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

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.

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 8: 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 Act¹, 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 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.

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.

This page is intentionally left blank