



## **Statutory Licensing Sub-Committee**

**Date** Tuesday 27 October 2020  
**Time** 9.30 am  
**Venue** Remote Meeting - This meeting is being held  
remotely via Microsoft Teams

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### **Business**

#### **Part A**

#### **Items which are open to the Public and Press**

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meetings held on 31 July 2020, 7 September 2020 and 18 September 2020 (Pages 3 - 20)
5. Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor (Pages 21 - 62)
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  
19 October 2020

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

Councillors C Hampson, A Hopgood, L Kennedy, L Marshall  
and M Wilson

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**Contact:** Jill Errington

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**DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Friday 31 July 2020 at 1.30 pm**

**Present:**

**Councillor P Crathorne (Chair)**

**Members of the Committee:**

Councillors P Atkinson, L Brown, L Kennedy and M Wilson

**Also Present:**

Mrs G Proud (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mr S Ravichandran (Applicant)

Mr D Ripley (Other Person)

Ms H Pierson (Other Person)

**1 Apologies for Absence**

There were no apologies for absence.

**2 Substitute Members**

There were no substitute Members in attendance.

**3 Declarations of Interest**

There were no declarations of interest.

**4 Application for the Grant of a Premises Licence - 122 Cockton Hill Road, Bishop Auckland**

The Chair welcomed everyone to the meeting and explained that only three Members would be deliberating the application.

Mrs G Proud the Council's Solicitor explained why only three members deliberated the application and ran through the procedure for the meeting.

The Sub-Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change regarding an application for the grant of a premises licence for 122 Cockton Hill Road, Bishop Auckland (for copy of report, see file of minutes).

A copy of the application and location plan had been circulated together with details of the representations received.

The Licensing Team Leader was in attendance to present the report and outlined the recommendations contained in the report.

There were no questions of the Licensing Officer.

Mr Ripley, Other Person was then invited to address the Sub-Committee and referred to his letter of objection and his family circumstances. He indicated that he lived next door to the premises and the proposed application and opening hours of the premises seven days a week until 11.00 pm was going to impact on his life.

He then referred to the anti-social behaviour report that had been submitted and that no research had been undertaken into the issues surrounding the premises located in Beaumont Street. He indicated that a number of youths were gathering outside the Beaumont Street shop late at night and properties had been damaged.

He asked why the premises that had been a Newsagent for at least 34 years had never received planning permission to be a shop and now it was going to be a convenience store that would be open later than the current newsagent.

He was concerned that groups of youths would gather outside the premises and residents already suffered from litter in their yards as there were no rubbish bins in the area and he could only see this issue getting worse.

Mr Ravichandran the Applicant indicated that the intended opening hours of the premises were 5.00 am to 10.00 pm Monday to Sunday but he had applied until 11.00 pm. The shop was going to be a Premier Store which was a basic convenience store like those located in Crook and Tow Law. He did not know how they were going to create any disturbance to neighbours or the community.

The Council's Solicitor advised Mr Ravichandran that it was just questions at this stage, but he would be given an opportunity to present his case.

Ms Pierson, Other Person was then given the opportunity to present her case and stated that she had the same views as Mr Ripley.

She indicated that her letter outlined the close proximity of the shop selling alcohol to her property. She continued that there were already three premises selling alcohol within a mile including the garage across the road that was open 24 hours. Her property was next door to the premises and was opposite that garage and she already suffered from anti-social behaviour on an evening from the garage.

She had a young child in the house and did not think that this was necessary as there were already six supermarkets within a couple of miles. Recently there had been a can of fosters on her garden wall and a bottle of corona around the corner on the way to the shop which was mid-week. She did not think that there was the necessity to have another premise in the area to purchase alcohol, especially on her doorstep.

Councillor Brown sought clarification if there was currently anti-social behaviour outside these premises.

Ms Pierson responded that there were no issues outside the shop but there were from the garage which was across the road. She had previously witnessed fights on the garage forecourt and you could hear noise quite loud from the garage. She indicated that the newsagent was a nice shop where you could go and get your pick and mix and the street was predominantly residential, and a conveniences store was not necessary.

Ms H Johnson, the Licensing Team Leader asked the objectors how they would feel if the store was open until 11.00 pm but did not sell alcohol as they could do this without a license.

Mr Ripley responded that he would still have an issue with the extended opening hours without the alcohol as it was a combination of the two. They currently had noise from the garage with car horns going off in the early hours and boy racers. In the past he had a gentleman urinate in his front yard. He could foresee problems in the future if the application was granted which would affect the quality of their lives.

Ms Pierson responded that there was a 24-hour garage across the road which already created issues but was available if you needed anything at that time of night so there was no need to have a further store in the area open late. There were six supermarkets and four small shops already in the area that were less than two miles away.

Councillor Brown asked if there was a heightened police presence along Cockton Hill Road due to the current anti-social behaviour.

Mr Ripley indicated that there was no police presence unless called for a specific incident.

Councillor Brown asked if they had contacted the police due to the anti-social behaviour.

Mr Ripley responded that he did not see the point in contacting the police in the early hours of the morning when kids were screaming as he could not see the police attending. He indicated that premises were in the middle of the residential street, they were not at the end of the street or away from properties it was in the middle and affected residents.

Mr Ravichandran was then asked to present his case and indicated that he was the owner of the Premier Stores in Tow Law and Crook and postal services in Crook. He planned to purchase this property and convert to a Premier Store which would be a local basic convenience with standard prices.

He currently employed around 27 staff in his Crook and Tow Law stores so he would be creating jobs. They intended to have around six staff work for them at the store and without an alcohol licence they could not create a Premier Store. He had nine years' experience with premises licence, he worked with the police and local authority, he also had a licence for Crook Cricket Club.

He asked why he would fail in Bishop Auckland when he had done his job for the last nine years in Crook and Tow Law. He was aware of his responsibilities and his son attended school in Bishop Auckland and was aware of the consequences of serving alcohol to a child.

They used CCTV cameras that recorded for 28 days, they had a refusal register and challenge 25. He then referred to the price of milk in his store at Crook that had come down in price when he took over the store and was the same price nine years later, so he was doing a good job and would do the same in Bishop Auckland. He indicated that alcohol would not be the main product in the store and one small store was not going to change Bishop Auckland.

He referred to anti-social behaviour that happened in all areas and could not be the main reason the application was refused. He indicated that the newsagents were struggling and if they closed six jobs would be lost and that he did not want this to happen, he wanted to create jobs and he knew his responsibilities to the community.

He referred to the four premises in the area that had a premises licence and that his initial application was for seven days a week until 11.00 pm but he had amended his application following discussions with Durham Constabulary. He wanted to work with the police and members of the public.

He then referred to parking issues and that there were a number of places that people could park without disturbing anyone. He was also going to install bins outside the premises which would be emptied every day and recycled where possible and he would generally keep the area clean and tidy and would not cause a disturbance. He wanted to work with his neighbours who should be his local customers, he was spending a lot of money on the property and wanted the business to be a success.

Ms Pierson asked how many jobs would be created if he was keeping existing staff. Mr Ravichandran responded that they would be hiring an extra three people due to the extended opening hours who were currently receiving training in his current stores. Himself or his wife would be at the store every day for the first six months to one year to ensure that staff were trained properly to serve alcohol and to allow him to get to know his customers.

Ms Pierson asked if he would be supporting local businesses such as Lanchester Dairy and what were the proposed alcohol prices if the likes of milk was sold cheap.

Mr Ravichandran responded that Premier was a big buying group so he would try to price match with other stores and would support local businesses.

Ms Pierson indicated that the store was small, and Mr Ravichandran stated that it was going to be a convenience store, but she was under the impression it was going to be alcohol and cigarettes with a few basic products like milk and sugar.

Mr Ravichandran responded that they were going to have a three-metre area of alcohol with cigarettes and spirits behind the counter with a small range of other products with two different products for that item.

Councillor Brown sought clarification of the closing time of 10.00 pm and what proposals did the applicant have to alleviate the residents' fears of anti-social behaviour.

Mr Ravichandran responded that they applied to 11.00 pm but the shop would close at 10.00 pm. They would only allow two or three children in the shop at any one time and would try and avoid children hanging around the shop area, but he was unable to guarantee this, but he would work with the children.

The Council's Solicitor indicated that Mr Ravichandran had applied for the licence until 11.00 pm but had indicated that he would close at 10.00 pm and asked if he was happy for the licence to serve alcohol until 10.00 pm.

Mr Ravichandran indicated that he was happy for the licence to be until 10.00 pm.

The Licensing Team Leader referred to the CCTV condition mediated with Durham Constabulary which was vague and asked if the licence was granted was the CCTV going to be positioned throughout the store.

Mr Ravichandran indicated that they were going to install 16 cameras two of which would be outside the front of the premises, two at the back door, the remaining cameras would be located inside the premises and would cover the till.

The Team Leader then asked about the bins located outside the premises and the keeping of the immediate area clean and tidy.

Mr Ravichandran confirmed that he would be providing bins and keeping the area clean and tidy.

The Chair referred to Challenge 25 and asked if the tills would have a prompt to check ID.

Mr Ravichandran indicated that cigarettes, tobacco and alcohol would all have a till prompt to check ID and confirm the ID before the sale could proceed.

In Summing up, Mr Ripley indicated that he had no doubt about Mr Ravichandran's good intentions and that he wished to run a good business. However, himself and other residents in the area were the ones who were going to have to live with the anti-social behaviour and was why they were objecting to the application as the premises were going to have a detrimental effect on the quality of their lives, which should not be sacrificed so that someone could have a business.

Ms Pearson supported what Mr Ripley had said and indicated if there was a Premier Store next door when she purchased her property, she would not have bought the property. She had a small child and did not think the extended opening hours were necessary or the sale of alcohol.

Mr Ravichandran indicated that he lived above his shop in Crook that was open until 10.00 pm and understood their concerns about disturbance but if they had any issues he would try and resolve.

The Chair thanked everyone for their attendance and advised that Councillors L Brown and M Wilson would join herself to deliberate the application in private and all parties would be notified of their decision later today.

At 2.35 pm the Sub-Committee **Resolved** to retire to deliberate the application in Private.

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

**Resolved:** That the premises licence be granted as follows:

<b>Licensable Activity</b>	<b>Days &amp; Hours</b>
Supply of Alcohol (consumption off the premises)	Monday to Sunday: 08:00 to 22:00 hrs
Open to the public	Monday to Sunday: 05:00 to 22:00 hrs

- a) All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions. Such training will be recorded in a register. The register will be made available to the Police or an authorised officer of the council upon request.
- b) The premises shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by police or authorised officers of the council.
- c) The premises shall maintain an incident book, which shall be made available to the Police and authorised officers of the local authority upon request.
- d) A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff.
- e) Recording will be retained for a minimum of 28 days.
- f) The premises will ensure that at least one trained member of staff is available to operate the system at all times the premises is open and

download any images requested by an authorised officer and provided within 7 days.

- g) The premises licence holder is to undertake right to work checks on all staff who are employed at the licensed premises in a paid or unpaid capacity. A copy of any documents checked as part of the right to work check are to be retained at the licenced premises. These documents will be made available to officers and responsible authorities when requested.
- h) CCTV will be provided in the form of a recordable system which is capable of providing images in all lighting conditions. CCTV cameras must be positioned internally and externally to encompass all entrances and exits to the premises; to cover the entire front of the premises; in the areas where the sale / supply of alcohol occurs, together with the area where alcohol is stored and the stockroom.
- i) Persons who may gather outside the premises and cause any nuisance will be asked to move away from the premises immediately.
- j) Litter bins will be provided outside the premises and the Licence Holder will be required to keep the immediate vicinity of the premises free from any litter.
- k) Acceptable forms of ID are passport, photo card, driving licence, armed forces id card or a PASS accredited identification card, i.e. ID4U

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Monday 7 September 2020 at 3.00 pm**

### **Present:**

**Councillor L Marshall (Chair)**

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

Councillors C Hampson, A Hopgood and J Maitland

### **Also Present:**

S Grigor (Council's Solicitor)

H Johnson (Licensing Team Leader)

Sgt C Dickenson (Durham Constabulary)

S Norman (Harm Reduction Unit – Durham Constabulary)

### **1 Apologies for Absence**

An apology for absence had been received from Councillor J Blakey.

### **2 Substitute Members**

There were no substitute Members.

### **3 Declarations of Interest**

There were no declarations of interest.

### **5 Exclusion of the Public**

#### **Resolved:**

That under Section 100A(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in paragraphs 1, 2, 3 and 5 of Schedule 12A to the said Act.

## **6 Application for a Personal Licence**

### **Councillors L Marshall, A Hopgood and J Maitland**

The Chair welcomed everyone to the meeting.

Consideration was given to the report of the Corporate Director of Neighbourhoods and Climate Change regarding an application for a Personal Licence (for copy of report, see file of minutes).

The Licensing Team Leader presented the report and advised Members that the Applicant had advised that he would not be in attendance but had indicated that his application be heard in his absence.

The Applicant had submitted further information in support of his application that the Licensing Team Leader read out and was circulated to Members prior to the meeting.

Members and Officers were given the opportunity to ask questions of the Licensing Team Leader.

Representatives from Durham Constabulary were in attendance and provided background information in respect of the matters referred to in the report and responded to questions.

All parties were given the opportunity to sum up.

The Chair thanked everyone for their attendance and at 3.20 pm the Sub-Committee Resolved to retire in private to deliberate the Applicant's suitability to hold a Personal Licence.

In reaching their decision the Sub-Committee had taken into account the report of the Licensing Team Leader and the written representations of the Applicant and the written and verbal representations of Durham Constabulary. Members had also considered Section 182 Guidance issued by the Secretary of State and Section 132A of the Licensing Act 2003.

**Resolved:** That the application for a Personal Licence be refused.

## **DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Friday, 18 September 2020 at 9.30 am**

### **Present:**

**Councillor P Crathorne (Chair)**

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

Councillors C Hampson, L Kennedy, K Liddell and J Maitland

### **Also Present:**

Mrs C Hazell (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mr D Varan (Applicant)

Mrs K Varan (Applicant)

Mr J Rotherham (Other Person)

### **1 Apologies for Absence**

There were no apologies for absence.

### **2 Substitute Members**

There were no substitute Members in attendance.

### **3 Declarations of Interest**

There were no declarations of interest.

### **4 Minutes**

The minutes of the meetings held on 25 June 2020, 9 July 2020, 17 July 2020 and 30 July 2020 were agreed as a correct record and would be signed by the Chair.

## **5 Application for the Grant of a Premises Licence - La Mensa, 12-13 Main Street, Ferryhill, Co Durham**

The Chair welcomed everyone to the meeting and explained that only three Members would be deliberating the application.

Mrs C Hazell, the Council's Solicitor explained why only three Members deliberated the application and ran through the procedure for the meeting.

The Sub-Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change regarding an application for the grant of a premises licence for La Mensa, 12-13 Main Street, Ferryhill (for copy of report, see file of minutes).

A copy of the application and location plan had been circulated together with details of the representations received.

The Licensing Team Leader, Ms H Johnson was in attendance to present the report and outlined the recommendations contained in the report.

Mr J Rotherham, Other Person asked the Licensing Team Leader as regards which aspects of the alcohol licence remained. The Licensing Team Leader noted the element that had been removed related to live and recorded music.

Mr J Rotherham was invited to address the Sub-Committee and he referred to his objections which had been submitted via e-mail. He explained that his business, Higginbottom Pharmacy, had been at the location for 30-40 years, and he had been involved with the business for the last 10-11 years. Mr J Rotherham stressed he had no major objections to a business, rather to the volume of noise from the premises. He noted the Pharmacy was a safe secure place, especially important in the current pandemic, and therefore the aspects of safety and access for the public were important, namely a quiet environment to be able to enable private discussions on health issues, including mental health. He reiterated that his concern was as regards the volume from outside, the movements of people in and out, the disturbance to staff dispensing, and disturbance to patients having private discussions with Pharmacy staff. He concluded by noting he had no objections to people making a living; however, it was his job to protect his business and to look after the people in his community.

Mr D Varan, the Applicant, stated that he had invited Mr Rotherham to see his other restaurant, located at Shildon, and added that the music would be played via a small "Alexa" device, not via separate speakers. He explained he had not had any complaints about his Shildon restaurant, and he wanted the same for the new premises.

He noted it was a professional, family run business and he had young children himself and would not permit noise nuisance. Mr D Varan stated that the outside of La Mensa would solely be for people eating outside and was sure that Mr J Rotherham would not hear the music from the premises, which would be at a low level and was simply to provide an atmosphere for diners.

There were no questions of Mr J Rotherham from the Sub-Committee Members, the Licensing Team Leader or Solicitor.

Mr D Varan and Mrs K Varan were invited to address the Sub-Committee. They noted their Shildon restaurant was part of that local community and they worked with charities and tried to benefit the community. They added that they wished for the new restaurant to work similarly for the community of Ferryhill and stated that there would be 15 jobs created and the premises would attract families to the new restaurant, bringing life to the town. They stated that they understood Mr J Rotherham's concerns and issues that may have existed previously. They stressed that they had worked well with their neighbours at the other restaurant and there had not been any issues, the restaurant being run very professionally and with no incidents requiring the Police to be called.

Mr D Varan and Mrs K Varan explained they would be serving food with the drinks at the new restaurant and that they also intend to play background recorded music inside the premises, with occasionally live music. They reiterated they had their young children living above the premises so would not want to cause any issues in terms of noise.

The Chair asked for any questions on the Applicants' statement.

Mr J Rotherham reiterated he had no malice towards the Applicants, his objections being solely from concern for his business and patients. He noted the invitation to visit the other restaurant and asked as regards the Applicants referring to live music at the premises as the application was only for a premises licence to supply alcohol. The Licensing Team Leader noted that element had been removed from the application, however, she advised that due to deregulation, some activities did not require a licence. She explained this included the performance of live music between 8.00 am and 11.00 pm on any day on a premises authorised to sell alcohol for consumption on those premises for up to 500 people. The Licensing Team Leader confirmed that La Mensa would be able to have live music at the premises without the need for a licence, with any potential issues in terms of nuisance being a matter for the Council's Environmental Health Team to investigate or could be reason for a review of the premises licence to be sought. She confirmed that a licence would not be needed for background music at the premises.

Mr Rotherham asked as regards the outside area and use as a bar, especially in good weather.

Mr D Varan explained that there would not be an outside kitchen and they would not serve alcohol from the outside bar, with only people having a drink with food when using the outside area of the premises. Mr D Varan added that there would not be live music during the daytime at the premises and it would only be occasionally and after 6.00 pm. He noted that in the current pandemic situation he doubted that this would be an option in 2020.

Councillor J Maitland asked as regards children on the premises and Mr D Varan confirmed that children were welcome at the premises when it was open, being a family friendly restaurant.

Mr J Rotherham asked the Applicants as regards the outside plans included in the application and whether there was any sound-proofing at the premises.

Mrs K Varan reiterated that the outside bar would not serve alcohol and added that there was not sound-proofing as such, however she did not think that this was needed as the music would be at a very low volume and there was also a stairwell at the side of the property adjoining the pharmacy, acting as a natural barrier to sound.

The Chair asked the parties to sum up, with the Licensing Team Leader confirming that a Licence was also not required for recorded music, as well as live music as previously mentioned.

Mr J Rotherham stated that his objection was not personal, he just wished to make sure that his business had a safe environment in which to operate. He explained he felt there were some inconsistencies with the application, such as the application originally including an outside kitchen and bar, with that element subsequently removed.

Mrs K Varan stated that she understood the concerns with the music and reinforced that they would work with their neighbours on any issues and reiterated they ran their other restaurant very professionally. She noted that they had tried to deal with the issues raised by their neighbours and that was why they were no longer opting for an outdoor kitchen and bar, now simply a seating area for patrons to enjoy their meal. Mrs K Varan explained the music level would be very low, reiterating the only device used being a small "Alexa", and added that they needed to hear their customers over the music.

The Chair thanked everyone for their attendance and advised that Councillors K Liddell and J Maitland would join herself to deliberate the application in private and all parties would be notified of their decision later today.

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

In reaching their decision, the Sub-Committee considered the report of the Licensing Team Leader, the verbal and written representations of the Applicant and Other Persons. Members had also taken into account the Council’s Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

**Resolved:** That the premises licence be granted as follows:

<b>Licensable Activity</b>	<b>Timings</b>
Sale by Retail of Alcohol (on the premises)	Monday until Saturday 1200 hours until 2300 hours,  Sunday 1200 hours until 2200 hours  New Years Eve 1200 hours until 0100 hours.
Opening times	Monday-Saturday 1200 hours until 2300 hours  Sunday 1200 hours until 2200 hours  New Years Eve 1200 hours-0100 hours.

Conditions to be attached to the premises:

- a) All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions. Such training will be recorded in a register. The register will be made available to the Police or an authorised officer of the council upon request.
- b) The premises shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by police or authorised officers of the council.

- c) The premises shall maintain an incident book, which shall be made available to the Police and authorised officers of the local authority upon request.
- d) A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff. All public areas will be covered, including entrances, exits and outside area.
- e) CCTV will cover all areas where alcohol is served and all entrances and exits.
- f) Recording will be retained for a minimum of 28 days.
- g) The premises will ensure that at least one trained member of staff is available to operate the system at all times the premises is open and download any images requested by an authorised officer and provided within 7 days.
- h) The premises licence holder is to undertake right to work checks on all staff who are employed at the licensed premises in a paid or unpaid capacity. A copy of any documents checked as part of the right to work check are to be retained at the licenced premises. These documents will be made available to officers and responsible authorities when requested.
- i) The premises will have a drugs policy in place.
- j) Verification of age – safeguards to be in place to see that alcohol is not served to or purchased on behalf of under age children. A ‘Challenge 25’ age verification policy is operated which requires anyone looking under the age of 25 to produce photographic evidence of proof of age from a passport, driving licence or PASS accredited scheme before any alcohol is supplied. The actions of staff operating the policy to be regularly monitored.
- k) Minimise the risk of proxy sales – The applicant will work with the police to minimise the risk of proxy provision / proxy sales. (This is alcohol purchased or obtained for young people by relatives or older friends).

- l) Maintain a refusals register – where a sale of alcohol is refused if a person appears intoxicated or appears to be under 18, a refusal register / log to be updated. The register to be made available to the police on request.
- m) Training of staff – all staff responsible for selling age restricted goods to be trained to implement the age verification policy. Staff training to include the risk from proxy sales. Training records for staff to be maintained and refresher training to be provided annually.

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**Statutory Licensing Sub-Committee**

**27<sup>th</sup> October 2020**

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



**Ordinary Decision**

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**Report of Alan Patrickson, Corporate Director of Neighbourhoods  
and Climate Change**

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

**Electoral division(s) affected: Deneside**

**Purpose of the Report**

- 1 The Sub-Committee is asked to consider and determine an application to vary the premises licence for The New Westlea, 5 West Grove, Seaham SR7 8EL to specify an individual as the Designated Premises Supervisor. The application was received from Ms Carol Madeley, the premises licence holder.
- 2 A plan showing the location of the premises is attached at Appendix 2.
- 3 It is a mandatory condition under the Licensing Act 2003 that, where the supply of alcohol is one of the licensable activities, there must be a Designated Premises Supervisor. Guidance states that the Designated Premises Supervisor should normally be the individual who is in day-to-day control of the premises. This is to provide a single point of accountability within the premises should any problems arise.

For members information Ms Carol Madeley has been the Designated Premises Supervisor for The New Westlea, Seaham since 12<sup>th</sup> August 2015. Ms Madeley notified the licensing authority to remove herself as the Designated Premises Supervisor on 17<sup>th</sup> September 2020 as she was experiencing problems with (who has been running the premises). The licensing authority actioned this request immediately then received a further application on 22<sup>nd</sup> September 2020 to reinstate Ms Carol Madeley as the Designated Premises Supervisor.

## Executive summary

- 4 The application to vary the Designated Premises Supervisor (DPS) was received on 22<sup>nd</sup> September 2020 and names Ms Carol Madeley as the proposed Designated Premises Supervisor.
- 5 Durham Constabulary have made a representation objecting to Ms Carol Madeley being named as the Designated Premises Supervisor.

## Recommendation(s)

- 6 The Sub-Committee is asked to determine the application with a view to promoting the licensing objectives.
- 7 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 5;
  - (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 6;
  - (e) The Licensing Act 2003. The relevant parts of the act are attached at Appendix 7.

## Background

- 8 Background information

Applicant	<b>Ms Carol Madeley</b>	
Type of Application: <b>Vary the DPS</b>	Date received: <b>22<sup>nd</sup> September 2020</b>	Consultation ended: <b>5<sup>th</sup> October 2020</b>
Proposed DPS	<b>Ms Carol Madeley</b>	

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

## **Details of the application**

- 10 An application to specify Ms Carol Madeley as the Designated Premises Supervisor was received by the Licensing Authority on 22<sup>nd</sup> September 2020. See Appendix 3.

## **The Representation**

- 11 On 5<sup>th</sup> October 2020 a representation was received from Durham Constabulary's Harm Reduction Unit on behalf of the Chief Officer of Police, objecting to Ms Carol Madeley being named on the premises licence as the Designated Premises Supervisor.

A copy of Durham Constabulary's objection is attached as Appendix 4.

## **The Parties**

- 12 The Parties to the hearing will be:
- Ms Carol Madeley (Applicant & Proposed DPS)
  - Durham Constabulary (Responsible Authority)

## **Options**

- 13 The options open to the Sub-Committee are:
- (a) To grant the application or
  - (b) To reject the application, if it considers it necessary to do so for the promotion of the crime prevention objective.

## **Main implications**

### *Legal Implications*

- 14 None

### *Consultation*

- 15 The vary DPS application was subject to a 14 day consultation with Durham Constabulary.

See Appendix 1

## **Conclusion**

- 16 The Sub-Committee is asked to determine the application to vary the Premises Licence to specify Ms Carol Madeley as the Designated Premises Supervisor.

## **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

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## **Appendix 1: Implications**

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### **Consultation**

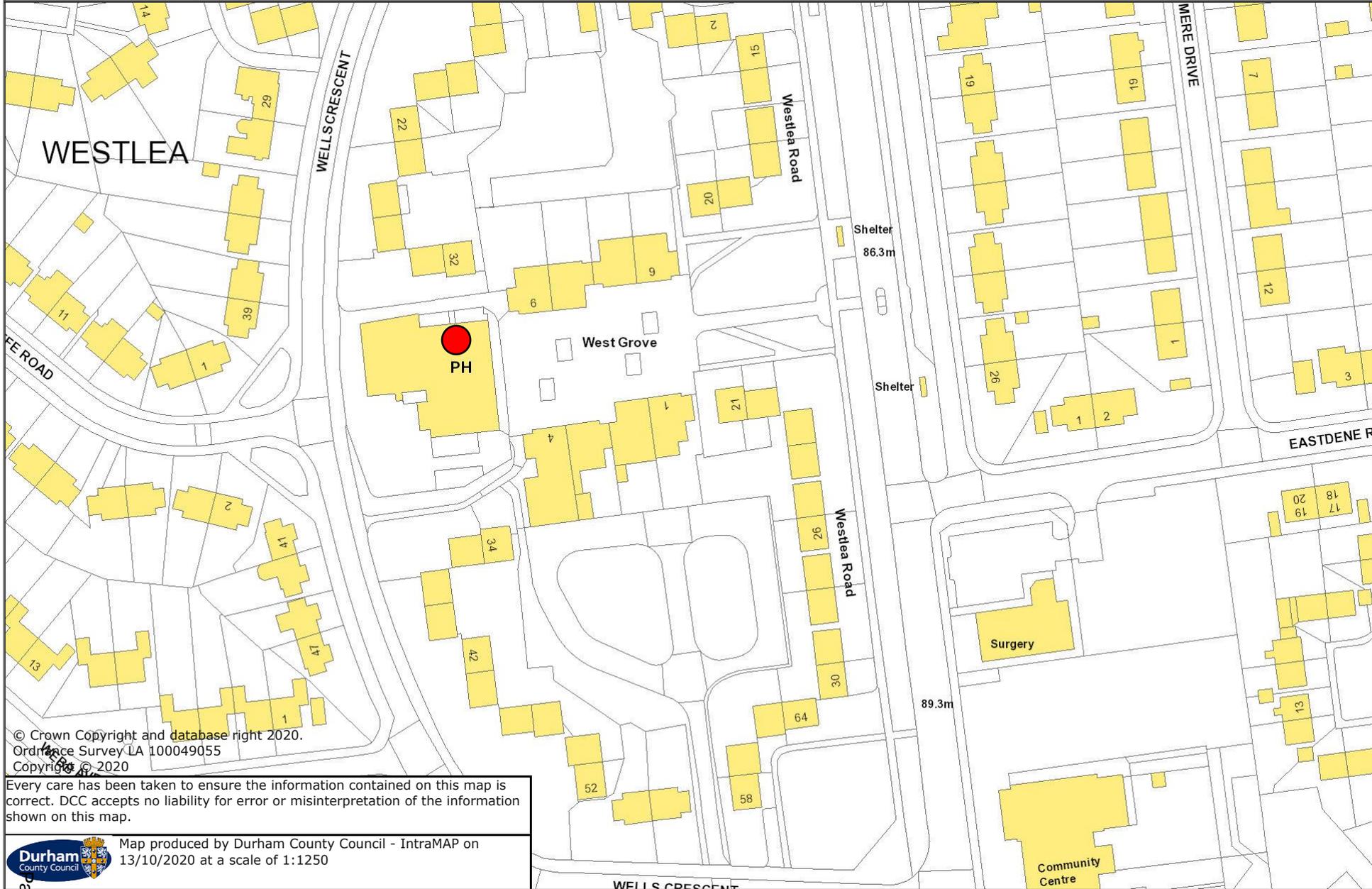
The application was subject to a 14 day consultation with Durham Constabulary in accordance with the Licensing Act 2003 and its regulations.

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## **Appendix 2: Location Plan**

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# Durham County Council - IntraMAP



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Ordnance Survey LA 100049055  
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.



Map produced by Durham County Council - IntraMAP on 13/10/2020 at a scale of 1:1250

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## **Appendix 3: Application Form**

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\* required information

**Section 1 of 4**

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

System reference

Not Currently In Use

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

Your reference

The Westlea

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

Are you an agent acting on behalf of the applicant?

- Yes  No

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

**Applicant Details**

\* First name

Carol

\* Family name

Madeley

\* E-mail

Main telephone number

Include country code.

Other telephone number

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

Are you:

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

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

**Applicant Business**

Is your business registered in the UK with Companies House?

- Yes  No

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

Registration number

Business name

Seaham Pub Company LTD

If your business is registered, use its registered name.

VAT number

-

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

Legal status

Private Limited Company

*Continued from previous page...*

Your position in the business

Home country

The country where the headquarters of your business is located.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 4**

**PREMISES DETAILS**

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

\* Premises licence number

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

Address     OS map reference     Description

**Address**

\* Building number or name

\* Street

District

\* City or town

County or administrative area

Postcode

\* Country

**Contact Details**

E-mail

Telephone number

Other telephone number

Continued from previous page...

Public House

**Section 3 of 4**

**SUPERVISOR**

**Full Name Of Proposed Designated Premises Supervisor**

\* First name

\* Family name

\* Nationality

\* Place of birth

\* Date of birth

Personal licence number of proposed designated premises supervisor

Issuing authority of that licence

**Full Name Of Existing Designated Premises Supervisor**

First name

Family name

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

Yes  No

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

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

Yes  No

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

Electronically, by the proposed designated premises supervisor

As an attachment to this variation

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

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

Continued from previous page...

Reference number for consent form (if known)

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

**Section 4 of 4**

**PAYMENT DETAILS**

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

This formality requires a fixed fee of £23

**DECLARATION**

I/WE UNDERSTAND THAT IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT. [APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED LIABILITY PARTNERSHIP, BUT NOT COMPANIES OR LIMITED LIABILITY PARTNERSHIPS] IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

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

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

\* Full name

\* Capacity

\* Date  /  /   
dd mm yyyy

Full name

Capacity

Date  /  /   
dd mm yyyy

---

## **Appendix 4: Representation from Durham Constabulary**

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From: Durham Constabulary - Sent on behalf of Sgt Caroline Dickenson  
Date: Mon 05/10/2020 14:28  
To: licensing@durham.gov.uk

Hello there,

Durham constabulary are objecting to the VDPS application for the Westlea under the prevention of Crime and Disorder, Public Safety, Protection of Children and Public Nuisance.

The applicant Carol MADLEY was the previous DPS of the Westlea club however decided to remove herself as her [redacted] was not adhering to COVID regulations and there was an increase of crime and disorder at the premises, to the point the police were considering a review of the premises licence.

Carol MADLEY is fully aware of the concerns Durham Constabulary have had around the running of the premises especially since the club reopened on 4th July 2020 and was confident she could adhere to and promote the 4 licencing objectives if [redacted] had no involvement in the running of the premises.

Durham constabulary are aware [redacted] has still been working at the premises and is the person who is currently in charge and making the decisions around the day to day running of the premises.

This person should be the DPS Carol Madley however it is evident this is not the case and we feel that, should he continue to be present at the premises, the licencing objectives will be undermined and inevitably this will lead to an increase to crime and disorder and public nuisance at the premises.

We therefore have no other option but to object to the vary DPS Application.

Thanks

Sarah

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## **Appendix 5: Statement of Licensing Policy**

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**7.1 The Prevention of Crime and Disorder** - Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment can, if not properly managed, become a source of public nuisance, generating crime and disorder problems. **The council expects** all licensed premises to be properly managed at all times to prevent this from happening and will focus attention on standards of management practice at licensed premises when carrying out its administrative and enforcement functions.

**The council encourages, and will look positively on,** the provision by licensees of comprehensive and documented staff training. Documented staff training conducted in respect of:

- Preventing underage sales
- Minimising drunkenness
- Managing and resolving conflict
- Emergency procedures
- Compliance with the licence conditions
- Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol
- Identification and refusal of underage sales
- Use of accredited training courses and recognised industry qualifications (e.g. BII)

**The council expects** 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, a marquee, in a smoking shelter etc.

The **council expects** all applicants to 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.

**The council recommends** that procedures to deal with drunken customers, violence and anti-social behaviour, in and outside premises, and the provision of closed-circuit television in certain premises should be considered by applicants, licencees and event organisers when addressing this issue.

**The council encourages** personal licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. **The council encourages** involvement in the "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.

**The council recognises and promotes** effective and responsible management of all licensed and authorised premises through competent, efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice,

such as 'Challenge 25'. These are amongst the most important control measures for the achievement of all Licensing Objectives.

**The council will take a positive view** of anyone who invests in appropriate training, and nationally accredited qualifications tailored to the licensing sector. Training records should be kept available for inspection by relevant enforcement agencies as a matter of good practice.

It is important that qualified and competent people are present who can discuss any problems or matters of concern arising from the licensable activities at or near to the premises with officers from DCC Licensing Services and Police.

**The council also 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 are 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.

**Maximum occupancy:** When its discretion is invoked, the council 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 premises or event. Any such decision will be based on the nature and style of the operation.

The council will consider information provided by the applicant and any other body (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.

**Security:** 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. 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 as well as the hours of trading.

**Toughened/Safety Glass:** 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 especially to any premises associated with a higher risk for potential crime and disorder. This will be particularly

relevant for high-volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues.

The council and several of its partners have signed a collective new pledge as part of an ongoing campaign to eradicate single use plastics. The agreement commits all signatories to significantly reduce, and work towards ultimately removing, the use of unnecessary single use plastics from their operations. If alternatives to normal glass are used, the use of suitable alternatives, including non-single use plastics, is encouraged.

**Drugs/Knives/Weapons: The council 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 or consumed within the premises to prevent tragedies and harm because of drug misuse.

**The council will expect** licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The council 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.

In addition to the information provided above, **Table 1 in Appendix VI** provides recommendations, suggestions and examples for how to prevent the specific crime/disorder outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

**7.2 Public Safety** - 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 and people in the immediate vicinity who may be affected by the premises and activities taking place therein.

Applicants are advised to seek advice on such matters from the council's occupational health and safety team, Health and Safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service. They should incorporate any recommendations from these responsible authorities in their Operating Schedule before submitting their applications. Matters for consideration include:

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

In addition to the information provided above, **Table 2 in Appendix VI** provides recommendations, suggestions and examples of how to prevent the specific dangers outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

**7.3 Prevention of Public Nuisance** - Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping near the premises.

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

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

The placement of tables and chairs outside of licensed premises may give rise to public nuisance including noise and litter. When tables and chairs are situated on the public highway, relevant authorisations will often be required from the Highways Authority. Enquiries concerning such consents should be made to the Council's Highway's Section (see Appendix III). In predominantly commercial areas, such as shopping centres, the use of tables and chairs outside may be allowed however, the **council will normally expect** them to be removed before the premises close, and any resulting litter/debris cleared away.

**Applicants should consider** reducing potential noise nuisance by, for example (this list is not exhaustive):

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

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

**Applicants are advised** to seek advice from Durham County Council's Environmental Health team and incorporate any recommendations in their operating schedule before submitting their applications.

**Takeaways and fast-food outlets - The council expects** takeaways and late-night refreshment premises to take reasonable steps in clearing litter from outside their premises and along the pavement in either direction as necessary, whilst the premises are open and at the end of the working day. These premises should maintain clean, dirt or grease free frontages. Such premises should also display notices advising customers of the location of bins and patrons should be encouraged to use the bins made available.

**Important note: The council considers that it will be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises (“takeaway” premises).**

Takeaway premises are often open late at night and in the early hours of the morning. They can be associated with disorder as people under the influence of alcohol may congregate outside takeaways after leaving or in some cases having been ejected from late-night licensed premises.

Takeaways operate within the night time economy but without the same framework around them, e.g. pubwatch, use of security staff etc. In addition, alcohol sold from takeaways could readily be consumed in public spaces and may not be subject to the same controls associated with other types of licensed premises.

From a health perspective, obesity levels are rising nationally and locally; without action the health of the population will continue to suffer. Responsible licensees can support the ‘Working toward a healthy weight in County Durham’ goals and the council would see the following steps as a contribution to reducing health harms and health inequalities:

- Menu to display calories per portion information for all food offers.
- Menu to offer at least one clear and stated, 'healthy option' and to be priced competitively.
- Menu to display recommended daily calorie limits for adults (For women the recommended limit is 2,000 calories a day for men it's 2,500).
- Menu to offer smaller / half portions.
- Salt and pepper available upon request rather than always on the table

In addition to the information provided above, **Table 3 in Appendix IV** provides recommendations, suggestions and examples of how to prevent the specific nuisance type outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

**7.4 Protection of Children from Harm** - 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). The Secretary of State's Guidance to the Licensing Act 2003 also makes clear that the authority must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

While the Act does not prohibit children from having free access to any licensed premises, the council 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. 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.

**The council will 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. **The council will also expect** any licence holder who wishes to hold events for children to provide it, and the Police, with a detailed risk assessment of that event including how the event will be managed, staffing levels for the event and how any child will be prevented from being exposed to any harm.

**The council will give considerable weight** to representations about child protection matters particularly from the Local Safeguarding Children's Board who act as the responsible authority under the Act for matters relating to child protection. 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 council, 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 will be considered. The council will 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, the council will also consider what conditions may be appropriate to ensure that this objective is promoted effectively.

The council 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.

**The council will expect** all licence holders or premises, that wish to allow children on to their premises, to ensure that access is restricted where appropriate. This could include ensuring that all children are accompanied and that they do not have access to, or sight of, alcohol. **The council will 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 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.

The council recommends that retailers of alcohol ensure that their staff are properly trained in all aspects of responsible retailing, including the sale of alcohol and age restricted sales. The Council fully endorses and promotes knowledge of and adherence to Challenge 25 within the retail business sector.

Further advice and information on age restricted sales and training can be found by contacting Durham County Council's Trading Standards service at [trading.standards@durham.gov.uk](mailto:trading.standards@durham.gov.uk)

The council 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. We know alcohol is harmful to the health of children and young people whose minds and bodies are still developing.

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.

The council is aware of a young person's 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 council unless the applicant can demonstrate that all safeguards for children have been addressed (such as the removal of alcohol advertising).

The council, Durham Constabulary 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 council and should be adhered to by licence holders and event organisers. The guide is reproduced in Appendix I.

Recorded staff training programs, 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 encouraged by the council.

**Access to Cinemas:** The 2003 Act requires that any premises showing films must ensure that children are not able to view age restricted films (as classified by the British Board of Film Classification). **The council will expect** any licence holder or applicant who intends to show films to outline suitably robust measures on how they will protect children from exposure to this potential harm. The authority may impose suitable conditions if it believes it is required for the promotion of the four licensing objectives.

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 council itself.

Should the council need to adopt its own system of film classification the information regarding such classifications will be published on the council's website.

**Children and Public Entertainment:** Many children go to see and/or take part in 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. Where many children are likely to be present on any licensed premises, for example a children's pantomime, disco/rave or similar event, the authority expects all children to be supervised by an appropriate number of adults and to ensure that the venues put measures in place to prevent any child being exposed to harm.

Where entertainment requiring a licence is specifically presented for children, the council 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.

Venue operators may also apply their own admissions policy to their premises. If a venue has carried out a risk assessment that deems it appropriate to exclude children or young persons from their premises, then that is a matter for them.

**The council will expect** all venue operators to risk assess their venues accordingly against the nature of the licensable activities they intend to carry out. This could include, for example, allowing accompanied children into a premise up until a certain time and then excluding them for the rest of the time the premises are open.

Regarding this licensing objective, the council 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 because of premises, personal applications and all variations to licences are covered by this protocol.

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

**The council strongly recommends** that events, involving persons under the age of 18 years and persons over 18 years, do not take place unless there are sufficient and robust control measures in place. Experience has shown that mixed age events are extremely difficult to control and manage and they have led to persons under the age of 18 being exposed to alcohol and entertainment late into the night.

It is the council's view that mixed age events should not take place within the late-night economy, particularly at venues that are alcohol and entertainment-led and which are operating late at night. It is the council's view that these mixed aged events can have an adverse impact on a young persons wellbeing as well exposing them to unacceptable levels of harms associated with the night time economy.

In addition to the information above, **Table 4 in Appendix VI** provides recommendations, suggestions and examples of how to protect children from each of the dangers outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, cliental and workforce when identifying hazards, assessing risks and identifying controls.

**3.11 The designated premises supervisor (DPS)** - This person must hold a personal licence and be in general day-to-day control of the premises. No alcohol may be sold or supplied from a licensed premise unless it is sold by a personal licence holder or a personal licence has authorised others to sell alcohol in their absence. This is mandatory.

In 2009, the Government empowered licensing authorities, on the application of a management committee of a community premises, not to apply the normal mandatory conditions in relation to the sale of alcohol. Instead the council can impose a condition rendering the management committee responsible for the supervision and authorisation of all alcohol sales made pursuant to the licence.

Any application for a change of the DPS must be made to the council either electronically, via gov.uk, or in hardcopy. Any hardcopy applications must also be served on the Police. An application form completed by the premises licence holder, a consent form signed by the prospective DPS, the premises licence and the appropriate fee must be submitted.

Where an objection is received by the council from the Police in respect of the proposed DPS, the council is required to hold a hearing before the Licensing Sub-Committee within the timescales set out in the Act and accompanying regulations.

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## **Appendix 6: Section 182 Guidance**

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## Crime and disorder

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

appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

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

## **Public safety**

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;

- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

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

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

## **Maintenance and repair**

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

## **Safe capacities**

2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be

inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## **Public nuisance**

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of

the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti- social behaviour is accountable in their own right. However, it

would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## **Protection of children from harm**

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

premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
  - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
  - restrictions on the parts of the premises to which children may have access;
  - age restrictions (below 18);
  - restrictions or exclusions when certain activities are taking place;
  - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
  - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises Certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

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

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

**Table of relevant offences under the 2003 Act**

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

## **Specification of new designated premises supervisors**

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

## **Police objections to new designated premises supervisors**

- 4.39 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular

premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

- 4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- 4.41 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.



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## **Appendix 7: Relevant part of Licensing Act 2003**

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## LICENSING ACT 2003

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

#### 37 Application to vary licence to specify individual as premises supervisor

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

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

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

### **38 Circumstances in which section 37 application given interim effect**

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

### **39 Determination of section 37 application**

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

#### **40 Duty of applicant following determination under section 39**

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