



Statutory Licensing Sub-Committee

Date Friday 31 July 2020

Time 9.30 am

Venue Remote Meeting - This meeting is being held remotely via Microsoft Teams

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 25 June 2020 (Pages 3 - 16)
5. Application for the Variation of a Premises Licence - Flanders, 21 North Terrace, Seaham (Pages 17 - 74)
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
23 July 2020

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

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

Contact: Jill Errington

Tel: 03000 269703

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Thursday 25 June 2020 at 9.30 am**

Present:

Councillor L Marshall (Chair)

Members of the Committee:

Councillors C Carr, P Crathorne, A Hopgood and J Maitland

Also Present:

Ms S Grigor (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mrs N Anderson (Licensing Enforcement Officer)

Mr G Blount (Senior Trading Standards Officer)

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 17 December 2019, 21 January 2020, 24 January 2020 and 20 February 2020 were agreed as a correct record and would be signed by the Chair.

5 Application for the Review of a Premises Licence - News & Booze, 1 Catherine Terrace, New Kyo, Stanley, County Durham

The Chair advised the Sub-Committee that herself and Councillors C Carr and A Hopgood would be the members who would be deliberating the application today.

Members were advised that the Premises Licence Holder was unable to attend the meeting and his Solicitor had requested an adjournment based on the medical evidence provided.

Mrs Anderson, Licensing Enforcement Officer on behalf of the Applicant provided members with background information stating that the premises were reviewed in April 2019 for non-compliance of licensing conditions and immigration issues. Following that review on appeal it was agreed that the licence should be transferred to Mr Izzal Mehdi a relative who had a shop in Whealthey Hill. It was agreed that the premises would voluntarily close for 6 weeks while Mr Mehdi assisted the previous licence holder's wife to get the premises in order and ensure when the premises reopened they were compliant with the additional licensing conditions that were put forward on appeal by the previous licence holder's wife and Mr Izzal Mehdi.

The appeal hearing was held on the 6 November 2019 and an inspection took place on 31 January 2020, that was 12 weeks following the appeal hearing.

When they visited the shop to carry out the inspections in 2020, staff had always contacted the previous licence holder's wife to come to the premises to deal with the inspection as she had the day to day running of the premises and had indicated that the premises were gifted to her by her father.

As stated in the review papers, there was still an ongoing prosecution against the previous licence holder's wife who sold alcohol in July 2019 outside of the licensing hours.

Papers were served on the Licence Holder for this review on 9 March 2020, the previous licence holder's wife would have been aware of the review as the blue notice had to be displayed on the premises advising of the review.

The consultation period ended on the 9 April 2020 and no representation had been received from the Mr Mehdi or the previous licence holder's wife. Mr Medhi was served with a notice on the 14 April 2020 advising that the hearing would be delayed. Mr Medhi was advised on the 5 June 2020 of the new hearing date but not until the 22 June 2020 was a solicitor appointed with the review scheduled to take place on the 25 June 2020, the solicitor representing Mr Medhi was the same solicitor for the previous review hearing.

Mr Medhi through his solicitor had indicated that the premises were to be sold, however back in January 2019, council officers were advised that the licence holder at the time expected to vacate the premises early in the new

year, re-establishing the business in a neighbouring property, but there was no indication that the premises was for sale.

The Licensing authority asked that the hearing go ahead given the number of issues at the premises and the long delay already incurred.

The Licensing Team Leader advised Members that this hearing should have been heard by 6 May 2020.

Mr Blount, Trading Standards Officer echoed what had been said by Mrs Anderson and that the Licence Holder had plenty of opportunities to put things in hand and to leave it until two days before the hearing was not satisfactory.

Councillors C Carr, A Hopgood and L Marshall retired to deliberate in private whether to adjourn the review hearing in the absence of the Licence Holder.

After re-convening, the Chair delivered the Sub-Committee's decision that they would hear the review case in the absence of the Licence Holder.

The Council's Solicitor outlined the procedure for the hearing.

The Sub-Committee considered the report of the Corporate Director of Neighbourhoods and Climate Change regarding an application for the Review of a Premises Licence in respect of News and Booze, 1 Catherine Terrace, New Kyo, Stanley (for copy of report, see file of minutes).

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

The Licensing Team Leader was in attendance to present the report and outlined the recommendations contained in the report. Members were advised that the hearing could not be scheduled within the required 20 working days due to the Covid 19 crisis.

Councillor Carr sought clarification if the current Designated Premises Supervisor (DPS) was the same person who was in temporary charge.

The Licensing Team Leader responded that Mr Medhi was the current Licence Holder and DPS.

Mrs Anderson on behalf of the Applicant was invited to present her report and indicated that as outlined earlier the premises had previously being reviewed and additional conditions were added to the licence following an appeal hearing in November 2019.

At that time it was determined that the Licence should be transferred to Mr Medhi as the Premises Licence Holder and DPS and that he oversaw the running of the premises, so that the previous licence holder's wife could be compliant with the licence conditions, but the previous licence holder's wife would have the day to day running of the premises.

An inspection of the premises was carried out on 31 January 2020 by licensing and trading standards. Initially staff telephoned for the previous licence holder's wife to attend the premises to assist with the inspection who they referred to as 'Boss'. They found that the previous licence summary was still on display along with authorisation by the former Licence Holder and DPS. When the previous licence holder's wife was advised that the new Licence was not displayed on the premises she said that she would go home to get the new licence that had arrived that day from the solicitors, this was 12 weeks after the initial hearing and the licence had been sent out shortly after the appeal hearing.

It was unclear why the licence holder had not been sent the licence and the fact that if had been sent to the previous licence holder's wife home address suggested that she was the person with overall charge of the premises. Issues were raised whether the Licence Holder and DPS had any control of the business on a day to day basis, the previous licence holder's wife had stated that he did attend the premises two to three times a week.

Officers then started to go through the conditions on the licence and checked the weekly CCTV log, but this appeared to be the refusal register and the previous licence holder's wife had no idea what the CCTV log was supposed to record. When asked about the refusal register, she indicated that if you look at the CCTV footage you could see the refusals. This indicated that the system had not been checked on a weekly basis as required by the condition of the licence. The incident book was not completed, the previous licence holder's wife had indicated during the inspection that she kept some training records at home, due to a break in at the premises in January 2020, however this was not recorded in the incident log and when asked about this she indicated that it had slipped her mind.

The training records were incomplete and one of the conditions of the licence was that training records were kept. There was no record of any training or proxy sales or sales to intoxicated people, there was one training certificate for the previous licence holder's wife dated 10 April 2019, but this was not signed by her and other records were not signed by the DPS or the Licence Holder.

The right to work documentation was incomplete and this was a condition included in the licence due to previous immigration issues. There was no documentation for one of the members of staff that was at the premises,

there was just a typed sheet with her name and national insurance number, and they were advised that she did not have a passport or National Insurance card. There was also no right to work documentation for the previous licence holder's wife who was working at the shop.

There was no fire risk assessment and no poster displayed which again was part of the licensing conditions. The electronic point of sales was checked and a number of bottles of alcohol did not bring up a prompt about the age limit sale, the conditions on the licence stated that this had to work for all age restricted sales and the prompt did not work at all for cigarettes and scratch cards. The manual refusal register was not signed by a member of staff and the DPS or Licence Holder on a monthly basis in compliance with the licensing condition.

Following the inspection, a letter was sent to the previous licence holder's wife and the Licence Holder detailing their findings. A further visit was made to the premises on the 17 February 2020 where the previous licence holder's wife was telephoned by the staff at the premises, but she had indicated that she was unable to attend as she was at Hospital with her child.

Despite advising the previous licence holder's wife on the last inspection of what needed to be displayed the licence was still displayed incorrectly, the CCTV was displaying the wrong time, the CCTV log had been signed on the 5 and 10 February 2020 but no mention was made of the time been incorrect. The incident book was produced but there were no entries, but they did find a form in a separate file which did log an incident but staff were unaware of the incident logging procedure.

Training had been undertaken on the 5 February 2020, but no training records could be found for one of the members of staff who they were advised had attended the training. The right to work documentation had still not been updated and the fire risk assessment had been carried out and was in the training file.

A poster was displayed at the back of the till advising that alcohol would not be sold to someone who appeared under the influence of alcohol but there was no poster displayed in relation to under the influence of drugs.

The electronic point of sale system was still not working for all alcohol products and all age-related products. The refusals register was being used more frequently but was not signed off monthly by the DPS or Licence Holder but was signed off by the previous licence holder's wife. When staff were asked how often Mr Medhi attended the premises, one member of staff asked who he was, bearing in mind that they had been advised that he attended the premises two to three times a week.

Trading standards carried out a test purchase on the 27 February 2020, but this refusal had not been logged into the refusals register.

The Licensing Authority had concerns about the premises and how they were being run, bearing in mind they had already been through a review process. They appealed that decision and were granted the licence with additional conditions but they didn't appear to be compliant with those conditions and there appeared to be a great lack of understanding about the conditions and the licence and as such the Licensing Authority had great concerns about the management of the premises.

Councillor Carr asked if the previous licence holder's wife had been advised to apply for a DPS for herself or advised to undertake some training to assist her running the premises.

The Licensing Enforcement officer responded that she holds a personal licence but there was an ongoing prosecution for selling alcohol outside of the licencing hours in July 2019.

Councillor Maitland asked if the members of staff who had no right to work documentation at the first visit, if they were still working at the premises at the second visit.

The Licensing Enforcement Officer responded that this was part of the previous review. The member of staff with no national insurance or passport the documentation had still not being produced but they believed that she did have the right to work in the premises.

Mr Blount on behalf of Trading Standards was then invited to address the Sub-Committee and indicated that he had gone through the policy documents that had been provided and there were a number of errors in the documents. He suspected that the previous licence holder's wife and the current Licence Holder had not read the documents as they would have picked up the errors such as reference to Cleveland Constabulary rather than Durham Constabulary.

The documents also did not refer to electronic cigarettes which had been a legislative product for well over 18 months and should have been picked up when the policy was put in place following the last review. The photo ID scheme was also out of date, again in place for nearly two years. Some of the policies had not been signed by the current premises licence holder.

The lack of following anything requested despite it been laid out for them gave him great concerns and they were not paying attention to what was being required.

Trading Standards had carried out a test purchase and nothing had been recorded in the register or the previous or following week, so if they were refusing, they were not recoding this in the register. They had indicated that staff were trained or reminded every week about underage sales, but they were not following it.

He had great concerns, despite that they had been through the review process less than six months ago and were back to what they were doing before the previous review and it seemed to be a recurring problem.

Councillor Carr asked who was providing the training and were there Solicitors for the previous review involved in this review.

The Trading Standards Officer advised that he had no contact with their solicitors and that TJR Consulting produced the original policies and the training records suggested that TJR Consulting had carried out the initial training but all other training had been carried out by the previous licence holder's wife, which again indicated that she was running the premises as opposed to the premises licence holder.

The Licensing Team Leader confirmed that the premises licence was sent to their solicitors on the 7 November 2019, who were the correspondence address.

The Chair thanked everyone for their attendance and that herself and Councillors Carr and Hopgood would retire to deliberate the application in private and all parties would be notified of their decision later today.

At 10.25 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 Senior Licensing Officer, the verbal and written representations of the Applicant and Responsible Authorities. Members had also taken into account the Council's Statement of Licensing Policy and Section 182 Guidance issued by the Secretary of State.

Resolved: That the Premises Licence be revoked.

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DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held remotely via Microsoft Teams on **Thursday 25 June 2020 at 1.30 pm**

Present:

Councillor C Carr (Chair)

Members of the Committee:

Councillors P Crathorne, A Hopgood and L Marshall

Also Present:

Mrs C Hazell (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mr R Arnott (Solicitor on behalf of Applicant)

Mr A Brown (Co-op Area Manager)

Mrs Webster (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 - Co-op (Shildon Motor Company) Redworth Road/Dale Road, Shildon, Co Durham

The Chair advised the Sub-Committee that himself and Councillors P Crathorne and L Marshall would be the members who would be deliberating the application today.

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 Co-op (Shildon Motor Company) Redworth Road/Dale Road, Shildon (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. Members were advised that the hearing could not be scheduled within the required 20 working days due to the Covid 19 crisis.

Mrs Webster, Other Person sought clarification on the sale of alcohol on a Sunday beyond the 6-hour trading hours. Mr Arnott the Applicant's Solicitor responded that this only applied to stores of a certain size and the Co-op would be below this size and the hours applied for mirrored those of their current store in Shildon.

There were no further questions of the Licensing Team Leader.

Mrs Webster was then invited to address the Sub-Committee and stated that her concerns were anti-social behaviour, customers served alcohol up to 11.00 pm every night of the year, 7 days a week. She then referred to the area before the bypass was built and the corner was an accident black spot and the premises would encourage more traffic to the area.

She then indicated that if the licence was granted could consideration be given to less hours as the Co-op currently in Shildon closed at 10.00 pm.

She indicated that the units were very close to the allotments that were well used as was the garage. People sometimes struggled to get out of the garage due to the volume of traffic and she felt these premises was going to make the traffic worse.

The Licensing Team Leader confirmed that the Co-op store at 18 Redworth Road, Shildon was licensed Monday to Sunday 6.00 am to 11.00 pm., but don't have to open for those hours, but were licensed for those hours.

Mrs Webster sought clarification if the car park was included in the licence and if people would be able to drink in their cars in the car park.

The Licensing Team Leader confirmed that the application was only for the actual store. Mr Arnott also confirmed that the licence did not apply to the car park.

Mr Arnott, the Applicant's Solicitor was then invited to address the Sub-Committee and explained that Mr Brown the Area Manager for the Co-op was also present to answer any operational issues.

He advised the Sub-Committee that the Co-op had 2500 stores, 78,000 people employed and were the world's largest co-operative with 8.2 million members.

It was proposed that the new store would open in October 2020 and the current store would close as the lease would expire in two years' time, so this was a wonderful opportunity to develop a new build store. The old store would be redeveloped but not by a rival type of business. The Co-op was a convenience store and only 15% of its turnover represented alcohol sales. They were a convenience store with alcohol as an ancillary part of it as you would expect.

They understood what was expected of them and had spent a lot of time and effort to ensure that they didn't let anyone down, so every region had a Risk Manager who ensured that they liaised with their neighbours and responsible authorities and any issues were resolved quickly to make sure they were a positive influence on their communities.

To ensure that their policies and procedures were applied in store they had bespoke training colleagues who worked together with risk managers to ensure they got everything right. The Co-op were a very risk averse business. There was an induction process for new staff including how to deal with age restrictive products that ended with an exam. If the exam was not passed you were not allowed near an age restricted product. New staff were also provided with a buddy who mentors new staff to ensure they knew what was required of them. They also had a system in place called 'lockdown' and each cashier had a code allowing them to serve alcohol and this code was not unlocked until after the lockdown which took around four weeks and only when the store manager was happy would the lockdown be lifted.

In addition to the initial training, staff received two refresher training sessions each year and an exam regardless of how long they had been employed with the company. If you failed the exam or at any point if the store manager lost confidence you were sent back into lockdown. A copy of the training manual had been provided and was included in the circulated papers.

He then referred to the CCTV equipment for the new premises that would be internal and external with at least 16 cameras that was a brilliant system. The tills would also remind the cashier that a product was age restricted as all products were barcoded, so they would be prompted to then ask for age verification and the process and only when the tills were satisfied would the sale take place.

He referred to the layout of the new premises that was one way in and out and that the spirits would generally be kept behind the counter with no direct access for members of the public and beers and wines would be in the aisle within view.

The store would have 15 members of staff with at least three personal licence holders, so it would be very rare for a personal licence holder not to be in store.

They intended to trade 6.00 am to 11.00 pm and everyone selling alcohol would have undertaken the training that he mentioned earlier. They would operate challenge 25 and were the first national to adopt this as standard.

The Co-op was very community orientated and were a membership organisation and last November donated around £90 million pounds nationally to worthy causes and referred to some of the charities they were currently working with.

The Co-op took their responsibilities seriously with so many stores nationally and within this area and had been in the locality for many years.

The company would not want to embarrass it's local members by having any prosecutions that they would view as an embarrassment. If their shops were not welcoming and people didn't think well of them, they would shop elsewhere.

They intended to trade 6.00 am to 11.00 pm that was the same as the current store and reflected the planning permission that had been granted.

He then referred to the Secretary of State Guidance 10.15 that stated that supermarkets should be allowed to sell alcohol throughout their trading hours. He explained that not many people would purchase alcohol at 6.00 am in the morning but some people do work shifts and do their shopping at that time and they did not want to say to these people that they needed to come back to purchase alcohol. He assured Members that the same policies and procedures would apply throughout their trading hours.

There were no objections from any responsible authorities, and they proposed good solid conditions in their operating schedule. They did however have a single residential objection from Mr and Mrs Webster.

He indicated that they would promote the licensing objectives and referred to section 182 guidance and the Thwaites case and how you couldn't predict the future or speculate but there were robust measures in place if they got it wrong.

He then dealt with the representation from Mr and Mrs Webster and referred to anti-social behaviour and indicated that teenagers would not be hanging around in a car park that had CCTV and was well lit, with people coming backwards and forwards. They had not had any issues at their current store and do not attract anti-social behaviour. He then referred to drunk drivers and that it was against the law to sell alcohol to anyone who was intoxicated. Planning permission had already been granted for the shop and today was about whether they could promote the licensing objectives for which there was no evidence that they couldn't and would commend the application.

Mr Brown the Area Manager for the Co-o confirmed that he had nothing further to add to the presentation but indicated that the Co-op wanted to work with the community.

Councillor Hopgood asked for clarification of the opening hours as they were applying for a licence 6.00 am to 11.00 pm, however their current store according to their website was 7.00 am to 10.00 pm, was this correct and were they wanting to extend the hours from what they currently had in the store in Shildon.

Mr Arnott responded that the new store would operate 6.00 am to 11.00 pm and were the same hours on the licence for the current store.

Councillor Hopgood asked if the new store was going to have a petrol station attached to it, as their policy stated that only stores with a petrol station were open until 11.00 pm, otherwise they closed at 10.00 pm.

Mr Arnott responded that a number of their stores were open until 11.00 pm and that this was not unusual.

Councillor Carr referred to the Council's Licensing Policy and the recognised hours were 7.00 am to 11.30 pm and was this considered when they submitted their application.

Mr Arnott indicated that he had read the policy and they could promote the licensing objectives from 6.00 am, 7.00 am was an arbitrary time and that 6.00 am was their standard commencement time. They had applied for a terminal hour of less than 11.30 pm.

All parties were given the opportunity to sum up and no party had any other representation to make.

The Chair thanked everyone for their attendance and that himself and Councillors P Crathorne and L Marshall would retire to deliberate the

application in private and all parties would be notified of their decision later today.

At 2.10 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 Person. 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 subject to the conditions that are consistent with the operating schedule.

Statutory Licensing Sub-Committee

31st July 2020

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

Ordinary Decision



**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:

Dawdon

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine the application for the variation of a premises licence for Flanders, 21 North Terrace, Seaham, SR7 7EU.
- 2 A plan showing the location of the premises is attached at Appendix 2.
- 3 A Sub-Committee hearing could not be scheduled within 20 working days due to the Covid 19 crisis. In accordance with Regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005, the Licensing Authority extended the time limit for hearing this application and served notice of this on all parties.

Executive summary

- 4 The application is for the variation of an existing premises licence for Flanders, 21 North Terrace, Seaham – a bar, coffee house/food establishment.

The variation application is to add live music, extend the hours for recorded music indoors and extend the sale by retail of alcohol on a Friday and Saturday by two hours, Monday to Wednesday by one hour and by 30 minutes on a Sunday. The applicant has also requested to extend the opening times, to open one hour earlier Monday to Saturday and two hours earlier on a Sunday, and to close 2 hours 30 minutes later on a Friday and Saturday and 90 minutes later Sunday to Thursday.

However following mediation with the Environmental Health Department the applicant amended the application to remove the request for live music and amended the times requested for recorded music, sale of alcohol and opening times. The applicant also added two additional conditions.

- 5 County Durham & Darlington Fire and Rescue Service and have responded to the consultation with no comments Durham County Council Public Health.
- 6 During the consultation, three representations were received (two from responsible authorities, namely Environmental Health and Durham Constabulary, and one from a 'other person'). Following mediation with Environmental Health, both Responsible Authorities withdrew their representation, leaving one outstanding representation from a 'other person', Ms Wood.

Recommendation(s)

- 7 The Sub-Committee is asked to determine the application with a view to promoting the licensing objectives.
- 8 The Sub-Committee is recommended to give appropriate weight to:
 - (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representation (including supporting information) presented by all parties;
 - (c) The Durham County Council Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 6.
 - (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 7.

Background

- 9 Background information

Applicant	Flanders Ltd	
Type of Application: Variation of a premises licence	Date received: 7th May 2020	Consultation ended: 4th June 2020

Details of the application

- 10 An application for the variation of a premises licence was received by the Licensing Authority on 7th May 2020. A copy of the application is attached at Appendix 3, this includes a copy of the existing premises licence for information purposes. Please note the revised proposals are detailed below.
- 11 The application is deemed by the Licensing Authority to be correctly served and advertised in accordance with the Licensing Act regulations.
- 12 The current licensable activities are as follows:

Current Licensable Activities	Days & Hours
Sale by Retail of Alcohol (on and off sales only)	Monday to Wednesday 11:00 hrs -22:00 hrs Thursday to Saturday 11:00 hrs – 23:00 hrs Sunday 11:00 hrs -22:30 hrs
Recorded Music (indoors)	Monday to Wednesday 11:00 hrs -22:00 hrs Thursday to Saturday 11:00 hrs – 23:00 hrs Sunday 11:00 hrs -22:30 hrs
Opening Hours	Monday to Thursday 09:00 hrs -22:00 hrs Friday & Saturday 09:00 hrs – 23:00 hrs Sunday 10:00 hrs - 22:00 hrs

- 13 The applicant has proposed conditions and the steps that they intend to take in order to promote the four licensing objectives, which are outlined within the application form.
- 14 Following mediation, the applicant amended the application to remove the request for live music and amended the times requested for recorded music, sale of alcohol and opening times. The applicant also added two additional conditions.
- 15 The applicant has requested the revised variation, see below:

Proposed Licensable Activities	Revised Days & Hours
Sale by Retail of Alcohol (on and off sales only)	Sunday to Thursday 11:00 hrs – 23:00 hrs Friday to Saturday 11:00 hrs - 23:30 hrs
Recorded Music (indoors)	Monday to Wednesday 08:00 hrs - 23:00 hrs Thursday 08:00 hrs – 23:00 hrs Friday to Saturday 08:00 hrs – 23:30 hrs Sunday 08:00 hrs - 22:30 hrs
Opening Hours	Sunday to Thursday 08:00 hrs - 23:00 hrs Friday to Saturday 08:00 hrs – 23:30 hrs See application for seasonal variations

The Representations

- 16 The Licensing Authority received three letters of representation, from Durham County Council's Environmental Health and Durham Constabulary (Responsible Authorities) and one from Ms Wood (other person) during the consultation period. Following mediation, the two Responsible Authorities withdrew their representations, leaving Ms Wood remaining. She has been notified of the changes to the application.
- 17 The Licensing Authority deemed the representation as relevant, relating to the following licensing objectives:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance

A copy of the representation and mediation is attached as Appendix 4.

- 18 Responses were received from the following Responsible Authorities, confirming that they had no comments to make in relation to the application:
- County Durham & Darlington Fire & Rescue Service
 - Durham County Council's Public Health Department

Copies of these responses are attached at Appendix 5.

The Parties

- 19 The Parties to the hearing will be:
- Flanders Ltd - (Applicant)
 - Ms Wood (other person)

Options

- 20 There are a number of options open to the Sub-Committee:
- (a) Grant the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003;
 - (b) Grant the licence subject to modified conditions to that of the operating schedule where the committee considers it appropriate

for the promotion of the licensing objectives and the mandatory conditions set out in the Licensing Act 2003;

- (c) To exclude from the scope of the licence any of the licensable activities to which the application relates;
- (d) To refuse to specify a person on the licence as the Designated Premises Supervisor;
- (e) To reject the application.

Main implications

Legal Implications

- 21 The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

Consultation

- 22 The premises licence application was subject to a 28 day consultation.

See Appendix 1

Conclusion

- 23 The Sub-Committee is asked to determine the application for the variation of a premises licence in light of the representation received.

Background papers

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

Other useful documents

- None

Contact: Helen Johnson

Tel: 03000 265101

Appendix 1: Implications

Legal Implications

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

In this case it was summed up that:

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

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

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

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

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

Consultation

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

The Responsible Authorities were consulted on the application.

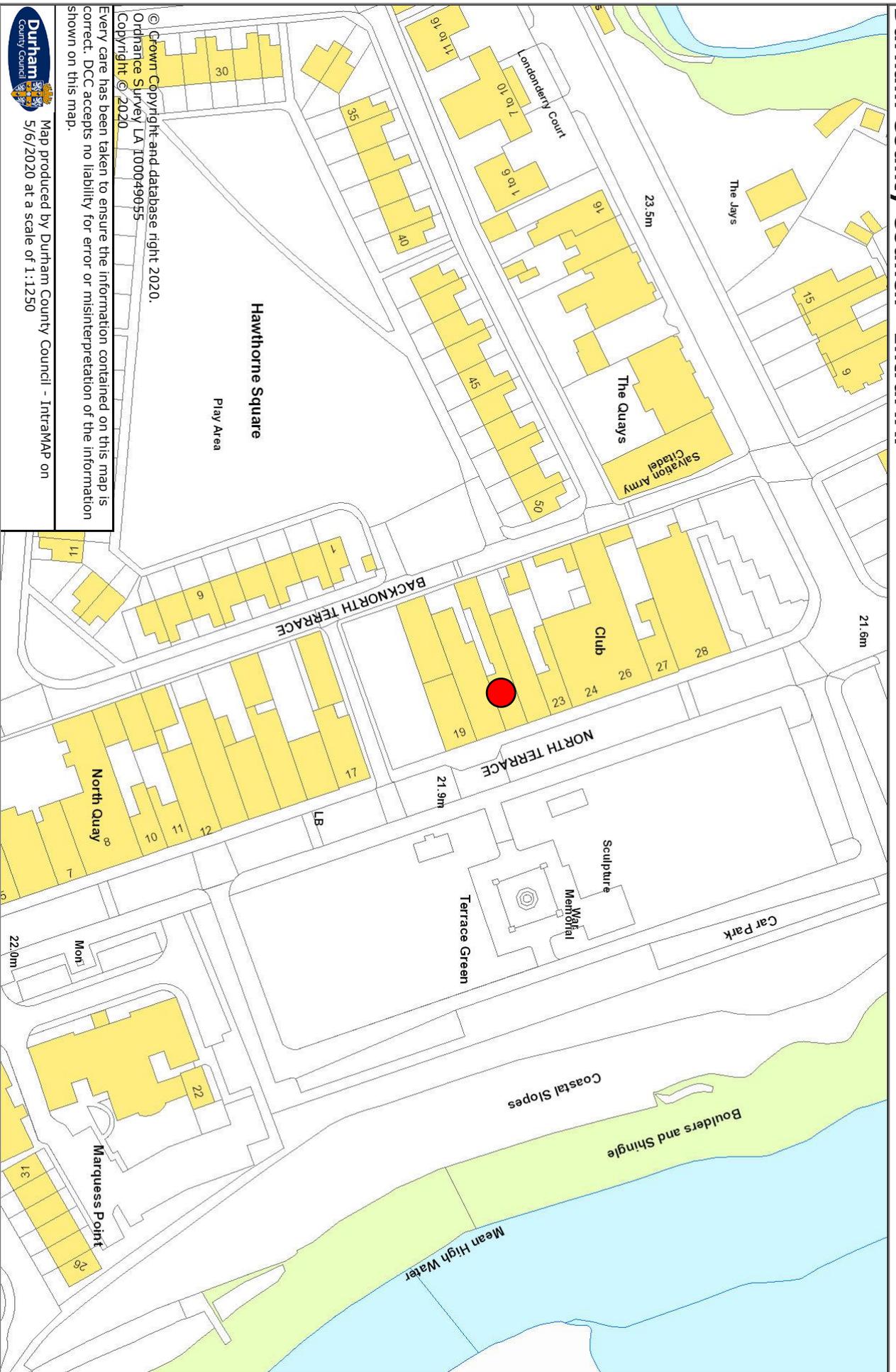
The notice of application was displayed on the premises for a period of 28 days.

Notice of the application was published in a newspaper which was circulated within the vicinity of the premises.

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

Appendix 2: Location Plan

Durham County Council - IntraMAP



Appendix 3: Application & Premises Licence

DURHAM COUNTY COUNCIL, Licensing Services, PO Box 617, Durham. DH1 9HZ

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We _____ FLANDERS LIMITED

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number	DCCC/PLA0312
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Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description 21 NORTH TERRACE SEAHAM DURHAM SR7 7EU			
Post town	SEAHAM	Postcode	SR7 7EU

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£

Part 2 – Applicant details

Daytime contact telephone number	
E-mail address (optional)	

Current postal address if different from premises address			
Post town		Postcode	

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible? Yes No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1) Yes No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

premises to still stay the same, a bar, coffee house/food establishment, but wish to amend the times of opening, live/recorded music and sale of alcohol

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

- | Provision of regulated entertainment (Please see guidance note 3) | Please tick all that apply |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue			<u>State any seasonal variations for performing plays</u> (please read guidance note 6)		
Wed			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Thur					
Fri					
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 8)			<u>Please give further details</u> (please read guidance note 5)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 6)
Tue			
Wed			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 7)
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5)		
Mon					
Tue			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 6)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Fri					
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5) irregular buskers and open night mic sets not consisting of any more than 3 groups members		
Tue					
Wed			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 6)		
Thur	1900	2300			
Fri	1900	0100	<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat	1900	0100			
Sun	1900	2300			

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 5) use of radio/spotify as background music/ambience		
Mon	0 8 0 0	2300			
Tue	0 8 0 0	2300	State any seasonal variations for the playing of recorded music (please read guidance note 6)		
Wed	0 8 0 0	2300			
Thur	0 8 0 0	2300	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 7)		
Fri	0 8 0 0	0100			
Sat	0 8 0 0	0100			
Sun	0 8 0 0	2300			

G

Performances of dance Standard days and timings (please read guidance note 8)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue			<u>Please give further details here</u> (please read guidance note 5)		
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 6)		
Thur			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 6)		
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sun			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 5)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 6)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 8)			<u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption – please tick (please read guidance note 9)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 6)		
Mon	1 1 0 0	2300			
Tue	1 1 0 0	2300			
Wed	1 1 0 0	2300			
Thur	1 1 0 0	2300			
Fri	1 1 0 0	0100			
Sat	1 1 0 0	0100			
Sun	1 1 0 0	2300			
			Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 7)		

K

<p>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 10).</p>
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L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6) to be open upto 0100 on new years eve/new years day
Day	Start	Finish	
Mon	0800	2330	
Tue	0800	2330	Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7)
Wed	0800	2330	
Thur	0800	2330	
Fri	0800	0130	
Sat	0800	0130	
Sun	0800	2330	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.
review of hours only

M Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)

liaise with authorities (police, fire, pub watch), and neighbours
challenge 21 + 25
abide by licensing laws
risk assess all hazards
use of correct safety equipment
adequate training at all levels on all subjects

b) The prevention of crime and disorder

cctv and alarm systems
notices
secured doors
liaise with neighbours and other businesses
training
awareness of alcohol consumption of customers
glass collection as to avoid being used as weapons
SIA licence holder on premises

c) Public safety

cctv
notices
allergen awareness
challenge 21+25
supervision of children
front and rear doors secure
movement with hot beverages and food
sharp corners removed

d) The prevention of public nuisance

limit noise
policing of outside areas
traffic (time deliveries to rear of premises)
availability of taxi
litter and cigarette awareness

e) The protection of children from harm

cctv
notices
allergen awareness
challenge 21+25
supervision of children
front and rear doors secure
movement with hot beverages and food
sharp corners removed

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee; or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

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

Part 5 – Signatures (please read guidance note 12)

Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	05/05/2020
Capacity	MR CHRISTOPHER MICHAEL O,CONNOR, (DIRECTOR, FLANDERS LIMITED)

Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent (please read guidance note 14). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)			
Post town		Post code	
Telephone number (if any)			



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DCCC/PLA0312
19 August 2016
18 February 2020

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>FLANDERS 21 NORTH TERRACE SEAHAM SR7 7EU</p>	<p>DURHAM COUNTY COUNCIL ADULT AND HEALTH SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ</p>
<p>Telephone number:</p>	

<p>Where the licence is time limited the dates N/A</p>
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<p>Licensable activities authorised by this licence Recorded Music Sale by retail of alcohol</p>

Opening Hours of the Premises		
		Non-standard/seasonal timings
Mon	09:00-22:00	N/A
Tue	09:00-22:00	
Wed	09:00-22:00	
Thu	09:00-22:00	
Fri	09:00-23:00	
Sat	09:00-23:00	
Sun	10:00-22:00	

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

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

<p>Recorded Music Indoors</p> <p>Mon 11:00-22:00 Tue 11:00-22:00 Wed 11:00-22:00 Thu 11:00-23:00 Fri 11:00-23:00 Sat 11:00-23:00 Sun 11:00-22:30</p>	<p>Further details N/A Non-standard/seasonal timings N/A</p>
<p>Sale by retail of alcohol</p> <p>Mon 11:00-22:00 Tue 11:00-22:00 Wed 11:00-22:00 Thu 11:00-23:00 Fri 11:00-23:00 Sat 11:00-23:00 Sun 11:00-22:30</p>	<p>Further details Non-standard/seasonal timings</p>

Part 2

<p>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</p>	
<p>MR CHRISTOPHER MICHAEL O'CONNOR 21 NORTH TERRACE SEAHAM SR7 7EU</p>	
<p>Registered number of holder, for example company number, charity number (where applicable)</p>	
<p>Company no:</p>	
<p>Charity no:</p>	<p>N/A</p>

<p>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</p> <p>MR CHRISTOPHER MICHAEL O'CONNOR</p>

<p>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol</p>
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Annex 1 – Mandatory conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) a holographic mark, or

(b) an ultraviolet feature.

The responsible person must ensure that –

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

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

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

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

Minimum Price of Alcohol:

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

2 For the purposes of the condition:

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula –

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

Where –

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

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

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

Annex 2 – Conditions consistent with the premises Operating Schedule

General

Written protocols will be in place detailing policies, procedures, roles and responsibilities in the effective implementation and management of the licensing objectives. This documentation will be held 'on-site' and made available to responsible authorities on reasonable request. Ensure effective leadership and management across the team, so that everyone understands the requirements, (this includes restaurants manager acting as the premises supervisor, ensuring those serving have the appropriate training). Ensure robust techniques/process is in to ensure no selling to underage people (challenge 25) Not tolerating any drunk/disorderly/anti social behaviour on the premises area. Ensure the environment is a safe/friendly environment for children. All staff should undertake an accredited age related sales training course, including 'Proxy Sales', before they start employment, and should undertake 'in-house' refresher training every 6 months. Accredited training should be renewed every 2 years and any new staff should undergo accredited training before commencing duties. All delivery drivers will complete a training package bespoke to their role and sign any relevant documentation to confirm their understanding of their responsibilities before commencement of employment. Authorised staff employed by Durham Police shall have free access to all parts of the licensed premises, at all reasonable times for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives. All staff training records will be held 'on-site' and made available to responsible authorities on reasonable request. Alcohol will only be delivered ancillary to the ordering of a substantial meal that has a minimum order value of £10.00. The premises will register with the Information commissioner.

Prevention of Crime & Disorder

CCTV will be installed and maintained to Home Office standards and recording stored for a minimum of 28 days. The system will incorporate a "Battery Back-up" system to enable 24 hr continuous recording on case of any power blackout/failure. The premise will ensure that at least one trained member of staff is available to operate the system at all times the premise is open and download any images requested by an authorised officer at reasonable request. Notices will be clearly displayed at the entrance and around the premise stating CCTV is in operation. The premises will provide suitable devices (USB or discs) for the storage of downloaded images and these devices will be securely stored. These devices will be made available to Responsible Authorities on reasonable request. Staff training to deal with aggressive/anti social behaviour with appropriate escalation points well communicated to staff. Engage with local business as part of the local Pub-Watch scheme to share learning and take a community approach to reducing crime. A body worn camera system will be used by delivery drivers for all deliveries that include the delivery of alcohol and recordings stored for a minimum of 28 days. 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 and authorised officer at reasonable request. The premises will provide suitable devices (USB or discs) for storage of downloaded images and these devices will be securely stored. These devices will be made available to responsible authorities on reasonable request. The premises will ensure that documented receipts of all deliveries of alcohol are made available to responsible authorities on reasonable request. These receipts should be cross referenced with all body worn camera footage of deliveries.

Public Safety

Ensuring customer walk-ways are clear from clutter and well lit. Training for all staff to ensure environmental health requirements and customer areas are as they should be. All customer equipment to be regularly inspected to ensure safe/fit for purpose. Training and implementation of underage ID checks. Ensure up to date premises licence that requires the recording of appropriate information. The log book shall be kept available for inspection when asked. Alcohol will only be delivered ancillary to the ordering of a substantial meal that has a minimum order value of £10.00. The premises will register with the Information Commissioner (For CCTV recordings).

Prevention of Public Nuisance

Deliveries of goods necessary for the operation of the business to be delivered so as not to inconvenience customers or other businesses. The movement of bins and rubbish outside the premises will be kept to a minimum after 11.00pm. This will help to reduce the levels of noise produced by the premises. Engage with local business as part of the local Pub-Watch scheme to share learning and take a community approach to reducing crime. The premises will not accept cash on delivery sales that involve the delivery of alcohol.

Protection of Children from Harm

No children under the age of 18 years will be able to consume alcohol on the premises at any time. The premises will operate a Challenge 25 scheme - notices setting out this policy will be displayed at all points of sale and within the premises/vehicles to challenge anyone who looks under this age to provide ID, if they wish to buy alcohol. All staff involved in the sale/delivery of alcohol shall be properly trained in accordance with the Premises Licence holder's own training programme and staff will complete refresher training every 6 months. The programme must include Child Sexual Exploitation training. These training records will be made available for inspection by police or an authorised officer on reasonable request. All the details provided in Training Record Book available for the restaurant. Not tolerate anti-social behaviour from other customers.

A 'Refusals Register' will be held within the premise and/or in any vehicle the premises uses for the delivery of alcohol and all refusals will be logged along with any behaviour associated with the refusal. All staff will be trained in its use. The Refusal Register will be made available to relevant authorities on request. The premises will ensure that all deliveries that include the delivery of alcohol will be handed over to the named customer who has placed the order and that any relevant Challenge 25 checks are completed and documented. The premises will ensure that customers are reminded of the delivery process via Just Eat and before any order is accepted.

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

None

Annex 4 – Plans attached

Attached

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

Appendix 4: Representation & Mediation

MEMO



To: Ms Valerie Craig
Licensing Services

From: Mr John Hayes
Neighbourhood and Climate Change

Date: 20 May 2020

Re: **Licensing Application Premises Licence Variation Application
Flanders, 21 North Terrace Seaham SR7 7EU**

With reference to the above licensing application received on 7 May 2020.

I have assessed the application with reference to the public nuisance licensing objective and would like to make the following representation:

The premise is situated in a mixed commercial/residential area. There are residential properties adjoining this business. Planning controls presently restrict the premises to 0800 – 2300hrs Sunday to Thursdays and 0800 to 2330hrs Friday and Saturday in the interest of protecting residential amenity and in response to concerns from Environmental Health in relation to noise breakout and the impact upon adjoining residential premises.

The variation is not just seeking an extension of the opening hours but is also seeking to add live music to the licence and increase the times that recorded music can take place.

Currently the opening hours on the present licence are Mon- Thurs 0900-2200hrs, Fri- Sat 0900-2300hrs and Sundays 1000-2200hrs.

The proposed opening hours are Mon- Thurs 0800-2330hrs, Fr- Sat 0800- 0130hrs and Sundays 0800-2330hrs.

Whilst the variation is also seeking to increase the hours of recorded music, the main times of concern are Friday and Saturday where the hours are sought to be 0800-0130hrs.

In addition, the variation is seeking to add live music to the licence for Thurs- Sun, where the intention is to have life music from 1900-0100hrs on Fridays and Saturdays.

No detail has been provided to demonstrate how the proposed variations will be prevented from causing a public nuisance to both adjoining residential premises and other neighbouring residences nearby.

~~John Scott~~ John Hayes MCIEH
Principal Public Protection Officer
Community Protection Service

From: Caroline Dickenson
Sent: 03 June 2020 16:09
To: AHS Licensing
Subject: FW: Licensing Application Premises License Variation Application

To Whom it may concern

Durham Constabulary would like to object to the application to vary a premises licence for, FLANDERS LIMITED, SEAHAM under the prevention of Crime and Disorder, the prevention of public nuisance and public safety.

FLANDERS have submitted a full variation to amend the sale of alcohol hrs to Monday to Thursday 11:00-23:00hrs, Friday and Saturday 11:00-01:00hrs and on a Sunday 11:00hrs-23:00hrs, for consumption both on and off the premises, recorded music Monday to Thursday 08:00hrs-23:00hrs, Friday and Saturday 08:00hrs-01:00hrs and Sunday 08:00hrs- 23:00hrs on the premises only and live music Thursday and Sunday 19:00hrs-23:00hrs and Friday and Saturday 19:00hrs-0100hrs.

Any increased hours of trading will have a significant bearing on the likelihood for crime and disorder as evidence suggests that late night, alcohol-related crime and anti-social behaviour remains a problem in parts of County Durham. Considerations need to be taken around the possibility of disturbance to businesses and residents late at night and in the early hours of the morning, and the effect that any such disturbance may have on the promotion of the licencing objectives.

As FLANDERS have asked for off sales until 01:00 hrs on a Friday and Saturday and 23:00hrs at all other times, if granted this would allow for alcohol be sold to members of the public for them to consume elsewhere. The applicant has offered no conditions around how the off sales will be controlled and how they will promote the four licencing objective and there is nothing to stop people purchasing the alcohol and then standing in the street until whatever time they please consuming it.

North Terrace, Seaham is a mixture of residential and commercial premises. The increase in hours will inevitably impact on those residents. Customers leaving the venue at the new time of 01:300hrs will find limited resources available to them. Customers naturally congregate at the end of an evening saying their goodbyes and heading for food/taxis. The impact this will have on the local community cannot be ignored as late night revellers make their way home, compete for taxis or wait for food in takeaways which are remaining open to meet the demand.

As an operational police Sgt I can state that policing the night time economy (NTE) is becoming increasing challenging with more and more demands being placed on police officers. Policing the night time economy is constantly changing and following the introduction of 24hr licencing has seen premises apply for later hours which

means the police are in demand for a longer periods and later into the night. The types of crime occurring in the NTE, in particular violent crime and public order take up a significant proportion of policing resources and by extending the hours that the patrons can consume alcohol will inevitably increase the propensity for drunkenness and alcohol fuelled crime.

There is also the impact on our local and wider communities and the issues they face when drunken people are arriving home be it by taxi or other means, and the noise and disorder generated by them. We will never have a true picture of the impact this causes on people's lives as the majority wouldn't even think to ring the police to report having their sleep disturbed, but we know from PACT meetings within our local communities this is a problem.

Finally the premises currently only have planning permission to operate from 0800 to 2300hours Sundays to Thursdays and 0800 to 2330hours Friday and Saturday. These hours were only granted on 31st October 2019 and condition 4 of the decision states - The premises subject to this permission shall not be open for business outside of the hours of 0800 to 2300hours Sundays to Thursdays and 0800 to 2330hours Friday and Saturday. Reason: For the avoidance of doubt and in the interests of residential amenity in accordance with saved Policies 1 and 35 of the District of Easington Local Plan.

Durham County Council statement of licencing police 2019 – 2024 at 2.7 paragraph states *Where the planning authority has granted planning consent to a specific time, the licensing authority would expect any applicants under the Licensing Act to not exceed that time within any application.* To date the applicant has not submitted an application to the planning authority to increase the hours.

Durham Constabulary feel the proposed variation submitted and the additional steps the applicant intends to take to promote the four licensing objectives are not adequate to prevent Crime and Disorder, the prevention of public nuisance and public safety.

Thankyou

Caroline

Sgt 484 Caroline Dickenson
Alcohol Harm Reduction Sgt
Durham Constabulary

Our Values & Vision:

Positive | Fair | Courageous | Inclusive | With Integrity

Protecting Neighbourhoods, Tackling Criminals, Solving Problems

-----Original Message-----

From: M Wood
Sent: 29 May 2020 15:10
To: AHS Licensing
Subject: Licensing Act 2003 applications

Dear Sir/ Madam,

I am writing to object to the variation to a license application which has been submitted for Flanders of 21 North Terrace, Seaham. SR7 7EU.

I am aware that they have submitted an application to vary their license to allow them to sell alcohol on and off the premises however they have been selling alcohol 'off' the premises for some days now. Obviously due to the nice weather they have taken it upon themselves to serve pints of lager in plastic glasses from their premises and are allowing people to take these drinks away to sit on the Terrace Green.

This suggests to me that they do not care what the limits of their license are and will not stick to any restrictions given when the application is approved; if it's approved.

I am aware that the laws have been relaxed with regard to restaurants and cafes being allowed to offer takeaway and delivery. We ourselves are offering a limited menu for takeaway and delivery but we are not offering alcohol alongside this as we know we do not have the permission in our premises license. Why then should they be allowed to just flout the rules because we are in lockdown?

Also, our restaurant is open on Thursday, Friday and Saturday evenings and to have live music next door to our venue will inevitably impose on the ambience of our premises. I very much doubt the door will be kept closed at all times and patrons will spill out on to the streets as they have no rear area for smoking or drinking. These patrons, as happened when it was The Lounge do not stay in front of No.21; they end up standing in front of our windows, drinking and smoking which makes it very uncomfortable for our diners as our windows are floor to ceiling with tables positioned in the windows.

When No. 21 was a bar previously (The Lounge), we had people fighting outside, drinking, smoking (not using ashtrays), sitting on our tables and chairs and cars constantly pulling up to talk to their patrons who were standing out on the pavement. We do not want this to happen again!

Who will police it?

Who will prevent their patrons from standing out on the street drinking from glasses and leaving them outside of our premises?

Who will clear up all of the endless cigarette ends every morning?

Who will disinfect our doorway because some idiot sees fit to urinate in it as it's easier than going inside?

In the past, this had fallen to us to police. My staff, most of them female having to go out and remove drunken men from outside of our premises. It is not our job to take care of these issues for another business; it's our job to do it for ours!

We vehemently object to any extension of their licensing hours, to them selling alcohol off premises and also to them being allowed to have live music at any time whilst they are open!

I hope you will take all of my points into consideration when assessing their applications and refuse them all. The fact that Mr. [redacted] is already selling alcohol off premises before his application is approved (police also made aware today) is proof that he will not adhere to limitations placed on him by the licensing committee.

I would appreciate my objection remaining anonymous as we do not want any reprisals in the future.

Kindest Regards

M Wood

Sent from my iPhone

As a business we have had to suffer various tenants in No. 21 and every time it is used as a bar it has caused us numerous problems which I highlighted in my email.

The problem is that the previous tenants and now the current tenants have no control over their patrons. The building is only small and it is inevitable that customers will spill out on to the pavement outside.

What has happened previously is that we end up with groups of drunken young men standing outside of our property causing a nuisance to our customers who are trying to enjoy a nice meal with a lovely sea view. What they end up seeing is men drinking pints, smoking, swearing and generally causing a nuisance. Our customers end up having to negotiate their way through these groups and it can be very intimidating for them.

Also, the majority of our staff are female and while they are locking up and bringing our furniture inside they too have to put up with comments and behaviour they shouldn't have to!

Mr [redacted] has proved over the last weekend that he is not a responsible licensee and was even heard telling the police 'it's not my problem what they do after they've bought their drinks'!

I also overheard him on the phone to the licensing team in June 1st and be blatantly lied by telling you that he hardly sold any alcohol over the weekend previous when in fact the majority of his sales were alcohol related. While we operated our takeaway food service on the Friday and Saturday evenings I myself witnessed people returning over and over again to buy pints of beer and taking them to sit on the green.

Kindest Regards

M [redacted] Wood

Hi Valerie

We agree to all of the conditions outlined above to ensure that a hearing is not required for all concerned.

Thank you

Best Regards

Andrew

M A Harrison.

Director

Flanders Ltd

On 18 Jun 2020, at 09:50, Valerie Craig wrote:

Good morning,

Thank you for your email. I still need to seek clarification from yourself on the representation from Mr John Hayes as below:

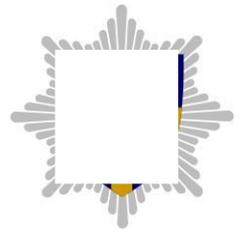
- Under regulated entertainment delete your request for Live Music, as advised provided that live music finishes prior to 2300hrs it will not be regulated entertainment. You will be able to have live performance, as you describe in your additional information, on any day without the need for additional controls being applied to your licence. In relation to recorded music please amend your application to Friday and Saturday 0800-2330hrs, on other days the recorded music is not regulated entertainment as it will not continue after 2300hrs.
- In relation to the supply of alcohol for both on and off the premises I would agree to: Sunday to Thursday 1100-2300hrs and Friday and Saturday 1100-2330hrs.
- In relation to opening times I would agree to the following: Sunday to Thursday 0800-2300hrs and Friday and Saturday 0800-2330hrs.
- I would also wish the following to be added as conditions under the prevention of public nuisance licensing objective: All doors and windows, with the exception for access and egress, are to remain closed on any day from 2200hrs until closing; no drinks, of any kind, with the exception of off sales, shall be taken outside on any day between 2200hrs and closing.

I must point out that if it is your intention to request sale of alcohol from 10am instead of your existing proposal of 11am you will need to withdraw this application and resubmit it to reflect these new timings.

Please can you confirm if you wish to amend your application to reflect the above proposals.

Kind regards,
Valerie

Appendix 5: Responses from Responsible Authorities



Chief Fire Officer: Stuart Errington

Fire and Rescue Service Headquarters,
Belmont Business Park, Durham, DH1 1TW

Date: 14 May 2020

This matter is being dealt with by: Julie Knox

Our Ref: 2E51000275

Your Ref: 461454

Direct Dial Telephone:

E-mail:

Dear Valerie,

Licensing Act 2003
Regulatory Reform (Fire Safety) Order 2005
Flanders Ltd, Alders, 21 North Terrace, Seaham, SR7 7EU

I acknowledge your application dated 7 May 2020 for a Variation to Premises Licence under The Licensing Act 2003 in respect of the above named premises.

No representations will be made to the Licensing Authority subject to the responsible person for the above premises ensuring compliance with the requirements of the Regulatory Reform (Fire Safety) Order 2005.

For further guidance please refer to <https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents> which provides information about the Regulatory Reform (Fire Safety) Order 2005.

Should you require any further information please do not hesitate to contact me on the telephone number or e-mail address shown above or visit our website www.ddfire.gov.uk and follow the link to Fire safety at work.

Yours faithfully

Julie Knox
Fire Safety Section



www.ddfire.gov.uk

From: Jenna Smith
Sent: 03 June 2020 10:59
To: Helen Johnson - Licensing Team Leader (N'hoods)
Cc: Valerie Craig AHS Licensing
Subject: RE: Premises licence variation received - Flanders, North Terrace, Seaham

Dear Colleagues

I have received an application to vary a licence for the establishment: **Flanders, 21 North Terrace, Seaham, SR7 7EU**

I have no comments or objections to make on behalf of County Durham Public Health.

My Ref: PH/2019/062

Kind regards,
Jenna Smith

Business Support – Public Health Team
Room 3/56 – 3/71
Durham County Council
County Hall,
Durham,
DH1 5UJ

Appendix 6: Statement of Licensing Policy

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.

Appendix 7: Section 182 Guidance

Crime and disorder

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

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

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

Public safety

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

Ensuring safe departure of those using the premises

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

Maintenance and repair

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

Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

¹ S 177 of the 2003 Act now only applies to performances of dance.

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.