



Statutory Licensing Sub-Committee

Date **Friday 16 December 2022**
Time **9.30 am**
Venue **Council Chamber, County Hall, Durham**

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 Meeting held on 5 September 2022 (Pages 3 - 16)
5. Application for the Review of a Premises Licence - The Woodman Inn, 23 Gilesgate, Gilesgate, Durham (Pages 17 - 80)
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
8 December 2022

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

Councillors C Bihari, D Brown, E Peeke and A Watson

Contact: Jill Errington Tel: 03000 269703

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DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Monday 5 September 2022 at 1.30 pm**

Present:

Councillor D Brown (Chair)

Members of the Committee:

Councillors R Adcock-Forster (substitute for C Hampson), C Bihari and E Waldock

Also Present:

Mrs G Proud (Council's Solicitor)

Ms H Johnson (Licensing Team Leader)

Mr M Foster (Applicant's Solicitor)

Mr D Handy (Applicant and Director of Claypath Delicatessen Ltd)

Councillor Freeman (Other Person)

Ms J George (Other Person)

Mrs E Ashby (Other Person)

Mr J Ashby (Other Person)

Ms R Taylor (Other Person)

Mr F Newton (Other Person)

Mrs H Newton (Other Person)

1 Apologies for Absence

Apologies for absence were received from Councillors C Hampson and M Wilson.

2 Substitute Members

Councillor R Adcock-Foster substituted for Councillor C Hampson.

3 Minutes

The Minutes of the meeting held on 20 June 2022 were agreed as a correct record and were signed by the Chair.

4 Declarations of Interest

There were no declarations of interest.

5 Application for the grant of a Premises Licence - Claypath Delicatessen, 57 Claypath, Durham

The Chair welcomed everyone to the meeting and introductions were made.

The Sub-Committee considered a report of the Licensing Team Leader regarding an application for the grant of a Premises Licence in respect of Claypath Delicatessen, 57 Claypath, Durham (for copy of report, see file of minutes).

The Licensing Team Leader circulated to all parties in attendance at the meeting a copy of the operating schedule for Claypath Deli that had been omitted from the report.

The Licensing Team Leader presented the report and advised Members that the application was for a café/bakery/pizzeria and was submitted to the Licensing Authority on 8 July 2022.

Following mediation with Environmental Health the applicant agreed to amend the application to revise the timings for the supply of alcohol on Sundays and Bank Holidays to 11:00 – 17:30 with a closing time of 18:00 and also to add two conditions to the operating schedule for the promotion of the licensing objectives.

Mediation had also taken place with Durham Constabulary where the applicant amended a condition relating to off sales of alcohol and confirmed that no deliveries would be provided from the premises.

During the consultation period, six representatives opposing the application were received from other persons and nine representations were received in support of the application.

The Fire Safety Authority, Durham Constabulary, Durham County Council's Planning Department and the Durham Safeguarding Children Partnership all replied with no comments to the application.

Additional information had been provided by the Applicant's Solicitor and had been circulated to all parties prior to the meeting.

Details were provided of the options open to Members.

There were no questions of the Licensing Team Leader.

Councillor Freeman who was representing local residents in his ward was asked to address the Sub-Committee and indicated that a number of residents had contacted himself and Councillor Ormerod raising their concerns to the application, and they supported their concerns. He indicated that a number of residents had written in support of the application that was not surprising as the Deli had been a welcomed addition to the area although not supportive of the recent planning application for an outdoor seating area to the rear of the property due to its effect on neighbours.

He stated that those objecting to the application largely lived in close proximity to the premises and commented that those in support of the application largely lived far enough away to not experience any issues that may arise from the premises. He indicated that they felt that the application was a step away from being a small local café to another bar and takeaway in the city centre with already too many of both.

He went on to say that Claypath Deli opened in 2010 as a small café whose sole cooking on the premises was the heating of food. This proposal altered the premises substantially to a pizzeria and a bar later in the day.

In 2010 when the planning application was granted it was a condition that there should be no hot food cooked, prepared or served on the premises other than previously prepared food which may only be reheated.

The Council's Solicitor indicated that Councillor Freeman was referring to planning matters and the Licensing Team Leader had indicated that there were no objections from the Planning department and advised Members to consider the application in relation to the supply of alcohol and not planning matters.

Councillor Freeman continued that planning permission was not granted for a pizza service or the serving of alcohol. This part of Claypath was a residential area and the proposed change could lead to disruption to the community and would be made more so by there being a garden area to the rear where noise could travel compared to indoors.

They feared that what was a café was becoming a drinking establishment that would also be playing music by bands on occasion. He appreciated the hours of operation were within the permitted framework, but he was not reassured that an application for the extension of the hours would not be made in the future if this application was granted. He asked what protection residents would have from an extension of hours in the future if the application was granted today.

He continued that those residents who were opposed to the application do so because the application would generate noise and the potential behavioural disturbances due to alcohol consumption. There would be an increase in deliveries to the premises and the change in use contravenes the previous planning permission. There were already many existing drinking establishments in the city centre that were not located in a residential area where noise and anti-social behaviour had become an issue, but this was in a residential area.

He indicated that he was disappointed that Durham County Council had failed to undertake an impact assessment to show how the ever-increasing number of approved licensing applications was having a detrimental effect on the city and its residents. He stated that the licensing criteria made it difficult for alcohol applications to be refused but nearby residents had genuine concerns and there remained the possibility of a further application for an extension of hours to late evening. He asked whether the license could be transferred to a future occupier of the premises who may have a different idea of the venue's role and offer to that which existed at present. He asked Members to consider both the applicant's desire to extend the deli to a different type of venue later in the day and the nearby residents who had concerns on how this could impact on them.

Mr Newton an Other Person indicated that his property was directly behind the garden area of the Deli. He understood that the majority of the submissions to the licensing authority were approved, however, he would like to draw members attention to a number of issues.

He indicated that when planning permission was granted for the Deli in 2010 it was recognised that it was a residential area with homes on all sides and on this basis planning conditions were included with the approval. Since then, the approved opening hours had been extended to allow Sunday opening and into the early evening. As the Deli had not seen to have caused any disruption up to this point no objections were raised by residents.

In November 2021 permission was given for the garden area on the basis that a noise management plan was put into place. At that planning committee the applicant stated that they were not a pub and did not serve alcohol but what he was applying for seemed a complete transformation of the premises from a deli to pizzeria and bar. There also needed to be clarification on the question of live music as they knew that live music events take place on these premises and photos of these events were included in the additional information provided by the Applicant and asked if alcohol was excluded from these events as the application stated that there would be no live music.

In considering this licence he believed that Members should look at the overall impact on the city. It was stated by the Applicant that he was targeting

the twenty-five years plus customer, but the deli was already patronised by students and was difficult to see how this could be achieved other than discouraging existing customers. The cumulative impact of alcohol was reflective in the high number of anti-social behaviour crimes reported in the city area and there was in excess of 750 incidents over the last year to June. A change in these premises to a bar would be adding to the existing problem. Students now outnumbered permanent residents and this factor had a major bearing on permanent city centre residents who could no longer tolerate disruption to their lives from anti-social behaviour.

The application had requested limited hours when alcohol could be served but it was a fact that the alcohol would be available from an hour earlier than the pub at the top of lower Gilesgate. He indicated that if Members were serious about this issue, then the availability of alcohol adjacent to residential premises was a serious and important criteria.

He noted that the Applicant had the support of St. Nicholas Community Forum who had a vested interest in these premises as they used it for their meetings. The Resident's Group had chosen not to consult with the residents who lived in close proximity to the premises. It was a great concern that the responsible authorities had chosen not to identify some of the safety and conservation areas in relation to the application. The transformation of the premises to a pizzeria and bar was likely to affect rubbish, recycling and safety when additional delivery vehicles who parked on double yellow lines obscuring traffic for vehicles. Cars travel up Claypath at very high speed and it had been fortunate that there had not been any serious accidents.

The Applicant seemed to be transforming his premises little by little to limit opposition and they anticipated that a further application may be made in the future to increase the hours of opening and possibly become more like a takeaway offering alcohol as an additional incentive.

Those who opposed the application may be small in comparison to the supporters, but it should be noted that with the exception of one, those supporters do not live near to the premises and benefit at the expense of those living in close proximity. The proposal for alcohol to be available for up to nine hours a day was a concern as the consumption of alcohol loosens people's inhibitions and resulted in greater noise levels being generated. He asked Members to reject this change as there were already sufficient places in the city to obtain alcohol.

In response to a question from the Licensing Team Leader, Mr Newton indicated that the 750 reports of anti-social behaviour in the last year were obtained from the Police website but were not just Claypath but other city areas where residents lived. Anti-social behaviour also happened in the Sands area and there were a number of student properties in that area and

was a major issue for those who lived in the city and there were more students coming every year with 22,000 students by 2025.

The Licensing Team Leader asked if the anti-social behaviour was linked to existing licensed premises or just in general.

Mr Newton responded that the police figures on the website did not delve down into that information, but he suspected that drinking was an issue. The issue of anti-social behaviour had not been dealt with and was why they had anti-social behaviour in areas you would not expect those who knew the city and he had lived in the city since 1974 would be aware that the whole city had changed.

The Licensing Team Leader referred to Mr Newton indicating that the application did not include live or recorded music and confirmed where an application for the consumption of alcohol on the premises if granted than the premises automatically have an exemption for live and recorded music between 8.00 am and 11.00 pm Monday to Sunday for up to 500 people.

Mr Foster, the Applicant's Solicitor referred to the statistics from the police website and asked where these were in the evidence submitted by the representations of the objectors.

Mr Newton responded that he was asked by the Licensing Officer to provide evidence of anti-social behaviour.

Mr Foster was advised that reference was made to the website on page 51 of the pack. Mr Foster then asked that the statistics from the police website be not considered as it had not been provided in advance of the meeting.

The Council's Solicitor agreed that the information should have been provided and not just referenced a website so there was no evidence to back up the quoted statistics.

Councillor Waldock referred to the past Temporary Event Notices (TENs) for the premises where the selling of alcohol occurred and asked residents if there had been any impact when these TENs had taken place.

Mr Newton confirmed that there had been no impact from the TENs up to the present time.

In response to a question from the Chair, Councillor Freeman indicated that he represented all residents in his ward but the number of objectors he was representing were those contained within the report. He then indicated that there were merits to the venue that had a useful role in the community and the residents' association met at the venue. Some residents who lived

nearby had concerns where the premises was going from where it started in 2010 that started as a café now a pizzeria and potential for this to change in the future.

In response to a question from the Chair, Mr Newton stated that he moved to the city in 1998 and previously lived in an area close to the city centre. He stated that the city had changed over the years and not for the better. He was previously Vice-Chair of St Nicholas Community Forum and premises licences had not been an issue until recently. Some residents who lived in the city were tearing their hair out and one resident living on Claypath had found students walking into their property thinking it was student accommodation.

The Council's Solicitor stated that reference to how the premises had developed was fine but concerns to future developments for the premises should be disregarded and Members should only consider what was in front of them and not anticipate what may happen in the future.

Mr Foster was then asked to address the Sub-Committee and indicated that he was accompanied by the Applicant who was a director of the company and the proposed Designated Premises Supervisor and responsible for the day to day running of the premises.

He continued that it was a family run business by husband and wife and the application was submitted in July. He stated that the operating schedule circulated today was included in the application and all parties had had sight of it.

No representations had been received from the responsible authorities with the exception of those stated in the executive summary where mediation had taken place and conditions agreed. He stated that the hours of operation were amended, and this was an error on his behalf and the hours on the Sunday should have been as subsequently agreed with Environmental Health. Durham Constabulary only asked for a small amendment to the application in regard to deliveries, they were not opposed to deliveries they just asked for some additional conditions with regards to deliveries. Deliveries was not part of the business, so they agreed to remove deliveries from the application.

The application was the same as the hours that could be operated under the planning permission and the application was submitted with a robust operating schedule.

The premises currently operated as a café, bakery and a pizzeria, what made the premises unique was the sour dough bakery that was a rarity in the area. The premises had been operating for almost 12 years without any

issues and had 30 covers inside and seating outside. He stated that copies of the menu had been circulated with the papers and all produce was made on site with fresh ingredients.

He then referred to the terms of the conditions and the hours of operation and if they were going to be a bar, they would not be applying for hours that ended at 8.30 pm. It was a café and bakery and without the bakery the premises would not be viable. The addition of alcohol was to help with the running of the premises, it was not going to be every night until late, it currently closed on a Sunday and Monday and the later hours would be a Friday maybe a Saturday that would be planned in advance. The premises had previously operated under TENs with live music which was usually acoustic music with amplified voice with served alcohol.

The premises clientele was local that also got passing trade and had a local reputation for baking. The premises used to supply other business, but this no longer took place as it was too much work operating alongside the business.

Mr Foster referred to the provided photographs that showed the layout of the premises and stated that it was not a large premises and had a reception area and towards the back the servery and display of products.

This was not a live music venue and was a venue that would have occasional entertainment and was often a place where people came to read a book and the premises had a book deposit scheme in operation and displays from local artists and a potter, where customers could purchase items.

In terms of representations, the Parish had not made representations in this case and a number of residents had made representations in support of the application. This was due to the fact that it was an established business withing the local community for almost 12 years and had a good reputation and was a well-managed premises. They did liaise with the Parish Council and on the basis of what they had agreed with Durham Constabulary they did not have any concerns with the application and did not make any representations. No representations against the application had been received from St Nicholas Community Forum but a letter of support. The fact that the premises had so much support from residents showed the competence of the operators who had been in business for a long time was a strong indication of how the premises would be operated should the application be granted. Mr Foster quoted from some of the representations received from supporters in particular that Mr and Mrs Ashby who were supportive of the application lived across the road from the premises. The supporters were residents who knew the venue and brought their knowledge of the premises and the operators to their representations and explained why

they were good operators and why they had no concerns with the application.

In terms of the representations opposing the application they think that somehow that the sale of alcohol would change the operating of the premises, but there was no change in the hours, it was the same business just adding alcohol to the offer.

There was a complete absence of any evidence that the premises was being ran irresponsibly and would be wrong to assume that by adding alcohol the premises would be operated irresponsibly and could only go on their track record that they were good operators. He asked Members to consider that no representations had been received from Responsible Authorities.

Mr Foster then referred to the Licensing Act 2003, Section 18(6)(a) that stated that representations were about the likely effect of the granting of the premises and the promoting of the licensing objectives. None of the objections pointed to a problem with the way that the premises was operated. The premises had planning permission and that was not the purpose of the meeting and was not about parking, this was the Highways department. He was concerned that the objectors were speculating on the impact of the application and referred to the Thwaites Case that warned against speculating on what might be the impact of the application without any evidence. They were not looking to extend the permitted hours and it was not relevant to look at what the premises might do in the future, it was the individual merits of this case.

He referred Members to Paragraph 9.12 of the Section 182 Guidance and that Durham Constabulary and Environmental Health had not objected to the application submitted.

Mrs Ashby who was speaking in support of the application indicated that she had lived in her property sine 1966 so she was familiar with the changes that had happened throughout the city over this period. Both herself and her husband would be speaking on the application as she had a slightly different view to offer as she had a more personal relationship with the premises. She made reference to the original planning application where she had made an objection and stated none of her points raised had been borne out in the 12 years and every one of her objections had been overcome by the way the premises had been managed.

She indicated that the Deli had made a huge contribution to the area, reference had been made to the Deli being used by students and stated that her house was in the middle of three large purpose-built student blocks and there was no other place in this area where students and local residents could meet socially, and the Deli was a hub for this. Students and residents

met in the Deli and there was nowhere else in this area where that could happen and was the valuable contribution this business brought to the area. Her particular focus with the Deli was the community helping to run the garden area and referred to the map at page 19 of the report. She stated that the garden area was fenced from the paving area and on the left-hand side was an overgrown walnut tree and on the right-hand side was a rambling rose on a trellis so there was a division. The garden itself was divided into areas with dense shrubbery, raised vegetable beds, large plastic greenhouse that filled two thirds and acted as a sound barrier, beyond that was dense apple trees and the left-hand edge of the garden was a thick privet hedge, and the right-hand boundary was the adjacent building and its garden. She stated that there was a considerable degree of natural noise reduction to the rear of the premises and the paved area that made a difference to any noise from the premises.

In terms of anti-social behaviour, she referred to the 'stop 7-11 Campaign' that was introduced to try and control noise nuisance in the hours of darkness. The initiative came from St. Nichols Community Forum and the Parish Council. She helped set up this campaign and was extremely sensitive to noise issues on the Claypath area and stated that in all the years this was in operation Claypath Deli had not been reflected in any of the anti-social behaviour in Claypath.

She had a knowledge of the licensing objectives and had been involved in many other licensing applications over the years and was aware of any possibility of this premises having any negative impact on the four licensing objectives and stated that this would not happen. If the local community were to express any concerns, she was confident that the owners of the Deli would try and mediate any concerns that may be expressed, but she did not think that there would be any concerns.

She stated that one of the original concerns expressed was that the premises would become a hot food takeaway or drinking establishment but that hadn't happened. There was still a concern about what could happen in the future to the premises, but this was a good and reasonable application by a committed applicant, and it would be a terrible loss to the community if the business could not adjust to the current economic climate and failed.

Mr Ashby also speaking in support of the application stated that he agreed with Mrs Ashby and had spent the last 50 years protecting the amenity of residents in his locality that included objecting to the original planning application. He found that all his anxieties were unwarranted. He had looked at the four licensing objectives and was certain that the premisses application did not offend against any of them. There had been no crime or disorder incidents and the local PCSO meet them in the Deli. Thad been no issues with public safety, prevention of public nuisance he was aware from his time

on the parish council that there had been a complaint of noise and a suggestion of risk to privacy and neither of those were upheld. Protection of children from harm, no harm to any child had arisen or been alleged. He stated that he was confident that the provision of alcohol at these premises would not lead to any breach of the licensing objectives. He added that noise that may arise from the garden and stated that it was fenced off from the outdoor seating area and customers were not allowed into the garden. The outdoor seating area behind the premises was not part of the licensable area. He stated that there was a safeguard that he would personally operate if there was any abuse of the four licensing objectives, he would evoke the powers to have the premises licence reviewed and if necessary revoked.

Mrs George who was speaking in support of the application stated that she lived a few minutes' walk from the premises and had lived there for the last 10 years, she lived among students and next to a student block. She stated that the Applicants were very reliable and a responsible couple who were valued members in the community. The Deli was a place for the whole community for young and old who mix at the Deli, it was a comfortable place which she visited with her friends, it was not rowdy but a gentle relaxed place to sit down and have a cup of tea. She had attended some of the acoustic evenings that was full of older people that were not averse to a glass of wine with their pizza. She had never heard of any problems, or anything negative that had arisen. It was a trouble-free well-kept establishment, and she believed the four licensing objectives would not be affected against. She believed that the offer of alcohol to accompany food would be tightly managed by mature staff and her local observation was that students were not around at the times, and she did not imagine that the alcohol on offer would be the cheapest. She wished to support the premises as it was a nice place to meet friends and worried in these times of economic crisis that not allowing them the ability to add to what they can offer might cause the business to fail. The owners had shown themselves to be very open and receptive and lived near to the premises with young children. She believed that should there be any problems they could talk to them, and they would respond and act upon it.

Ms Taylor speaking in support of the application stated that she had lived in Finney Terrace since the late 1980's. Since moving into her property there had been a series of developments accompanied by the usual objections or support for the project or building. She stated that it was difficult for both sides today as it was speculation, and it was difficult to say what would happen. Since she had lived in Finney Terrace none of the objections had been realised or resulted in trouble and if there were any issues, people know where to go to sort it amicably. She commented that she worked in Public Health in the Drug and Alcohol Action Team and was well aware of the problems that drugs, and alcohol could cause, and she did not see any of these issues being associated with the way the Deli was run. She stated that

she had not noticed any issues from the TENs, and she could not imagine any of the issues that they were frightened of happening when customers leave the Deli. It was a changing city, and the Deli could be a good example of how to drink responsibly.

Mr Newton commented that the notice on the Deli for the premises application stated that the business was to operate as a café, bakery and pizzeria with a café and bakery during the day and pizzeria and bar on the evenings and asked for clarification from the Applicant if the premises was a pizzeria and bar or a deli.

Mr Foster confirmed that during the day the premises would operate as a bakery and a café that also served pizzas during the day and a copy of the menu had been circulated with the papers. On an evening as they do on a Friday currently, they would operate more with pizzas, this would not be every night but would give them some flexibility, alcohol was something that added to the offering and presently people could bring their own alcohol but if they could sell alcohol this would give a greater degree of control.

In response to a question from Councillor Waldock, the Applicant stated that they would be offering lagers, local brews with a price point of £4-£6. Bottles of wine would range from £20 upwards; it was not the type of alcohol that would be drunk excessively but would be a high-quality product to go with high quality food and they would not expect people to be getting drunk.

The Chair asked the Applicant to expand on the Noise Management Plan.

The Applicant stated that they were asked to produce a Noise Management Plan specifically for the rear garden that they had completed and implemented and included regular checks in the garden, a complaint book which was currently empty as no complaints had been raised. The outdoor area was not noisy was just people chatting and there was plenty of shrubbery around to absorb any noise.

In Summing up, the Licensing Team Leader reminded Members of the options open to them that had been outlined.

Mr Newton clarified that the garden area was not included in the application and indicated that trees and shrubbery made very little difference to noise transmission and commented that physical barriers were needed. He asked the committee to consider while it seemed to be downplaying how the alcohol was going to be implemented if it was just a small item of their sales it would seem hardly worth going through the process and cost. He thought that alcohol was going to be a much more important aspect of the application than what had been outlined. He asked Members to think that this was something that needed to be carefully considered and the evidence was

there, and he highlighted a website in his response that detailed all the crime in the area and the types of crime. He stated that there was damage done on Claypath on a regular basis, he was not saying that the premises was going to make the city full of drunken students, it was just the accumulation of the licensed premises they had in the area, it was stated that there was no place for students to meet but 300 yards down the road were numerous drinking establishments where people could meet. There were so many drinking establishments in the city centre and in the new development there were going to be more than enough places to drink, and these needed to be in a concentrated area rather than spilling out into residential areas.

The Council's Solicitor indicated that reference had been made to a Cumulative Impact Policy that was considered in 2019 and the decision was that the area did not require a policy.

The Licensing Team Leader confirmed that following a request from the local MP and Residents' Association in 2019 a Cumulative Impact assessment was carried out and provided details of that assessment. The assessment concluded that there was no evidence that a Cumulative Impact Policy should be introduced in the city centre as the evidence did not suggest that the figures were coming from existing licensed premises.

The Licensing Team Leader confirmed that the outdoor area was not licensable as the consumption of alcohol was not going to be taking place outside.

Mr Foster in summing up, indicated that they were not here to consider need or demand for premises and they had presented their application. They were also not here to consider planning or information on statistics that had not been presented in advance of the hearing. He drew members attention to the Statement of Licensing Policy and read out paragraph 4.1 that summed up their application. He stated that Mr Ashby was right in that this was not the end of a process and if granted today there was a mechanism for review if there were any problems with the premises. Environmental Health and Durham Constabulary were quick to act but that would not be the case here as it was a proven operator who had operated in this location for nearly 12 years. Local residents had come here today to support the application and Environment Health also had an array of other powers and the Police could close the premises down, but the premises was going to be selling alcohol to 8.30 pm Monday to Saturday and 5.30 pm on a Sunday and closing at 9.00 pm and 6.00 pm on a Sunday, it was not a late-night bar. They had described how the premises was going to trade and it was a nice balance for a community-based premises and urged members to grant the application on the revised terms included in the papers.

At 3.00 pm Councillors D Brown, R Adcock-Forster and C Bihari **Resolved** to retire to deliberate the application in private. After re-convening at 3.20 pm the Chair delivered the Sub-Committee’s decision.

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

RESOLVED: That the application for a Premises Licence be granted as follows subject to the conditions that had been mediated with Environmental Health and Durham Constabulary and those proposed by the Applicant:

Licensable Activities	Days & Hours
Supply of Alcohol (consumption on and off the premises)	Monday to Saturday: 11:00 to 20:30 hrs Sunday and Bank Holidays 11:00 – 17:30
Open to the public	Monday to Saturday: 08:00 to 21:00 hrs Sunday and Bank Holidays 11:00 – 18:00

Statutory Licensing Sub-Committee

16th December 2022

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



Ordinary Decision

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

**Councillor John Shuttleworth, Cabinet Portfolio Holder for
Neighbourhoods and Climate Change**

Electoral division(s) affected:

Elvet and Gilesgate, Durham

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application to review the premises licence in respect of The Woodman Inn, 23 Gilesgate, Gilesgate, Durham DH1 1QW.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 On 1st November 2022, an application was received from Mr Adam Shanley, Clerk to the City of Durham Parish Council (Other person) asking for a review of the premises licence (licence number LAPRE/07/0026) for The Woodman Inn, 23 Gilesgate, Gilesgate, Durham DH1 1QW.
- 4 During the consultation period the Licensing Authority received two representations in support of the review application from Mr Mark Anslow of Durham County Council's Environmental Health Department (Responsible Authority) and Ms J George of the St Nicholas Community Forum (Other person).
- 5 A response was received from the Council's Planning Department providing information only.
- 6 Durham Constabulary, the Home Office Immigration Enforcement Team and the Fire Safety Authority all responded to the consultation with no representations.

Recommendation(s)

- 7 The Sub-Committee is asked to determine the review 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 representations (including supporting information) presented by all parties;
 - (c) Durham County Council's Statement of Licensing Policy - Section 3.19 of the policy states that the licensing authority may reinstate or impose conditions about live music following a review of a premises licence or Club Premises Certificate (relating to premises authorised to supply alcohol for consumption on the premises) where it can be demonstrated that live music has undermined the promotion of the licensing objectives and such action is appropriate.

Other relevant parts of the policy are attached at Appendix 8;
 - (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 9.

Background

- 9 Background information

Applicant	Mr Adam Shanley	
Type of Application: Review of a Premises Licence	Date received: 1st November 2022	Consultation ended: 29th November 2022
Current Premises Licence Holder	The Woodman Durham Limited	
Current Designated Premises Supervisor	Ms Claire Ann Cowie	

- 10 The premises licence in respect of The Woodman Inn, 23 Gillesgate, Durham currently permits the following licensable activities:

Licensable Activity	Days & Hours
Sale of Alcohol (on and off sales)	Monday to Thursday: 11:00 – 00:00 hrs Friday and Saturday: 11:00 – 01:00 hrs Sunday: 12:00 – 00:00 hrs. From 11:00 - 01:00 hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 hrs on New Years Eve until 01:00 hrs on 2nd January each year.
Live Music (indoors)	Monday to Saturday: 11:00 – 23:00 hrs Sunday: 12:00 – 23:00 hrs. From 11:00 - 01:00 hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 hrs on New Years Eve until 01:00 hrs on 2nd January each year.
Recorded Music (indoors)	Monday to Sunday: 11:00 – 23:00 hrs
Late Night Refreshment (indoors)	Monday to Saturday: 23:00 – 23:30 hrs From 23:00 hrs on New Years Eve until 05:00 hrs on New Years Day
Opening Hours	Monday to Thursday: 11:00 – 00:30 hrs Friday and Saturday: 11:00 – 01:30 hrs Sunday: 12:00 – 00:30 hrs. From 11:00 - 01:30 hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 hrs on New Years Eve until 01:30 hrs on 2nd January each year.

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

Details of the application

- 12 The review application submitted by Mr Adam Shanley was received on 1st November 2022.
- 13 The application is deemed by the Licensing Authority to be relevant, and the application was advertised in accordance with the regulations.
- 14 The application for review relates to the following licensing objective:
- The Prevention of Public Nuisance
- 15 A copy of the review application is attached at Appendix 4.

The Representations

- 16 During the consultation period, the Licensing Authority received two representations in support of the review application from:
- Mr Mark Anslow of Durham County Council's Environmental Health Department (Responsible Authority)
 - Ms J George of the St Nicholas Community Forum (Other person)

Copies of the representations are attached at Appendix 5.

- 17 Durham County Council's Planning Department responded to the consultation providing information only. See Appendix 6.
- 18 Durham Constabulary, the Home Office Immigration Enforcement Team and the Fire Safety Authority all responded to the consultation with no representations.

Copies of these responses are attached at Appendix 7, for information only.

The Parties

- 19 The Parties to the hearing will be:
- Mr Adam Shanley, Clerk to the City of Durham Parish Council (Applicant)
 - The Woodman Durham Limited (Premises Licence holder)
 - Mr Matthew Foster, Mincoffs Solicitors (Premises Licence holder's Solicitor)
 - Mr Mark Anslow, Nuisance Action Team Leader, Environmental Health (Responsible Authority)

- Ms J George, Honorary Secretary, St Nicholas Community Forum (Other person)

Options

20 The options open to the Sub-Committee are:

- (a) To take no further action;
- (b) To modify or add conditions to the licence;

Under section 177A(4) of the Licensing Act 2002, a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if the premises licence licensed the music.

- (c) Exclude a licensable activity from the licence;
- (d) Remove the Designated Premises Supervisor;
- (e) Suspend the licence for a period (not exceeding three months);
- (f) Revoke the licence.

Main implications

Legal Implications

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

See Appendix 1.

Consultation

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

See Appendix 1

Conclusion

23 The Sub-Committee is asked to determine the application for the review of the premises licence for The Woodman Inn, 23 Gilesgate, Gilesgate, Durham DH1 1QW.

Background papers

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

Other useful documents

- None
-

Contact: Helen Johnson

Tel: 03000 265101

Appendix 1: Implications

Legal Implications

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

In this case it was summed up that:

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

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

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

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

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

Consultation

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

The Responsible Authorities were consulted on the application.

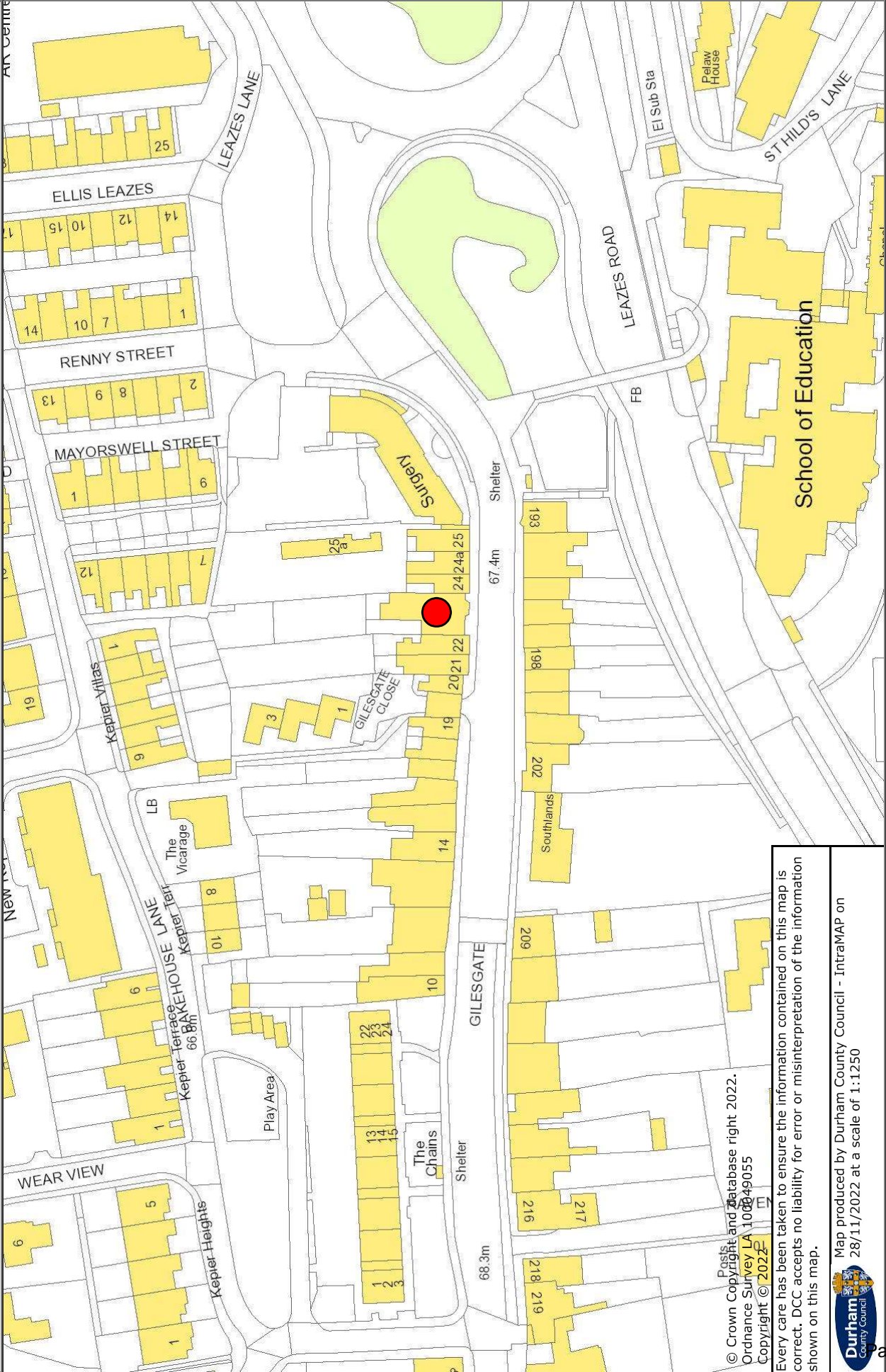
The notice of application was displayed on the premises for a period of 28 days.

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

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

Appendix 2: Location Plan

Durham County Council - IntraMAP



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



Map produced by Durham County Council - IntraMAP on 28/11/2022 at a scale of 1:1250

Appendix 3: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

LAPRE/07/0026
24 November 2005
17 May 2022

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>WOODMAN INN 23 GILESGATE GILESGATE DURHAM DH1 1QW</p>	<p>DURHAM COUNTY COUNCIL NEIGHBOURHOODS AND CLIMATE CHANGE COMMUNITY PROTECTION 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>

<p>Licensable activities authorised by this licence Live Music Recorded Music Facilities for Making Music Facilities for Dancing Late Night Refreshment Sale by retail of alcohol</p>

Opening Hours of the Premises		
Mon	11:00-00:30	<p>Non-standard/seasonal timings From 11:00 - 01:30hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 on New Years Eve until 01:30 on 2nd January each year.</p>
Tue	11:00-00:30	
Wed	11:00-00:30	
Thu	11:00-00:30	
Fri	11:00-01:30	
Sat	11:00-01:30	
Sun	12:00-00:30	

<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>Live Music Indoors</p> <p>Mon 11:00-23:00 Tue 11:00-23:00 Wed 11:00-23:00 Thu 11:00-23:00 Fri 11:00-23:00 Sat 11:00-23:00 Sun 12:00-23:00</p>	<p>Further details Non-standard/seasonal timings From 11:00 - 01:00hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 on New Years Eve until 01:00 on 2nd January each year.</p>
<p>Recorded Music Indoors</p> <p>Mon 11:00-23:00 Tue 11:00-23:00 Wed 11:00-23:00 Thu 11:00-23:00 Fri 11:00-23:00 Sat 11:00-23:00 Sun 11:00-23:00</p>	<p>Further details Non-standard/seasonal timings</p>
<p>Facilities for Making Music Indoors</p> <p>Mon 11:00-00:00 Tue 11:00-00:00 Wed 11:00-00:00 Thu 11:00-00:00 Fri 11:00-01:00 Sat 11:00-01:00 Sun 12:00-00:00</p>	<p>Further details Non-standard/seasonal timings From 11:00 - 01:00hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 on New Years Eve until 01:00 on 2nd January each year.</p>
<p>Facilities for Dancing Indoors</p> <p>Mon 11:00-00:00 Tue 11:00-00:00 Wed 11:00-00:00 Thu 11:00-00:00 Fri 11:00-01:00 Sat 11:00-01:00 Sun 12:00-00:00</p>	<p>Further details Non-standard/seasonal timings From 11:00 - 01:00hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 on New Years Eve until 01:00 on 2nd January each year.</p>
<p>Late Night Refreshment Indoors</p> <p>Mon 23:00-23:30 Tue 23:00-23:30 Wed 23:00-23:30 Thu 23:00-23:30 Fri 23:00-23:30 Sat 23:00-23:30</p>	<p>Further details Non-standard/seasonal timings New Years Eve 23:00 - 05:00</p>

Sale by retail of alcohol	Further details
Mon 11:00-00:00	Non-standard/seasonal timings From 11:00 - 01:00hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 on New Years Eve until 01:00 on 2nd January each year.
Tue 11:00-00:00	
Wed 11:00-00:00	
Thu 11:00-00:00	
Fri 11:00-01:00	
Sat 11:00-01:00	
Sun 12:00-00:00	

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
THE WOODMAN DURHAM LIMITED 23 GILESGATE DURHAM DH1 1QW	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	11423356
Charity no:	N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol MS C A COWIE

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

Annex 1 – Mandatory conditions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The responsible person must ensure that –

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

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

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

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

Minimum Price of Alcohol:

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

2 For the purposes of the condition:

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

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

Where –

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

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

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

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

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

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

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

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

Annex 2 – Conditions consistent with the premises Operating Schedule

General

None

Prevention of Crime & Disorder

No irresponsible sales promotion of alcoholic beverages shall be offered to customers.

No customers carrying open or sealed bottles shall be admitted to the premises at any time the premises are open to the public.

A sign will be displayed on the premises indicating the standard hours during which the sale of alcohol is permitted.

Public Safety

All fire doors will be maintained effectively self closing and shall not be held open other than by approved devices.

Notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade shall be summoned, are to be prominently displayed.

Prevention of Public Nuisance

No regulated entertainment of any type shall take place outside the premises in any areas which are within the licence holders control after 22:00hrs save for any seven days notice of which has been given to the licensing authority and the police.

When amplified musical entertainment is taking place inside the premises after 22:00hrs windows and doors, save for entrance and exit purposes, will be kept shut.

A sign will be located at the exit(s) requesting that customers leaving the premises do so quietly and with consideration to neighbours.

Doors and windows to be kept closed whenever entertainment is taking place.

If complaints of noise nuisance are received and are substantiated a noise limiting device to be installed and used when entertainment is taking place. It would also be necessary to have double glazing installed to prevent noise breakout.

Protection of Children from Harm

No one under the age of 16 will be allowed to enter or remain on the premises after 22:00hrs save on Christmas Eve and New Year's Eve.

Anyone who appears to be under the age of 18 and who is attempting to buy alcohol must be required to produce proof of age before such a sale is made.

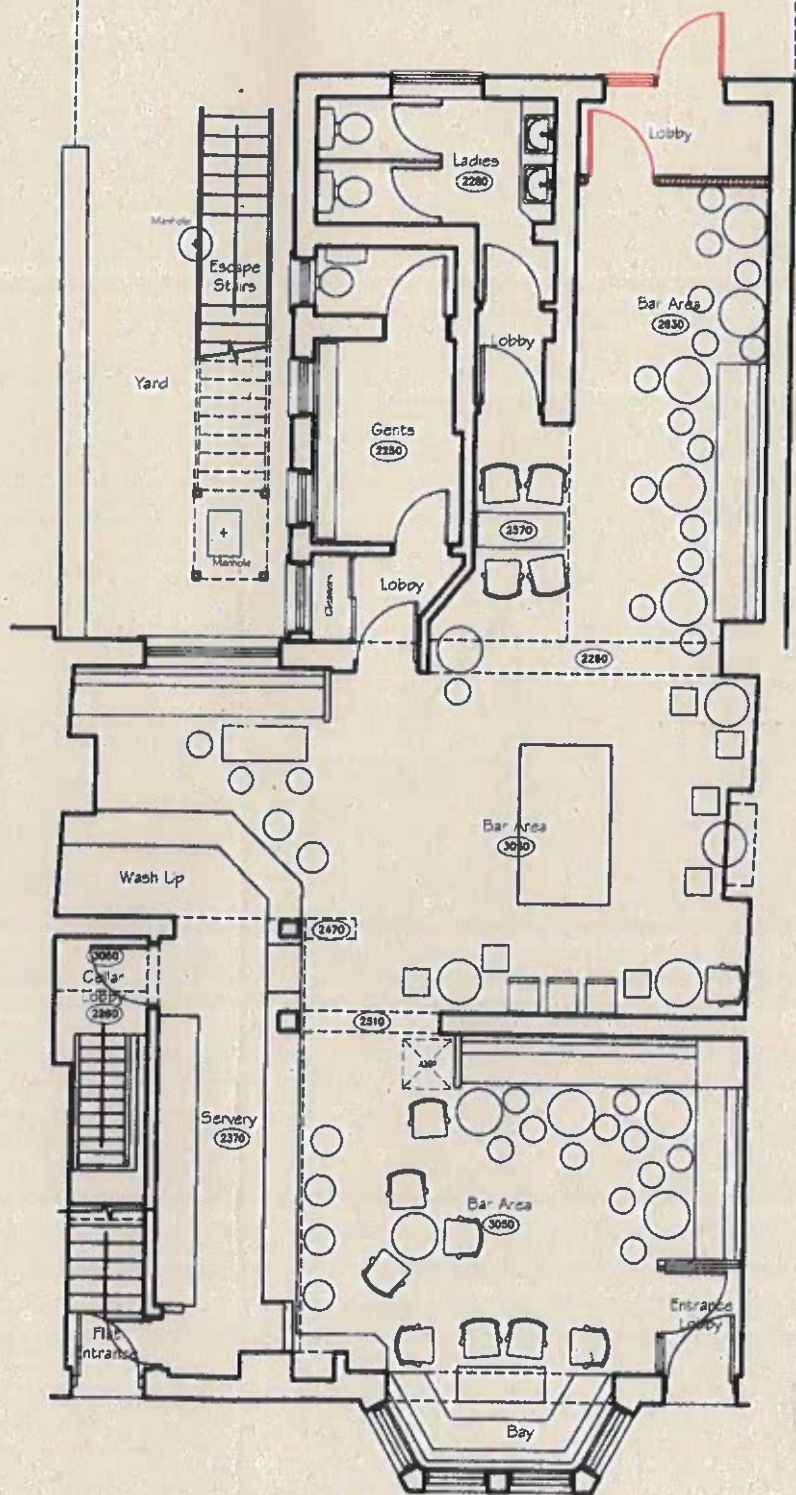
Annex 3 – Conditions attached after a hearing by the licensing authority

None

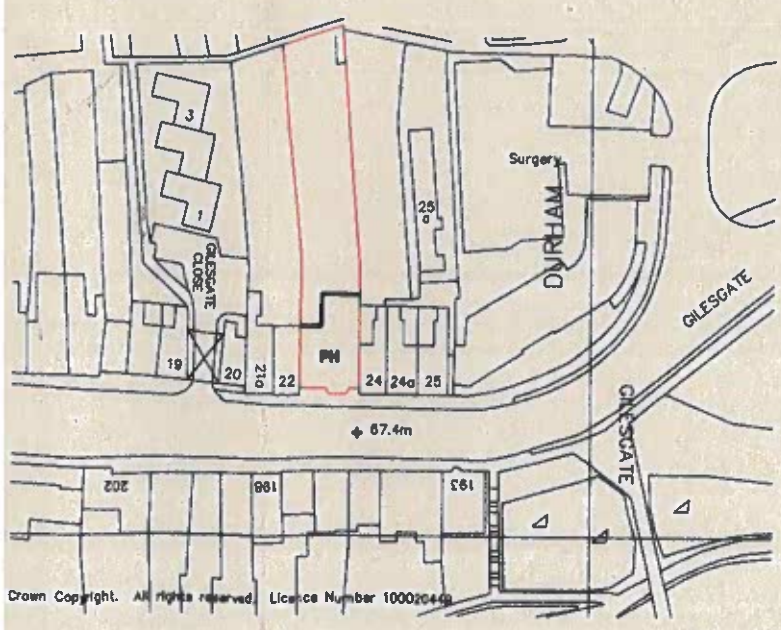
Annex 4 – Plans attached

Attached

**Signature of Authorised Officer
Head of Community Protection**



GROUND FLOOR AS PROPOSED



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LOCATION PLAN

Appendix 4: Review application

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

Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Adam Shanley, on behalf of the City of Durham Parish Council

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description The Woodman Inn pub 23 Gilesgate Durham	
Post town Durham	Post code (if known) DH1 1QW

Name of premises licence holder or club holding club premises certificate (if known) Not known

Number of premises licence or club premises certificate (if known) Not known

Part 2 - Applicant details

I am

Please tick ✓ yes
✓

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates
(please complete (A) below)

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

Please tick ✓ yes

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

Surname

Shanley

First names

Adam

I am 18 years old or over

Please tick ✓ yes
✓

**Current postal
address if
different from
premises
address**

City of Durham Parish Council
Office 3 D4.01d
Clayport Library
8 Millennium Pl

Post town

Durham

Post Code

DH1 1WA

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

N/A

Telephone number (if any)

N/A

E-mail address (optional)

N/A

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address N/A
Telephone number (if any) N/A
E-mail address (optional) N/A

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

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

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

The City of Durham Parish Council hereby formally requests a review of this premises license, under Section 51 of the Licensing Act 2003.

Since re-opening earlier this year, this premises has failed to promote the licensing objective of preventing a public nuisance to nearby local residents.

A marquee has been erected to the rear of this premises – without appropriate planning consent – and is being used for events. Music is played from this premises at an excessive level and the Parish Council and County Council have received a number of statutory noise nuisance complaints.

Conditions on the license include the following:

Prevention of Public Nuisance

No regulated entertainment of any type shall take place outside the premises in any areas which are within the licence holders' control after 22:00hrs save for any seven days' notice of which has been given to the licensing authority and the police.

When amplified musical entertainment is taking place inside the premises after 22:00hrs windows and doors, save for entrance and exit purposes, will be kept shut.

A sign will be located at the exit(s) requesting that customers leaving the premises do so quietly and with consideration to neighbours.

Doors and windows to be kept closed whenever entertainment is taking place.

If complaints of noise nuisance are received and are substantiated a noise limiting device to be installed and used when entertainment is taking place. It would also be necessary to have double glazing installed to prevent noise breakout.

On 10th October 2022, we were advised that:

The Live Music Act deregulated live music in circumstances such as these before 11pm so from a Licensing perspective there are currently no conditions or restrictions relating to live or recorded music before 11pm on the Premises Licence for the Woodman Inn. This does not mean that the disturbance experienced cannot be addressed, noise disturbances can be dealt with via noise legislation. In addition if it's possible to demonstrate that one of the Licensing objectives is being undermined, in this case the prevention of public nuisance, then it is possible for a review of the licence to be submitted.

Since then, there have been a number of complaints via the Council's website and directly to officers. Enforcement officers visited the site last week (w/c 24th October 2022) and were given assurances by the premises that this issue would be resolved. However, this weekend (29th and 30th October 2022) has seen a number of disturbances take place due to excessive noise from this premises. The following video was posted to Facebook and this illustrates the point:

Officers have attempted to resolve this matter informally with the licensee but to no avail seemingly. It is clear that this premises is causing a real issue for local residents and a review must be undertaken in order to address the noise disturbances to residents.

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

This premises is not promoting the important licensing objective of preventing a public nuisance. The Community Trigger process has also been commenced in relation to this premises.

Please tick ✓ yes

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

No

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

N/A

Please tick ✓

yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date **31/10/2022**

.....

Capacity **Clerk to the City of Durham Parish Council**

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) Adam Shanley, on behalf of the City of Durham Parish Council City of Durham Parish Council Office 3 D4.01d Clayport Library 8 Millennium Pl	
Post town Durham	Post Code DH1 1WA
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

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

Appendix 5: Representations

From: Mark Anslow <
Sent: 14 November 2022 12:37
To: AHS Licensing <
Subject: The Woodman Inn, 23 Gilegate, Durham, response to review



MEMO

To: Ms Yvonne Raine
Licensing Services

From: Mr Mark Anslow
Neighbourhoods and Climate Change

Date: 14 November 2022

Re: **Licensing Review application**
The Woodman Inn, 23 Gilegate Durham DH1 1QW

With reference to the above licensing review application received on 3 November 2022.

I would provide below a precis of our involvement to date to inform the committee:

- A complaint was received on the 8/10/22 concerning “extremely” loud music from karaoke arising from the marquee serving the Woodman Inn. The client provide a video recording of loud karaoke within her garden taken at 22.10. The music/singing was loud with the song clearly audible meatloaf “bat out of Hell”. Following by shouting and screaming from audience members.
- We received further contact from the Parish Council and the Secretary for the St Nicholas Community Forum, advising that they had also been approached by members of the community in relation to the noise arising.
- An initial email was sent to the Woodman on the 12/10/22 advising of the complaint and requesting a meeting to discuss
- A further complaint was received on the 17/10/22 advising that loud music/singing was arising from the venue on the night of the 15/10/22. A video recording was also provided taken at 21.24pm which again clearly demonstrates loud music where the song is clearly identifiable Amy Winehouse “Back to black”.
- An email response was received from the Woodman on the 19/10/22 agreeing to a meeting on the 27/10/22

- A meeting was held on the 27/10/22 at the venue with myself, licensing enforcement and planning enforcement on behalf of DCC and G McCarroll, D McCarroll and C Cowie from the Woodman. We viewed the marquee and discussed its use and the nature of complaints. I advised that based on the recordings, location of marquee and residential properties that any loud noise arising was likely to be intrusive to surrounding residents. Mr McCarroll accepted this and agreed not to have any further “loud noise events” in the marquee. However we discussed that there was a children’s Halloween party and another event proposed. The Halloween event was during the day on the following Sunday and the date of the unidentified event was not given but that it wouldn’t have music associated with it as was a social gathering rather than disco etc. I agreed that it was reasonable to allow these booked events to go ahead as it was at too late a point to cancel. In addition we discussed using the marquee for football associated events during England Matches during the world cup. It was agreed that this was acceptable assuming it was managed and only associated with the football events. This meeting was generally positive with the directors accepting the concerns raised and agreeing to relevant mitigation.
- An update was sent to relevant parties following the meeting advising of the agreement made and that there was an agreed children’s Halloween party and the events for the world cup.
- Further complaints were received on the 31st in relation to a loud party on Saturday and the children’s party on the Sunday. The Saturday party was an adults Halloween party that I was not aware of following my visit. The venue put videos (since removed) of the Saturday even on their website, which demonstrated significant noise arising from music.
- I contacted the Woodman on the 31st to clarify that I was not made aware of the Saturday event and to check if further events were proposed. A response was received on the 4th confirming there was no intention to have further noisy events.
- On the 9/11/22 I was advised of a further concern raised from a nearby resident relating to noise impact from voices from persons using the marquee/beer garden area.

It is clear from complaints, evidence supplied and my professional opinion, that use of the marquee for events such as karaoke and discos is likely to lead to a significant impact on residents and is clearly contrary to the public nuisance licensing objective.

Action was agreed to mitigate the impact at the above meeting demonstrating the compliance of the operators. However they were made aware of the noise complaints on the 8th following contact from residents and again by ourselves on the 12th and further loud noise events were allowed to continue. It was foreseeable by the licence holder that having high noise events in a marquee in such proximity to residential properties would lead to a negative impact and does show a general lack of consideration of the impact on nearby residents.

I would therefore confirm that I support the representation made in relation to the impact on the public nuisance licensing objective. I do consider that appropriate conditions are necessary to safeguard the potential future impact associated with use of the beer garden/marquee. As the relevant responsible authority in relation to the public nuisance licensing objective we would be happy to work with the applicant and the licence holder to discuss relevant potential conditions prior to the hearing. We will also attend the hearing to provide any clarification to the committee as required.

regards

Mark Anslow
Nuisance Action Team Leader
Community Protection
Neighbourhoods and Climate Change
Durham County Council
Annand House
Meadowfield
Durham
DH7 8RS

Direct:

Switchboard:

E-mail:

Web: www.durham.gov.uk

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From: J George <
Sent: 23 November 2022 19:23
To: AHS Licensing
Cc: Adam Parish Clerk Shanley <

Subject: [EXTERNAL]:SNCF report, Woodman Inn, Lower Gilesgate

Dear Licensing Team

Please find attached a report from St Nicholas Community Forum regarding the Woodman Inn, Lower Gilesgate. I also have two video clips posted on social media showing activity in the rear garden/marquee should you wish them.

Kind regards, J

Honorary Secretary: J George Email:

Ms Yvonne Raine
Licensing Services

Re: Licensing Review application The Woodman Inn, 23 Gilesgate, Gilesgate Durham DH1 1QW

19th November 2022

Dear Ms Raine

The St Nicholas Community Forum is a voluntary grouping of residents of the St Nicholas Ward of Durham City, covering The Peninsula, much of the town centre including the Market Place, Millenium Place and Walkergate, Claypath, Lower Gilesgate and the streets off, and the housing estates on the Sands.

The aims and objects of SNCF are essentially to promote community awareness and quality of life in our area. SNCF is an active Resident Group. We meet regularly, have dialogue as appropriate and contributions from, around 75 members local to the area. We contribute to and engage with the relevant stakeholders in Durham City. I am secretary of SNCF and the point of contact from those who do have my details.

Background

From January 2020, some local residents established a working group with the intention of raising funds to purchase the Woodman Inn for community ownership. In 2019, the City of Durham Parish Council had previously registered the Woodman Inn as an Asset of Community Value. Residents understood that the previous ways that the Woodman Inn had been run were commercially unsuccessful, and for it to be open there would have to be new and different ways it attracts customers. Appendix 1 * notes the varied strategies the group discussed to keep the premises financially viable and also to be a place of value to all residents, young and old.

Unfortunately, hampered by the pandemic, the residents were not able to achieve their aim within the time limit. We were therefore very pleased to discover in 2022 that the Woodman Inn was to reopen and visited on the 27.4.22 to offer our congratulations. SNCF had shared some of the suggestions made by the former Woodman Inn steering group.

We have always had good past relationships with the Woodman Inn, previous landlords had initiated engagement with SNCF and worked cooperatively regarding local objectives. There were never any concerns raised or disruption experienced by those who lived nearby.

From August 2022, the rear garden seems to have been formally used for arranged entertainment, rather than occasional sitting outside in good weather. That outside use, outdoor garden TV and advertised entertainments in a thin walled marquee covering the length of the rear garden, has resulted in issues of excessive noise disturbance to residents living to the rear and the side of the garden.

The second concern to those residents has been that the volume of noise when it has occurred, has not been reduced by the Woodman Inn following resident requests to do so at the time.

Timeline of concerns.

12.8.22 Very loud evening music from the Woodman Inn, two separate households contact me during the evening, and the noise can be heard at my house as well. I live three streets away. I walked up the road about 10.15pm to check the source of the noise and confirm it was the Woodman Inn. Some residents submit noise complaints to Durham County Council as per the protocols agreed between the Police, Council, Parish Council and University. There has been much work regarding anti-social behaviour in Durham City for some considerable time and so residents are well versed in the requirement to report. All the Agencies stress to us the need to report formally to 101/ or follow the processes agreed and published in the "What to do if" leaflet delivered to every household in the Parish this Autumn. The question "has this been reported" is usually the first asked of residents whenever a concern is raised.

13.8.22 I e mail Landlady G B noting the loudness of the music and the upset to residents reported to me, confirmation that I too heard the music and requesting that the music is less loud in future.

16.8.22 Reply from G B saying she will keep a check on the volume. However, there has been no reduction in subsequent volumes on the following dates.

8.10.22 I have complaints from two different houses that the noise level coming from karaoke in an outside marquee (the length of the garden) is unacceptably loud. I telephoned and spoke to J behind the bar (who stated they are allowed music until 1am) then C (manager, who says it will go on until 10.30pm). C tells me they had been visited by Licensing yesterday who said they could proceed. I'm told that G and

D (landlords) who lease the pub are outside in the noisy marquee at the time of my call. I tried to explain that the noise is too loud and ask if it can be reduced to acceptable levels. The noise was such that it was difficult conducting a phone conversation. I was told it was unlikely the volume would be turned down. Another resident who telephoned was told they *"had a business to run"*. Noise ends at 10.40pm. I was informed by a resident that at least three other people had gone to the Woodman Inn and complained about the noise.

8.10.22 A resident telephoned 101 but was informed that Police would not attend before 11pm.

8.10.22 I e mail Landlady G B re the noise, no response.

15.10.22 I have complaints from residents about the loudness of the singing/music coming from the Woodman Inn. It is from the marquee and described by a resident as *"deafening"*. It is so loud it is heard inside the houses of residents. I can also hear it clearly enough to identify (e.g an Abba song being played around 10.35pm).

Part of an e mail to me from a resident *"Just to let you know the Woodman have got live music again tonight and we can hear it INSIDE the house. It's awful... It's in the marquee - we went up to make sure but it's deafening"*.

The Noise Action Team, Licensing Team and the Planning Team, plus the City of Durham Parish Council have been involved and responded to submitted complaints (to them and copied to me), and have talked to the Woodman Inn, visiting 27.10.22.

29.10.22 Extremely loud noise from the Woodman Inn, ending a little after 11pm. I have complaints from some residents and can hear it in my house, a distance away. One resident tries to telephone to ask for noise reduction and is unable to get through by phone. A video of a noisy crowd in the marquee at the Halloween party was posted on social media.

Part of an e mail to me from a resident *"I couldn't hear the TV over it - it's louder than ever, and I notice you can't ring them - the phone number's not working"*.

30.11.22 Part of an e mail from a resident and copied to me *"I think the childrens party at the Woodman must be today as there is loud music coming from the marquee. I have no problem with the occasional event but I think the music is exceptionally loud and unnecessary on a Sunday afternoon"*.

30.10.22 Extremely loud music from the Woodman Inn. I have complaints from residents, and I'm informed that local students are also unhappy with the noise.

Part of an e mail copied to me, sent to Noise Action Team.

“the noise from the Woodman Inn marquee was unacceptably loud... At 9.30 pm most of our street were outside their homes complaining about the noise, and this did include students... I hope the Woodman Inn considers future events and the distress it is causing members of the local community by holding them inside the pub and regulating the noise level”.

31.11.22 Part of an e mail copied to me described the Halloween weekend as *“horrendous noise level coming from events held in the marquee in the garden of the Woodman Inn”.*

4.11.22 G B writes to the Noise Action Team, the Parish Council and myself. The letter states *“we will continue to work with you on this, despite the fact we have no knowledge of who this minority may be. Perhaps if they had approached us directly, we could have addressed the matter there and then... Regardless of the above, we will ensure that noise is kept to an absolute minimum for this minority of people whilst continuing to provide our community with a social hub for this area”.*

4.11.22 I asked for comment from a resident regarding issues raised in this letter and they replied *“We did contact her direct. Then they made it impossible to do so by blocking the phones. We’re not trying to close them down, we’re just asking for some consideration and to stop them running a virtual nightclub on our doorstep”.* I had also contacted the Woodman Inn, by email on the 13.8.22 and the 8.10.22 and by telephone on the 8.10.22. The facts of that resident's experience and that G B did reply to my email, and that J (staff) and C the manager spoke with me in the telephone call contradict the suggestion that no-one had approached The Woodman Inn directly.

5.11.22 My letter of response to G B included the following *“You'll be aware that there has long been initiatives to reduce noise in residential streets in Durham and protocols have been agreed with the Council, Police, University, Parish Council and Residents Associations. Every household has been leafleted with advice on what to do if there is a problem and they are asked to report it. The Police and Crime Commissioner has made anti-social behaviour one of her main priorities and all organisations are working together now in Durham. The fact that the Council have been in touch promptly with you will be as a result of all this work coming together not because of any vendetta, of which there is not. It may be that a higher level of noise is tolerated in the City centre but there is a big drive to quieten streets that ordinary people live in.*

I e mailed you on the 13th August and on the 8th October about the noise, and that some neighbouring residents had complained to me. I telephoned on the 8th October and spoke to two of your staff, but they told me the Woodman Inn is a business and music was allowed,

so we had no reduction in volume. On the Halloween weekend, the telephone didn't appear to take calls.

Mr Mark Anslow has responded to reports sent to him and he told us that he visited you before the weekend of the 29th October discos, so it was disappointing that the Halloween weekend was again very loud, certainly as loud as previous times. I think there was a hope that the volume of noise would be reduced.

I have asked everyone who has been in touch with me if there was the same problem when previous landlords managed the pub and they have all said no. I wonder if a good part of the reason this has now changed is because of the use of the rear garden of the Woodman Inn. Landlords such as the Q's, had music but contained it inside the building and no one ever contacted me to complain.

I hope this explains the situation a little more to you and I'm sorry you feel you are the target of something, that is just not true at all. The top and bottom of the problem is that people living behind and beside the Woodman feel the level of noise that comes from it at times is too much. Some of your neighbours are as upset as you are, but I hope this can be resolved, and Mark and his colleagues will I expect be working hard on this. All that residents are asking is for things to be quieter."

I have spoken with some residents from four different streets, all behind or alongside the Woodman Inn rear garden and they have confirmed to me verbally that they have found the noise very loud when there has been entertainments outside. Residents on the opposite side of the road to the Woodman Inn do not have a problem with noise.

5.11.22 A resident on the same side of the street as the Woodman Inn told me that family members sleeping in the rear bedrooms could hear the words of the conversations people were having in the outdoors rear of the Woodman Inn. The resident also reported turning off their doorbell the nights when there has been entertainment advertised there, as it has been rung. They are sure it was not by students and they reported that they have never had problems in the past, just when the Woodman Inn began evening party/music nights.

The concern from residents to SNCF is the level of noise from the rear garden. We are a residential neighbourhood with a mix of permanent people (some with young children), working people and those who are retired. The students who live in our local streets are quiet (we have had a prolonged Ssh campaign) and some students have spoken to me and explained they chose to live in this part of the City because it is much quieter. While loud

noise until 11pm might be the norm in the City centre, the Woodman Inn is situated among residential houses.

Following discussion at the monthly SNCF meeting 8.11.22, we would like to repeat how pleased residents are to see the Woodman Inn open again and we wish it well.

Our prime wish is that there is no noise disturbance to neighbours. Past experience has been that when entertainment is within the building residents are not disturbed. The noise levels described above have been so loud they have been a Public Nuisance. We are concerned that entertainments in the garden generate a lot of noise, both from music played and people gathering outside to talk and drink. We request that future entertainment happens in ways that do not cause nuisance to those living beside and behind the building.

We also hope that the Woodman Inn does understand that their neighbours behind them are genuinely upset, and that the noise has been so loud that they haven't been able to enjoy peaceful evenings in their own homes.

We would like to ask for a mechanism by which residents can contact someone at the time if noise is unacceptably loud, and who would respond appropriately at that time. We have been told by 101 staff that Police would not attend any noise complaints before 11.00pm and we are very aware that the Police are very busy elsewhere. We know that Durham County Council Noise Officers are not available out of office hours and that the University Community Response Team only deals with student issues.

We would like to thank everyone for their prompt and helpful response and hope very much we can live in harmony together in future.

Yours sincerely

J George
Secretary SNCF

Appendix 1

1. September 2019, SNCF letter to the City of Durham Parish Council.

“We envisage that the Woodman could become a community hub. The space in the Woodman could be available for all sorts of imaginative community initiatives such as craftwork, a whole range of classes, a parent and baby safe place, a place for meetings of residents, formal groups and clubs, a space for dancing and exercise and gardening to name a few. It is suitable for those with mobility problems as it has ground floor easy access and downstairs toilets. There is a large and beautiful garden to sit in, some of which could become a place for vegetable, herb and fruit growing and for therapeutic gardening. There are upstairs rooms for those able to manage stairs. With thought and support the local community could make very good use of the Woodman Inn and it would be a really valuable asset for us all.”

2. In 28.1.20 The Parish Clerk and SNCF talked to a Durham County Council Officer re Community Led Housing, exploring the feasibility of creating affordable housing upstairs. *“We discovered that one route would be to have a pub/community hub downstairs but living accommodation upstairs which we make affordable and/or over 55's. There was then, funding that would pay 65% of the whole cost of purchase and renovation of the living space (i.e. upstairs), a possible strategy to guarantee a monthly income”.*

3. Our local medical practice Claypath Surgery employs two Social Prescribers, tasked with engaging patients with appropriate activities to enhance their health and wellbeing. SNCF currently holds a free monthly coffee morning for all to come to for chat and a hot drink at Claypath Delicatessen. It is hoped to have a place for patients to meet for community activities, and the Woodman Inn is very near by. SNCF understands that Claypath Medical Practice will accept a significant increase in patient numbers once new housing is constructed beyond Sherburn Road. The Practice is also responsible for Durham University students, who number over 22,000 in 2021/2 and these factors could require expansion of their current facilities, a strategy the Woodman Inn might be able to explore.

Appendix 6: Response from the Planning Department

Contact: Jess White
Direct Tel:
email:
Your ref:
Our ref: CON28/22/03121



Yvonne Raine

25th November 2022

Dear Yvonne Raine

Town and Country Planning Act 1990 (as amended)

Proposed Application for the review of a premises licence
At Woodmand Inn 23 Gilesgate Durham DH1 1QW
For Yvonne Raine

A consultation has been forwarded on to the Local Planning Authority regarding the Application for the review of a premises licence.

We have been made aware of a structure that has been erected within the curtilage of this site, which has resulted in noise and nuisance complaints. The issue is currently being dealt with by Enforcement Officers.

Yours sincerely

Jess White
Assistant Planning Officer

Regeneration, Economy and Growth

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall,
Durham, DH1 5UL Main Telephone:

Appendix 7: Responses from Responsible Authorities

From: Iain Robertson

Sent: 04 November 2022 09:21

To: Yvonne Raine

Subject: [EXTERNAL]:FW: Licensing Act 2003 - Review application - The Woodman Inn, 23 Gilesgate, Gilesgate, Durham DH1 1QW

Importance: High

Hi Yvonne

Many thanks for the attached correspondence relating to a review of The Woodman Inn premises licence. Having interrogated our systems I wish to state that Durham Constabulary have no comments to make as a responsible authority.

Many thanks

A/Sgt Iain Robertson

Licensed Economy Team

Durham Constabulary

From: ISD Alcohol Licensing
Sent: 08 November 2022 11:20
To:

Subject: [EXTERNAL]:RE: Application for a review of a premises license - The Woodman Inn pub

Good morning to you.

Having searched our databases, we can find no record of any immigration offences in relation to the above premises, therefore Immigration Enforcement will not be making any representations at this time

Kindest regards,

Liz Bonini
Alcohol and LNR Licensing Team
Data & Sanctions Team (DAST)
Interventions Sanctions and Compliance (ISC)
Immigration Enforcement
15th Floor Lunar House, Croydon



Chief Fire Officer: Stuart Errington

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

Date: 14 November 2022

This matter is being dealt with by: Amy Davison

Ext:

Our Ref: 7A41000120

Your Ref:

Direct Dial Telephone:

E-mail:

Dear Yvonne

Licensing Act 2003

Regulatory Reform (Fire Safety) Order 2005

Admiral Taverns Ltd, Woodman Inn, 23 Gilesgate, Durham, DH1 1QW

I acknowledge your application dated Tuesday 1 November 2022 for a Review of 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.

A suitable and sufficient fire safety risk assessment must be carried out in order to comply with the above Order.

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

Amy Davison
Fire Safety Section

Appendix 8: Statement of Licensing Policy

3.10 Review of a premises licence or club premises certificate - At any stage during the life of an authorisation, any premises that has a premises licence or club premises certificate may have that licence reviewed by any of the named responsible authorities or by a person defined in the Act as 'any other person' e.g. residents, councilors, MPs etc. At any time following the grant of a licence or Club Premises Certificate, any person or responsible authority may apply for a review of it.

The Police may also submit a summary review if there is a premises associated with serious crime and disorder. When the council instigates a review, it will ensure that there is a clear separation of functions between the officer acting as the licensing authority and the officer acting as a responsible authority.

Applications for review must relate to one or more of the licensing objectives and must not (where the review is submitted by any person who is not a responsible authority) be considered as frivolous, vexatious or repetitious by the licensing authority. Where an application for a review is frivolous vexatious or repetitious, or where an application for a review is considered not relevant to the licensing objectives, the council will reject it.

The council expects responsible authorities and other parties to give early notice to licence holders of any concerns about issues identified at premises and of the need for improvement. It is expected that requests for a review of any licence will be sought only if such notice has failed to resolve the matter or problem. It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues;
- Asking DCC Licensing Services to talk to those who manage the premises on your behalf; or
- Talking to the relevant "responsible authority" e.g. environmental health in relation to noise nuisance, or the police in relation to crime and disorder, about the problem.

A review application is also subject to a similar consultation period to that of a new licence or variation, during which relevant representations may be submitted. The Act provides strict guidelines, timescales and procedures for review applications and hearings and the council will deal with every review application in accordance with these rules. Further details on review applications can be found in Appendix IV of this policy.

At a review, the council may take the following steps (if any) where such steps are considered appropriate for the promotion of the licensing objectives:

- a) Modify the conditions of the licence
- b) Exclude a licensable activity from the scope of the licence
- c) Remove the designated premises supervisor
- d) Suspend the licence for a period not exceeding three months
- e) Revoke the licence.

In cases where there is evidence that the crime prevention objective is being undermined, revocation of the licence will be seriously considered by the authority, even in the first instance.

There is a right of appeal to the Magistrates' Court against the decision of the licensing sub-committee, and if an appeal is lodged by the licence-holder, the original decision of the licensing authority will not take effect until the appeal is determined or withdrawn. There is an exception to this in the case of a summary review brought only by the police.

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 9: Section 182 Guidance & Extract from the Licensing
Act 2003**

Section 182 Guidance - The review process

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

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

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

Repetitious grounds of review

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

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

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

Powers of a licensing authority on the determination of a review

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

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

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

Reviews arising in connection with crime

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

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

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

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

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

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

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

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.

Licence conditions - Live Music or recorded music

16.36 Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and
- the music takes place between 08.00 and 23.00 on the same day.

16.37 Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of regulated entertainment all doors and Windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.

16.38 More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.

16.39 Chapter 9 of this Guidance sets out how a licensing authority must determine applications for a new licence or to vary an existing premises licence. Licence conditions imposed, in accordance with paragraphs 9.41 to 9.43, for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23.00 and 08.00.

16.40 These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.

16.41 Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.

Licence reviews: Live and recorded music

16.55 On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension⁷⁴ and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition

16.56 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements

Extract from the Licensing Act 2003

177A Licence review for live and recorded music

(1) Subsection (2) applies where—

(a) music takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises,

(b) at the time of the music, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises,

(c) if the music is amplified, it takes place in the presence of an audience of no more than 500 persons, and

(d) the music takes place between 8am and 11pm on the same day (or, where an order under section 172 has effect in relation to music, during any times specified under that order).

(2) Any condition of the premises licence or club premises certificate which relates to live music, recorded music or both does not have effect in relation to the music unless it falls within subsection (3) or is added to the licence in accordance with subsection (4).

(3) A condition falls within this subsection if, on a review of the premises licence or club premises certificate it is altered so as to include a statement that this section does not apply to it.

(4) On a review of a premises licence or club premises certificate a licensing authority may (without prejudice to any other steps available to it under this Act) add a condition relating to **F5**... music as if—

(a) the **F5**... music were regulated entertainment, and

(b) the licence or certificate licensed the music.

(4A) This section does not apply to music which, by virtue of a provision other than paragraph 12A or 12C of Schedule 1, is not regarded as the provision of regulated entertainment for the purposes of this Act.

(5) In this section—

- “condition” means a condition—

(a) included in a premises licence by virtue of section 18(2)(a) or (3)(b), 35(3)(b), 52(3) or 167(5)(b),

(b) included in a club premises certificate by virtue of section 72(2)(a) or (3)(b), 85(3)(b) or 88(3),

(c) added to a premises licence by virtue of its inclusion in an application to vary the licence in accordance with section 34 or 41A which is granted under section 35(2) or 41B(3) (as the case may be), or

(d) added to a club premises certificate by virtue of its inclusion in an application to vary the certificate in accordance with section 84 or 86A which is granted under section 85(2) or 86B(3) (as the case may be);

- “live music” means entertainment of a description falling within, or of a similar description to that falling within, paragraph 2(1)(e) of Schedule 1;
- “music” means live music or recorded music or both;
- “recorded music” means entertainment of a description falling within, or of a similar description to that falling within, paragraph 2(1)(f) of Schedule 1; and
- “supply of alcohol” means—
 - (a) the sale by retail of alcohol, or
 - (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

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