



Special Statutory Licensing Sub-Committee

Date Monday 20 May 2024
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. Application for the Review of a Premises Licence - GW Horners, Front Street, Chester le Street DH3 3BE (Pages 3 - 64)
5. Application for the Review of a Premises Licence - Memory Lane, 51 Church Street, Seaham SR7 7HF (Pages 65 - 128)
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Helen Bradley

Director of Legal and Democratic Services

County Hall
Durham
10 May 2024

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

Councillors D Brown, L Brown, J Howey and C Hunt

Contact: Lucy Gladders **Tel:** 03000 269712

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Statutory Licensing Sub-Committee

20th May 2024

**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 Rural
Communities and Highways**

Electoral division(s) affected:

Chester le Street North

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application by Durham Constabulary to review the premises licence in respect of GW Horners, Front Street, Chester le Street DH3 3BE.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 On 24th April 2024, the Licensing Authority received an application and supporting certificate under Section 53A of the Licensing Act 2003 from Durham Constabulary where it was required to consider whether it is necessary to take interim steps pending determination of the full review of the premises licence within 48 hours of receipt of this application.
- 4 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises where there is the sale of alcohol and where it is considered the premises are associated with serious crime and / or serious disorder.
- 5 On 25th April 2024, the Licensing Statutory Sub-Committee met to consider the application and any necessary interim steps. Members decided to modify the conditions of the premises licence with immediate effect, pending the full review. Two conditions were imposed which related to CCTV and staff training. A copy of the notice of determination is attached as Appendix 3.

- 6 Following the consultation period, three representations had been received. Two in support of the review from Public Health and Durham Safeguarding Children Partnership and one in support of the licence holder.
- 7 The Home Office and the Fire Authority responded to the consultation with no representations.
- 8 On 8th May 2024, an application to vary a premises licence to specify an individual as a designated premises supervisor was received by Amber Taverns Limited (premises licence holder) to name Bronya Peat as the DPS. This application took immediate effect.

Recommendation(s)

- 9 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 10 The Sub-Committee is recommended to give appropriate weight to:
 - (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representations (including supporting information) presented by all parties;
 - (c) Durham County Council’s Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 7;
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended December 2023). The relevant parts of the guidance are attached at Appendix 8.

Background

- 11 Background information

Applicant	Durham Constabulary	
Type of Application: Review of a Premises Licence	Date received: 24th April 2024	Consultation ended: 9th May 2024
Premises Licence Holder	Amber Taverns Limited	

Designated Premises Supervisor (DPS)	Bronya Peat (from 8th May 2024)
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- 12 The premises licence in respect of GW Horners currently permits the sale of alcohol for consumption on and off the premises and regulated entertainment as detailed in the table below:

Licensable Activity	Days & Hours
Sale of Alcohol (for consumption on and off the premises)	<p>Monday to Saturday: 09:00 – 01:30 hrs Sunday: 10:00 – 01:30 hrs</p> <p>Consumption of alcohol in the café pavement area until 21:30 hrs only.</p> <p>Valentines Day, St Patricks Day, Good Friday, Easter Sunday, Christmas Day: 12:00 - 02:00 hrs</p> <p>Easter Sunday, Easter Monday, St George's Day, May Bank Holiday, Spring Bank Holiday, Summer Bank Holiday, Christmas Eve, Boxing Day, 27th & 28th December: 09:00 - 02:00 hrs</p> <p>From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.</p> <p>An additional hour to the standard and non-standard times on the day when British summertime commences.</p>
Films, indoor sporting events, live music, recorded music, performances of dance, anything similar to live music, recorded music and dancing (indoors)	<p>Monday to Saturday: 09:00 – 01:30 hrs Sunday: 10:00 – 01:30 hrs</p>
Opening hours	<p>Monday to Saturday: 09:00 – 02:00 hrs Sunday: 10:00 – 02:00 hrs</p>

13 A copy of the current premises licence is attached at Appendix 4.

Details of the application

14 The review application was received by the Licensing Authority on 24th April 2024.

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

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

- The Prevention of Crime and Disorder
- Public Safety

17 A copy of the application and supporting certificate is attached at Appendix 5.

The Representations

18 Following the consultation period, three representations had been received. Two in support of the review from Public Health and Durham Safeguarding Children Partnership and one in support of the licence holder. The representations are attached at Appendix 6.

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

- The Home Office
- The Fire Authority

The Parties

20 The Parties to the hearing will be:

- Sergeant Caroline Dickenson, Durham Constabulary (Applicant)
- Amber Taverns Limited (premises licence holder)
- Mr Matt Foster, Mincoff Solicitors (representing the licence holder)
- Fiona Mawson, Public Health (Responsible Authority)
- Paula Matha, Durham Safeguarding Children Partnership (Responsible Authority)

- Mr Stephen Brown (Other Person)

Options

- 21 The options open to the Sub-Committee are:
- (a) To take no further action;
 - (b) To modify or add conditions to the licence;
 - (c) Exclude a licensable activity from the licence;
 - (d) Remove the Designated Premises Supervisor;
 - (e) Suspend the licence for a period (not exceeding three months);
 - (f) Revoke the licence.

Main implications

Legal Implications

- 22 The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority. See Appendix 1.

Consultation

- 23 The review application was subject to a 10-working day consultation. See Appendix 1

Conclusion

- 24 The Sub-Committee is asked to determine the application for the review of the premises licence for GW Horners, Front Street, Chester le Street.

Background papers

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended December 2023)

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 10-day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

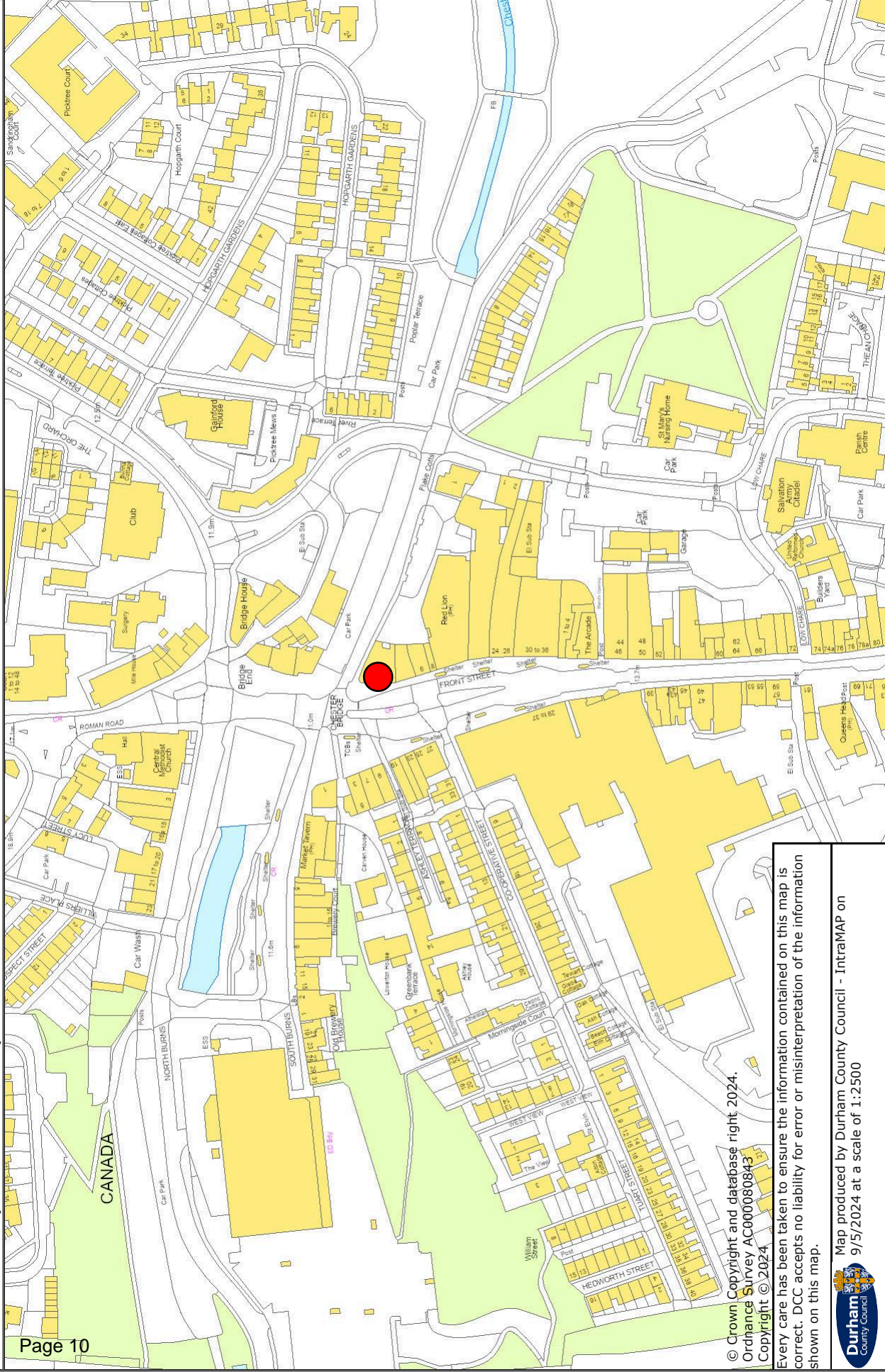
The notice of application was displayed on the premises for a period of 10 working days.

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 10-working day consultation period.

Appendix 2: Location Plan and Street View Images

GW Horners, Front Street, Chester le Street



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Ordnance Survey AC000080843

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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 9/5/2024 at a scale of 1:2500

Google Maps 2 Front St

Chester-le-Street, England

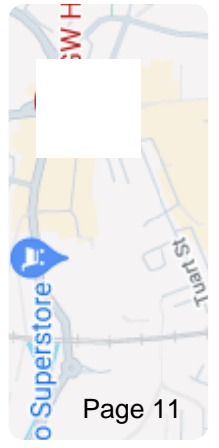
Google Street View

Jul 2022 See more dates



Google

Image capture: Jul 2022 © 2024 Google



Appendix 3: Notice of determination – Interim Steps Hearing

THE COUNTY COUNCIL OF DURHAM

Licensing Committee

NOTICE OF DETERMINATION

Licensing Act 2003 (the Act)

Date of Hearing: 25 April 2024
Date of Determination: 25 April 2024
Committee Members: Councillor D Brown (Chair)
Councillor Terry Duffy
Councillor Alex Watson

1) Type of application or hearing

Summary Licence Review

2) Applicant

Durham Constabulary

3) Premises

G W Horners, 2 Front Street, Chester-le-Street, DH3 3BE

4) Application

For the Summary review of a Premises Licence under Section 53A of the Licensing Act 2003

5) Witnesses

The Sub-Committee heard from the following:

- Helen Johnson, Licensing Team Leader
- Sgt Caroline Dickenson, Durham Constabulary
- Duncan Craig and Matt Foster on behalf of the Premises Licence Holder
- Shannon Halliday, DPS at the premises
- Diana Freeman, Compliance Manager
- John Mancey, Regional Manager
- Jeff Cowley, Area Manager

6) Licensing Act 2003

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

7) Section 182 Guidance

The Sub-Committee has considered and taken account of the most recent edition of the Secretary of State Section 182 Guidance. The Sub-Committee has also considered the Section 53A Summary Review Guidance.

8) Licensing Policy

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

9) Licensing Objectives

The Sub-Committee took account of the information provided by the Applicant for the purposes of the review and with respect to the licensing objectives:

9.1 Prevention of crime and disorder

Evidence: The evidence provided was such that this objective could be breached and that some action was needed to prevent crime and disorder.

9.2 Public Safety

Evidence: The evidence provided was such that this objective could be breached and that some action was needed to prevent crime and disorder and to promote public safety

9.3 Prevention of Nuisance

Evidence: It is not necessary to consider this objective for the purposes of this decision.

9.4 Protection of Children from Harm

Evidence: The evidence provided was such that this objective could be breached and that some action was needed to protect children from harm.

10) Evidence

Representations of Helen Johnson, Licensing Team Leader

10.1 Prior to Mrs Johnson addressing the Sub-Committee, the legal representative for the Premises Licence Holder made an application for the hearing to take place in private. This was granted by the Sub-Committee.

- 10.2 Mrs Johnson then confirmed that an application and the supporting certificate, required by Section 53A of the Act, was received by the Licensing Authority on the afternoon of Wednesday 24 April 2024.
- 10.3 The Licensing Authority is required to consider the matter within 48 hours of receipt of the application, not including non-working days. The application was considered on the morning of 25 April 2024 and therefore within the timescales stipulated in the Act.
- 10.4 The Licensing Committee has power under section 53B to consider a number of interim steps namely:
- Modification of the conditions of the premises licence.
 - Exclusion of the sale of alcohol by retail from the scope of the licence.
 - Removal of the Designated Premises Supervisor from the licence.
 - Suspension of the Licence.
 - Take no action
- 10.5 Members were advised that they may consider taking more than one interim step.
- 10.6 It was confirmed there would be ongoing consultation and the matter would be required to be heard at a full hearing by 22 May 2024.
- 10.7 A notice is now displayed on the premises, and is available on the Council's website, advising of the review application and requesting any representations be received by 9 May 2024.

Representations of Durham Constabulary

11) Decision and Reasons

11.1 The Sub-Committee has considered the evidence given by Durham Constabulary today, and the representations made by the Premises Licence Holder, in response. The Sub-Committee has decided to make the following steps:

- to modify the conditions of the premises licence with immediate effect, pending full review.

The two conditions imposed are as follows:-

1. CCTV Condition

A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order

and be correctly time and date stamped.

i. The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed.

ii. CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly

facial recognition.

iii. Cameras will encompass all ingress and egress to the premises, the immediate area outside the

frontage of the Premises and all areas where the sale/supply of alcohol occurs.

iv. The system will record and retain CCTV footage for a minimum of 28 days.

v. The system will record at all times when the Premises are open.

vi. The system will incorporate a means of transferring images from the hard-drive to a format that can be

played back on any desktop computer.

vii. The Digital recorder will be password protected to prevent unauthorised access, tampering, or deletion

of images.

viii. There will be at all times, when the premises is open, a member of staff on duty with access to the

CCTV system who is trained in the use of the equipment.

ix. Upon receipt of a request for a copy of CCTV footage from Police, or Officers or any other Responsible

Authority, the member of staff will produce the footage within 24 hours, or less if urgently required for

investigations of serious crime.

x. CCTV footage must be made available to be viewed by Durham Constabulary or an Officer of a

Responsible Authority upon request or during an inspection.

2. Training condition

All Staff will undertake training as per the Induction and Training Workbook provided by the PLH

- 11.2 Section 21 of The Violent Crime Reduction Act 2006 made amendments to the Licensing Act 2003 (“the Act”) by introducing the provision for a summary review. This added to the Act Section 53A with supplementary Sections 53B and 53C to deal with the subject.
- 11.3 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises licence where the same covers serious crime or serious disorder associated with premises.
- 11.4 From the evidence presented to it, the Sub-Committee concluded that the premises had been associated with a serious crime.
- 11.5 They were concerned regarding the inferior quality of the CCTV and were in agreement that this risked public safety. Having viewed the footage, they were of the opinion that an assault had taken place and did not agree that the footage suggested it was simply an accident. They also expressed concern that the Premises had not reported the incident to the Police either at the time when the ambulance service were called or when it became apparent that there had been an assault following viewing of the CCTV the next day. This delay has potentially hindered the Police investigation.
- 11.6 The Sub-Committee have taken into consideration that the premises will now close until 6 May 2024 to allow a full refurbishment to take place which will include an upgrade to the CCTV system.
- 11.7 The Sub-Committee acknowledge that when they are considering whether to impose interim steps they must only do so if they are necessary to prevent serious crime or serious disorder occurring.
- 11.8 It is therefore accepted by the Sub-Committee that suspension of the premises licence pending the full review is not necessary and that modification of the conditions on the premises licence as set out in point 11.1 will be sufficient to prevent serious crime or serious disorder from occurring.

Signed:

(Chair)

Dated: 28 April 2024

PLEASE NOTE:

- Under Section 53B of the Licensing Act 2003 this decision has immediate effect.
- The Licensing Authority is required to serve this decision on the holder of the premises licence and the Chief Officer of Police.
- The holder of the premises licence is entitled to make representations to the Licensing Authority with respect to this decision and the Authority is required to hold a further hearing to consider such within 48 hours of receiving the same, if there has been a material change in circumstances.
- Whether or not representations with respect to this decision are made the Licensing Authority will continue to process and deal with the review of the premises licence occasioned by the application in accordance with the procedure for reviews set out or referred to in the Licensing Act 2003.

Appendix 4: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

PLA0001
24 November 2005
09 January 2024

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>G W HORNERS FRONT STREET CHESTER-LE-STREET DH3 3BE</p>	<p>DURHAM COUNTY COUNCIL NEIGHBOURHOODS AND CLIMATE CHANGE COMMUNITY PROTECTION LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ</p>
<p>Telephone number: 0191 3886914</p>	

<p>Where the licence is time limited the dates N/A</p>
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<p>Licensable activities authorised by this licence Films Indoor Sporting Events Live Music Recorded Music Performance of Dance Other Entertainment Similar to Live or Rec Music or Dance Performance Sale by retail of alcohol</p>

Opening Hours of the Premises		
	<p>Mon 09:00 02:00 Tue 09:00 02:00 Wed 09:00 02:00 Thu 09:00 02:00 Fri 09:00 02:00 Sat 09:00 02:00 Sun 10:00 02:00</p>	<p>Non-standard/seasonal timings</p>

<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>Films Indoors Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30 Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings for alcohol</p>
<p>Indoor Sporting Events Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30 Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings for alcohol</p>
<p>Live Music Indoors Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30 Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings for alcohol</p>
<p>Recorded Music Indoors Mon 09:00 02:00 Tue 09:00 02:00 Wed 09:00 02:00 Thu 09:00 02:00 Fri 09:00 02:00 Sat 09:00 02:00 Sun 10:00 02:00</p>	<p>Further details Non-standard/seasonal timings N/A</p>
<p>Performance of Dance Indoors Mon 09:00-01:30 Tue 09:00-01:30 Wed 09:00-01:30 Thu 09:00-01:30 Fri 09:00-01:30 Sat 09:00-01:30 Sun 10:00-01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings for alcohol</p>
<p>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30 Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings for alcohol</p>
<p>Sale by retail of alcohol</p>	<p>Further details</p>

Mon 09:00-01:30 Tue 09:00-01:30 Wed 09:00-01:30 Thu 09:00-01:30 Fri 09:00-01:30 Sat 09:00-01:30 Sun 10:00-01:30	Non-standard/seasonal timings Consumption of alcohol in the café pavement area until 21:30 only. Valentines Day, St Patricks Day, Good Friday, Easter Sunday, Christmas Day: 12:00 - 02:00 Easter Sunday, Easter Monday, St George's Day, May Bank Holiday, Spring Bank Holiday, Summer Bank Holiday, Christmas Eve, Boxing Day, 27th & 28th December: 09:00 - 02:00 New Years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day. An additional hour to the standard and non-standard times on the day when British summertime commences.
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Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
AMBER TAVERNS LIMITED	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	
Charity no:	NOT APPLICABLE

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol BRONYA PEAT

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 NORTHUMBERLAND

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.

Mandatory condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing in subsection (1) requires such a condition to be imposed-
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to-
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section-
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Mandatory condition: exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where-
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section-
"children" means persons aged under 18; and
"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 – Conditions consistent with the premises Operating Schedule

General

CCTV will be in operation and shall be available to the police or other responsible authorities on request, shall be digital and shall be kept for 31 days.

Prevention of Crime & Disorder

SIA Registered door staff

Pub Watch radio scheme

Pub watch meetings with Police

Digital CCTV, 8 cameras externally and internally

All staff fully inducted on the staff training manual

Member of pub watch

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

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

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

Public Safety

We have carried out a risk assessment. Our capacity is 250 which was calculated by the fire officer.

We have a maintained emergency lighting system.

We have an effective fire evacuation procedure.

Our staff are fully trained on all safety issues.

All fire doors will be maintained effectively and shall be 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 emergency's, including how the fire brigade shall be summoned, are to be prominently displayed.

Additional PEL Conditions

- 1 All windows are kept closed whilst amplified music or similar is being played.
2. No bottles or similar to be e transferred to external bins after 23.00 or before 06:00.
3. Subject to the approval of the relevant authorities and at the discretion of the Environmental Health Manager, a additional set of suitable doors is installed to the entrance of the property to create an acoustic lobby.
4. Subject to the approval of the relevant authorities and at the discretion of the Environmental Health Manager, a suitable and sufficient air conditioning system is installed.
5. The sound system for the premises be modified so that the amplified music is stopped if any fire door is opened.
6. Or other suitable measures to effect a not less suitable solution in respect of 3 above.

Prevention of Public Nuisance

A sign will be located at the exits(s) requesting that customers leaving the premises do so quietly and with consideration to neighbours. During the performance of regulated entertainment all windows and doors shall remain closed except for entrance and exits from the premises.

Protection of Children from Harm

Anyone who appears to be under the age of 21 and who is attempting to purchase 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**



LICENSING ACT 2003 PREMISES LICENCE SUMMARY

Premises Licence Number
 Granted
 Issued

PLA0001
24 November 2005
09 January 2024

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>G W HORNERS FRONT STREET CHESTER-LE-STREET DH3 3BE</p>	<p>DURHAM COUNTY COUNCIL NEIGHBOURHOOD AND CLIMATE CHANGE COMMUNITY PROTECTION LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ</p>
<p>Telephone number: 0191 3886914</p>	

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

<p>Licensable activities authorised by this licence</p> <ul style="list-style-type: none"> Films Indoor Sporting Events Live Music Recorded Music Performance of Dance Other Entertainment Similar to Live or Rec Music or Dance Performance Facilities for Making Music Facilities for Dancing Other Entertainment Facilities Similar to Making Music or Dancing Sale by retail of alcohol
--

<p>The opening hours of the premises (all times in 24hr format)</p>		
Mon 09:00	02:00	Non-standard/seasonal timings
Tue 09:00	02:00	
Wed 09:00	02:00	
Thu 09:00	02:00	
Fri 09:00	02:00	
Sat 09:00	02:00	
Sun 10:00	02:00	

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

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

<p>Films Indoors Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30 Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings</p>
<p>Indoor Sporting Events Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30 Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings for alcohol</p>
<p>Live Music Indoors Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30 Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings for alcohol</p>
<p>Recorded Music Indoors Mon 09:00 02:00 Tue 09:00 02:00 Wed 09:00 02:00 Thu 09:00 02:00 Fri 09:00 02:00 Sat 09:00 02:00 Sun 10:00 02:00</p>	<p>Further details Non-standard/seasonal timings N/A</p>
<p>Performance of Dance Indoors Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30 Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings for alcohol</p>
<p>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30</p>	<p>Further details Non-standard/seasonal timings Same as non standard timings for alcohol</p>

Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30	
Sale by retail of alcohol Mon 09:00 01:30 Tue 09:00 01:30 Wed 09:00 01:30 Thu 09:00 01:30 Fri 09:00 01:30 Sat 09:00 01:30 Sun 10:00 01:30	Further details Non-standard/seasonal timings Consumption of alcohol in the café pavement area until 21:30 only. Valentines Day, St Patricks Day, Good Friday, Easter Sunday, Christmas Day: 12:00 - 02:00 Easter Sunday, Easter Monday, St George's Day, May Bank Holiday, Spring Bank Holiday, Summer Bank Holiday, Christmas Eve, Boxing Day, 27th & 28th December: 09:00 - 02:00 New Years Eve - from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day. An additional hour to the standard and non-standard times on the day when British summertime commences.

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
Amber Taverns Limited	

Registered number of holder, for example company number, charity number (where applicable) Company no: Charity no: NOT APPLICABLE
--

Name of designated premises supervisor where the premises licence authorises the sale by retail of alcohol BRONYA PEAT
--

State whether access to the premises by children is restricted or prohibited NONE

Signature of Authorised Officer
 Head of Community Protection

Appendix 5: Review application and Certificate

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Durham County Council
Licensing
Annand House,
Meadowfield.
County Durham Constabulary
DH7 8RS

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

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 the 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.**

I
Sgt 484 Caroline Dickenson [on behalf of] the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**GW HORNER'S
2 FRONT STREET
CHESTER LE STREET**

Post town: CHESTER LE STREET

Post code (if known): **DH3 3BE**

2. Premises licence details:

Name of premises licence holder (if known): AMBER TAVERNS

Number of premises licence holder (if known): DCCC/PLA0001

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

This incident occurred on Monday night 15th April 2024 at 8:20pm.

G W Horner's is a public house located on Front Street, Chester Le Street. The pub DPS is Shannon Halliday. At the time of the incident the DPS was not on duty but was at home in the flat above the pub.

Shannon Halliday has been the DPS since 9th January 2024.

The pub has an older crowd on Monday evening. There was a karaoke ongoing at the time of the incident.

At 8:20pm the victim is seen on CCTV to enter the gents' toilets. 20 seconds later the suspect is seen to enter the toilets. A witness is seen outside of the toilets speaking on his mobile phone.

Approximately 2 minutes later, the toilet door is slightly opened, from CCTV you can see that there is a commotion inside of the toilets. The witness is seen to react to this, and he opens the toilet door, once opened, the suspect leaves the toilet squeezing by the witness. He is seen to look at his hands before going off camera. The witness enters the toilet and discovers the victim unconscious lying on the toilet floor. The witness then leaves the toilet to find help.

The suspect is seen on CCTV to make his way back to his seat, pick up his drink and then walk to the front door stopping briefly to speak with two males at the door. He then walks out of the door with one of those males, speaks with him briefly and then walk off alone at speed along Come Terrace and out of view.

Several persons are now seen with the victim including his girlfriend, Bar staff are seen to call the ambulance service. She does not call the police. The DPS is now present and she did not call police. When the victim is removed by paramedics, the DPS mops the floor destroying the crime scene. No other person present calls the police.

The victim, is taken to the RVI, he is in and out of consciousness. On arrival at

hospital, he is found to have the following injuries. A laceration to the rear of his head, a fractured skull, bleed on the brain and a fractured cheek bone. He has memory loss and cannot remember what happened to him in the toilets.

Police are eventually contacted on Sunday 21st April 2024 by the sister of victim. A criminal investigation is then commenced which due to the serious injuries the victim has received is recorded as a section 20 assault which is wounding or inflicting grievous bodily harm. Due to the delay in police being made aware of this incident the level of investigation will be impacted as the scope for forensics, initial accounts from witness and potentially the victim have been lost.

This incident highlighted several licensing issues regarding GW Horner's.

Crime and disorder objective.

The initial incident was not reported by bar staff to the police. The ability to gain evidence from witnesses was lost, witnesses names were not recorded, CCTV was only then made available 6 days later, the quality of that CCTV was poor, and forensic opportunities were lost. The incident book was completed but not known when it was completed. The area manager Jeff Cowley was only vaguely aware of the incident when he was spoken to by police licensing.

If staff had looked at the CCTV at the time, they would have seen that this was an assault and not an accident or medical incident.

When bar staff called the ambulance service, they did not ask for police, they had believed this to be an accident or medical incident. Staff also stated that they believed paramedics were going to inform the police as the paramedics had apparently told staff that the police might come to the pub.

Public safety

The victim did not appear to have been given any form of first aid. This highlighted the fact that bar staff had no first aid training.

The quality of the CCTV system was known to be poor after an incident in February when the DPS was struck on the head with a glass by a customer of the venue

The pub is due for a refurbishment beginning May 26th for one week. CCTV will be upgraded at that point, but this will have meant that CCTV would continue to be poor for 3 more months from that time in February.

The CCTV is there to support the crime and disorder objective. The CCTV is of such poor quality that no person's face can be seen and so makes identifying suspects of crime more difficult, if not impossible, there is also no date or time stamp on the CCTV. Therefore, cannot be said to be supporting the crime and disorder objective.

Area manager of Amber Taverns Jeff Cowley was spoken to on Monday 22nd April with regard to this incident. He was offered the chance to voluntarily close whilst the failings were rectified or the alternative which was to have a summary review submitted to the local authority, highlighting the premises failings. Mr Cowley stated he supported the police but would not close the

premises at this time.

Due to the seriousness of the incident reported to police by the victim's sister 6 days after the incident occurred, the poor quality of the CCTV and the subsequent poor management of the incident at the premises, which fell seriously short of the licensing objectives namely the prevention of crime and disorder objective. The police feel there is significant risk to Public Safety and the application for the review of a premises licence under section 53A of the licensing Act 2003 is justified as we will be asking an immediate suspension of the premises licence.

Signature of applicant: Caroline Dickenson
Date: 23rd April 2024
Capacity: Licensing Sgt

**Contact details for matters concerning this application:
Address: Durham County Council, Licensing Services
St Johns Road North, Meadowfield,
DH7 8RS**

Telephone number(s):

Email:

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

Durham Constabulary
Force HQ
Aykley Heads
DH1 5TT

CERTIFICATE UNDER SECTION 53(a)(B) OF THE LICENSING ACT 2003

I hereby certify that in my opinion of the premise described below are associated with serious crime

Premises:
GW HORNER'S
2 FRONT STREET
CHESTER LE STREET
DH3 3BE

Premise licence no: DCCC/PLA0001

Name of Premises licence holder: AMBER TAVERNS

I am a superintendent in Durham Constabulary

I am giving this certificate because I am of the opinion that the other procedures under the licencing Act are inappropriate in this case, and that it is proportionate in the circumstance for the following reasons:

There has been an incident involving serious crime at the premises namely a section 20 assault (GBH) on Monday 15th April 2024 whereby the victim has sustained significant head injuries consisting of a fractured skull, bleed on the brain and a fractured cheek bone. The victim also has memory loss and is still in hospital. His long-term prognosis is still not known.

The circumstances around this incident and the assault bring into serious question the management and running of this premise. The incident was not reported to police by the premises and police are only aware of this incident when the victim's sister reported the assault on Sunday 21st April 2024 which was 6 days after the incident. The delay in the incident being reported to the police will have implications on the current investigation as vital evidence may have been lost.

Licensed premises have a responsibility to promote the licensing objectives however on this occasion staff have reached the conclusion that the victim has fallen or suffered a medical episode however they have not offered an account as to how they have reached this conclusion and even when paramedics have said police may be in contact, they have not thought to report the incident and have relied on others to do so.

Had the staff viewed the cctv at the time of the incident they would have been aware that the victim had not fallen or had a medical episode.

I note the licensed economy team did contact a representative from Amber Taverns following the report of this incident to request that they voluntary closure of the premises so training needs which had been highlighted could be addressed and the poor quality of cctv could be addressed and upgraded. The representative refused to consider a closure so therefore immediate action via a summary review is the option available to the police as a serious crime has occurred within the

premise and this process is available to reduce the risk to the public and prevent any further serious incidents taking place at the premises.

The summary review process would enable the police and licencing authority to seek the removal of the designated premises supervisor and the suspension of the premises licence whilst the criminal investigations are ongoing and to fully determine the suitability of persons involved in the ongoing running of this premise.

This is the only proportionate action available at the time to prevent any further crime and disorder at the premises.

Signed

Dated 24th April 2024

Print Name Neal Bickford

Title Superintendent 2431

Appendix 6: Representations

Helen Johnson - Licensing Team Leader (N'hoods)

Subject: Re: Licensing Act applications

From: Stephen Brown
Sent: Wednesday, May 8, 2024 9:30 PM
To: AHS Licensing <Licensing@durham.gov.uk>
Subject: [EXTERNAL]:Licensing Act applications

You don't often get email from [redacted] [Learn why this is important](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Sir/Madam,

I write in connection with the following application:
Premises details: GW Horner's, Front Street, Chester-le-Street, DH3 3BE.

I note the Summary of Application states 'This application has been brought due to the premises being associated with serious crime and/or disorder'.
The statement seems to imply an ongoing problem with crime and/or disorder at the premises. If this is being suggested by the police then I find it hard to believe.

I have been a customer of this premises for a few years now, having a drink there maybe once or twice a week, and I have never witnessed a single violent incident in the premises. It tends to attract an older crowd and I have always had a pleasant evening there, with no problems at all. The staff are pleasant and it is a nice environment.

I understand this application is being made due to one violent incident in the premises recently. Could the police name a pub in Chester le Street, Durham, Bishop Auckland, etc, where there has never been a violent incident? I don't think they could, I certainly couldn't! Sadly, these things happen occasionally in all pubs, particularly those in busy town centres such as this one.

If certain things have been found wanting after the event e.g. poor quality CCTV, lack of staff awareness and/or training in dealing with such incidents, then these things can surely be addressed by the pub company (with advice from the police) by training their staff to improve the handling of such incidents in the future.

I would hope the licensing committee is not being asked to close the place down or suspend any licences, as I believe this would be an unfair over-reaction to a very isolated incident. An awful lot of local people miss having access to this pub and it obviously wasn't the staff that assaulted this poor chap. The staff perhaps just require some extra training in dealing with such incidents, as I mentioned earlier. They seem to always do their best, but no pub is immune from such incidents.

Thank you for considering my representation.

Mr Stephen Brown

Our Ref: TM/GW Horners (Chester-le-Street)/0524

8th May 2024

The Chief officer of Police for Durham Constabulary
Premises: GW Horner's, Front Street, Chester-le-Street, DH3 3BE

Dear Sir/Madam,

Application for a Review of Premises License – GW Horners (Chester-le-Street)

I represent the Durham Safeguarding Children Partnership (DSCP) which is a responsible authority under the Licensing Act.

The information highlighted raises concerns that the staff and designated premises supervisor of these premises have failed to manage the premises effectively as per the Licensing Policy 2019 which states that there is a requirement to ensure that there will be an appropriate number of responsible, trained and suitably-instructed persons at the premises necessary to ensure proper management of the premises. Management of the premises includes:

- Providing a good level of duty of care for customers which may include children
- Manage the behaviour of customers and take steps to avoid and deal with conflict
- Ability to safeguard children from harm (including moral, psychological and physical harm) who enter the premises. The premises is located on the main high street in Chester-le-Street and is a short distance away the local leisure centre and local shopping area where children may congregate
- Ability to manage public disorder/crime and conflict and report incidents to the police
- Clear indication that staff are trained in the Licensing Act, use of CCTV and processes to deal with incidents (including notifying police)
- The Designated Premises Supervisor is available. In this case the DPS was absent from the premises
- Ensuring that there is a member of staff on site who is first aid trained. In this case, there was no first aid personnel on site

This incident occurred at a time whereby children may have been present. Therefore, due to the concerns, we support the review application and all of the suggested recommendations made.

Regards

PAULA MATHER
Durham Safeguarding Children Partnership Business Manager

Contact: Fiona Mawson
Direct Tel:



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

26th April 2024

Dear Sir / Madam

Re – GW Horner’s, 2 Front Street, Chester-le-Street DH3 3BE

I represent County Durham Public Health department within Durham County Council which is a responsible authority under the Licensing Act 2003. Due to information contained in this review Public Health wish to record their support for a licensing review of the premises above.

Evidence presented in the application of review raises concerns about the protection of children from harm.

We know alcohol is linked to 200 different diseases and injuries including heart disease, liver disease and seven types of cancer.¹ It’s harmful for adults - but the risks are even greater for under 18s whose minds and bodies are still developing, for example;

- **Young brains continue to develop and change until the mid-twenties.** *Drinking alcohol before adulthood can change or delay the development of the logical, thoughtful part of the brain.*²
- **Alcohol can affect a child’s mental health and wellbeing.** *It is linked to stress, depression and self-harming behaviour.*³
- **Children are smaller, which means alcohol’s effects work more quickly.** *Alcohol poisoning can result in young people being admitted to hospital or worse.*⁴
- **Alcohol can lead to other risky, impulsive behaviour.** *Young people who drink regularly are four times more likely to smoke and three times more likely to take other,*

Adult & Health Services

Durham County Council, County Hall, Durham DH1 5UG
Main Telephone 03000 26 0000
www.durham.gov.uk

*illegal drugs. They are more likely to get hurt due to an accident or as a result of violence.*⁵

- **Children's bodies are still developing through the teenage years. We know that drinking alcohol can affect their liver, bones, hormones and their growth.**⁶

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

Public Health believe the role of the premises licence holder and designated premises supervisor are positions of responsibility. Given the information in the review Public Health would have no confidence at this time that the premises in question can be considered as a responsible licence premises.

Therefore, on behalf of Public Health, I would support the application to review the premises licence.

Yours sincerely

Amanda Healy
Director of Public Health

Evidence

¹ World Health Organization (2018). Global status report on alcohol and health 2018.

² CMO for England (2009) Guidance on the consumption of alcohol by children and young people.

³ Newbury-Birch et al (2009) Impact of Alcohol Consumption on Young People. A Systematic Review of Published Reviews.

⁴ PHE (2018) Local Alcohol Profiles for England.

⁵ NHS Digital (2016). Smoking, drinking and drugs use among young people.

⁶ CMO for England (2009) Guidance on the consumption of alcohol by children and young people.

Appendix 7: 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.

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

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

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

The council expects every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden, a marquee, in a smoking shelter etc.

The **council expects** all applicants to demonstrate, in their operating schedules, that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business, have been identified and will be implemented and maintained with the intention of preventing crime and disorder.

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

The council encourages personal licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. **The council encourages** involvement in the "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

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

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

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

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

The council also considers it to be good practice if the DPS or premises licence holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises
- At all times when the premises are a "vertical drinking establishment" where little or no seating is provided
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

Maximum occupancy: When its discretion is invoked, the council will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that premises or event. Any such decision will be based on the nature and style of the operation.

The council will consider information provided by the applicant and any other body (the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service) before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

Security: Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives, they will need to be licensed by the SIA as a supervisor/manager. The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment as well as the hours of trading.

Toughened/Safety Glass: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies especially to any premises associated with a higher risk for potential crime and disorder. This will be particularly

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

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

Drugs/Knives/Weapons: The council will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands or consumed within the premises to prevent tragedies and harm because of drug misuse.

The council will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The council also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

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

7.2 Public Safety - The Act covers a wide range of premises that require licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants and people in the immediate vicinity who may be affected by the premises and activities taking place therein.

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

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

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

Appendix 8: Section 182 Guidance

11. Reviews

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. The applicant must give notice of the review application to the responsible authorities and holder of the licence or certificate. The licensing authority is required to advertise a review application.
- 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 relevant 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, consideration may be given as whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the licensing authority may be asked to consider whether it would be appropriate to publish a cumulative impact assessment. Further guidance on cumulative impact assessments can be found in Chapter 14 of this Guidance.
- 11.9 Responsible authorities and other persons may make representations in respect of an application to review a premises licence or club premises certificate. They must be relevant (i.e., relate to one or more of the licensing objectives) and, in the case of other persons, must not be frivolous or vexatious. 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 or illegal working compliance 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, 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

¹⁰ See chapter 16 in relation to the licensing of live and recorded music.

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.

Crime and disorder

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

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

Public safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.
- 2.10 Counter terrorism and public safety
- 2.11 Licensing committees may wish to give due consideration to appropriate counter-terrorism measures and advice when considering licence applications, for example at high profile or large premises or events or where there are factors which may increase attractiveness to attacks, and in particular when in receipt of relevant advice from police counter terrorist staff.
- 2.12 It is particularly relevant to consider conditions around health care provision in this regard. Any additional licensing conditions should be appropriate and proportionate to the venue as noted in para 1.16. We recommend that all licensing authorities pay

particular attention to terrorist threats when making specific licence conditions in relation to security or health care provision at appropriate premises and events applying for a licence.

- 2.13 As noted in para 2.8 licensing authorities can recommend conditions where appropriate to do so, such as ensuring appropriate access for emergency services and vehicles such as ambulances; good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4); and ensuring the presence of sufficient trained first aiders on the premises and appropriate first aid kits.
- 2.14 However, in some instances, licensing authorities may wish to tailor their approach, depending on the particular nature of the application, and go further when addressing concerns around possible terrorist or other such risks. We have provided an Annex to help inform and support licensing authorities in their decision making with regards to additional licence conditions for premises and events, that may benefit from further security planning and health care provision in the aftermath of a particular type of incident.

Ensuring safe departure of those using the premises

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

Maintenance and repair

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

Safe capacities

- 2.17 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict

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

- 2.18 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.19 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Statutory Licensing Sub-Committee

20th May 2024

**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 Rural
Communities and Highways**

Electoral division(s) affected:

Dawdon

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application by Durham Constabulary to review the premises licence in respect of Memory Lane, 51 Church Street, Seaham SR7 7HF.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 On 24th April 2024, the Licensing Authority received an application and supporting certificate under Section 53A of the Licensing Act 2003 from Durham Constabulary where it was required to consider whether it is necessary to take interim steps pending determination of the full review of the premises licence within 48 hours of receipt of this application.
- 4 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises where there is the sale of alcohol and where it is considered the premises are associated with serious crime and / or serious disorder.
- 5 On 25th April 2024, the Licensing Statutory Sub-Committee met to consider the application and any necessary interim steps. Members decided to suspend the premises licence with immediate effect pending the full review hearing. A copy of the notice of determination is attached as Appendix 3.

- 6 Following the consultation period three representations in support of the review had been received from the Licensing Authority, Public Health and Durham Safeguarding Children Partnership.
- 7 The Home Office and the Fire Authority responded to the consultation with no representations.

Recommendation(s)

- 8 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 9 The Sub-Committee is recommended to give appropriate weight to:
- (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representations (including supporting information) presented by all parties;
 - (c) Durham County Council’s Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 7;
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended December 2023). The relevant parts of the guidance are attached at Appendix 8.

Background

- 10 Background information

Applicant	Durham Constabulary	
Type of Application: Review of a Premises Licence	Date received: 24th April 2024	Consultation ended: 9th May 2024
Premises Licence Holder	Mrs Emma Bird	
Designated Premises Supervisor (DPS)	Mrs Emma Bird	

- 11 The premises licence in respect of Memory Lane currently permits the sale of alcohol for consumption on and off the premises as detailed in the table below:

Licensable Activity	Days & Hours
Sale of Alcohol (for consumption on and off the premises)	Monday to Saturday: 08:00 – 23:00 hrs Sunday: 08:00 – 22:30 hrs Christmas Eve, New Year’s Eve and Bank Holidays until 23:00 hrs
Opening hours	Monday to Saturday: 08:00 – 23:00 hrs Sunday: 08:00 – 22:30 hrs Christmas Eve, New Year’s Eve and Bank Holidays until 23:00 hrs

12 A copy of the current premises licence is attached at Appendix 4.

Details of the application

13 The review application was received by the Licensing Authority on 24th April 2024.

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

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

- The Prevention of Crime and Disorder
- Public Safety

16 A copy of the application and supporting certificate is attached at Appendix 5.

The Representations

17 Following the consultation period three representations in support of the review had been received from the Licensing Authority, Public Health and Durham Safeguarding Children Partnership. The representations are attached at Appendix 6.

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

- The Home Office
- The Fire Authority

The Parties

19 The Parties to the hearing will be:

- Sergeant Caroline Dickenson, Durham Constabulary (Applicant)
- Mrs Emma Bird (premises licence holder and designated premises supervisor)
- Mr James Curran, Swinburne Maddison Solicitors (representing the licence holder)
- Nicola Anderson, Licensing Authority (Responsible Authority)
- Fiona Mawson, Public Health (Responsible Authority)
- Paula Matha, Durham Safeguarding Children Partnership (Responsible Authority)

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;
- (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 a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

Consultation

22 The review application was subject to a 10-working day consultation.

See Appendix 1

Conclusion

23 The Sub-Committee is asked to determine the application for the review of the premises licence for Memory Lane, 51 Church Street, Seaham.

Background papers

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended December 2023)

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 10-day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

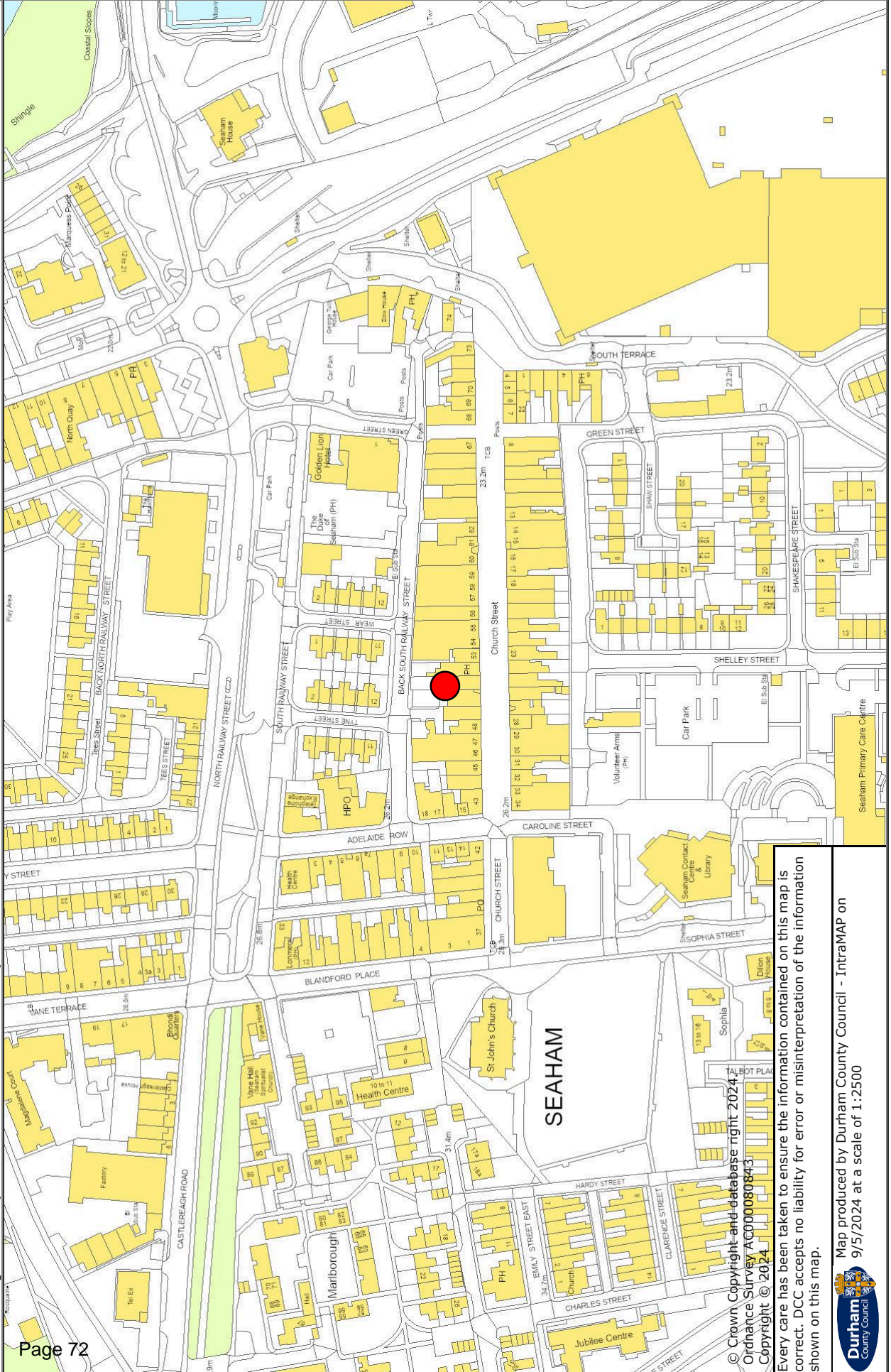
The notice of application was displayed on the premises for a period of 10 working days.

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 10-working day consultation period.

Appendix 2: Location Plan and Street View Images

Memory Lane, 51 Church Street, Seaham



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Ordnance Survey AC000080843
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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
9/5/2024 at a scale of 1:2500





Appendix 3: Notice of determination – Interim Steps Hearing

THE COUNTY COUNCIL OF DURHAM

Licensing Committee

NOTICE OF DETERMINATION

Licensing Act 2003 (the Act)

Date of Hearing: 25 April 2024
Date of Determination: 25 April 2024
Committee Members: Councillor D Brown (Chair)
Councillor Terry Duffy
Councillor Alex Watson

1) Type of application or hearing

Summary Licence Review

2) Applicant

Durham Constabulary

3) Premises

Memory Lane, 51 Church Street, Seaham

4) Application

For the summary review of a Premises Licence under Section 53A of the Licensing Act 2003

5) Witnesses

The Sub-Committee heard from the following:

- Helen Johnson, Licensing Team Leader
- Sgt Caroline Dickenson, Durham Constabulary
- Nicola Anderson, Senior Licensing Enforcement Officer
- Emma Bird, Premises Licence Holder

6) Licensing Act 2003

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

7) **Section 182 Guidance**

The Sub-Committee has considered and taken account of the most recent edition of the Secretary of State Section 182 Guidance. The Sub-Committee has also considered the Section 53A Summary Review Guidance.

8) **Licensing Policy**

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

9) **Licensing Objectives**

The Sub-Committee took account of the information provided by the Applicant for the purposes of the review and with respect to the licensing objectives:

9.1 **Prevention of crime and disorder**

Evidence: The evidence provided was such that this objective could be breached and that some action was needed to prevent crime and disorder.

9.2 **Public Safety**

Evidence: The evidence provided was such that this objective could be breached and that some action was needed to prevent crime and disorder and to promote public safety

9.3 **Prevention of Nuisance**

Evidence: It is not necessary to consider this objective for the purposes of this decision.

9.4 **Protection of Children from Harm**

Evidence: The evidence provided was such that this objective could be breached and that some action was needed to protect children from harm.

10) **Evidence**

Representations of Helen Johnson, Licensing Team Leader

10.1 An application and the supporting certificate, required by Section 53A of the Act, was received by the Licensing Authority on the afternoon of Wednesday 24 April 2024.

10.2 The Licensing Authority is required to consider the matter within 48 hours of receipt of the application, not including non-working days. The application was considered on the morning of 25 April 2024 and therefore within the timescales stipulated in the Act.

- 10.3 The Licensing Committee has power under section 53B to consider a number of interim steps namely:
- Modification of the conditions of the premises licence.
 - Exclusion of the sale of alcohol by retail from the scope of the licence.
 - Removal of the Designated Premises Supervisor from the licence.
 - Suspension of the Licence.
 - Take no action
- 10.4 Members were advised that they may consider taking more than one interim step.
- 10.5 It was confirmed there would be ongoing consultation and the matter would be required to be heard at a full hearing by 22 May 2024.
- 10.6 A notice is now displayed, on the premises, and is available on the Council's website, advising of the review application and requesting any representations be received by 9 May 2024.

Representations of Durham Constabulary

- 10.7 The evidence submitted by Durham Constabulary was summarised by Sergeant Dickinson.
- 10.8 On 20 April 2024 at 23:11hrs a call was made to the police control room from ambulance reporting that a male had been assaulted at Memory Lane public house and that the victim was unconscious with head injuries.
- 10.9 Police officers arrived on the scene at 23:24hrs and they were met by a female in the bar area of Memory Lane who shouted to officers, "HE'S NEARLY DEAD".
- 10.10 Police were informed the victim was in the smoking area and found the victim laid on the ground. The victim was unconscious and officers saw that he had serious facial injuries and significant blood loss. There was a member of the public with the victim.
- 10.11 Due to the level of injuries the victim had sustained and how he was presenting to ambulance staff, police officers travelled with the victim to the hospital which is for the continuity of evidence following serious incidents whereby victims may have life threatening injuries.
- 10.12 Following the victim being taken to hospital remaining police officers on scene tried to establish what had happened and a request was made to view the CCTV. Officers were advised by staff that they

were unable to view any CCTV at the premises as they are unable to access it. This is due to an ongoing dispute between the owners and one of them removing access to the CCTV. Officers have had to contact one of the owners who isn't the Premises licence holder or Designated premises supervisor and attend her home address so the CCTV footage could be viewed on her mobile phone.

- 10.13 The delay in being able to view the CCTV, firstly to try and establish what has taken place and to identify how the victim has received his injuries i.e. has a weapon been used, level of force used by the suspect which could potentially assist in the medical treatment of the victim and secondly to identify who was responsible and possible witnesses who may have still been on scene has frustrated the enquiry and does not uphold the crime and disorder objective.
- 10.14 Consideration was made due to the seriousness of the assault and level of injury to the victim, of placing a crime scene on the smoking area of the bar, however all glassware etc had been removed from the scene by staff prior to police officers arrival, and the glass on the floor had been swept into piles by staff.
- 10.15 The interference of the crime scene and removal of items has impacted on the chance of being able to obtain any forensics at the scene and the continuity of evidence is no longer intact. The decision was therefore made that the requirement for a scene preservation was not going to be beneficial to this investigation, so police officers captured the crime scene on their Body Worn Video during initial attendance and again following victim being removed by ambulance.
- 10.16 Officers at the scene have been unable to identify any staff member who was in charge at the time of the incident. Two members of bar staff have been identified one of which stated a female was having a drink with a group of males, so she went outside to speak to the males and they came back into the pub. She stated the victim was stood at the bar at this point but had no idea at what point victim left the bar, and the next thing she knows she's being told he is injured. She stated that she didn't go outside to assist as she doesn't like the sight of blood.
- 10.17 This incident has been crimed as a section 18 assault which is grievous bodily harm (GBH) with intent and is currently being investigated by CID.
- 10.18 The suspect was originally unknown, however has since been identified and is currently on conditional police bail not to attend any licensed premise, whilst further enquiries are carried out.
- 10.19 CCTV has captured the assault in full and it shows a horrific attack on the victim who has significant injuries to his face. The victim has been punched over a dozen times to the face whilst he appears unconscious, displaying a clear intent to cause serious harm to the victim.

- 10.20 The victim has been advised he has several fractures across multiple different parts of his face and will require surgery at a later date. The victim is still in hospital and so far, due to his injuries has been unable to give police a full account of what has happened.
- 10.21 The nursing team looking after the victim has been spoken to and confirmed that he has multiple facial bone fractures, and is still in a significant amount of pain and at this time the swelling is too much for the doctors to proceed with surgery.
- 10.22 CCTV has been presented to the hearing and showed two different camera angles of the assault.
- 10.23 Sgt Dickenson stated that the premises did not report this incident to the police and although it is acknowledged they did call an ambulance, they still have a responsibility to report incidents to the police and not rely on other agencies to do so on their behalf. There was also no intervention by any members of staff.
- 10.24 The conditions around CCTV are not being adhered to when the system cannot be accessed within the venue and despite it being a Saturday evening with karaoke on there were no doorstaff present at the venue.
- 10.25 The incident also took place after 11pm when the bar should have been closed and the CCTV shows that patrons appear to be intoxicated. Due to the difficulties in obtaining CCTV, it has not yet been possible to get the inside camera's (as the police have focussed on the serious assault) to see if alcohol sales were taking place after 11pm.
- 10.26 Due to the seriousness of the incident reported by ambulance staff at the weekend, the poor management at the premises and breach of license conditions around the CCTV and potentially the hours of operation, the police feel there is significant risk to Public Safety and the application for the review of a premises licence under section 53A of the licencing Act 2003 is justified. The Police request an immediate suspension of the premises licence.
- 10.27 At the full review hearing the police will seek to have the premises licence revoked.

Representations of Nicola Anderson Licensing Enforcement

- 10.28 Mrs Anderson referred to the conditions on the premises licence regarding CCTV and the selling of alcohol after 11pm.
- 10.29 She confirmed that together with a colleague, they visited the premises on Wednesday 24 April 2024 to carry out an inspection. Elizabeth Porritt was behind the bar and informed them that she owned the premises with Emma Bird and her sister Pauline Rutherford.

- 10.30 She asked to view the CCTV and was advised by Elizabeth Porritt that she could not access the CCTV as this could only be accessed by Pauline. A call was made to Pauline to ask her to come to the premises but she did not answer. Mrs Anderson advised the Sub-Committee that the Premises Licence states that a trained member of staff must be available to operate the CCTV system at all times and download footage on request.
- 10.31 Mrs Anderson then explained that she asked about training records and was told by Ms Porritt that she had been in the trade for 20 plus years. She stated she had not had any training while at these premises. The summary of the premises licence was not displayed, and she did not know where it was. Mrs Anderson then asked about the Incident Book and where this was kept. Ms Porritt stated that Pauline kept the Incident Book and if an incident occurred, staff would write it on a bit of paper and would give to Pauline to write up the book.
- 10.32 She confirmed that they did not have a drugs policy and advised that if drugs are found they are flushed down the toilet. While Mrs Anderson was dealing with Ms Porritt, a customer shouted for a drink and was advised to help himself from behind the bar which he subsequently did.
- 10.33 Pauline Rutherford then arrived at the premises. Mrs Anderson asked to view the CCTV and Ms Rutherford said "No". She said someone came that morning to look at the CCTV but was unable to get in and may come back later. She told Mrs Anderson that the incident book was behind the bar and should have been completed that night.
- 10.34 Ms Rutherford was advised that Ms Porritt said the Incident book was updated by Pauline as she kept the book. Pauline denied this.
- 10.35 Pauline was also asked about training and she stated that she had been in the pub business for 20 years. She stated that Emma Bird is named on the licence and Emma has not provided training. She did not know where the Challenge 25 posters were displayed until a customer pointed out it was behind the door.
- 10.36 She was asked if the officers could view the CCTV on her mobile phone and also how far back the CCTV went. She stated the Police accessed the footage from her phone and she didn't know how to do this. A check of the screen identified that the CCTV only went back to 2 April 2024 and therefore not the 28 days as stipulated on the premises licence.
- 10.37 Mrs Anderson stated she discussed with Pauline Rutherford about varying the DPS on the licence. Ms Rutherford was adamant that the Incident and Refusal Books were behind the bar but when she checked they were not there.
- 10.38 Mrs Anderson advised the Sub-Committee that their visit to the premises highlighted that there was no control or management in

place. It was mentioned to her that there is a family feud and each party is blaming the other. At the time of her visit, only Elizabeth Porritt was on duty.

Representations of the Premises Licence Holder

- 10.39 Mrs Bird addressed the Sub-Committee and explained that there is an ongoing case with her and her Aunty, Pauline Rutherford. She stated that Pauline was clearly lying, the Incident book is behind the bar.
- 10.40 She stated that she got a company out regarding the CCTV at the premises before she went on holiday. When she came back, the CCTV had been changed and she now can't get on to it.
- 10.41 Mrs Bird stated that her Aunt has taken over, she has changed the locks, and is trying to cut her out, causing a lot of problems. She accepted that she should have been there.
- 10.42 She stated that were members of staff present at the time of the incident as the video footage shows a man with a blue top and he is staff.
- 10.43 She explained that when they called the ambulance, they also called her, and she came straight down to the premises. The Police were there, and she asked if she needed to do anything, and they said "no".
- 10.44 She stated that she rang Pauline Rutherford and asked for the CCTV footage, but she wouldn't give her the code, so she sent the Police round to her Aunt's address.
- 10.45 Mrs Bird stated that Pauline Rutherford is trying to get her out of the business, and she has told her solicitor about this. Unfortunately, due to the short notice, he was not able to attend the hearing.
- 10.46 She put her hands up and accepted that she should have been there.
- 10.47 She advised that she has phoned her solicitor and the licensing officer to say that Pauline Rutherford is tampering with evidence. She said she is trying to do everything right, and just wants the Sub-Committee to know this.
- 10.48 Through questions she explained the nature of the business relationship with Pauline, stating that they went into business together in 2019, Pauline put the pub in her son's name.
- 10.49 Pauline Rutherford is a business partner - she runs the bar as Mrs Bird has another business too. Mrs Bird stated she is in and out of the bar all the time.
- 10.50 In relation to training she said she was not told about training. She was advised that this is a condition on the licence, but she stated she was not aware.

- 10.51 Mrs Johnson explained what training was required such as Challenge 25, Identification and age verification, Refusal to sell alcohol, proxy sales, how to access CCTV for Police and Licensing Authority.
- 10.52 Mrs Bird was advised that it is concerning, from a licensing authority perspective that Pauline Rutherford is running the business, but Mrs Bird is the Premises Licence Holder and DPS, and therefore she has responsibility for the day to day management at the premises and she is responsible for every sale of alcohol. She was advised that she could have stopped the sale of alcohol from the premises by removing herself as the DPS until she could appoint someone else. It was put to Mrs Bird that she has no control over the premises, and she was asked whether she could reassure the Committee that she will put measures in place to alleviate the concerns identified.
- 10.53 Mrs Bird stated that she has been to her solicitor regarding the premises. She stated that the staff did know how to use the CCTV system that she had installed, however Pauline has changed things over. She said she has changed the locks as Pauline changed them and she could not get in.
- 10.54 She stated she now has access to premises, she has spoken to her solicitor regarding the CCTV, the cameras are there, but Pauline has put her own box in. Mrs Bird stated she was looking at the CCTV all the time, they have never had any incidents like this ever, the premises have run smoothly until this time. These two people have had a fight and have never been in the bar before. She explained that she did not know what the fight was about, the individuals had not met before, and one was from Sunderland. They had not crossed paths before. The two girls were arguing, but they do not know each other, and have not been into the premises before.
- 10.55 She went on to explain that the people who are normally in the bar are elderly, they listen to Motown music, and they don't get the young ones in.
- 10.56 She stated that she is at the premises nearly every other day, she does the stock, and is in and out all of the time. She works there on a Friday and Sunday night.
- 10.57 She confirmed that she does not have access to the CCTV at this time and when asked how she could rectify this she stated that she has spoken to her solicitor and is going down the legal route. Pauline Rutherford has changed this without her knowledge, there is a lot of stuff going on and has been for 9 months.
- 10.58 Through further questions it was explained that door staff are not a mandatory requirement, and it is at the discretion of the Licence Holder to risk assess whether they are required. Mrs Bird stated that they would not use door staff for this type of night as there is no trouble with this crowd. The people at the premises on the night of the incident are not normally in the premises.

- 10.59 She explained that she was not on the premises at the time of the incident, but she got a telephone call and came straight down. She said the bar staff phoned the ambulance, as far as she knew Lizzie had asked for both services. When she got there the police were already there and she asked what she needed to do, did she need to call the next day and they said “no”.
- 10.60 She confirmed that Elizabeth Porritt and Phil Smith were on duty at the time of the incident. They are bar staff; they collect glasses and serve alcohol. In relation to the scene being swept away, she said that it was the people on that night that moved the glasses. There were 50 – 60 people on the premises.
- 10.61 She stated that Lizzie is bar staff. She is a silent partner.
- 10.62 As the DPS, she is responsible for every sale of alcohol and was asked what her thoughts were around customers being told to help themselves. She stated she was appalled by this and had only found out today. No-one should be behind the bar; she has not authorised this. She stated that she would have to go back and discuss this and take action as it is a breach of the licensing conditions.
- 10.63 There were no further questions of the Licence Holder.
- 10.64 Mrs Johnson then reminded the Sub-Committee of their options.
- 10.65 Sgt Dickenson reiterated that the Police investigation is in the early stages, and the information they have is only from those in attendance. The Police are concerned around the CCTV at the premises and question how safe the premises are. They are concerned with Public Safety, there are feuding partners, the Licence holder cannot access the CCTV, the Police have not been able to access the CCTV from inside the premises. The CCTV from outside shows the severity of the attack and level of injuries. In their opinion the premises are not safe and are a risk to Public Safety.
- 10.66 In her summing up, Mrs Bird said If she has got to have door staff on at certain times, she will do this, she will be there at peak times, she will put door staff on, she understands what is required as she was a member of the door staff. She said she is aware now what is required and hopefully she can sort it out.
- 10.67 With regard to the CCTV issues, she stated that she would get the company to come back out and change the box back. She said she wanted the Sub-Committee to know that this wasn't her doing, but she will phone the CCTV company and get them to change the box back immediately.

11) Decision and Reasons

- 11.1 The Sub-Committee has considered the evidence given by Durham Constabulary and Licensing Enforcement today, and the

representations made by the Premises Licence Holder, in response. The Sub-Committee has decided to make the following steps:

- to suspend the premises licence with immediate effect, pending full review.
- 11.2 Section 21 of The Violent Crime Reduction Act 2006 made amendments to the Licensing Act 2003 (“the Act”) by introducing the provision for a summary review. This added to the Act Section 53A with supplementary Sections 53B and 53C to deal with the subject.
- 11.3 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises licence where the same covers serious crime or serious disorder associated with premises.
- 11.4 From the evidence presented to it, the Sub-Committee concluded that there is a complete lack of control and poor management at the premises which has resulted in numerous breaches to the licensing conditions.
- 11.5 They were concerned regarding the family feud between the parties involved, which had been going on for a significant period of time. This was of particular concern as neither the Police nor Local Authority were able to access the CCTV footage from inside the premises. This is a requirement of the licence and a failure to provide the footage not only hinders the Police investigation but calls into question the safety of the public who visit the premises.
- 11.6 The Sub-Committee had also heard that numerous breaches of the licensing conditions were identified during an inspection on 24 April 2024. These included a lack of staff training on alcohol sales, acceptable identification, proxy sales, first aid; there was no incident book or refusal book, staff were unable to access the CCTV at the premises or download footage on request, members of the public were serving themselves with alcohol.
- 11.7 It is therefore accepted by the Sub-Committee that the issues raised do amount to serious crime and serious disorder and the application made in this case is in order and falls to be dealt with under Sections 53A, 53B and 53C of the Act.
- 11.8 Having considered the information provided and taking account of the serious nature of it, it is clear that the premises have been associated with serious crime and disorder and are a threat to public safety, the Sub-Committee considers that it has no alternative than to make the decision that it does.

Signed:

(Chair)

Dated: 28 April 2024

PLEASE NOTE:

- Under Section 53B of the Licensing Act 2003 this decision has immediate effect.
- The Licensing Authority is required to serve this decision on the holder of the premises licence and the Chief Officer of Police.
- The holder of the premises licence is entitled to make representations to the Licensing Authority with respect to this decision and the Authority is required to hold a further hearing to consider such within 48 hours of receiving the same, if there has been a material change in circumstances.
- Whether or not representations with respect to this decision are made the Licensing Authority will continue to process and deal with the review of the premises licence occasioned by the application in accordance with the procedure for reviews set out or referred to in the Licensing Act 2003.

Appendix 4: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
 Granted
 Issued

DCCC/PLA0653
21 August 2021
25 August 2021

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>MEMORY LANE 51 CHURCH STREET SEAHAM SR7 7HF</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 Sale by retail of alcohol</p>

Opening Hours of the Premises																
<table> <tr><td>Mon</td><td>08:00-23:00</td></tr> <tr><td>Tue</td><td>08:00-23:00</td></tr> <tr><td>Wed</td><td>08:00-23:00</td></tr> <tr><td>Thu</td><td>08:00-23:00</td></tr> <tr><td>Fri</td><td>08:00-23:00</td></tr> <tr><td>Sat</td><td>08:00-23:00</td></tr> <tr><td>Sun</td><td>08:00-22:30</td></tr> </table>	Mon	08:00-23:00	Tue	08:00-23:00	Wed	08:00-23:00	Thu	08:00-23:00	Fri	08:00-23:00	Sat	08:00-23:00	Sun	08:00-22:30	<p>Non-standard/seasonal timings Christmas Eve, New Year's Eve and Bank Holidays until 23:00hrs</p>	
Mon	08:00-23:00															
Tue	08:00-23:00															
Wed	08:00-23:00															
Thu	08:00-23:00															
Fri	08:00-23:00															
Sat	08:00-23:00															
Sun	08:00-22:30															

<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)

Sale by retail of alcohol	Further details
Mon 08:00-23:00	N/A
Tue 08:00-23:00	Non-standard/seasonal timings
Wed 08:00-23:00	Christmas Eve, New Year's Eve and Bank Holidays until 23:00hrs
Thu 08:00-23:00	
Fri 08:00-23:00	
Sat 08:00-23:00	
Sun 08:00-22:30	

Part 2

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

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol
MRS EMMA LOUISE BIRD

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
DURHAM COUNTY COUNCIL

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.

Mandatory condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing in subsection (1) requires such a condition to be imposed-
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to-
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section-
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Annex 2 – Conditions consistent with the premises Operating Schedule

General

All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licences including times of operation, licensable activities and all conditions. Refresher training will be carried out every 6 months and all training will be recorded in a register. The register will be made available to the Police or an authorised officer of the local authority upon request.

The Prevention of Crime & Disorder

The premises shall maintain an incident book, which shall record any incidents that occur on the premises and any action taken. This shall be made available to the Police and authorised officers of the local authority upon request.

A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff. CCTV recordings will be retained for a minimum of 28 days.

The premises will ensure that a trained member of staff is available to operate the CCTV system at all times and download any images requested by Police or an authorised officer of the local authority and provided within 48 hours of a request being made.

The premises will have a drugs policy in place. Any person seen to be using drugs on the premises will be ejected immediately and barred for a minimum period of 12 months.

Door Supervisors will be used if necessary.

Public Safety

None

The Prevention of Public Nuisance

None

The Protection of Children from Harm

The premises shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by Police or authorised officers of the local authority upon request.

Children under the age of 18 will not be allowed entry to or remain in the premises after 18.00, unless attending a private function.

A 'Challenge 25' age verification policy is operated which requires anyone looking under the age of 25 to produce photographic evidence of proof of age from a passport, driving licence or PASS accredited scheme before any alcohol is supplied. The actions of staff operating the policy to be regularly monitored.

The licence holder will work with the police to minimise the risk of proxy provision / proxy sales. (This is alcohol purchased or obtained for young people by relatives or older friends).

Where a sale of alcohol is refused if a person appears intoxicated or appears to be under 18, a refusal register / log to be updated. The register to be made available to authorised officers on request.

All staff responsible for selling age restricted goods to be trained to implement the age verification policy. Staff training to include the risk from proxy sales.

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**



LICENSING ACT 2003 PREMISES LICENCE SUMMARY

Premises Licence Number
Granted
Issued

DCCC/PLA0653
21 August 2021
25 August 2021

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
MEMORY LANE 51 CHURCH STREET SEAHAM SR7 7HF	DURHAM COUNTY COUNCIL NEIGHBOURHOOD AND CLIMATE CHANGE COMMUNITY PROTECTION LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number:	

Where the licence is time limited the dates N/A

Licensable activities authorised by this licence Sale by retail of alcohol
--

The opening hours of the premises (all times in 24hr format)		
Mon	08:00-23:00	Non-standard/seasonal timings Christmas Eve, New Year's Eve and Bank Holidays until 23:00hrs
Tue	08:00-23:00	
Wed	08:00-23:00	
Thu	08:00-23:00	
Fri	08:00-23:00	
Sat	08:00-23:00	
Sun	08:00-22:30	

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

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

Sale by retail of alcohol	Further details
Mon 08:00-23:00	N/A
Tue 08:00-23:00	Non-standard/seasonal timings Christmas Eve, New Year's Eve and Bank Holidays until 23:00hrs
Wed 08:00-23:00	
Thu 08:00-23:00	
Fri 08:00-23:00	
Sat 08:00-23:00	
Sun 08:00-22:30	

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
Mrs Emma Louise Bird	

Registered number of holder, for example company number, charity number (where applicable) Company no: N/A Charity no: N/A

Name of designated premises supervisor where the premises licence authorises the sale by retail of alcohol MRS EMMA LOUISE BIRD

State whether access to the premises by children is restricted or prohibited CHILDREN UNDER THE AGE OF 18 WILL NOT BE ALLOWED ENTRY TO OR REMAIN IN THE PREMISES AFTER 18:00 UNLESS ATTENDING A PRIVATE FUNCTION.

Signature of Authorised Officer
Head of Community Protection

Appendix 5: Review application and Certificate

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

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 the 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.**

I Sgt 484 Caroline Dickenson [on behalf of] the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Memory Lane
51 Church Street**

Post town: Seaham

Post code (if known): **SR7 7HF**

2. Premises licence details:

Name of premises licence holder (if known): Emma Louise BIRD

Number of premises licence holder (if known): DCCC/PLA0653

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for

the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

On 20th April 2024 at 23:11hrs a call was made to the police control room from ambulance reporting that a male had been assaulted at Memory Lane public house and that the victim was unconscious with head injuries.

Police officers have arrived on scene at 23:24hrs and they are meet by a female in the bar area of Memory Lane who shouts to officers, "HES NEARLY DEAD".

Police are informed the victim is the smoking area and find the victim laid on the ground. The victim is unconscious and officers can see he has serious facial injuries and significant blood loss. There is a member of the public with the victim.

Due to the level of injuries the victim had sustained and how he was presenting to ambulance staff, police officers travelled with the victim to the hospital which is for the continuity of evidence following serious incidents whereby victims may have life threatening injuries.

Following the victim being taken to hospital remaining police officers on scene have tried to establish what has happened and a request is made to view the CCTV. Officers are advised by staff that they are unable to view any CCTV at the premises as they are unable to access it. This is due to an ongoing dispute between the owners and one of them removing access to the CCTV. Officers have had to contact one of the owners who isn't the Premises licence holder or Designated premises supervisor and attend her home address so the cctv footage could be viewed on her mobile phone.

The delay in being able to view the cctv, firstly to try and establish what has taken place and to identify how the victim has received his injuries i.e. has a weapon been used, level of force used by the suspect which could potentially assist in the medical treatment of the victim and secondly to identify who was responsible and possible witnesses who may have still been on scene has frustrated the enquiry and does not uphold the crime and disorder objective.

Consideration was made due to the seriousness of the assault and level of injury to the victim of placing a crime scene on the smoking area of the bar, however all glassware etc had been removed from the scene by staff prior to police officers arrival and the glass on floor has been swept into piles by staff.

The interference of the crime scene and removal of items has impacted on the chance of being able to obtain any forensics at the scene and the continuity of evidence is no longer in tact. The decision was therefore made that the requirement for a scene preservation was not going to be beneficial to this investigation, so police officers captured the crime scene on their Body Worn Video during initial attendance and again following victim being removed by ambulance.

Officers at the scene have been unable to identify any staff member who was in

charge at the time of the incident. Two members of bar staff have been identified one of which stated a female was having a drink with a group of males, so she went outside to speak to the males and they came back into the pub. She stated the victim was stood at the bar at this point, but had no idea at what point the victim left the bar, and the next thing she knows she's being told he is injured. She stated that she didn't go outside to assist as she doesn't like the sight of blood.

This incident has been charged as a section 18 assault which is grievous bodily harm (GBH) with intent and is currently being investigated by CID.

The suspect was originally unknown, however has since been identified and is currently on conditional police bail not to attend any licensed premises, whilst further enquiries are carried out.

CCTV has captured the assault in full and it shows a horrific attack on the victim who has significant injuries to his face. The victim has been punched over a dozen times to the face whilst he appears unconscious displaying a clear intent to cause serious harm to the victim.

The victim has been advised he has several fractures across multiple different parts of his face and will require surgery at a later date. The victim is still in hospital and so far due to his injuries has been able to give police a full account of what has happened.

The nursing looking after the victim has been spoken to and confirmed that he has multiple facial bone fractures, and is still in a significant amount of pain and at this time the swelling is too much for the doctors to proceed with surgery.

CCTV will be available for viewing at the hearing.

The premises did not report this incident to the police and although I acknowledge they did call an ambulance, they still have a responsibility to report incidents to the police and not rely on other agencies to do so on their behalf. There was also no intervention by any members of staff.

The conditions around CCTV is not being adhered to when the system cannot be accessed within the venue and despite it being a Saturday evening with karaoke on there were no doorstaff present at the venue.

The incident also took place after 11pm when the bar should have been closed and the CCTV shows that patrons appear to be intoxicated. Due to the difficulties in obtaining CCTV it has not yet been possible to get the inside camera's (as the police's focus has been on this serious assault) to see if alcohol sales were taking place after 11pm.

Due to the seriousness of the incident reported by ambulance at the weekend, the poor management at the premises and breach of license conditions around the CCTV and potentially the hours of operation the police feel there is significant risk to Public Safety and the application for the review of a premises licence under section 53A of the Licensing Act 2003 is justified as we will be asking for an immediate suspension of the premises licence.

At the full review hearing the police will seek to have the premises licence revoked.

Signature of applicant: Caroline Dickenson
Date: 23rd April 2024
Capacity: Licensing Sgt

Contact details for matters concerning this application:

Address: **Durham County Council, Licensing Services
St Johns Road North, Meadowfield,
DH7 8RS**

Telephone number(s):

Email:

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

Durham Constabulary
Force HQ
Aykley Heads
DH1 5TT

CERTIFICATE UNDER SECTION 53(a)(B) OF THE LICENSING ACT 2003

I hereby certify that in my opinion of the premise described below are associated with serious crime/serious disorder/both serious crime and serious disorder.

Premises:
Memory Lane
51 Church Street
Seaham
SR7 7HF

Premise licence no: DCCC/PLA0653

Name of Premises licence holder: Emma Louise BIRD

I am a superintendent in Durham Constabulary

I am giving this certificate because I am of the opinion that the other procedures under the licencing Act are inappropriate in this case, and that it is proportionate in the circumstance for the following reasons:

There has been an incident involving serious crime at the premises namely a section 18 assault (GBH) on Saturday 20th April 2024 whereby the victim has sustained significant head and facial injurie. The victim remains in hospital and will require surgery.

The circumstances around this incident and the assault bring into serious question the management and running of this premise. The incident was not reported to police by the premises, and the investigation has been hindered by the actions of the premises namely the interference of the crime scene and delay in viewing the cctv.

I note there is currently an ongoing dispute between the owners of the premises which has resulted in recent police intervention, and one of the parties removing CCTV camera's and then restricting access to the system. I feel this is impacting on the running of this premises and a failure to uphold the licensing objectives and poses a significant risk to the public.

I have considered a standard review of the premises licence; however, I do not feel this step to be appropriate the incident was so serious the case must be put before a licensing committee as soon as possible for measures to be put in place to address the risk this premises poses.

Therefore immediate action via an summary review is required to prevent any further serious incidents taking place at the premises. The summary review process would enable the police and licencing authority to seek the removal of the designated premises supervisor and the suspension of the premises licence whilst the criminal investigations are ongoing and to fully determine the suitability of persons involved in the ongoing running of this premise.

This is the only proportionate action available at the time to prevent any further crime and disorder at the premises.

Signed

Dated 24th April 2024

Print Name Neal Bickford

Title Superintendent2431

Appendix 6: Representations

The Licensing Authority supports the review submitted by Durham constabulary for Memory Lane.

An inspection of the premises was carried out on 24th April 2024 under the provisions of the Licensing Act 2003. This inspection followed the assault that took place on 20th April 2024. At the time of the inspection Elizabeth Porritt was working behind the bar. She explained that she owned the premises along with Emma Bird (The Licence Holder/DPS) and her sister Pauline. Emma was not present during the inspection, but Pauline arrived later. During the inspection it became apparent that there were relationship issues between the owners of the premises, which appeared to have had a negative impact on the management of the premises, with the sisters blaming one another for the issues identified.

At the time of the inspection the following licence conditions were evidently not being complied with:

- 1) All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licences including times of operation, licensable activities and all conditions. Refresher training will be carried out every 6 months and all training will be recorded in a register. The register will be made available to the Police or an authorised officer of the local authority upon request.

When the training records were requested, Elizabeth advised that Pauline would have these. Elizabeth was asked if she had received any training to which she replied she had been in pubs for over 20 years. Elizabeth advised that she had not received any training whilst working at Memory Lane and she had been there 3 years in September. When Pauline arrived at the premises she was asked if she had the training records as Elizabeth said she kept them. She asked what training. She had been in the pub business over 20 years. The condition was explained to her and Pauline told us that Emma's name is on the licence so she should have done the training and she hadn't had any.

- 2) A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff. CCTV recordings will be retained for a minimum of 28 days. The premises will ensure that a trained member of staff is available to operate the CCTV system at all times and download any images requested by Police or an authorised officer of the local authority and provided within 48 hours of a request being made.

Elizabeth was asked if she had access to the CCTV she said she indicated that only Pauline that had access to it. Pauline was requested to attend the premises. Pauline arrived later and was asked to show the CCTV. She said she had it on her phone, she had arranged for somebody to come to the premises and reset the password that morning but Elizabeth or her husband hadn't been there to let him in. She didn't know whether he would get back that day. It was established that the footage only went back to 2nd April 2024, a period of 22 days.

- 3) The premises will have a drugs policy in place. Any person seen to be using drugs on the premises will be ejected immediately and barred for a minimum period of 12 months.

Elizabeth stated there was no drugs policy in place at the premises. If anything was found it was flushed down the toilet. Pauline confirmed there was no drugs policy.

- 4) The premises shall maintain an incident book, which shall record any incidents that occur on the premises and any action taken. This shall be made available to the Police and authorised officers of the local authority upon request.

When asked to produce the incident book Elizabeth said this was kept by Pauline. If there were any incidents at the premises, they would write it on a bit of paper and give it to Pauline to update the book. Pauline was later asked if she would be able to produce the incident book. She said she didn't have it, it should be behind the bar and "they" should have completed it following the incident on Saturday night. Pauline was advised that Elizabeth had said that she kept the incident book and they gave her bits of paper to update the book. Pauline denied this.

Whilst speaking with Elizabeth customers shouted to be served – Elizabeth told them just to pour it themselves.

The Licensing Authority have serious concerns regarding the licensing objectives failing to be upheld at the premises due to a failure to comply with licence conditions and apparent communication issues between the managers at the premises. These relationship problems appeared to have a detrimental effect on the management and control of the premises, hampering business activities and operational matters and undermining the licensing objectives.

Nicola Anderson
Licensing Enforcement Officer

Our Ref: TM/Memory Lane (Seaham)/0524

8th May 2024

The Chief Officer of Police for Durham Constabulary
Premises: Memory Lane, 51 Church Street, Seaham SR7 7HF

Dear Sir/Madam,

Application for a Review of Premises License – Memory Lane (Seaham)

I represent the Durham Safeguarding Children Partnership (DSCP) which is a responsible authority under the Licensing Act.

The information highlighted raises concerns that the staff and designated premises supervisor of these premises have failed to manage the premises effectively as per the Licensing Policy 2019 which states that there is a requirement to ensure that there will be an appropriate number of responsible, trained and suitably-instructed persons at the premises necessary to ensure proper management of the premises. Management of the premises includes:

- Providing a good level of duty of care for customers which may include children
- Manage the behaviour of customers and take steps to avoid and deal with conflict
- Ability to safeguard children from harm (including moral, psychological and physical harm) who enter the premises.
- Ability to manage public disorder/crime and conflict and report incidents to the police
- Clear indication that staff are trained in the Licensing Act, use of CCTV and processes to deal with incidents. In this case, the staff did not have access to CCTV and the crime scene was cleared up.
- The Designated Premises Supervisor is available. In this case the DPS was absent from the premises and there was no identified person in charge
- Ensuring that there is a member of staff on site who is first aid trained. In this case, there seems to have been no first aid personnel on site as there was no staff intervention.
- Lack of security personnel on site

Therefore, due to the concerns, we support the review application and all of the suggested recommendations made.

Regards

PAULA MATHER
Durham Safeguarding Children Partnership Business Manager



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

26th April 2024

Dear Sir / Madam

Re – Memory Lane, 51 Church Street, Seaham SR7 7HF

I represent County Durham Public Health department within Durham County Council which is a responsible authority under the Licensing Act 2003. Due to information contained in this review Public Health wish to record their support for a licensing review of the premises above.

Evidence presented in the application of review raises concerns about the protection of children from harm.

We know alcohol is linked to 200 different diseases and injuries including heart disease, liver disease and seven types of cancer.¹ It's harmful for adults - but the risks are even greater for under 18s whose minds and bodies are still developing, for example;

- **Young brains continue to develop and change until the mid-twenties.** *Drinking alcohol before adulthood can change or delay the development of the logical, thoughtful part of the brain.*²
- **Alcohol can affect a child's mental health and wellbeing.** *It is linked to stress, depression and self-harming behaviour.*³
- **Children are smaller, which means alcohol's effects work more quickly.** *Alcohol poisoning can result in young people being admitted to hospital or worse.*⁴

Adult & Health Services

Durham County Council, County Hall, Durham DH1 5UG
Main Telephone 03000 26 0000
www.durham.gov.uk

- **Alcohol can lead to other risky, impulsive behaviour.** *Young people who drink regularly are four times more likely to smoke and three times more likely to take other, illegal drugs. They are more likely to get hurt due to an accident or as a result of violence.*⁵
- **Children's bodies are still developing through the teenage years.** *We know that drinking alcohol can affect their liver, bones, hormones and their growth.*⁶

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

Public Health believe the role of the premises licence holder and designated premises supervisor are positions of responsibility. Given the information in the review Public Health would have no confidence at this time that the premises in question can be considered as a responsible licence premises.

Therefore, on behalf of Public Health, I would support the application to review the premises licence.

Yours sincerely



Amanda Healy
Director of Public Health

Evidence

¹ World Health Organization (2018). Global status report on alcohol and health 2018.

² CMO for England (2009) Guidance on the consumption of alcohol by children and young people.

³ Newbury-Birch et al (2009) Impact of Alcohol Consumption on Young People. A Systematic Review of Published Reviews.

⁴ PHE (2018) Local Alcohol Profiles for England.

⁵ NHS Digital (2016). Smoking, drinking and drugs use among young people.

⁶ CMO for England (2009) Guidance on the consumption of alcohol by children and young people.

Appendix 7: 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.

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

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

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

The council expects every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden, a marquee, in a smoking shelter etc.

The **council expects** all applicants to demonstrate, in their operating schedules, that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business, have been identified and will be implemented and maintained with the intention of preventing crime and disorder.

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

The council encourages personal licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. **The council encourages** involvement in the "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

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

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

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

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

The council also considers it to be good practice if the DPS or premises licence holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises
- At all times when the premises are a "vertical drinking establishment" where little or no seating is provided
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

Maximum occupancy: When its discretion is invoked, the council will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that premises or event. Any such decision will be based on the nature and style of the operation.

The council will consider information provided by the applicant and any other body (the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service) before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

Security: Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives, they will need to be licensed by the SIA as a supervisor/manager. The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment as well as the hours of trading.

Toughened/Safety Glass: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies especially to any premises associated with a higher risk for potential crime and disorder. This will be particularly

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

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

Drugs/Knives/Weapons: The council will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands or consumed within the premises to prevent tragedies and harm because of drug misuse.

The council will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The council also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

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

7.2 Public Safety - The Act covers a wide range of premises that require licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants and people in the immediate vicinity who may be affected by the premises and activities taking place therein.

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

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

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

Appendix 8: Section 182 Guidance

11. Reviews

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. The applicant must give notice of the review application to the responsible authorities and holder of the licence or certificate. The licensing authority is required to advertise a review application.
- 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 relevant 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, consideration may be given as whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the licensing authority may be asked to consider whether it would be appropriate to publish a cumulative impact assessment. Further guidance on cumulative impact assessments can be found in Chapter 14 of this Guidance.
- 11.9 Responsible authorities and other persons may make representations in respect of an application to review a premises licence or club premises certificate. They must be relevant (i.e., relate to one or more of the licensing objectives) and, in the case of other persons, must not be frivolous or vexatious. 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 or illegal working compliance 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, 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

¹⁰ See chapter 16 in relation to the licensing of live and recorded music.

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.

Crime and disorder

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

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

Public safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.
- 2.10 Counter terrorism and public safety
- 2.11 Licensing committees may wish to give due consideration to appropriate counter-terrorism measures and advice when considering licence applications, for example at high profile or large premises or events or where there are factors which may increase attractiveness to attacks, and in particular when in receipt of relevant advice from police counter terrorist staff.
- 2.12 It is particularly relevant to consider conditions around health care provision in this regard. Any additional licensing conditions should be appropriate and proportionate to the venue as noted in para 1.16. We recommend that all licensing authorities pay

particular attention to terrorist threats when making specific licence conditions in relation to security or health care provision at appropriate premises and events applying for a licence.

- 2.13 As noted in para 2.8 licensing authorities can recommend conditions where appropriate to do so, such as ensuring appropriate access for emergency services and vehicles such as ambulances; good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4); and ensuring the presence of sufficient trained first aiders on the premises and appropriate first aid kits.
- 2.14 However, in some instances, licensing authorities may wish to tailor their approach, depending on the particular nature of the application, and go further when addressing concerns around possible terrorist or other such risks. We have provided an Annex to help inform and support licensing authorities in their decision making with regards to additional licence conditions for premises and events, that may benefit from further security planning and health care provision in the aftermath of a particular type of incident.

Ensuring safe departure of those using the premises

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

Maintenance and repair

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

Safe capacities

- 2.17 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict

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

- 2.18 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.19 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.