



Statutory Licensing Sub-Committee

Date Tuesday 26 March 2013
Time 10.00 am
Venue Council Chamber, Council Offices, Chester-le-Street

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meetings held on 7, 10, 15, 18, 24 and 29 January 2013 and 22 February 2013 (Pages 1 - 38)
4. Declarations of Interest (if any)
5. Application for the Review of a Premises Licence - The Flintlock Inn, 48 High Street, West Cornforth, County Durham, DL17 9HS (Pages 39 - 76)
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Colette Longbottom
Head of Legal and Democratic Services

County Hall
Durham

18 March 2013

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

Councillors E Bell, K Holroyd, J Lee, D Marshall and J Wilkinson

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DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Monday 7 January 2013 at 2.00 pm**

Present:

Councillor

Members of the Committee:

Councillors C Carr, A Hopgood, J Shiell and J Wilkinson

Also Present:

Councillor A Hopgood

H Johnson – Licensing Team Leader

S Grigor – Legal Officer

Sgt T Robson – Durham Constabulary

S McGonigle – Danbury Associates, Premises Licence Holder

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest (if any)

There were no declarations of interest received.

4 Minutes of the Meeting held on 11 December 2012

The Minutes of the meeting held on 11 December 2012 were agreed as a correct record and were signed by the Chair.

5 Application for the Review of a Premises Licence - The Prince of Wales, West Auckland

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the review of a Premises Licence in respect of the Prince of Wales, West Auckland (for copy see file of Minutes).

Members had been provided with a copy of the Premises Licence, location plan and the Notice of Determination of the expedited review hearing held on 11 December

2012, together with additional information from the Applicant and the Premises Licence Holder.

Sgt T Robson, Durham Constabulary provided background to the history of the premises and took Members through the Police statements which set out in detail incidents dated 24 June, 18 August and 10 November 2012, together with details of the Police operation on 7 December 2012.

Following the operation on 7 December 2012 which was undertaken as a result of intelligence indicating that the pub was being used as a place to supply cocaine, attempts were made to contact the DPS without success. The Police then made application for an expedited review pursuant to Section 53A of the Licensing Act 2003 which resulted in a suspension of the licence at a hearing on 11 December 2012.

Sgt Robson referred to a subsequent incident at Bishop Auckland Police Station on 12 December 2012, details of which were set out in the Police statements circulated.

It was disappointing that the village green area of West Auckland had such an unruly and disreputable public house with a history of unruly clientele. A PCSO conducting a licensing check had noted that the atmosphere inside of the pub was hostile and anti-Police. Since the closure of the premises on 11 December 2012 the nearby Eden Arms had seen an increase in poor behaviour of customers and the landlord had sought assistance from the Police.

Whilst he had highlighted as much information as he could in a public hearing a protracted investigation was ongoing in relation to the public house and individuals associated with it. It was clear that serious crime was being committed within and associated with these premises.

On the basis of this the Police made an application under Section 14(1) Licensing Act (Hearing Regulations) 2005 where the Licensing Authority may exclude the public from all or part of a hearing when it considered that the public interest in so doing outweighed the public interest in the hearing. This would allow the Police to divulge sensitive information without being detrimental to the ongoing investigation or to the Police Officers involved.

The Sub-Committee considered the request and determined that as the information was highly sensitive and could jeopardise criminal investigations if disclosed, all parties should be excluded to allow Members to hear details of the ongoing Police investigations, in order to assist in their determination of the application.

Accordingly at 2.25pm all parties were asked to leave the meeting and returned at 2.50pm.

In response to a request for clarification from Councillor Carr in relation to a number of points in the information submitted by the Police, Sgt Robson confirmed that there was evidence of poor management, that alcohol had been served to a person

who was already intoxicated, and that drug sales and supply were taking place at the public house.

Mr McGonigle spoke on behalf of Danbury Associates as the Premises Licence Holder. He provided a background to the company which was based in Ireland and which owned other licensed premises in England, all of which were managed without problem.

He advised that prior to his appointment as DPS in July 2011 various checks had been carried out on Colin Lee and the company were satisfied of his suitability as a secure tenant. The company did not become aware of the issues referred to by the Police until December 2012 at which time they had tried to contact the DPS without success. The company had therefore communicated with his son during the last month, who Mr McGonigle had only met for the first time today.

As soon as the problems became known to the company steps had been taken to replace the DPS with Christina Ashton who managed one of their premises in Stoke on Trent. He condemned the incidents that had occurred and stressed that had the company been aware of the incidents sooner steps would have been taken at that time.

In responding to questions from Members he stated that he first became aware of the problems on the receipt of an e-mail from the Licensing Officer on 12 December 2012. Whilst he accepted that the company did not have specific policies for monitoring the operation of its premises this was the first time they had encountered problems with tenants and therefore had not believed that procedures were necessary. However he offered an assurance that the company would review its policies closely for the future.

Following a request for clarification from Councillor Carr Mr McGonigle explained that the company wished to continue to hold a premises licence to facilitate a possible sale of the premises.

In summing up Sgt Robson stated that the Police received weekly/monthly phone calls from other licensed premises to discuss any problems and this had not happened with the management of the Prince of Wales. He had listened to the Licence Holder's representations and pointed out that the DPS was responsible for the day to day running of the premises. In view of the activities in previous months the licence should be revoked.

Mr McGonigle concluded that from July 2011 up to December 2012 there had been no issues and the DPS had managed the premises well. The company wanted to keep their Premises Licence and believed that the right person would be able to manage the premises without problem.

At 3.05pm all parties were asked to retire to allow Members to deliberate the application in private. After re-convening at 3.15pm the Chair delivered the Sub-Committee's decision.

In determining the application Members had considered the report of the Licensing Officer, the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy. The Sub-Committee had also taken into account the verbal and written representations of the Applicant and the Licence Holder.

Resolved:

That the application be revoked and in accordance with Section 53C of the Licensing Act 2003 the suspension imposed at the previous interim hearing be continued but only until such time as this revocation came into effect.

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Chester-le-Street on **Thursday 10 January 2013 at 10.00 am**

Present:

Councillor C Carr (Chair)

Members of the Committee:

Councillors E Bell, K Holroyd and J Hunter

Also Present:

Councillor K Holroyd

Mrs C Greenlay (Principal Solicitor) and H Johnson (Licensing Team Leader)

Mr S Mooney (Deputy Force Solicitor, Durham Constabulary)

Inspector Colin Dobson (Durham Constabulary)

Sgt Tim Robson (Durham Constabulary)

Mr H Samra (Solicitor to the Premises Licence Holder)

Mr S Gill (Representative of the Premises Licence Holder, G Gill Leisure Ltd)

Mr S Howe (Managing Director, Phoenix Security)

1 Apologies for Absence

An apology for absence was received from Councillor D Morgan.

2 Substitute Members

There was no substitution of members.

3 Declarations of Interest (if any)

There were no declarations of interest received.

4 Application for the Review of a Premises Licence - Red Velvet, 31 Front Street, Consett

Consideration was given to the report of the Corporate Director, Neighbourhood Services which detailed an application by Durham Constabulary to summarily review the premises licence in respect of the Red Velvet, 31 Front Street, Consett, County Durham which was currently licensed to supply alcohol for consumption both on and off the premises and the for the provision of regulated entertainment (see file of minutes).

A copy of the licence and location plan had been circulated to Members.

On 17 December 2012, the Licensing Authority received an application and supporting certificate under Section 53A of the Licensing Act 2003 from Durham Constabulary. It was required to consider the application within 48 hours of receipt. A copy of the application had been circulated to Members.

On 18 December 2012, the Statutory Licensing Sub-Committee met to consider the application and suspended the premises licence with immediate effect. A copy of the notice of determination had been circulated to Members.

Additional documentation had been received from Durham Constabulary and the Licence Holder which had been circulated to Members and Interested Parties prior to the meeting.

The Licensing Team Leader presented the report and advised Members that no additional representations had been received from 28 December 2012 to 2 January 2013, and that the Premises Licence Holder had submitted an application to remove the current Designated Premises Supervisor and nominate himself instead.

She also advised Members that she had been supplied with a copy of the company handbook for Phoenix Security who would be providing door security services for Red Velvet, this documentation was available if members required.

Members were advised that Sinton's Solicitors were no longer representing the Premises Licence Holder and that Mr Harpal Samra of Harbans Singh and Company would be representing him today and that the Managing Director of Phoenix Security would be called as a witness.

Mr Mooney the Deputy Force Solicitor spoke on behalf of Durham Constabulary and indicated that the main points in support of their application were in the police evidence which was shown at pages 1 – 64 and the additional bundle which had been circulated to Members prior to the meeting.

He also indicated that Durham Constabulary had information that could not be released to the public as it could jeopardise an ongoing investigation, and asked if he could make an application in accordance with regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005, to exclude the public including parties to the hearing and their representative.

He went on to say that the application for the review of the licence was based on serious concerns of illegal activity taking place at Red Velvet, Consett. The investigation which was intelligence led was still ongoing and parties were still to be interviewed. It was worrying to find that drug dealing was taken place within the premises. On the 14 December 2012 a warrant was executed at the premises and cocaine was found on the Dancers and 12 small bags on the House Mother as well as 2 empty plastic bags found openly on the chair in the dancers changing room and 2 empty plastic bags in the cistern of the toilets.

The Designated Premises Supervisor and House Mother were bailed for drug dealing and the Dancers were given a caution. Durham Constabulary had serious concerns about the management of Red Velvet and they could not find any

documentation or systems in place for the security and seizure of drugs or reviews of CCTV which also covered the dancers changing room.

The evidence and concerns of the Police was set out in the statement of Sergeant Robson which was located at page 18 of the circulated bundle. There had also been two other serious offences, which came to light last year and involved the Door Supervisors taking drugs and the Dancers obtaining drugs from 2 men outside the premises. He would expect zero tolerance of drugs and not what had been seen.

He referred to the disciplinary hearing notes taken on the 17 December 2012, between the Premises Licence Holder and the Designated Premises Supervisor which referred to him being in the possession of drugs which he had earlier found in the street outside the premises and that there was a possible witness to confirm this. The Police had not been provided with the information of a possible witness, nor was it mentioned that he was currently on bail.

He also referred to Page 134 to 137 of the documentation which had a number of inaccuracies contained within it as she was found with 12 packets of drugs not 6 and that a warrant was executed for her home where class A drugs and drug related paraphernalia was found. No other warrants were executed.

The Deputy Force Solicitor referred to a number of policies which were contained in the documentation but it was not clear when these documents were created, how staff were trained on policies, how they were monitored and if they were in place. If they were in place they clearly were not working and recent events spoke volumes about the management.

He referred to the unsigned statement of Mr Gill located at pages 418 to 434 of the papers which set out a number of measures he would put in place but the Police opinion is that it was too late. Reassurances were given by Mr Gill to enable him to be granted a sexual entertainment licence, yet criminal activity had still taken place.

He referred to the Statutory Guidance and that the licensing authority had a duty to the wider community and that the sale and distribution of drugs should be treated seriously. Crime prevention objective is relevant and in these circumstances revocation should be seriously considered. In their view the licence should be revoked.

Sergeant Robson spoke on behalf of Durham Constabulary and indicated that the operating manual gave strict guidelines on the running of a sex establishment which required strict control and the Police had offered support to Mr Gill to help run his business.

He referred to an incident in 2008 where there was a fight in the alleyway opposite the premises which was not covered by CCTV and was refereed by Door Supervisors who split up the fight once the police were on the scene.

He also raised concerns that the Door Supervisors from Chaplains were seen getting into a BMW, then using what was believed to be a controlled substance then commencing work as Door Supervisors at Red Velvet.

There was already strong evidence of dancers using cocaine, drinks were normally at a premium price and payment was required for a lap dance. Customers who attended the establishment therefore usually had money. There was strong evidence of cocaine been used by the Dancers prior to dancing and management using recreational drugs.

He and Sergeant Chris Davis had asked Mr Gill to attend Consett Police Station to address the concerns of the premises under his ownership. At this meeting the availability of CCTV and the operating schedule requirement of it being available for at least 7 days were discussed and they hoped to work with Mr Gill to remedy and rectify any problems.

He discussed an assault which had taken place in Red Velvet on a customer who had been kicked in the head which resulted in him losing his front teeth. When the Police attended this incident they had to ask twice for the lights to be switched on. The House Mother had indicated that she had witnessed the assault but declined to be a witness and the CCTV was not operating fully. The CCTV recording only kept footage for a period of 5 days instead of the 7 days as stated in the license which still had not been rectified.

He referred to an incident on 28 January 2012, where door staff was seen to assault two customers unprovoked which was captured on CCTV. He also referred to another incident on 21 January 2012, where two dancers were seen going into the alleyway across the road from Red Velvet. They met with two males who had previously bragged that they had free entry to Red Velvet and free lap dancing for supplying drugs.

Girls were also seen leaving Red Velvet unaccompanied, but they should have been accompanied as part of the Golden Thread, reflected in the conditions on the sexual entertainment venue licence.

On 14 December 2012, a warrant was executed on Red Velvet and as part of this operation a licensing premises inspection was also conducted where photos were taken, copies of which could be seen in the circulated bundle of evidence. The photos showed wires exposed, curtains ripped, blood on the ceiling, seats torn and ripped.

There were signs on display which showed that drugs would not be tolerated but there were no records of training, no methods of security in place, no in house procedure for the seizure of drugs and the police records did not show that any drugs had been collected from Red Velvet that had been seized on the premises. The inspection showed that the many basic elements of licensing were not there and it did not show an exclusive club but a run down seedy establishment.

During the search conducted on the 14 December 2012, two small plastic bags had been found in the changing rooms. When the bags were tested they turned blue

which was a positive result for cocaine. A rub down was also conducted of the changing rooms which also turned blue indicating the presence of cocaine. Similar plastic bags were also found in the ladies and disabled toilets, it was initially thought to be the male toilets, but was in fact the ladies.

Councillor Bell sought clarification if children had been involved and if a drugs box was located on the premises. Sergeant Robson confirmed that young children had been congregating outside the premises but there was no evidence of children in the premises and that a drugs box was not located on the premises.

Councillor Bell also sought clarification if the management in 2008 to 2011 was continuous as there was a big gap between incidents. Sergeant Robson confirmed that it was the same management during this period, there were incidents during this period but he had only brought the main incidents to their attention. The Deputy Force Solicitor confirmed that the incidents mentioned were in relation to staff.

Mr Harpal Samra representing the Premises Licensing Holder indicated that his client had a number of properties on the Front Street and the main office for these premises was located at Decades. Mr Samra asked Sergeant Robson if he had gone to the head office to find the register. Sergeant Robson responded that he believed the office was located at the Coach and Horses which was closed. Mr Samra stated that the Coach and Horses had closed voluntarily and he asked Sergeant Robson if he had asked to see any of the documentation. Sergeant Robson responded that he was not in a position to make those demands.

Mr Samra sought clarification if DC Lyle had done a statement to confirm that the plastic bags were found in the female toilets or was it second hand information. Sergeant Robson responded that he was at the premises at the time and the plastic bags were located in the evidence bag, there was no photographs of these bags as they were placed straight into evidence but there was photographic evidence of the plastic bags found in the changing rooms which could be seen on page 52 of the circulated bundle.

Mr Samra referred to the photographs located at pages 437 - 448 and pages 470 - 497 of the bundle which were produced by the Police and Mr Gill. The photographs submitted by the Police showed seats ripped, electrical wires visible on the stairs, curtains ripped and blood on the ceiling. The photographs produced by Mr Gill showed photographs of the same areas but were not zoomed in and showed a different interpretation and that the area where seats were ripped was not a public area. Mr Samar also referred to the blood on the ceiling which could be champagne. Sergeant Robson responded that he was not an electrician but in his opinion it looked like an electrical socket had been removed. Mr Samra responded that as Best Bar None Inspector he should be qualified and did he know if a socket had been there. Sergeant Robson responded that if he had seen holes in the walls, chairs ripped etc then they would not be accredited and that he did not know if a socket had been there.

Mr Samra referred to the incident in 2008 where door staff were witnessed entering a dark vehicle, he asked if they were arrested and how did he know they worked for his client.

Sergeant Robson responded that a witness watched the incident and later reported it to the police and by this time there was no evidence available, he knew they worked for his client as they went to Red Velvet and worked on the door all night.

Mr Samra indicated that no arrests were made of management on 14 December 2012. Sergeant Robson responded that the Designated Premises Supervisor, House Mother and 2 Dancers were arrested. Mr Samra advised that only one was management.

Mr Samra referred to the informal meeting held between the Police and Mr Gill on 9 November 2011, and asked if minutes were taken and if they were contained in the bundle of evidence. Mr Samra was advised that the minutes were not part of the evidence.

Mr Samra referred to the assault of 2 customers and sought clarification if door staff were charged and if there was photographic evidence of the incident. Sergeant Robson responded that he believed there were no arrests, the police did have footage but was not produced in the bundle of evidence.

Mr Samra also referred to the incident involving drugs and sought clarification if it was assumed that it was controlled drugs or if it had been tested and if any arrests had been made. Sergeant Robson confirmed that this information had come to light during the application for the Sexual Entertainment Venue Licence so they were unable to investigate it so no arrests were made. Mr Samra referred to dancers leaving the premises but asked how they knew they were dancers and he circulated to Members of the Sub-Committee some photographs that had been omitted from the bundle which showed the attire of females on a night out in Consett which showed them in similar attire to the dancers. Sergeant Robson responded that he had just found out yesterday that one of the dancers was in fact the House Mother.

Mr Samra referred to Page 57 of the bundle and sought clarification if the police had incident logs and if they had been provided in the bundle of evidence. Sergeant Robson confirmed that he did have incident logs but were not provided in the evidence. Mr Samra asked if it was possible that they could be customers of the Fish and Chip shop located downstairs and that no children had admitted Red Velvet. Sergeant Robson confirmed that it could be possible and that no children had entered Red Velvet. Mr Samra referred to the witness statement which stated that a 14 year old girl was working on the premises.

Mr Samra advised the Sub-Committee that Red Velvet has an entrance and not a shop front, the only shop front was the Fish and Chip Shop which was downstairs and the gentleman referred to in Page 57 of the bundle could have been a customer of the Fish and Chip Shop and not Red Velvet. He also referred to the drink driving which was an assumption but the female was not tested. Sergeant Robson confirmed that it was possible that the gentleman could have come from the Fish and Chip Shop and that the female had alcohol in her system but was below for prosecution and they did not test for drugs.

Mr Samra referred to the incident on 2 December 2012 also referred to on Page 57 of the bundle and indicated that there was no evidence that the females had left Red Velvet. Mr Samra also sought clarification if there was any evidence in relation to the incident on 29 January 2012. Sergeant Robson responded that there was a full log of this incident which they were unable to produce but they had indicated that they did not wish to take the matter further.

Mr Samra referred to Page 412 of the bundle of evidence and asked that it be noted that the former Designated Premises Supervisor had indicated in his statement that he was willing to attend court but the statement of Sergeant Robson states that that he was unwilling to attend court.

Mr Samra referred to the incident on 18 December 2011 and indicated that there was no evidence that they had been at Red Velvet and that it could have been another part of Consett. Sergeant Robson responded that it was possible.

Mr Samra asked why other premises owned by his client were not also searched on 14 December 2012, if they believed that the supply of drugs was taking place in his clients other premises. Sergeant Robson indicated that this would be answered under Regulation 14.

Mr Samara referred to the photographs located in the bundle of evidence and asked Sergeant Robson to show him where the live cable was as the photograph only showed a cable. He referred to a missing page from the bundle which was details of an inspection held on 11 October 2012, which indicated that the premises were safe.

Mr Mooney requested that members of the public be excluded from the hearing in order that Durham Constabulary may provide the Sub-Committee with information relevant to the hearing, but which could not be made public as it related to an ongoing investigation. Mr Samra objected to the application, stating that it was disproportionate and unfair to allow such evidence into considerations as it was untested speculative information. The Human rights Act and the Freedom of Information Act both were relevant and the Sub-Committee should give effect to the Premises Licence Holders right to a fair hearing. If the Police had evidence, they should lay charges against those that it related to.

The Chairman asked if the information was in relation to an ongoing investigation. Mr Mooney confirmed that this was the case. Mr Samra responded that the evidence was not tested so could result in no charges.

The Sub-Committee withdrew at 11.45 am to consider the Police request to consider information under Regulation 14. On returning at 12.05 pm the Sub-Committee advised they needed to hear the information to be able to determine whether it was relevant and what weight to attach to it. There was a right of appeal against the Sub-Committee decision and this mitigated any potential unfairness in the Premises Licence Holder being excluded from the hearing. The Sub-Committee were satisfied that the public interest in them hearing the information from the Police outweighed the public interest in that part of the hearing taking place in public, and accordingly they excluded the public from part of the hearing in

accordance with Regulation 14 of the Licensing Act 2003 (Hearings) Regulations 2005.

Members of the Sub-Committee withdrew from the meeting at 12.05 pm to receive information from Sergeant Robson and Inspector Dobson in the absence of the public.

Members of the Sub-Committee returned at 1.30 pm and the hearing resumed in public.

Mr Howe, Managing Director of Phoenix Security spoke as a witness for the Premises Licence Holder as his company was going to be providing Door Supervisors to all of Mr Gill's premises. He gave a background into his company which was a Newcastle based company and that they currently had contracts with businesses such as Weatherspoons and McDonalds. They also had experience of taking on troubled premises. He showed Members a mini camera which could be worn on the lapel of Door Supervisors which took videos, photographs and audio which was saved onto a SD card which could then be placed onto a laptop or DVD. His company had contracts where they were required to search staff on leaving the premises, they did have to ask permission of the individual to carry out a search and if they declined they would ask for the Police to be brought in. His company have a policy in relation to drugs and any drugs found would be placed in evidence bags and drug safes. His company have a venue file, a copy of which was available at the meeting which contained information such as certificates, flow charts, venue instruction, dress code, if venue was challenge 21 or 25, door logs, signed code of conduct, Health and Safety policy, public liability, incident report forms, time sheets, rota, etc. This file was used as a tool and all his staff was employed by the company, none were self employed. He referred to their drug policy and advised Members of the procedures to be followed to conduct a search.

Mr Mooney sought clarification if Mr Howe had a signed contract with Mr Gill. Mr Howe responded that they did not have a signed contract but they had an agreement to take over all of his premises which would be a 2 year contract with a 6 month notice period.

The Chairman asked if the contract was for all venues or just Red Velvet and if he had Female Door Supervisors. Mr Howe confirmed it was for all venues and he would put policies and procedures in place for all and he had a large pool of Female Door Supervisors.

The Chairman also asked if the House Mother and Dancers would be on the premises prior to the Door Supervisors. Mr Howe indicated that Female Door Supervisors would search female staff and that this had been agreed with the client.

The Meeting adjourned at 1.35 pm and re-convened at 2.20 pm.

Mr Samra referred to pages 418 – 434 of the bundle of evidence which was a statement from Mr Gill giving a background. He indicated that the Premises Licence Holder had been provided with 2 drug safes which were located at Decades and Chaplains and that the Designated Premises Supervisor could have found drugs

outside Red Velvet but was unable to deposit into the drugs safe. The head office was located at an alternative premises where all the documentation was also kept.

The premises had won Best Bar None in 2011 and runner up in 2012 as a Director his client assumed it had been run correctly due to these awards. He referred Page 58 of the bundle of papers which was details of the Best Bar None Assessment which referred to the assessment carried out on 4 March 2011, which was when Mr Gill was responsible for the day to day running.

None of his clients other premises had been the subject of a warrant and the Designated Premises Supervisor of Red Velvet was also the Designated Premises Supervisor at the Coach and Horses. The only member of staff arrested was the former Designated Premises Supervisor. Mr Gill was in charge at the premises until 2011 when he took a step back due to the ill health of his father. During his time in charge which was 2008 to 2011 there were no incidents, which is a good indicator of what would happen if Mr Gill became the Designated Premises Supervisor and when the premises was open he would open it, Phoenix would then enter then staff. New arrangements would also but put in place which allowed for employees to be searched on arrival, departure and throughout the night, all employees would be required to sign this contract.

He referred to the notes that Mr Gill had taken at an informal meeting held with the Police on 9 November 2011, details of which were located at pages 416 – 417 of the bundle of papers. Mr Gill had not been provided with minutes of this meeting and his notes made general reference to CCTV. He also referred to Page 451 onwards of the bundle which was a number of e-mails which had been sent from the Area Manager to the Police, it was noted that he was not in attendance as he was under investigation by the Premises Licence Holder.

All premises owned by Mr Gill were being overhauled with new policies and procedures being put into place including CCTV arrangements and cameras for the Door Supervisors. He referred to the statement from Environmental Health and Consumer Protection which stated that he was not convinced that Red Velvet caused a problem unless the music noise was escaping from the flat roof of the building escaping at high level which couldn't be heard at street level.

Mr Samra stated that Mr Gill would personally ensure nothing would happen again and new procedures would be put in place for all his premises. With the help of Phoenix Red Velvet would be overhauled and already some staff had been dismissed and they were hoping to have good quality communication with the Police and Phoenix as they didn't want it to happen again and it should never have happened.

Mr Samra referred to the photographs from pages 436 onwards of the bundle and indicated that this was wear and tear but was neat, clean and tidy given current financial constraints but none of the premises put the customers at risk and any damage was caused by customers.

The Chairman sought clarification if Kelco Security had changed to Phoenix Security and if they still intended to have a House Mother. Mr Gill responded that

Kelco were currently the company responsible for the Door Supervisors but he was changing to Phoenix Security who was recommended to him by Sergeant Robson and he was happy to have this as a condition on the Premises Licence. He did not intend to have a House Mother and Dancers would have a contract which would allow them to be searched, if they refused to be searched they would not be allowed to enter the premises. He also indicated that he would take responsibility for the opening and closing of the premises.

Mr Gill was asked if he would be present at the premises and what would happen in his absence. Mr Gill responded that as the Designated Premises Supervisor he would take 100% responsibility and would be at the premises at all times, he would work with the Police and advise them if he was not going to be on the premises.

Mr Samra indicated that the incidents were not related to alcohol and that the Sexual Entertainment could be removed from the Licence.

Mr Mooney referred to Page 431, paragraph 79 of the bundle of evidence and sought clarification on the extent of the delegated responsibility. Mr Gill responded that the company also had other premises but he did have daily telephone conversations with the Managers and Door Supervisors. He generally did not attend the premises except on a Friday as his managers were paid well to manage the premises and were the Designated Premises Supervisors. The Managers had contracts of employment and job descriptions and they were delegated authority. He admitted that he had taken a step back to work on the food side of the business and that he did not want to enter Best Bar None but was assured by his Management to enter. The Area Manager attended pubwatch meetings and he dropped off the takings to him. He had teams of people in place and he genuinely did not know about any of this and was the reason why he had to come back full-time to take over the management.

Mr Mooney indicated that Mr Gill was responsible and they stated that they had a zero tolerance of drugs so what steps had been taken to enforce this zero tolerance. Mr Gill responded that he had five licences but the Designated Premises Supervisors were at the premises on a daily basis and had ultimate responsibility, but he knew that he was going to have to do a lot more. He also indicated that they had more Door Supervisors on their premises than any other venue in Consett and the pack for the Best Bar None was considerable and when you win this award you think things are right.

Mr Mooney also asked Mr Gill what steps he had taken following the Witness Statement of a resident which was produced at the Sexual Entertainment Venue hearing. Mr Gill responded that there was no evidence to support her allegations which was why the Sexual Entertainment Venue licence was granted. If the Police had come to him to hold a formal meeting he would not have declined. Mr Mooney responded that he had received the information from the witness but failed to act on this information.

Mr Gill had submitted in the bundle of evidence examples of monthly training that had been undertaken and they also had a social media network account.

Mr Mooney asked if he had provided proof of checking the CCTV, talking to the dancers etc. Mr Gill indicated that his Area and General Managers had been present at the Sexual Entertainment Venue Hearing together with the Door Company. After the hearing they conducted some training. He had also spoken to the Door Company to ask them to undertake some training.

Mr Mooney referred to page 270 of the bundle of evidence which referred to the training undertaken in May 2012 which was after the Sexual Entertainment Venue hearing. Mr Gill responded that drug training had been carried out at this event.

Mr Mooney referred to his application to become the Designated Premises Supervisor and sought clarification if he was currently a Designated Premises Supervisor at any other premises and if he was still under family pressures. Mr Gill confirmed that he was the Designated Premises Supervisor at the Coach and Horses and Chaplains but these would be amended so that he would only be the Designated Premises Supervisor for Red Velvet and he was happy for this to be a condition on the licence. His father was back working for the company which would allow him to concentrate on Red Velvet.

All his premises were within 40 yards of each other on the same street and when he was in charge there were no problems, it was him putting in management which caused the problems. He would take a hands on approach and indicated that he could run a tight ship with the help of Phoenix Security.

Mr Mooney asked if Phoenix security had signed a contract and if the searching of dancers was a promise. Mr Gill responded that they had a verbal agreement but they would meet tomorrow to sign contracts for all his premises and that the searching of the dancers was included in his contract and the contract of Phoenix Security.

Mr Mooney sought clarification if the employment contracts had been signed by staff. Mr Gill confirmed that some staff had signed the contract and a staff meeting had been scheduled pending the outcome of today. He also indicated that they wanted to use some of the policies from Phoenix Security and they were happy for the Police to look at these. Mr Mooney also asked if the contract located on Page 121 of the bundle of evidence had been signed. Mr Gill responded that it was a standard contract which was made in 2004/5 which was signed but he had recently been promoted to change this due to his work on Best Bar None. Mr Mooney responded that this contract already gave a right to search. Mr Gill responded that the new contract would ensure that nothing would happen again and previously the dancers were not staff so they did not have a right to search but the new dancers would have a contract which would allow them to conduct a search.

Mr Mooney stated that everything was promises and assurances but nothing was concrete. Mr Gill responded that he agreed that they had failings but he had dismissed the Designated Premises Supervisor and dancers, changed door company, would upgrade the CCTV system and would be willing to work with the Police. In 2007 the dancers were employed directly and they would go back to this set up and the House Mother had been placed on their Pub Watch list barring her from all their premises.

In summing up, Mr Mooney stated that the Premises Licence holder had taken no concrete steps and done little to address the issues. There had already been a zero tolerance policy to drugs which had not been adhered to and it was of serious concern that a ring of drug dealers had operated within the premises. In his opinion, revocation of the licence was the only option.

Mr Samra then summed up for the Premises Licence holder, outlining all of the options open to the Sub-Committee. He submitted that conditions could be put on the licence, or activities could be removed from it. The hours of operation could be altered. Revocation was not appropriate as the Government stated that the economy needed supporting, and closing the premises would affect the local economy. The track record of the Premises from 2004 to 2011 was good and there were no issues when Mr Gill was in charge between 2008 and 2011. People make mistakes but they had to be judged appropriately.

Members retired to deliberate the application in private at 3.25 pm and returned at 3.55 pm when the Chair delivered the decision.

In determining the application Members had taken into account the provisions of the Licensing Act 2003 as amended, Home Office Guidance and the Council's Licensing Policy and the substantial written evidence, together with the information provided by all of the parties to the hearing, and their witnesses.

Given that the Licensing Authority had taken an Interim Step of suspending the premises licence following a hearing (attended by the Premises Licence Holder and its legal representative) on 18 December 2012, the Sub-Committee were obliged to confirm that the suspension of the premises licence was lifted.

Resolved:

- (i) That the Suspension of the Premises Licence imposed by the Sub-Committee on 18 December 2012 be lifted.
- (ii) That the premises licence be revoked.

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Spennymoor on **Tuesday 15 January 2013 at 10.00 am**

Present:

Councillor C Carr (Chair)

Members of the Committee:

Councillors B Alderson, B Graham and J Lee

Also Present:

Councillor J Lee

H Johnson – Licensing Team Leader

S Buston – Legal Officer

S Mooney – Durham Constabulary

Sgt T Robson – Durham Constabulary

K Wilkinson – on behalf of the Director of Public Health

G Keay – Licensing Enforcement Authority

R Cornwell – Crossgate Community Partnership

D Clark – representative, Premises Licence Holder

1 Apologies for Absence

An apology for absence was received from Councillor A Hopgood.

2 Substitute Members

Councillor Graham substituted for Councillor Hopgood.

3 Minutes

The Minutes of the meeting held on 2 January 2013 were agreed as a correct record and were signed by the Chair.

4 Declarations of Interest (if any)

There were no declarations of interest received.

5 Application for the Review of a Premises Licence - Boxers, 69-70 Crossgate, Durham

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the review of a Premises Licence in respect of Boxers Bar, Crossgate, Durham (for copy see file of Minutes).

Members had been provided with a copy of the Premises Licence, location plan, the review application, additional documents from Durham Constabulary and letters of representations.

It was noted that local resident Mr Williams and a representative from Local Safeguarding Children's Board were not in attendance but their written representations would be taken into account by the Sub-Committee.

S Mooney, representing the Applicant stated that the Police were seeking a review of the Premises Licence to address concerns relating to the licensing objectives of the 'prevention of public nuisance', the 'prevention of crime and disorder' and the 'protection of children from harm'.

He referred Members to the grounds for review set out in their bundle of evidence which included witness statements, letters and Police reports, and summarised the incidents that led to the review application, which included 3 test purchases as part of Operation Glenside.

There had been a catalogue of failings highlighted by poor management with persistent and blatant transgressions of the law. The test purchases carried out also highlighted the depth of the problems at the premises.

Pemberstone Partnership should assume responsibility and whilst the company may argue that the cause of the problem was no longer there it had put in place a tenant without making arrangements for monitoring the activities on the premises. They had also failed to provide a formal response when their Solicitor Mr Campbell was contacted at an early stage to discuss the issues.

He asked Members to take into account relevant provisions of Section 182 Guidance and also to R v Bassett case law. The Police were of the opinion that the only course of action was revocation of the Premises Licence.

At this point Sgt Robson guided Members through CCTV footage of incidents which included drugs being consumed inside the premises by customers who were well known to the Police, and subsequent disturbances which followed outside. The footage also showed an unprovoked assault on a transgender male who was escorted from the premises and pushed to the ground, and of sexual acts occurring in the premises.

Members were also shown footage of a door supervisor ejecting a person from the premises then throwing a glass bottle at that person. Staff were seen to be drinking alcohol at the same time.

Sgt Robson concluded with footage of the 3 test purchases carried out as part of Operation Glenside.

K Wilkinson from Public Health addressed the Sub-Committee and referred to the written representations of the Director of Public Health. The Director of Public Health had concerns about the ease which young people could access alcohol and

the sex acts simulated in open view of all customers. Binge drinking was encouraged on the premises with the free pouring of spirits into patrons' mouths. County Durham had some of the highest levels of under 18 admissions to hospital as a result of excessive alcohol consumption and there were clear links between alcohol and sexual exploitation of children. As County Durham had an approved proof of age scheme there was no excuse for the bar not to ask for identification.

G Keay, on behalf of the Licensing Enforcement Authority referred to his letter of representation and wished to make it clear that in view of the numerous incidents at the premises the Authority believed that the licensing objectives had been seriously undermined. The Premises Licence Holder was ultimately in control of the premises and must be responsible for licensing breaches.

R Cornwell of Crossgate Partnership referred to the content of the written representation contained within the bundle. He briefly outlined the Partnership's concerns under each of the licensing objectives. Residents were in full support of the Police and had expressed concerns since the premises opened.

In response to a question from Councillor Carr, R Cornwell advised that residents had complained at virtually every PACT meeting, and of 72 residents in the locality, 30 had attended at least one meeting. In the last 3 months average attendance at meetings had increased from 11 to 17.

Mr D Clark, on behalf of the Premises Licence Holder addressed the Sub-Committee. He stated that he was shocked and appalled at what he had heard today.

He explained that he acted as Chartered Surveyor for Blue Marble Properties, agents for Pemberstone Partnership. Pemberstone Partnership were the landlords and owned the freehold of the commercial ground floor only, not the residential apartments above. After the Japanese restaurant ceased trading local letting agents assisted in the re-letting of the premises and a personal guarantee had been received for a new business trading as an American Diner. A Business Plan and references had been secured at that time.

The company had entered into the lease in good faith and had only been made aware of problems in July 2012 by Mainstay, and these related to noise nuisance caused to the residents in the apartments above. The company followed these up and since then no other complaints had been received either from the Licensing Authority or the Police. The issues referred to were brought to their attention in November 2012 at which time the premises were closed following non-payment of rent. Pemberstone Partnership would have taken action if they had been aware of the incidents referred to by the Police and they felt that they were being penalised because of the actions of a tenant.

Without the Premises Licence the landlord would suffer further financial loss. The premises had previously been let for 10 years without problem, and they were now the victim of the actions of a tenant who had only been in place for 5 months.

He gave an assurance that the company would work closely with the Licensing Authority and the Police in respect of any new tenancy.

Councillor Carr sought clarification in respect of the official point of contact for the Licence Holder during the relevant period. Mr Clark responded that Mr Campbell made the application on behalf of Pemberstone Partnership and also handled the expedited hearing. Pemberstone Partnership did not receive any correspondence directly.

Following further questions Mr Clark advised that periodic inspections were carried out with the first taking place six months into the tenancy. He acknowledged that the company needed to increase monitoring and be more vigilant in future. In retrospect additional efforts should have been made but had it been aware of the issues the company would have acted earlier with more aggressive action taken.

In summing up S Mooney stated that as could be seen from a Police Statement in the bundle that Mr Campbell had been instructed to act on behalf of Pemberstone Partnership during the period. A key issue for Members to consider was the responsibility of the Licence Holder with regard to the operation of the premises. The Licence Holder had failed to act on problems caused by a tenant.

Mr Clark reiterated the comments made in his submission and added that the company wished to develop better lines of communication to ensure a close working relationship with the Police and Licensing Authority in the re-letting of the tenancy.

Members retired to deliberate the application in private at 11.25am. After re-convening at 11.40am the Chair delivered the Sub-Committee's decision.

In determining the application Members had considered the report of the Licensing Officer, the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy. The Sub-Committee had also taken into account the verbal and written representations of the applicant, licence holder, responsible authorities and interested parties.

Resolved:

That the application be revoked.

6 Application for the Grant of a Premises Licence - The Jumping Bean, 5 Neville Street, Durham

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for a Premises Licence in respect of Jumping Bean, Neville Street, Durham (for copy see file of Minutes).

Members were advised that following lengthy negotiations successful mediation had taken place between Durham Constabulary, Crossgate Partnership and the applicant, with the result that the hours applied for had been amended and additional conditions imposed.

The signed Mediation Agreement had been circulated to Members.

In determining the application Members considered the report of the Licensing Officer and the Mediation Agreement. The Sub-Committee also took into account the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

Resolved:

That in view of the mediation agreement between all parties the Premises Licence be granted as follows:-

Opening hours of the premises	Monday – Sunday 08.00 – 23.30 New Years Eve 08.00 – 00.30
Sale of Alcohol (on the premises)	Monday – Sunday 17.00 – 23.00 (no alcohol to be consumed on the premises after 23.15) New Years Eve until 00.00 (no alcohol to be consumed on the premises after 00.15)

The prevention of Crime and Disorder

- Challenge 25 will ensure only persons of lawful age will be able to purchase alcohol from our store, and on deliveries. Photo ID only (PASS logo card/photo driving licence/passport).
- Visual inspection, and personal interaction with customer, will enable staff to determine if the customer is fit to be sold alcohol. If staff believe person to be intoxicated with drink or drugs they will be refused.
- CCTV will be installed and fitted to Home Office standards. Recordings will be stored for a minimum of one month. A minimum of three digital colour cameras will be fitted externally. These cameras will be infra-red and one will cover the entrance/exit and one will record images of a panoramic view of the street outside. Recordings will be stored a minimum of 28 days.
- A member of staff will be available at all times the premises are open to download CCTV footage when requested by an authorised officer.
- Notices will be clearly displayed at the entrance and around the premises stating CCTV is in operation
- Persons known to be, or suspected of buying on behalf of children will be refused and reported to the Police

- External lighting will be installed and will be in full working order.

Public Safety

- Designated smoking areas with notices in place reminding customers to keep noise levels to a minimum
- Good housekeeping procedures in place
- Where a Pubwatch exists, the premises will be an active member of Pubwatch, they will attend meetings and join activities
- Maintain an incident book, and record and report all instances of disorder
- The Premises Licence Holder/Designated Premises Supervisor will undertake to ensure that a maximum capacity of 60 persons will be enforced within the premises
- The toilet will be modified so that it can be used by a disabled person and a portable ramp will be available so that disabled people may enter the premises before the premises operates under a premises licence.

The Prevention of Public Nuisance

- Customers will not be permitted to take their drinks outside
- Signs displayed at entrance/exit encouraging customers to leave the premises quietly
- Designated smoking areas with notices in place reminding customers to keep noise levels to a minimum
- The Premises Licence Holder/Designated Premises Supervisor will ensure that any entertainment, except that intended for young people, will not start until 8.00pm on any day of the week (which is when the lower age limit if 18 comes into force)

The Protection of Children from Harm

- Challenge 25 shall be enforced. Refusals will be logged, along with any behaviour associated with the refusal
- Children under the age of 16 must be accompanied by an adult at all times
- Persons under the age of 18 must be off the premises after 20.00 hours

- Persons known to be, or suspected of buying on behalf children will be refused and reported to the Police
- We will display signs and adhere to the law regarding alcohol and children
- If concerns arise about a child we will contact the Police for advice/assistance and not make our own investigations or conclusions

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DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in County Hall, Durham on **Friday 18 January 2013 at 10.00 am**

Present:

Councillor J Shiell (Chair)

Members of the Committee:

Councillors B Arthur and D Morgan

Also Present:

K Monaghan – Senior Licensing Officer

G Proud – Legal Officer

1 Apologies for Absence

There were no apologies received.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest (if any)

There were no declarations of interest received.

4 Minutes

The Minutes of the meeting held on 18 December 2012 were agreed as a correct record and were signed by the Chair.

5 Application for the Review of a Premises Licence - La Spaghattata, 66 Saddler Street, Durham

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the review of a Premises Licence in respect of La Spaghattata, 66 Saddler Street, Durham (for copy see file of Minutes).

Members had been provided with a copy of the Premises Licence, location plan and the review application, together with a letter from Durham Local Safeguarding Children Board.

The Sub-Committee were advised that successful mediation had taken place between all parties with the result that the hours applied for had been amended and additional conditions imposed on the existing Premises Licence. A copy of the signed Mediation Agreement had been circulated to Members.

Members accepted the mediation subject to clarification that a door supervisor would be placed on the entrance to Fabio's Bar from 21:00 hours until close on a daily basis.

Resolved:

That in view of the successful mediation between all parties the review application be disposed of by varying the existing premises licence and conditions as follows:-

Opening hours of the premises: Monday through to and including Sunday 10.30 to 02.30
Performance of Live Music (indoors) Monday through to and including Sunday 10.30 to 02.00
Playing of Recorded Music (indoors) Monday through to and including Sunday 10.30 to 02.00
Performance of Dance Monday through to and including Sunday 10.30 to 02.00
Anything of a Similar Description Monday through to and including Sunday 10.30 to 02.00
Provision of facilities for Dancing (indoors) Monday through to and including Sunday 10.30 to 02.00
Anything of a similar description Monday through to and including Sunday 10.30 to 02.00
Late Night Refreshment (indoors) Monday through to and including Sunday 23.00 to 02.00
Sale of Alcohol (on the premises) Monday through to and including Sunday 10.30 to 02.00

The following conditions be attached to the Premises Licence:-

- (i) A Personal Licence Holder will be present at the premises at all times that the premises are open for the sale of alcohol
- (ii) All incidents occurring at the premises will be recorded in an Incident Book which will be maintained by the Premises Licence Holder (or his nominee) to record details of any incidents including any refusals. This

- will include the time, date and signature of the person recording any action including staff details and witnesses
- (iii) A documented Monthly Training Schedule will record training, recipient, date and aspect of training (training to include an understanding of the Licensing Act 2003 and what the Premises Licence permits)
 - (iv) Notices to be prominently displayed at all exits requesting patrons to leave quietly
 - (v) A door supervisor will be placed at the entrance to the premises on Saddler Street from 20.00 hours on Friday and Saturday evenings until close
 - (vi) A further door supervisor will be placed on the entrance to Fabio's Bar from 21.00 hours until close on a daily basis
 - (vii) Door supervisors will assist in the implementation of the Premises Age Verification Policy which is to request all patrons to provide proof of age prior to entering the premises
 - (viii) The door supervisors will also assist in ensuring that customers depart from the premises and do not undermine the Licensing Objectives
 - (ix) At least 3 members of the bar staff will undergo a National Licensing Qualification and obtain Personal Licences
 - (x) A documented Age Certification Policy will be implemented where all patrons believed to be under the age of 25 will be asked to provide proof of age in the form of a Driving Licence, Passport, Military ID Card or form of identification endorsed with the Government PASS Holographic Logo.

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DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Chester-le-Street on **Thursday 24 January 2013 at 10.00 am**

Present:

Councillor D Marshall (Chair)

Members of the Committee:

Councillors B Arthur and D Brown

Also Present:

H Johnson – Licensing Team Leader

G Proud – Legal Officer

1 Apologies for Absence

There were no apologies for absence received.

2 Substitute Members

There were no substitute Members.

3 Minutes

The Minutes of the meeting held on 31 December 2012 were agreed as a correct record and were signed by the Chair.

4 Declarations of Interest

There were no declarations of interest.

5 Application for the Review of a Premises Licence - Etherley Cricket Club, Bishop Auckland

Consideration was given to the report of the Corporate Director, Neighbourhood Services which gave details of an application for the review of a Premises Licence in respect of Etherley Cricket Club, Bishop Auckland (for copy see file of Minutes).

Members had been provided with a copy of the Premises Licence, location plan and the application made under Section 53A of the Licensing Act 2003 by Durham Constabulary, together with the Notice of Determination of the expedited review hearing held on 31 December 2012.

The Sub-Committee was advised that successful mediation had taken place between Durham Constabulary and the Cricket Club with the result that the hours for carrying out licensable activities had been amended and conditions on the existing Premises Licence had been modified, which included the removal of the Designated Premises Supervisor.

A copy of the Mediation Agreement had been circulated to Members.

In determining the application Members considered the report of the Licensing Officer and the Mediation Agreement. The Sub-Committee also took into account the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

Resolved:

That in view of the successful mediation between the Licence Holder and the Police the review application be disposed of by removal of the Designated Premises Supervisor, Fred Adams and by modifying the conditions of the Premises Licence.

Accordingly the suspension of the Premises Licence following the hearing on 31 December 2012 be lifted and;

(a) the following conditions be attached to the Premises Licence:-

- (i) Licensable activities to finish at 22:00 with all patrons leaving the premise at its terminal hour of 22:30, only CPC members and bonafide guests after 22:00.
- (ii) Children under the age of 18 years will be supervised by an adult at all times.
- (iii) Children under the age of 18 years must not be in the premise after 21:00 hours.
- (iv) All planned events likely to attract large numbers of patrons will be risk assessed in advance and should it be deemed necessary door supervision registered under the SIA will be employed to work the duration of that event. The premise will be required to increase the number of door staff at the request of Durham Constabulary on days of large scale events and/or where concerns regarding the 4 Licensing Objectives are identified at a ratio of 1:100.
- (v) In addition to previous conditions CCTV will be fitted and operational in all internal areas of the premise covered by the licence. The system will record 24 hours a day in all light conditions. Cameras will specifically cover the main entrance achieving facial recognition standard on entry and will be fitted externally covering all exits front and rear. The CCTV will record on a hard drive for 28 days in cycle. All members of staff will be trained in its operation such that if a responsible authority makes

request for a recording then it will be produced as expediently as possible.

- (vi) All windows and external doors shall be kept closed after 21:00 hours or at any time the regulated entertainment in the form of live or recorded music takes place except for the access and egress of patrons.
- (vii) The premise will implement the use of polycarbonate drinking vessels in respect of any customers who consume alcohol in the designated area outside.
- (viii) An incident log shall be kept at the premise and made available on request to an authorised Licensing Officer or Police which shall record the following:
 - All crimes reported to the venue
 - All ejections of patrons
 - Any incidents of crime and disorder
 - All seizures of drugs or offensive weapons
 - Any patron refused entry to the premise.
- (ix) Challenge 25 shall be operated at the premise where the only acceptable forms of identification are recognised photographic identification cards such as driving licence, passport or PASS card. When employed door staff will assist in the management of the Premise Age Verification Policy.
- (x) The premise shall, as a standard, use toughened glassware where available and shall risk assess the use of polycarbonate glassware in consultation with Durham Constabulary on days of large scale events.
- (xi) Visual inspection, and personal interaction with customer, will enable staff to determine if the customer is fit to be sold alcohol. If staff believe person to be intoxicated with drink or drugs they will be refused.
- (xii) Persons known to be, or suspected of buying on behalf of children will be refused sale and reported to the Police.
- (xiii) Where a Pubwatch exists, the premise will be an active member of Pubwatch, and will attend meetings, and join activities.
- (xiv) Adequate lighting both inside and outside shall be provided at the premise.

(b) the licensable activities be modified as follows:-

Opening hours Monday through to and including Sunday 09:30 to 22:30 (The Club Premises Certificate (CPC) is still in existence and the opening hours in respect of the CPC are not affected)
Films Indoors only Monday to Sunday 11:00 to 20:00
Indoor Sporting Events Monday to Saturday 18:00 to 22:00 Sunday 12:00 to 22:00
Live Music Indoors only Monday to Sunday 19:00 to 22:00
Recorded Music Indoors only Monday to Saturday 19:00 to 22:00 Sunday 12:00 to 22:00
Performance of Dance Indoors only Monday to Friday 19:00 to 22:00 Saturday and Sunday 12:00 to 22:00
Anything of a similar description to live music, recorded music or performances of dance Indoors only Monday 19:00 to 22:00 Tuesday to Sunday 12:00 to 22:00
Sale by Retail of Alcohol (On and off sales) Monday to Sunday 11:00 to 22:00

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Spennymoor on **Tuesday 29 January 2013 at 10.00 am**

Present:

Councillor J Shiell (Chair)

Members of the Committee:

Councillors B Arthur and B Graham

Also Present:

Councillor J Hunter

Councillor J Wilkinson

K Monaghan – Senior Licensing Officer

G Proud – Legal Officer

PCSO M Williamson – Durham Constabulary

Pardip Singh Sidhu – Premises Licence Holder

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

4 Application for the Review of a Premises licence - Tanhills Post Office/Premier Store, Kimblesworth Road, Tanhills, Chester-le-Street

Consideration was given to the report of the Corporate Director, Neighbourhood Services regarding an application for the review of a Premises Licence in respect of Tanhills Post Office /Premier Store, Kimblesworth Road, Chester-le-Street (for copy see file of Minutes).

A copy of the location plan of the premises, the Premises Licence and review application, together with representations from Durham Constabulary had been circulated to Members. Additional information had also been provided by Mr Sidhu the Premises Licence Holder which had also been circulated to all parties in advance of the hearing.

PCSO M Williamson addressed the Sub-Committee stating that the Police sought a review of the Premises Licence following 2 failed test purchases on 26 July 2012 and 31 October 2012, details of which were set out in the Police statements contained in their bundle of evidence.

With the agreement of the Licence Holder photographs of the test purchasers were shown to Members.

PCSO Williamson noted that the Licence Holder and staff members had attended training with Trading Standards Officers recently. The Police would be satisfied for additional conditions to be attached to the existing Premises Licence rather than revocation or suspension. Details of the proposed conditions were included in the Police evidence.

Mr Sidhu, the Licence Holder stated that he had been in the Premises since 2004, operating as a family business. Since that date he had kept a Refusal Register which the Police had seen. Because of potential data protection issues the Register had been changed.

Following the test purchase offences he and family members had received training and had certificates to prove that they had passed the course. In addition he had implemented the Challenge 25 Scheme and had put on display in the shop an article that had appeared in the Northern Echo about the sale of alcohol from the Premises. This was to demonstrate to customers why identification was being requested.

To conclude he acknowledged that he had made a mistake and wanted an opportunity to put things right.

In response to questions Mr Sidhu apologised that he had forgotten about the hearing on 2 January 2013 as his mind was elsewhere due to family circumstances.

He confirmed that he had received training with family members and had tried to arrange a training session for the two other staff members for the following week. However he had been informed that the numbers were too small for it to proceed. He had however made the staff aware of the need to ask for identification, the Challenge 25 Scheme and the new Refusals Register.

Following a question about staff turnover he assured Members that any new staff would be properly trained. Each staff member would undergo 12 week refresher training and this would eliminate problems caused by customers trying to re-offend by attempting to purchase alcohol off different employees each time they entered the shop.

In determining the application, Members had considered the report of the Licensing Officer, Section 182 Guidance and the Council's Licensing Policy, together with the written and verbal representations of the Applicant and the Licence Holder.

Resolved:

That the existing Premises Licence be modified by adding the following conditions to the Licence:-

The Prevention of Crime and Disorder

Staff training to be carried out by the DPS to ensure no alcohol is sold to anyone underage and refresher training to be carried out every 6 months.

Training records must be kept for every member of staff and endorsed after every training session. The records will be made available to officers and responsible authorities when requested to do so.

No serving of alcohol to any person that appears to be drunk.

CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition.

Cameras shall encompass the inside and outside of all entrances and exits to the premises and rear yards, fire exits and all areas where the sale/supply of alcohol occurs.

Equipment must be maintained in good working order, be correctly time and date stamped. Recordings must be kept in date order, numbered sequentially and kept for a period of 31 days.

The Premises Licence Holder must ensure that all staff are capable and competent at viewing and downloading CCTV footage in recordable format, either disc or memory stick to the police/local authority within 24 hours of request.

The recording equipment and discs/memory sticks shall be kept in a secure environment under the control of the DPS or other responsible named individual.

An operational daily log report must be maintained and endorsed by a signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Premises Licence Holder/DPS must report the failure to the Police and/or the local authority on contact number (0191) 3752308.

Public Safety

Fire exits and fire equipment must be clearly marked.

All staff to be aware of the requirements regarding health and safety.

A trained first aider will be available.

An incident log will be kept at all times.

The Protection of Children from Harm

A proof of age policy must be put in place for people under 25 years of age via the Challenge 25 scheme.

The only forms of identification accepted on the premises are a passport, a photo driving licence and 'PASS' hologram ID – ie ID4U.

The Premises Licence Holder shall ensure that the premises keep a Refusal Register which must be endorsed after every sale refused, this is to include over 18's purchasing alcohol and passing it to under 18's (proxy sales). The Register must record refusals, requests and production of identification and proxy sales. The book shall be available upon request to either the Licensing Authority, the Local Weights and Measures Authority or Durham Constabulary.

All members of staff must attend and pass the next available Fair Trading Award 'Do You Pass' course run by Trading Standards. Certificates confirming that the course has been passed must be provided to the Local Authority.

New members of staff must attend and pass the first available Fair Trading Award 'Do You Pass' course run by Trading Standards. Certificates confirming that the course has been passed must be provided to the Local Authority.

DURHAM COUNTY COUNCIL

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, County Hall, Durham on **Friday 22 February 2013 at 11.00 am**

Present:

Councillor J Shiell (Chair)

Members of the Committee:

Councillors E Bell and D Morgan

Also Present:

K Monaghan – Senior Licensing Officer

S Buston – Legal Officer

1 Apologies for Absence

There were no apologies for absence.

2 Substitute Members

There were no substitute Members.

3 Declarations of Interest

There were no declarations of interest.

4 Consideration of Temporary Event Notices

Consideration was given to the report of the Corporate Director, Neighbourhood Services regarding 2 Temporary Event Notices in respect of Montgomery's, Stanley (for copy see file of Minutes).

Copies of the Temporary Event Notices had been circulated to Members together with objections received from Durham Constabulary.

During the consultation period successful mediation had taken place between Durham Constabulary and the Applicant, and a copy of the mediation documents had been circulated.

Durham Constabulary and the Applicant had both given notice to the Authority that a hearing was unnecessary and requested that it be dispensed with provided that any licences granted included all the conditions that were present on the current premises licence.

In determining the application, the Sub-Committee had considered the report of the Corporate Director, Neighbourhood Services and the Mediation Agreements. The Sub-Committee had also taken into account the relevant provisions of the Licensing Act 2003, Section 182 Guidance issued by the Secretary of State and the Council's Licensing Policy.

Resolved:

That the 2 Temporary Event Notices be granted subject to all the conditions present on the current premises licence being applied for the full duration of the Temporary Event Notices, and that the following licensable activities applied for can take place:-

Licensable Activities (indoors)	Date and Time
Sale by retail of alcohol and the provision of regulated entertainment event: DJ Showcase Night	09:00 hours on Saturday, 2 nd March until 03:30 hours on Sunday 3 rd March 2013
Sale by retail of alcohol and the provision of regulated entertainment event: St Patrick's Day Event	09:00 hours on Saturday 16 March until 03:30 hours on Sunday 17 th March 2013

Statutory Licensing Sub-Committee

Tuesday 26th March 2013, 10am

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



**Report of Terry Collins, Corporate Director, Neighbourhood
Services**

Name and Address of Premises: The Flintlock Inn, 48 High Street, West
Cornforth, Ferryhill, County Durham, DL17 9HS

1. Summary

The Sub-Committee is asked to consider and determine an application by Durham Constabulary to review the premises licence in respect of the above premises currently licensed to supply alcohol for consumption on the premises and for the provision of regulated entertainment.

A copy of the licence is attached at Appendix 1.

A plan showing the location of the premises is attached at Appendix 2.

2. Details of the Application

The application is for a review of the premises licence (DCCSP/PLA0006) held by Ms Nicola Jane Bush in respect of The Flintlock Inn, 48 High Street, West Cornforth, Ferryhill, Co Durham.

On 26th February 2013, 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 the matter within 48 hours of receipt of this application to determine any interim steps to be put in place on the premises licence. A copy of the application is attached as Appendix 3.

Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premise where it is authorised for the sale of alcohol and where it is considered the premises are associated with serious crime or serious disorder.

On 27th February 2013, the Licensing Statutory Sub Committee met to consider the application. It was determined that the premises licence be suspended with immediate effect and to remove Nicola Jane Bush as designated premises supervisor. A copy of the notice of determination is attached as Appendix 4.

As part of the decision, the Licence Holder is entitled to make representations to the Licensing Authority and the Authority is then required to hold a further hearing within 48 hours of receiving the representation.

The Licence Holder has not submitted a representation against the Licensing Sub Committee's decision to suspend the licence with immediate effect.

The application for review received on 26th February 2013, is deemed by the Licensing Authority to be relevant. The application relates to the following licensing objective:

- The prevention of crime and disorder

The application for review was advertised in accordance with the regulations.

3. Representations

As part of the review process there is a statutory ten working day consultation period. In regards to this application the consultation period was between 27th February 2013 and 12th March 2013.

No representations have been received by responsible authorities or other persons.

4. The Parties

The Parties to the hearing will be:

- Sgt Tim Robson, Durham Constabulary – on behalf of the Applicant
- Ms Nicola Jane Bush - Premises Licence Holder

5. Durham County Council Statement of Licensing Policy

The Sub-Committee's attention is drawn to the following relevant parts of the Policy:

- 5.0 The Prevention of Crime and Disorder

Relevant information is attached at Appendix 5.

6. Section 182 Guidance

The Sub-Committee's attention is drawn to the relevant parts of the Guidance issued under section 182 of the Licensing Act 2003 as follows:

- 2.0 - Crime and Disorder
- Part 11 – Reviews

Relevant information is attached at Appendix 6.

7. For Decision

The Sub-Committee is asked to determine the application for the review of the premises licence and to take any of the following steps that it considers appropriate for the promotion of the licensing objectives:

- No further action
- Modify or add conditions to the licence
- Exclude a licensable activity from the licence
- Remove the designated premises supervisor
- Suspend the licence for a period (not exceeding three months)
- Revoke the licence

Background Papers:

- Durham County Council's Statement of Licensing Policy
- Guidance issued under section 182 of the Licensing Act 2003.

Contact: Helen Johnson Tel: 03000 265101
Email: helen.johnson2@durham.gov.uk

Appendix 1 Premises licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DCCSP/PLA0006
23 July 2011
18 May 2012

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
THE FLINTLOCK INN 48 HIGH STREET WEST CORNFORTH	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Post town: FERRYHILL	Postcode: DL17 9HS
Telephone number:	

Where the licence is time limited the dates N/A

Licensable activities authorised by this licence Sale by Retail of Alcohol Provision of Facilities for Dancing Provision of Facilities for Making Music Recorded Music Live Music

The opening hours of the premises (all times in 24hr format)		
Monday	09:30-00.00	Non standard/seasonal timings: N/A
Tuesday	09:30-00.00	
Wednesday	09:30-00.00	
Thursday	09:30-00.00	
Friday	09:30-00.00	
Saturday	09:30-00.00	
Sunday	09:30-00.00	

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

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

Live music

Indoors only

Monday	19:00-23:00	Further details
Tuesday	19:00-23:00	Live Singing, performances with a guitar/recorded music
Wednesday	19:00-23:00	
Thursday	19:00-23:00	Non standard/seasonal timings:
Friday	19:00-23:00	N/A
Saturday	19:00-23:00	
Sunday	19:00-23:00	

Recorded music

Indoors only

Monday	12:00-23:00	Further details
Tuesday	12:00-23:00	N/A
Wednesday	12:00-23:00	
Thursday	12:00-23:00	Non standard/seasonal timings:
Friday	12:00-23:00	N/A
Saturday	12:00-23:00	
Sunday	12:00-23:00	

Provision of facilities for making music

Indoors only

Monday	19:00-23:00	Further details
Tuesday	19:00-23:00	N/A
Wednesday	19:00-23:00	
Thursday	19:00-23:00	Non standard/seasonal timings:
Friday	19:00-23:00	N/A
Saturday	19:00-23:00	
Sunday	19:00-23:00	

Provision of facilities for dancing

Indoors only

Monday	19:00-23:00	Further details
Tuesday	19:00-23:00	N/A
Wednesday	19:00-23:00	
Thursday	19:00-23:00	Non standard/seasonal timings:
Friday	19:00-23:00	N/A
Saturday	19:00-23:00	
Sunday	19:00-23:00	

Sale by retail of alcohol

On sales only

Monday	09:30-23:00	Further details
Tuesday	09:30-23:00	N/A
Wednesday	09:30-23:00	
Thursday	09:30-23:00	Non standard/seasonal timings:
Friday	09:30-23:00	N/A
Saturday	09:30-23:00	
Sunday	09:30-23:00	

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence	
NICOLA JANE BUSH [REDACTED] [REDACTED] [REDACTED]	

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
NICOLA JANE BUSH [REDACTED] [REDACTED]

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
DURHAM134 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 shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

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

The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol: -

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 a holographic mark.

The responsible person shall ensure that:-

(a) Where any of the following alcoholic drinks is sold or supplied for sale or 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:-

1. Beer or cider - ½ pint;
2. Gin, rum, vodka or whisky - 25ml or 35ml; and
3. Still wine in a glass - 125ml; and

(b) Customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the premises Operating Schedule

General

The Councils proper officer accompanied by any such person as he deems necessary, or a police officer, shall at times have access to the licenced premises for the purpose of ensuring compliance with the conditions of the licence.

The Prevention of Crime and Disorder

Where there is a "Pub Watch" or similar scheme in operation in the area in which the premises are situated, the premises shall operate the scheme at all times.

Age restriction notices shall be displayed in the premises.

There shall be no irresponsible drinks promotions.

CCTV cameras to be fitted to the internal and external areas of the premises.

Customers shall not be permitted to take drinking glasses and open bottles away from the premises.

Staff to be trained in drug detection/misuse

Public Safety

Fire escape and equipment signs will be displayed on the premises.

Adequate and appropriate equipment and materials must be provided for enabling first aid to be rendered to members of the public if they are injured or become ill at the licenced premises.

Appropriate lighting will be maintained on the premises.

The Prevention of Public Nuisance

All windows and doors shall be closed when live and recorded entertainment is being provided, other than when being used for access/egress.

Music shall be kept at an appropriate level so as not to disturb local residents.

A designated smoking area is located in the rear yard.

Notices shall be displayed at the exits of the premises asking patrons to be mindful of the location and not to cause noise when leaving.

A noise limiting device shall be installed, to cover live and recorded music events, under Pollution Control directions, if considered necessary by a Council Officer.

The Protection of Children from Harm

The premises will adopt the principles of the 'Challenge 21' scheme, whereby any person attempting to buy alcohol, who appears to be under the age of 21, will be asked to provide proof of age.

Children will not be permitted on the premises unless accompanied by a supervising adult.

Children must leave the premises by 7.30pm.

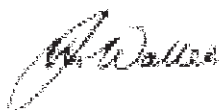
No under 18s will be allowed to use the gaming machines.

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

None

Annex 4 – Plans attached

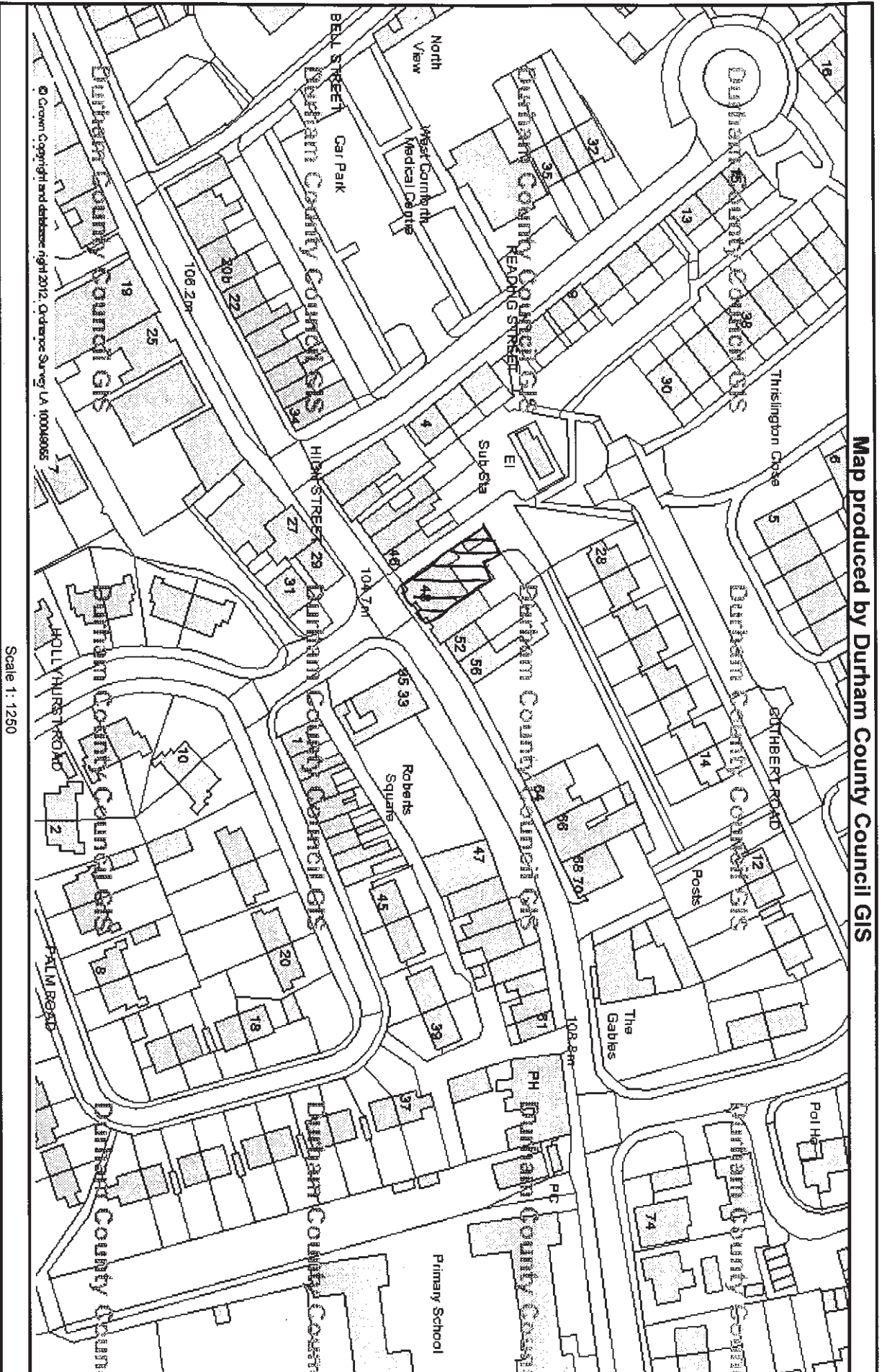
Attached

A handwritten signature in cursive script, appearing to read "A. Wallace".

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

Appendix 2 Location Plan

Map produced by Durham County Council GIS



Scale 1: 1250

**Appendix 3
Review Application**

Durham Police
Force HQ
Aykley Heads
Durham

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime / serious disorder / both serious crime and serious disorder¹.

*Premises*²:

The Flintlock Inn
48 High Street,
West Cornforth,
Ferryhill
Durham
DL17 9HS

Premises licence number (if known): DCCSP/PLA0006

Name of premises supervisor (if known): Nicola Jane BUSH

I am a Superintendent ³ in the Durham police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁴:

At 7.48pm on Monday 25th February 2013 a call was received from a female stating that there had been a disturbance at the Flintlock PH and that members of the informants family had been threatened with shotguns.

At 8.05pm the same day a call was received from a female named [REDACTED] who along with [REDACTED] were managing, and had control of The

¹ Delete as applicable.

² Include business name and address and any other relevant identifying details.

³ Insert rank of officer giving the certificate, which must be superintendent or above.

⁴ Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

Flintlock at the time of the incident. [REDACTED] reported that a number of travellers had been in the premise and had been asked to leave. Following this information has come to light that they would return with knives and machetes. It is apparent that this information given by [REDACTED] is inaccurate and the full picture has not been given to the police at the time of reporting.

An argument has occurred in the Flintlock involving a number of persons who are linked to serious violent crime and disorder. The individuals have left and returned wearing ski masks and brandishing at least one sawn off shotgun. It is a serious criminal offence to possess a shotgun and use it in such a manner.

The shotgun and knives and baseball bats have been used to threaten and inflict injuries to parties inside of the Flintlock. These actions are serious criminal offences. The injuries sustained by individuals include stab and slash wounds, double fracture of wrist, wound to crown of head and numerous cuts and bruises. Extreme violence has been threatened with the shotgun on an individual in the premise.

The suspects in relation to this violent incident are linked to the control and operation of the Flintlock. One male who has been arrested in relation to this matter was on the night in question operating a managerial role at the pub and is closely associated with other suspects yet to be arrested. The manageress [REDACTED] had access to the CCTV within the premise. The monitor and recording device is located upstairs in the domestic dwelling area of the public house and could only be accessed by management. The CCTV was intentionally switched off for 40 minutes during the whole violent incident.

The Designated Premise Supervisor Nicola Bush has shown little commitment to attending the premise and providing day to day control and accountability. She has left the running of the premise in the hands of [REDACTED]. Following this incident the police have been unable to contact Nicola Bush and her mobile has been disconnected. The police have had concerns as to the viability of Nicola Bush being a DPS as she rarely attends the premise or is associated with its operation.

The Flintlock Public House is associated with serious crime and disorder. The offences committed meet the definition of serious offences as defined by reference to Sec 81 of the Regulation of Investigatory Powers Act 2000.

Such are my concerns in relation to this premise that I have directed that a closure order be issued under the provisions of section 161 of the Licensing Act 2003.

It is my firm belief that should The Flintlock Public House remain open, then there will be further incidents of violence, serious crime and disorder. There is an ongoing feud between a number of violent individuals of which The Flintlock is a key location for disorder and future disorder.

It is the request of Durham Police that the Licensing Authority take interim steps to remove Nicola Bush as the Designated Premise Supervisor and suspend the licence number DCCSP/PLA0006 with immediate effect.



Spt 1123

26.2.2013

(Signed)

(Date)

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 Authority

Annand House

John Street North

Meadowfield

Durham

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 Supt. Colin Williamson officer of police for the Durham review of a premises licence under section 53A of the Licensing Act 2003.	[on behalf of] the chief police area apply for the
---	---

1. Premises details:

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

**The Flintlock Inn
48 High Street,
West Cornforth,**

Post town: Ferryhill

Post code (if known): DL17 9HS

2. Premises licence details:

Name of premises licence holder (if known): Nicola BUSH

Number of premises licence holder (if known): Durham 134

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]

At 7.48pm on Monday 25th February 2013 a call was received from a female stating that there had been a disturbance at the Flintlock PH and that members of the informants family had been threatened with shotguns.

At 8.05pm the same day a call was received from a female named [REDACTED] who along with [REDACTED] were managing, and had control of The Flintlock at the time of the incident. [REDACTED] reported that a number of travellers had been in the premise and had been asked to leave. Following this information has come to light that they would return with knives and machetes. It is apparent that this information given by [REDACTED] is inaccurate and the full picture has not been given to the police at the time of reporting.

An argument has occurred in the Flintlock involving a number of persons who are linked to serious violent crime and disorder. The individuals have left and returned wearing ski masks and brandishing at least one sawn off shotgun. It is a serious criminal offence to possess a shotgun and use it in such a manner.

The shotgun and knives and baseball bats have been used to threaten and inflict injuries to parties inside of the Flintlock. These actions are serious criminal offences. The injuries sustained by individuals include stab and slash wounds, double fracture of wrist, wound to crown of head and numerous cuts and bruises. Extreme violence has been threatened with the shotgun on an individual in the premise.

The suspects in relation to this violent incident are linked to the control and operation of the Flintlock. One male who has been arrested in relation to this matter was on the night in question operating a managerial role at the pub and is closely associated with other suspects yet to be arrested. The manageress [REDACTED] had access to the CCTV within the premise. The monitor and recording device is located upstairs in the domestic dwelling area of the public house and could only be accessed by management. The CCTV was intentionally switched off for 40 minutes during the whole violent incident.

The Designated Premise Supervisor Nicola Bush has shown little commitment to attending the premise and providing day to day control and accountability. She has left the running of the premise in the hands of [REDACTED]. Following this incident the police have been unable to contact Nicola Bush and

her mobile has been disconnected. The police have had concerns as to the viability of Nicola Bush being a DPS as she rarely attend the premise or is associated with its operation.

The Flintlock Public House is associated with serious crime and disorder. The offences committed meet the definition of serious offences as defined by reference to Sec 81 of the Regulation of Investigatory powers Act 2000.

Such are my concerns in relation to this premise that i have directed that a closure order be issued under the provisions of section 161 of the Licensing Act 2003.

It is my firm belief that should The Flintlock Public House remain open, then there will be further incidents of violence, serious crime and disorder. There is an ongoing feud between a number of violent individuals of which The Flintloch is a key location for disorder and future disorder.

It is the request of Durham Police that the Licensing Authority take interim steps to remove Nicola Bush as the Designated Premise Supervisor and suspend the licence number DCCSP/PLA0008 with immediate effect.

[REDACTED]

Signature of applicant:
Date: 26/02/2013
Capacity: Superintendent

Contact details for matters concerning this application:

Address:
Sgt 1590 T.J.Robson
Annand House
John Street North
Meadowfield
Durham
DH7 8RS

Telephone number(s): [REDACTED]

Email: [REDACTED]

Appendix 4
Notice of Determination – 27th February 2013

THE COUNTY COUNCIL OF DURHAM

Licensing Committee

NOTICE OF DETERMINATION

Licensing Act 2003 (the Act)

Date of Hearing : 27 February 2013
Date of Determination : 27 February 2013
Committee Members : 1. Councillor C Carr (Chair)
2. Councillors B Arthur and A Hopgood

1. Type of application or hearing

Summary Licence Review

2. Applicant

Durham Constabulary

3. Premises

The Flintlock Inn, 48 High Street, West Cornforth, DL17 9HS

4. The Application

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

5. Witnesses

The Committee heard from the following:-

- Sgt Tim Robson, Durham Constabulary
- Sgt tim Kelly, Durham Constabulary

6. Licensing Act 2003

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

7. S182 Guidance

The Committee has considered and taken account of the most recent edition of the Secretary of State Section 182 Guidance. The Committee has also considered the Section 53A Summary Review Guidance in particular paragraphs 3.1 to 3.7.

8. Licensing Policy

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

9. Licensing Objectives

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

10. Evidence and Reasons

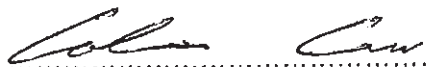
- 10.1 Section 21 of The Violent Crime Reduction Act 2006 made amendments to the Licensing Act 2003 ("the Act") by introducing the provision for a summary review. This added to the Act section 53A with supplementary sections 53B and 53C to deal with the subject.
- 10.2 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises licence where the same covers the sale of alcohol and where it is considered the premises are associated with serious crime or disorder.
- 10.3 An application and the supporting certificate required under and by s53 of the Act was received by the Licensing Authority on the afternoon of Tuesday 26 February 2013.
- 10.4 The Licensing Authority is required to consider the matter within 48 hours of receipt of the application excluding days that are not working days. The application was considered on the morning of 27 February 2013 and therefore within the timescales stipulated in the Act.
- 10.5 The Licensing Committee has power under section 53B to consider a number of interim steps namely:
 - 10.5.1 Modification of the conditions of the premises licence.
 - 10.5.2 Exclusion of the sale of alcohol by retail from the scope of the licence.
 - 10.5.3 Removal of the Designated Premises Supervisor from the licence.
 - 10.5.4 Suspension of the Licence.
- 10.6 The evidence submitted by Durham Constabulary is that a serious incident occurred at the Flintlock Inn Public House on the evening of Monday 25 February 2013. At 7.48pm Police received a call from a female stating that

there had been a disturbance at the premises and that members of the informant's family had been threatened with shotguns.

- 10.7 At 8.05 pm a further call was received from the manageress of the premises reporting that a number of travellers had been in the premises and had been asked to leave. Following this, information came to light that they would return with knives and machetes. Police believe that the report given to them at the time of reporting was inaccurate.
- 10.8 An argument occurred in the premises involving a number of persons linked to serious violent crime and disorder. It was alleged that the individuals left and returned wearing ski masks and brandishing a sawn off shotgun and a knife. A fight ensued and it is alleged that the manager of the premises placed a sawn-off shotgun into the mouth of one of the travellers. The weapons were used to inflict injuries on those within the premises and resulted in stab and slash wounds, a double fracture of the wrist, wound to the crown of the head and numerous cuts and bruises.
- 10.9 Although the premises are covered by CCTV, it was intentionally switched off for 40 minutes during the whole violent incident. The CCTV monitor and recording device are situated in the domestic dwelling area of the premises upstairs and can only be accessed by management.
- 10.10 The suspects in relation to the violent incident are linked to the control and operation of the Flintlock Public House. The manager and manageress have now been arrested and the stepson of the manager remains at large. Very little information is being presented to the Police for fear of retribution.
- 10.11 The Designated Premises Supervisor Nicola Bush has shown little commitment to attending the premise and providing day to day control and accountability. She has left the running of the premise in the hands of the manager and manageress who are subject to arrest and police investigation. The Police have had difficulty in contacting her and since the incident her mobile phone has been disconnected.
- 10.12 The Police indicated that they have serious concerns that there will be further incidents of violence, serious crime and disorder if the Flintlock Public House remains open. There is an on-going feud between a number of violent individuals and the Police believe that there is a likelihood of retribution from the travelling community and from the family of the manager and manageress.
- 10.13 The Police attended Newton Aycliffe Magistrates Court this morning and were granted a Closure Order in respect of the Flintlock Public House in order to prevent violence, disorder or serious crime being associated with the premises. This is to remain in place until the decision of the Licensing Authority.
- 10.14 It is accepted by the Committee that this does amount to a serious criminal act 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.
- 10.15 Section 53B (2) of the Act empowers the Licensing Committee to consider this application without the premises licence holder having been given the opportunity to make representations.
- 10.16 Having considered the information provided and taken account of the serious nature of it and the clear implications that the premises are associated with serious crime the Committee considers that it has no alternative than to make the decision that it does.

11. **Decision**

The Committee has considered the evidence given by the Police today and has decided to remove Nicola Bush as Designated Premises Supervisor and to suspend the premises licence with immediate effect.

Signed  (Chair)

Dated the 27th day of February 2013

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.
- 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 5
Statement of Licensing Policy

5.0 The Prevention of Crime and Disorder

5.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

5.2 As a matter of Policy the Licensing Authority will require every holder of a Licence, Certificate or Permission to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter. The Licensing Authority suggests that applicants demonstrate in their Operating Schedules that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business have been identified and will be implemented and maintained with the intention of preventing crime and disorder. Procedures to deal with drunken customers, violence and anti social behaviour in and outside premises and the provision of closed circuit television in certain premises must be considered by applicants and licencees when addressing this issue. The Licensing Authority will also expect that Personal Licence holders will actively participate in established "Pubwatch" schemes where issues relating to crime and disorder can be addressed. The Licensing Authority support involvement in "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures.

5.3 The Licensing Authority considers the effective and responsible management of the premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25', to be among the most important control measures for the achievement of all Licensing Objectives. The Licensing Authority will take a positive view of anyone who invests in appropriate training, and in particular nationally accredited qualifications tailored to the Licensing sector. Training records should be kept available for inspection by all enforcement agencies.

5.4 The application for premises selling alcohol must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years, and so that the Licensing Authority and Police can discuss any problems or issues arising from the licensable activities offered on the premises. The Licensing Authority considers it to be good practice if the DPS or Premises Licence Holder is present in the licensed area of the premises:

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

5.5 The Licensing Authority will only impose a maximum number of people that can attend a premises or an event where there is a clear and justifiable need in respect of that particular premises or event, any such decision will be based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body, in particular the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

5.6 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.

5.7 The numbers of licensed door supervisors, both male and female, required at any premises will be dependant upon the nature of the activities licensed and the characteristics and capacity of the establishment and hours of trading.

5.8 In addition to the requirement of the Licensing Authority to promote the Licensing Objectives, the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

Cumulative impact of Licences on the amenity of particular areas

5.9 The Licensing Authority recognises that the cumulative effect of the number, type and density of premises selling alcohol for consumption on the premises in a given area may cause serious problems of nuisance and disorder outside or some distance from licensed premises.

5.10 Where there is evidence that such a problem exists, the Licensing Authority may decide it is no longer appropriate for any further Licensed premises to be established or variations to existing licences to be made in the area and that a Policy relating to cumulative impact should be adopted.

5.11 The effect of a Cumulative Impact Policy would be that applications for new Premises Licences or Club Premises Certificates would normally be refused if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved would not add to the cumulative impact already being experienced.

5.12 Applicants would need to address the Cumulative Impact Policy issues in their Operating Schedules.

5.13 If such a policy is to be considered the following process is followed:

- Concerns relating to crime and disorder or public nuisance must be identified
- Consideration must be given as to whether it can be evidenced that incidents of crime and disorder and nuisance are arising from and caused by the customers of licensed premises. If so, identify the area from which problems are arising or whether risk factors are such that the area is reaching a point when a cumulative impact is imminent
- Consultation must take place with the prescribed statutory consultees on the content of the policy.
- Any special policy will be published as part of the statement of licensing policy
- Any policy must stress that the presumption against grant does not relieve responsible authorities or interested parties of the need to make a relevant representation before the Licensing Authority may lawfully consider giving effect to its special policy. Therefore: if no relevant representation is received, the application must be granted.
- The Licensing Authority must regularly review any special saturation policies to see whether they are still needed or should be expanded

5.14 The absence of a Cumulative Impact Policy does not prevent any responsible authority or interested party making representations on a new application for the grant or variation of a Licence on the grounds that the premises will give rise to a negative or adverse cumulative impact on one or more of the Licensing Objectives.

5.15 The absence of a Cumulative Impact Policy does not prevent any responsible authority or interested party making representations on a new application for the grant or variation of a Licence on the grounds that the premises will give rise to a negative or adverse cumulative impact on one or more of the Licensing Objectives.

5.16 There is a significant difference between commercial need and the cumulative impact of premises within an area and it cannot be taken into account when considering an application.

5.17 A special policy will not impose quotas on either the number of premises or the capacity of those premises nor will it restrict the consideration of any application on its individual merits.

5.18 Applicants are advised to seek advice from the Durham Constabulary and incorporate any recommendations in their Operating Schedule before submitting their applications.

Appendix 6
Section 182 Guidance

CRIME AND DISORDER

- 2.1 **Licensing authorities should look to the police as the main source of advice on crime and disorder.** They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 **In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible** and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 **Conditions should be targeted on deterrence and preventing crime and disorder.** 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 In the context of crime and disorder and public safety, the preservation of order on premises may give rise to genuine concerns about the ability of the management team with responsibility for the maintenance of order. This may occur, for example, on premises where there are very large numbers of people and alcohol is supplied for consumption, or in premises where there are public order problems.

2.6 **Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences.** 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.

2.7 **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.** However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

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 the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.

11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact

within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.

11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

REPETITIOUS GROUNDS OF REVIEW

11.12 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended

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

11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote 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.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to 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;
- to 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);
 - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - to suspend the licence for a period not exceeding three months;
 - to 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.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. 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. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, or the sale of firearms. 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 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 Class A drugs 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 knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police 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

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. 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

11.30 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether 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 outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.

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