



## Statutory Licensing Sub-Committee

**Date** Friday 18 January 2013

**Time** 10.00 am

**Venue** County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meeting held on 18 December 2012 (Pages 1 - 6)
5. Application for the Review of a Premises Licence - La Spaghettata, 66 Saddler Street, Durham (Pages 7 - 66)
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  
10 January 2013

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

Councillors J Shiell, B Arthur, J Hunter, D Morgan and J Wilkinson

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**Contact:** Jill Errington

**Tel:** 03000 269703

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**DURHAM COUNTY COUNCIL**

At a Meeting of **Statutory Licensing Sub-Committee** held in Council Chamber, Council Offices, Chester-le-Street on **Tuesday 18 December 2012 at 10.00 am**

**Present:**

**Councillor C Carr (Chair)**

**Members of the Committee:**

Councillors J Shiell and B Graham

**Also Present:**

Councillor B Arthur  
C Greenlay (Principal Solicitor),  
H Johnson (Licensing Team Leader)  
K Monaghan (Senior Licensing Officer)  
Sgt Tim Robson (Durham Constabulary)  
Inspector Colin Dobson (Durham Constabulary)  
Ms Smith (Solicitor to the Premises Licence Holder)  
Mr Gill (Premises Licence Holder)  
Mr Richards (Area Manager for G. Gill Leisure Ltd)  
Mr Dixon (Owner of the Door Company)

**1 Declarations of Interest**

There were no declarations of interest received.

**2 Application for Expedited Review of a Premises Licence - Red Velvet, Front Street, Consett**

Consideration was given to an application and supporting certificate required under s53A of the Licensing Act 2003 from Durham Constabulary for an expedited review of Red Velvet, Front Street, Consett, Durham (for copy see file of minutes).

The Licensing Team Leader advised Members that they needed to consider whether any interim steps were necessary pending determination of the summary review application which would be considered by 14 January 2013.

The interim steps to be considered were Modification of the conditions to the premises licence, Exclusion of the sale of alcohol by retail from the scope of the licence, Removal of the Designated Premises Supervisor from the licence, Suspension of the Licence.

If the Committee took interim steps then the Licence Holder had an opportunity to submit representations which would require another hearing to be held within 48 hours.

Durham Constabulary indicated that the application was sought after a magistrates warrant was executed at the premises on 14 December 2012, where a search was conducted of the premises and the persons within the premises. Drugs were found on staff and empty plastic bags in the dancers changing rooms which had been swab tested and turned blue which confirmed it was cocaine. Surfaces had also been swab tested and indicated the presence of cocaine. It was believed that staff were working as a group to supply drugs. As a result the Designated Premises Supervisor (DPS) and three other members of staff were arrested on suspicion of being concerned in the supply of controlled drugs. Two members of staff were released with no further action taken, two dancers accepted a caution in relation to the possession of cocaine whilst the DPS and the House Mother were released on Police bail pending further enquiries.

Sergeant Robson circulated photographs of the bags containing cocaine, surfaces and swabs to Members of the Sub-Committee and those representing the Premises Licence Holder.

Sergeant Robson asked that in accordance with section 14(2) of the Licensing Act 2003 (Hearings) Regulations 2005, the public (including parties to the hearing and their representative) be excluded from the hearing to enable him to share intelligence information with Members which was linked to an ongoing active investigation.

He indicated that the supply and possession of controlled substances was a serious crime that warranted the use of the summary review process and requested that the Sub-Committee suspend the licence pending the hearing of the summary review.

Ms Smith who was acting on behalf of the Premises Licence Holder indicated that she was not aware of any evidence that serious crime was taking place. Only 1 member of staff had been arrested as the House Mother and Dancers were self employed and not employees of the Premises Licence Holder. It was her understanding that no charges had been made in relation to the supply of drugs only possession and that her clients business was at stake.

Members sought clarification on why the House Mother and Dancers were not employed by G. Gill Leisure Ltd.

Ms Smith responded that this was standard practice amongst this type of establishment. At her clients establishment the dancers paid £10 per night to dance then 10-20% commission of their nightly earnings was paid to the premises. They were required to comply with a set of house rules. The House Mother paid the Premises a fee to manage the dancers as well as receiving a commission from the dancers. She had only ever come across one establishment where dancers were paid employees of the premises and she sought clarification from Durham Constabulary on the charges that had been made.

She also indicated that her client had not been arrested and the review should be considered based on the information in front of everyone.

Inspector Dobson explained that the intelligence information was concerning the premises, which was a complex issue which could not be released to the public as it could jeopardise the investigation, and was the reason why they were asking for exclusion of the public under Section 14.

Members withdrew from the meeting at 10.25 am to consider the request from Durham Constabulary to exclude the public from the hearing. After returning at 10.40 am the Chair advised the Sub-Committee that they did not feel that it was appropriate to have information without all parties being in attendance.

Ms Smith then made representations on behalf of the Premises Licence Holder, stating that her client was part of a family business that had in excess of 35 years experience of fish and chip shops and been involved in running licensed premises since 2004. The family and company are well respected in the community and in November 2012 they received winner and runner up in Best Bar None for two of their licensed premises. As this was a Local Authority and Police scheme, Members would be familiar with the criteria used to obtain one of these awards.

Ms Smith stated that Mr Gill had no criminal convictions with the exception of motoring offences. The businesses were running well under management and in April this year they were granted a Sexual Entertainment Licence for Red Velvet. Mr Gill oversees the whole business and has an Area Manager and DPS on site who have worked for him for some time without any problems.

Her Client had not been arrested, his premises had not been searched and they were not made aware of any concerns or issues prior to the search of the premises. She asked if it was necessary to take interim steps and if so what was appropriate. She referred to the Home Office guidance and asked why other powers had not been considered more appropriate instead of seeking suspension as the course of action. In her view there was insufficient evidence so the matter could be dealt with differently. Once Mr Gill was made aware of the situation he suspended the DPS pending an internal investigation and he had submitted a variation application to remove him from the position and premises. The House Mother and Dancers had also been removed from the premises and they had no intention of allowing them to return to the premises. As a company they were going to review their policies and procedures particularly in respect of these premises.

Door Staff at the premises were all male so they were unable to search the dancers. If the premises were to close over the busy period this would also impact on the local people who were employed and she suggested that other measures short of suspension of the premises licence would be sufficient, i.e remove the DPS and exclude other activities, which they had already done.

Her Client was happy to be on the premises at all times and withdraw the sexual entertainment until the summary review. She went on to say that it was difficult to find the right dancers and house mother and they wanted to ensure this was properly addressed so proposed that the premises operated as a bar/nightclub to allow staff to remain in employment.

Mr Gill had already voluntarily closed another of his premises on a weekend even though a DPS was on site but he complied with a notice issued by Durham Constabulary.

The Chairman sought clarification on what steps had been taken in the past in relation to drugs.

Mr Gill responded that when he was the DPS of the premises, regular checks were made but he had not been on site for a while but he did check them now and again. Moving forward he would speak to the door company and he had already had staff meetings and he would discuss in detail with his staff about drugs. They did check the toilets regularly and people coming into the premises but he never thought staff would be an issue. In view of this the company were going to have to start from scratch and look at their policies and procedures including the door staff.

The Chairman sought clarification if they checked the surfaces of the premises and if they kept records to show that they had carried out checks. Mr Gill responded that they carried out checks in the toilets but not every venue had issues but it was down to the staff and managers to carry out the checks.

Ms Smith indicated that the drugs were found in the changing rooms which were not accessible to the door or other staff as they were for the exclusive use of the dancers. She also indicated that they were happy for the sexual entertainment licence to be suspended to allow time for them to review this policy which would include looking at the installation of additional CCTV cameras and regular check of all staff.

The Chairman sought clarification on why females were not searched as it was females who were found with drugs.

Mr Dixon, owner of the company providing door staff, advised that employment of female staff was by the request of the client. He had discussed this with his client this weekend and it had been agreed that female door staff would be employed. He went on to say that when his door staff arrived at the premises the dancers were already in their dressing room so would not have been searched as a matter of course.

Members sought clarification on the procedure if female customers attended the premises.

Ms Smith advised that they could search females as long as a female member of staff was present, but most customers were male and they had an element of trust with their staff.

Members asked if they had any suspicion that drugs were on the premises.

Mr Dixon indicated that it was a shock as they were very stringent and had just achieved Best Bar None. He was going to have a meeting with all staff and step things up as a company.

Sergeant Robson summed up on behalf of Durham Constabulary expressing disappointment that he had not been able to supply information privately to the Sub-Committee. He stated that empty plastic bags had also been found in the cistern in the male toilets but had been contaminated so were not presented in his evidence. He also stated that the Best Bar None award would be revoked. He confirmed that the Police had previously held meetings with Mr Gill to resolve issues with his premises. They had concerns regarding the management of the premises which could be clearly evidenced. Cocaine was a controlled substance and evidence suggested that dancers often turned to alcohol or drugs due to the nature of the job. This was not an issue that could be fixed overnight and was a concern of the police. The premises had not been without problems and offences involving drugs were serious. He reiterated his request that the premises licence be suspended pending the hearing of the summary review.

Ms Smith then summed up for the Premises Licence Holder and indicated that any drugs found on the premises was unacceptable and contrary to the policies in place. She accepted there was a failing in the policies in relation to employees but there had been no previous indication of concerns over the premises, which had won Best Bar None six weeks earlier. She asked that the empty bags found in the toilets be dismissed as this had not been raised in the hearing prior to the summing up of the Police representations. In the past any concerns raised had been addressed - such as 2 years ago when the company changed the Door Staff provider to address concerns raised by the Police, which resolved the problems. She referred to the interim steps necessary and confirmed her client had already removed the DPS, Dancers and House Mother and was happy to suspend the sexual entertainment licence pending the hearing of the summary review. In her opinion no further steps were necessary and if the licence was suspended then it would impact on the reputation of her client and staff would be out of work. She felt this would be a step too far.

The Sub-Committee left to deliberate in private at 11.15 am. After reconvening at 11.30 am the Chairman delivered the Sub-Committee decision that, having carefully considered all of the information presented to them, and being conscious of the need to consider whether any interim steps were necessary for the promotion of the Licensing Objectives, they did not consider that it was appropriate to take no action. The Sub-Committee noted that the DPS who had been found in possession of a controlled substance at the premises on 14 December 2012 had already been suspended by the Premises Licence Holder, however the removal of the DPS would not allay their concerns in respect of the premises. The alleged criminal activities were not connected with the sale of alcohol and therefore it was not appropriate to remove the sale of alcohol by retail from the licence.

The most appropriate interim steps open to the Sub-Committee were the modification of the conditions of the premises licence or the suspension of the licence.

Given the acceptance by the Premises Licence Holder of systemic failings in the management of the premises, the Sub-Committee did not consider that any modification could be made to the conditions attached to the premises licence to deal with their concerns as to crime within the premises. There was uncontested

evidence of drugs being sold to patrons within the premises over a period of time. The supply of drugs could attract a maximum sentence of life imprisonment, while the offence of possession of a Class A drug could attract a maximum sentence of seven years. Accordingly, the criminal activity which had taken place within the premises was serious. In these circumstances, the Sub-Committee considered it both necessary and appropriate to suspend the premises licence pending the conclusion of the summary review, which had to take place by 14 January 2013.

**Resolved:**

That the premises licence be suspended pending the conclusion of the summary review.



Statutory Licensing Sub-Committee

Friday 18<sup>th</sup> January 2012

Application for the review of a  
Premises Licence



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

**Name and Address of Premises:** La Spaghettata, 66 Saddler Street,  
Durham, DH1 3NP

**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 for the sale of alcohol, regulated entertainment and late night refreshment as detailed in the table below:

<p><b><u>Opening hours of the premises:</u></b></p> <p>Monday to Thursday 10.30 to 02.30, Friday and Saturday – 10.30 to 03.30 Sunday – 10.30 to 02.30</p>
<p><b><u>Performance of Live Music (indoors)</u></b></p> <p>Monday to Saturday 10.30 to 02.00, Sunday - 10.30 to 02.00</p>
<p><b><u>Playing of Recorded Music (indoors)</u></b></p> <p>Monday to Thursday 10.30 to 02.00, Friday and Saturday – 10.30 to 03.00 Sunday - 10.30 to 02.00</p>
<p><b><u>Performance of dance</u></b></p> <p>Monday to Thursday 10.30 to 02.00, Friday and Saturday – 10.30 to 03.00 Sunday - 10.30 to 02.00</p>
<p><b><u>Anything of a similar description</u></b></p> <p>Monday to Thursday 10.30 to 02.00, Friday and Saturday – 10.30 to 03.00 Sunday - 10.30 to 02.00</p>
<p><b><u>Provision of Facilities for Dancing (indoors)</u></b></p> <p>Monday to Thursday 10.30 to 02.00, Friday and Saturday – 10.30 to 03.00 Sunday - 10.30 to 02.00</p>

**Anything of a similar description**

Monday to Thursday 10.30 to 02.00, Friday and Saturday – 10.30 to 03.00  
Sunday - 10.30 to 02.00

**Late Night Refreshment (indoors)**

Monday to Thursday 23.00 to 02.00, Friday and Saturday – 23.00 to 03.00  
Sunday - 23.00 to 02.00

**Sale of Alcohol (on the premises)**

Monday to Thursday 10.30 to 02.00, Friday and Saturday – 10.30 to 03.00  
Sunday - 10.30 to 02.00

A plan showing the location of the premises is attached as Appendix 1.

A copy of the existing premises licence is attached as Appendix 2.

## **2. Details of the Application**

The application is for a review of the premises licence (LAPREG/05/0529) currently held by Mr Fabio Ciampolillo.

On 21st November 2012, the Licensing Authority received an application from Durham Constabulary asking the Authority to consider a review of the premises licence.

The application is deemed by the Licensing Authority to be relevant.

This application for a review relates to the following licensing objectives:

- The Prevention of Crime and Disorder
- The Protection of Children from Harm

A copy of the application for the review of the premises licence and supporting documents are attached at Appendix 3.

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

## **3. Representations**

Within the statutory period no further letters of representations were received. A letter from Durham Local Safeguarding Children Board was received on 23<sup>rd</sup> November 2012, supporting Durham Constabulary's application to review the premises licence.

#### **4. The Parties**

The Parties to the hearing will be:

- Sgt Tim Robson, Durham Constabulary (the applicant)
- Mr Giles McCourt (Solicitor acting on behalf of the licence holder)
- Mr Fabio Ciampolillo (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
- 8.0 The Protection of Children from Harm
- 19.0 Reviews

Relevant information is attached at Appendix 4.

#### **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:

- Crime and Disorder 2.1 – 2.7
- Protection of Children from Harm – 2.25 – 2.35
- Reviews -11.1 - 11.30

Relevant information is attached at Appendix 5.

#### **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 necessary for the promotion of the licensing objectives:

- Take 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

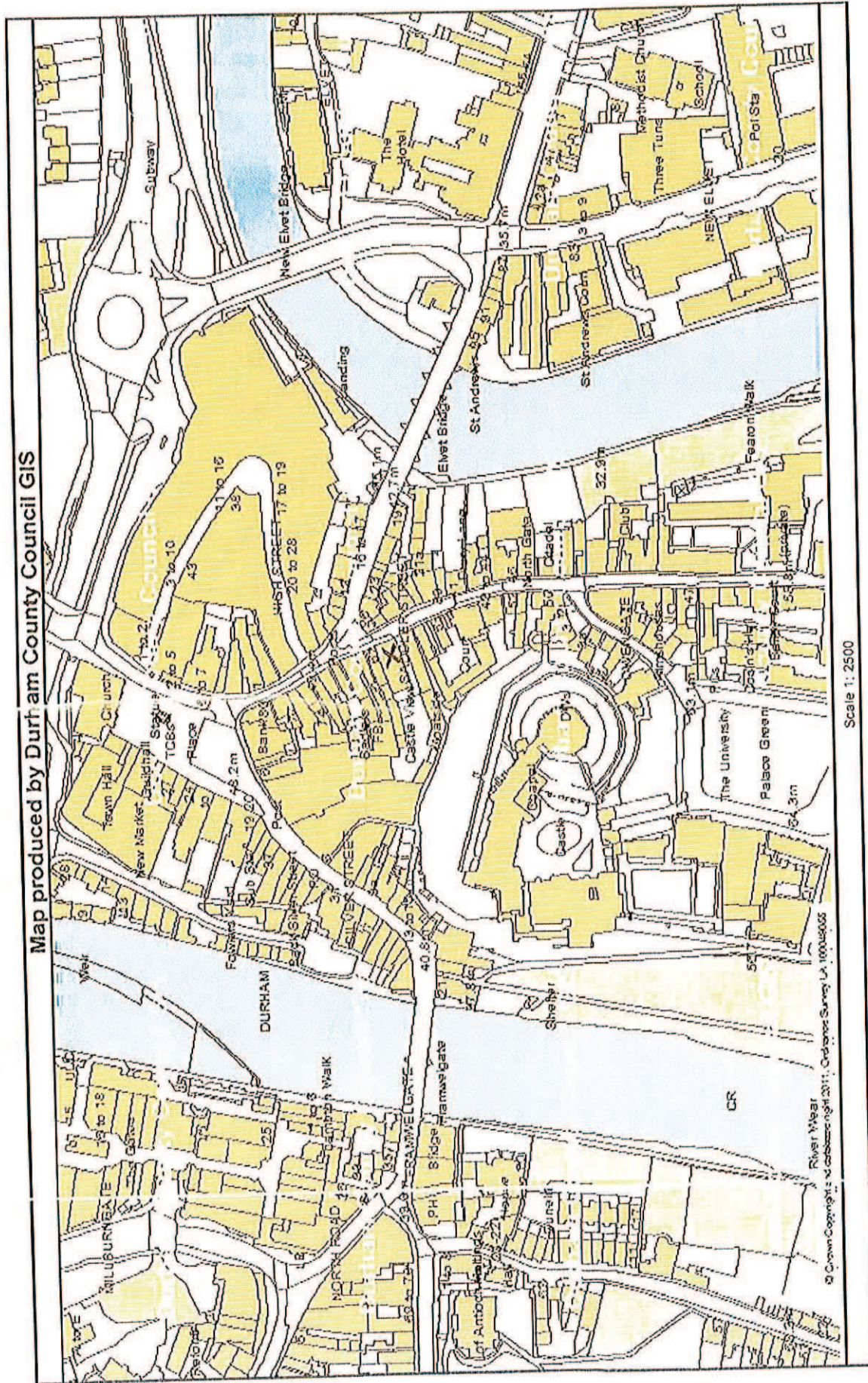
- Guidance issued under section 182 of the Licensing Act 2003  
(As amended October 2012)

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**Contact: Karen Monaghan Tel: 03000 265104**  
**E-mail: karen.monaghan@durham.gov.uk**

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## **APPENDIX 1 – LOCATION PLAN**



X - La Spayjettata, 66 Saddler Street

## **APPENDIX 2 – PREMISES LICENCE**



## LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number  
 Granted  
 Issued

LAPREG/05/0529
24 November 2005
22 August 2012

### Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p><b>LA SPAGHETTATA</b>            66 SADDLER STREET            DURHAM            DH1 3NP</p>	<p>DURHAM COUNTY COUNCIL            EHCP            LICENSING SERVICES            PO BOX 617            DURHAM            DH1 9HZ</p>
<p><b>Telephone number:</b> 0191 383920</p>	

<p><b>Where the licence is time limited the dates</b>          N/A</p>
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<p><b>Licensable activities authorised by this licence</b>          Live Music          Recorded Music          Performances of Dance          Anything similar to live music, recorded music or performance of dance          Provision of Facilities for Dancing          Entertainment of a similar description to making music or dance          Late Night Refreshment          Sale by Retail of Alcohol</p>
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<p><b>The opening hours of the premises (all times in 24hr format)</b></p>		
Monday	10:30 - 02:30	<b>Non standard/seasonal timings:</b>
Tuesday	10:30 - 02:30	N/A
Wednesday	10:30 - 02:30	
Thursday	10:30 - 02:30	
Friday	10:30 - 03:30	
Saturday	10:30 - 03:30	
Sunday	10:30 - 02:30	

<p><b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales</b>          ON ALCOHOL SALES ONLY</p>
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**The times the licence authorises the carrying out of licensable activities (all in 24hr format)**

**Live music**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Recorded music**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Performances of dance**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Anything of a similar description to live music, recorded music or performances of dance**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Provision of facilities for dancing**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Provision of facilities for entertainment similar to making music or dancing**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Late night refreshment**

Indoors only

Monday	23:00 - 02:00	Further details
Tuesday	23:00 - 02:00	N/A
Wednesday	23:00 - 02:00	
Thursday	23:00 - 02:00	Non standard/seasonal timings:
Friday	23:00 - 03:00	N/A
Saturday	23:00 - 03:00	
Sunday	23:00 - 02:00	

**Sale by retail of alcohol**

On Sales Only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	
Wednesday	10:30 - 02:00	Non standard/seasonal timings:
Thursday	10:30 - 02:00	
Friday	10:30 - 03:00	
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

MR FABIO CIAMPOLILLO

**Registered number of holder, for example company number, charity number (where applicable)**

Company no:	NOT APPLICABLE
Charity no:	NOT APPLICABLE

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

MR FABIO CIAMPOLILLO

**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**

DURHAM184  
DURHAM

**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.

This Premises Licence has been granted upon conversion under schedule 8 of the Licensing Act 2003 of the previous Justices' On Licence, and such rights and restrictions that applied to such Licence are hereby incorporated into this Premises Licence, subject to any express terms to the contrary hereinafter specified, and/or any restriction applying to a Premises Licence and/or any licensable activity.

## **Annex 2 – Conditions consistent with the premises Operating Schedule**

### **General**

The applicant does not consider by extending the opening hours by another hour that any of the licensing objectives will be compromised, the Applicant has had no trouble in the past at the premises and is not anticipating any rowdiness but would consider any proposal any party makes so as to achieve the licensing objectives.

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

### **Statutory Licensing Committee – 10th September 2009**

A minimum of one door supervisor at times between midnight and 2am on Fridays and Saturdays.

CCTV to be installed to police and home office guidelines.

Noise levels and frequency must be kept at such levels that they shall not be a nuisance to occupiers of nearby properties. Any complaints or representations received must be taken into account and acted upon where necessary to prevent public nuisance.

### **Statutory Licensing Committee - 4th January 2011**

Noise regulator / limiter to be installed in all floors where there is playing of recorded / live music and to be set at a level by the Pollution Control Officer.

All doors and windows to be closed during performances of live / recorded music.

No emptying of refuse / glass bottle bins between the hours of 23:00 and 07:00.

### **Statutory Licensing Committee – 22nd August 2012**

Live music shall end at 2am.

Noise limiting equipment independently set to agreed level and report forwarded to relevant authorities.

## **Annex 4 – Plans attached**

Attached



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



## LICENSING ACT 2003 PREMISES LICENCE SUMMARY

Premises Licence Number  
 Granted  
 Issued

LAPREG/05/0529
24 November 2005
22 August 2012

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<b>LA SPAGHETTATA</b> 66 SADDLER STREET DURHAM DH1 3NP	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</b> 383920	

**Where the licence is time limited the dates**  
 N/A

**Licensable activities authorised by this licence**

- Live Music
- Recorded Music
- Performances of Dance
- Anything similar to live music, recorded music or performance of dance
- Provision of Facilities for Dancing
- Entertainment of a similar description to making music or dance
- Late Night Refreshment
- Sale by Retail of Alcohol

**The opening hours of the premises (all times in 24hr format)**

Monday	10:30 - 02:30	<b>Non standard/seasonal timings:</b> N/A
Tuesday	10:30 - 02:30	
Wednesday	10:30 - 02:30	
Thursday	10:30 - 02:30	
Friday	10:30 - 03:30	
Saturday	10:30 - 03:30	
Sunday	10:30 - 02:30	

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

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

**Live music**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 02:00	N/A
Saturday	10:30 - 02:00	
Sunday	10:30 - 02:00	

**Recorded music**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Performances of dance**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Anything of a similar description to live music, recorded music or performances of dance**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Provision of facilities for dancing**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Provision of facilities for entertainment similar to making music or dancing**

Indoors only		
Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Late night refreshment**

Indoors only		
Monday	23:00 - 02:00	Further details
Tuesday	23:00 - 02:00	N/A
Wednesday	23:00 - 02:00	
Thursday	23:00 - 02:00	Non standard/seasonal timings:
Friday	23:00 - 03:00	N/A
Saturday	23:00 - 03:00	
Sunday	23:00 - 02:00	

**Sale by retail of alcohol**

On Sales Only		
Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	
Wednesday	10:30 - 02:00	Non standard/seasonal timings:
Thursday	10:30 - 02:00	
Friday	10:30 - 03:00	
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

MR FABIO CIAMPOLILLO



**Registered number of holder, for example company number, charity number (where applicable)**

Company no: NOT APPLICABLE  
Charity no: NOT APPLICABLE

**Name of designated premises supervisor where the premises licence authorises the sale by retail of alcohol**

MR FABIO CIAMPOLILLO

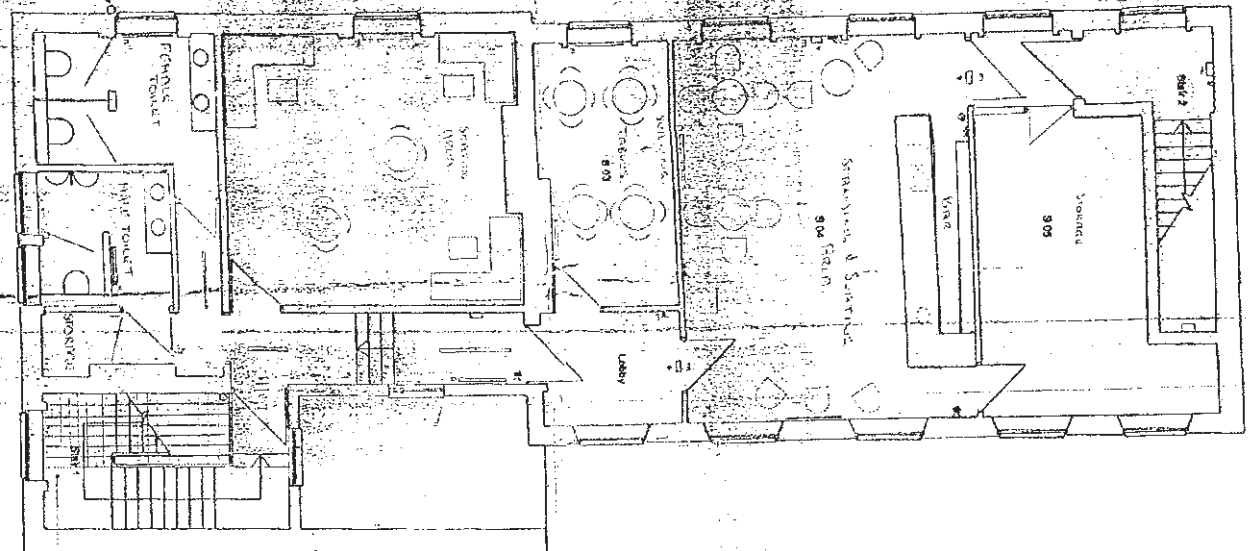
**State whether access to the premises by children is restricted or prohibited**

NOT APPLICABLE

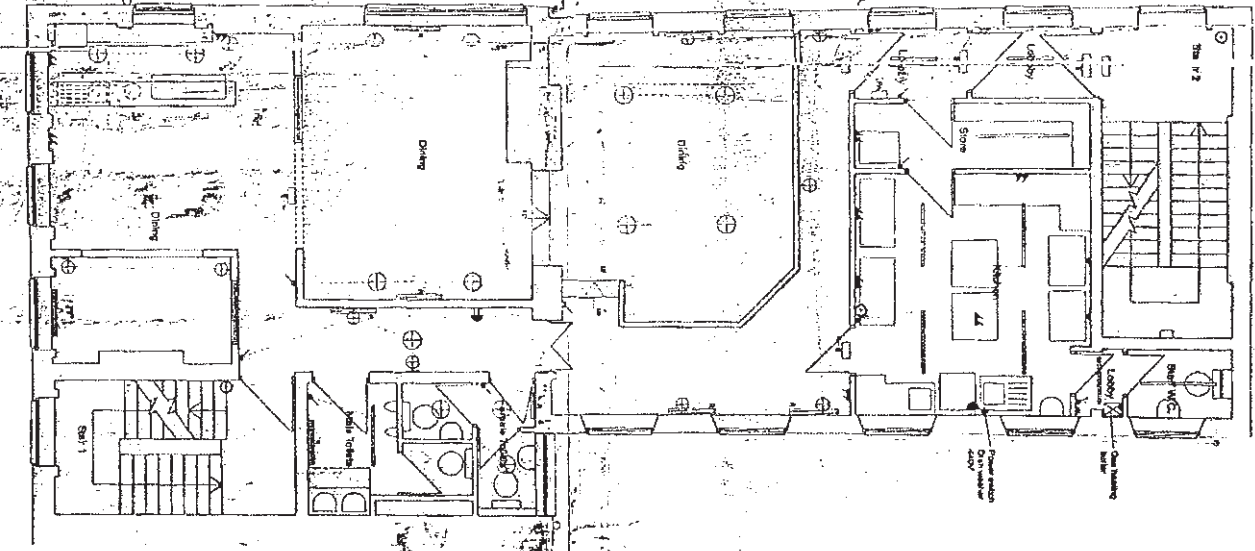


Signature of Authorised Officer  
Head of Environment, Health and Consumer Protection

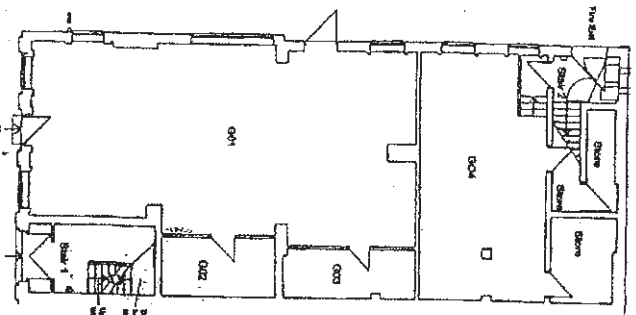
Second Floor Plan



First Floor Plan



Ground Floor Plan



- Electrical Lighting**
- ⊕ Fluorescent strip light
  - ⊕ Pendant ceiling light
  - ⊕ Wall light
  - Bulbhead wall light
  - ⊕ Emergency light / Fire Exit sign
- Fire Alarm**
- ⊕ Control Panel
  - ⊕ Fire Alarm call point
  - ⊕ Fire Alarm sounder
- Services**
- ▲ Spur
  - ⊕ Double switched socket
  - ⊕ Switch
  - ⊕ Double RAD
  - ⊕ Single RAD
  - ⊕ Telephone Point

**HLB**  
 HILB  
 Electrical & Mechanical Services

NOTES: REFER TO ALL RELEVANT DRAWINGS FOR ALL DIMENSIONS TO BE MAINTAINED BY CONTRACTOR.

PROJECT: LA SPEGHINATA  
 CONTRACTOR: HILB  
 DRAWING NO: 0227 / U-0-01  
 DATE: 05/10/17

La Speghinata, Conversion of Existing Restaurant to Wine Bar  
 88 Sackville Street, Dublin 1

Client: Giovanni & Ennio, La Speghinata

Scale: 1:50

0227 / U-0-01



## **APPENDIX 3 – REVIEW APPLICATION**

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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

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

I Mr M Barton - the Chief Constable of Durham

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> La Spaghetтата 66 Saddler Street	
<b>Post town</b> Durham	<b>Post code (if known)</b> DH1 3NP

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Fabio Ciampolillo
---

<b>Number of premises licence or club premises certificate (if known)</b> LAPREG/05/0529
---

**Part 2 - Applicant details**

I am

**Please tick yes**

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address Mr M Barton The Chief Constable of Durham Durham Constabulary Police Headquarters Aykley Heads Durham DH1 5TT
Telephone number (if any) 0345 6060365
E-mail address (optional)

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

Please tick one or more boxes

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

**Please state the ground(s) for review** (please read guidance note 1)  
See attached Grounds

**Please provide as much information as possible to support the application**  
(please read guidance note 2)

See attached Grounds

**Please tick yes**

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

If yes please state the date of that application

Day

Month

Year

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



Please tick yes

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

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 3)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date

19/11/12

Capacity

Delegated authority

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 5) Sgt. 1590 Timothy Robson Alcohol Harm Reduction Unit Annand House John Street North Meadowfield	
<b>Post town</b> Durham	<b>Post Code</b> DH7 8RS
<b>Telephone number (if any)</b> 01913754980	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

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





## GROUNDS FOR REVIEW

1. The Applicant is seeking a review of the premises licence for La Spaghettata, in particular Fabio's bar, which is situated on the top floor of 66 Saddler Street, Durham. This review is sought as it is an appropriate course of action to address concerns relating to the prevention of crime and disorder and the protection of children from harm objectives in the Licensing Act 2003.
2. Sergeant Robson outlines, in his statement of the 31<sup>st</sup> October 2012, the reports and intelligence received by the Applicant of criminal behaviour, drunkenness and underage sales connected with this premises.
3. As a result of these reports, as part of a Test Purchasing Operation named Operation Glenside, this premises was visited by a child volunteer test purchaser on various dates in October 2012.

### Underage Sales

4. On the 11<sup>th</sup> October 2012, at around 6.24PM, a 15 year old female child entered the premises and purchased two glasses of Rose wine. She was served by a female bar person. She was not asked for her age or for identification.
5. On the 15<sup>th</sup> October 2012, at around 6.29PM, the same 15 year old female child entered the premises and purchased two glasses of Rose wine. She was served by a male bar person. She was not asked for her age or for identification. She was however informed that she was entitled to a third glass free, which the child declined.
6. On the 16<sup>th</sup> October 2012, at around 6.18PM, the same 15 year old female child entered the premises and purchased two glasses of Rose wine. She was served by a different male bar person. She was not asked her age or for identification.
7. Following these visits Inspector Dobson and Sergeant Robson attended the premises on Friday the 19<sup>th</sup> October 2012 at 10.45PM. They were concerned as they found all three door supervisors upstairs in the premises and displaying a lack of attention through use of their



mobile phones. Sgt Robson spoke to the Premises Licence Holder and Designated Premises Supervisor, Mr Ciampolillo, and explained that the door supervisors are ineffective and that two should be placed on the main entrance to challenge customer's age and drunkenness at the earliest opportunity. Sgt Robson was assured this would be remedied yet a week later PCSO Haigh visited the premises and found the door staff again working on the upper floor at the premises and that the level of intoxication amongst customers was high.

8. On the 5<sup>th</sup> November 2012 Sergeant Robson attended the premises and issued each member of bar staff who served the child test purchaser volunteer with a Fixed Penalty Ticket.
9. Whilst it is for the Licensing Authority to determine the appropriate action, the Applicant would ask the Authority to revoke the premises licence as the repeated transgressions of the licensing laws and the poor management displayed shows that this is the most appropriate action to promote the relevant licensing objectives.

**APPLICATION FOR REVIEW OF PREMISES LICENCE**

**LA SPAGHETTATA (FABIO'S BAR), 66 SADDLER STREET,  
DURHAM, DH1 3NP**

**APPLICANT'S BUNDLE OF EVIDENCE**

**No     Details**

1.     Photographs
2.     Premises Licence
3.     Statement of Sgt 1590 Robson dated the 31<sup>st</sup> October 2012



**FABIOS BAR, 66 SADDLER STREET, DURHAM CITY**





## LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number  
Granted  
Issued

LAPREG/05/0529
24 November 2005
22 August 2012

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<b>LA SPAGHETTATA</b> 66 SADDLER STREET DURHAM DH1 3NP	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</b> 0191 383920	

**Where the licence is time limited the dates**  
N/A

**Licensable activities authorised by this licence**

- Live Music
- Recorded Music
- Performances of Dance
- Anything similar to live music, recorded music or performance of dance
- Provision of Facilities for Dancing
- Entertainment of a similar description to making music or dance
- Late Night Refreshment
- Sale by Retail of Alcohol

**The opening hours of the premises (all times in 24hr format)**

Monday	10:30 - 02:30	<b>Non standard/seasonal timings:</b>
Tuesday	10:30 - 02:30	N/A
Wednesday	10:30 - 02:30	
Thursday	10:30 - 02:30	
Friday	10:30 - 03:30	
Saturday	10:30 - 03:30	
Sunday	10:30 - 02:30	

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



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

<b>Live music</b>		
Indoors only		
Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

<b>Recorded music</b>		
Indoors only		
Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

<b>Performances of dance</b>		
Indoors only		
Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

<b>Anything of a similar description to live music, recorded music or performances of dance</b>		
Indoors only		
Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

<b>Provision of facilities for dancing</b>		
Indoors only		
Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Provision of facilities for entertainment similar to making music or dancing**

Indoors only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	N/A
Wednesday	10:30 - 02:00	
Thursday	10:30 - 02:00	Non standard/seasonal timings:
Friday	10:30 - 03:00	N/A
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Late night refreshment**

Indoors only

Monday	23:00 - 02:00	Further details
Tuesday	23:00 - 02:00	N/A
Wednesday	23:00 - 02:00	
Thursday	23:00 - 02:00	Non standard/seasonal timings:
Friday	23:00 - 03:00	N/A
Saturday	23:00 - 03:00	
Sunday	23:00 - 02:00	

**Sale by retail of alcohol**

On Sales Only

Monday	10:30 - 02:00	Further details
Tuesday	10:30 - 02:00	
Wednesday	10:30 - 02:00	Non standard/seasonal timings:
Thursday	10:30 - 02:00	
Friday	10:30 - 03:00	
Saturday	10:30 - 03:00	
Sunday	10:30 - 02:00	

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

MR FABIO CIAMPOLILLO

**Registered number of holder, for example company number, charity number (where applicable)**

Company no:	NOT APPLICABLE
Charity no:	NOT APPLICABLE

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

MR FABIO CIAMPOLILLO



**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**

DURHAM184  
DURHAM

### **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.

This Premises Licence has been granted upon conversion under schedule 8 of the Licensing Act 2003 of the previous Justices' On Licence, and such rights and restrictions that applied to such Licence are hereby incorporated into this Premises Licence, subject to any express terms to the contrary hereinafter specified, and/or any restriction applying to a Premises Licence and/or any licensable activity.

## **Annex 2 – Conditions consistent with the premises Operating Schedule**

### **General**

The applicant does not consider by extending the opening hours by another hour that any of the licensing objectives will be compromised, the Applicant has had no trouble in the past at the premises and is not anticipating any rowdiness but would consider any proposal any party makes so as to achieve the licensing objectives.

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

### **Statutory Licensing Committee – 10th September 2009**

A minimum of one door supervisor at times between midnight and 2am on Fridays and Saturdays.

CCTV to be installed to police and home office guidelines.

Noise levels and frequency must be kept at such levels that they shall not be a nuisance to occupiers of nearby properties. Any complaints or representations received must be taken into account and acted upon where necessary to prevent public nuisance.

### **Statutory Licensing Committee - 4th January 2011**

Noise regulator / limiter to be installed in all floors where there is playing of recorded / live music and to be set at a level by the Pollution Control Officer.

All doors and windows to be closed during performances of live / recorded music.

No emptying of refuse / glass bottle bins between the hours of 23:00 and 07:00.

### **Statutory Licensing Committee – 22nd August 2012**

Live music shall end at 2am.

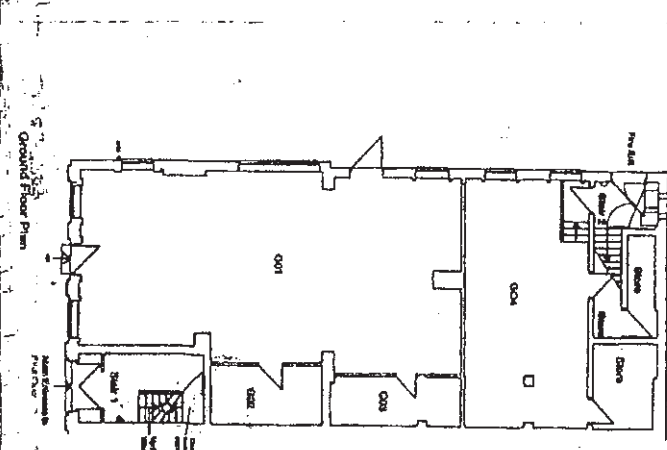
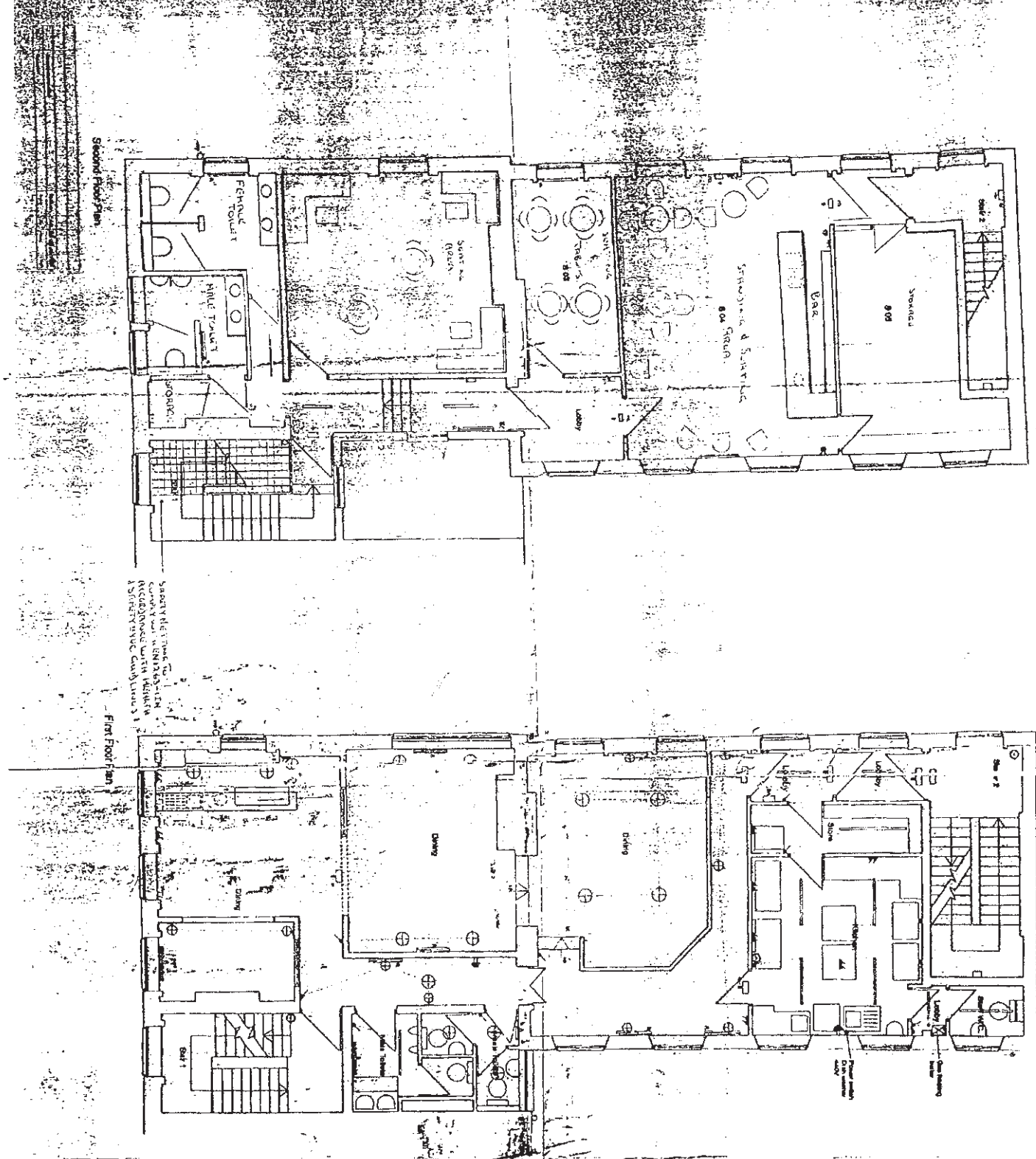
Noise limiting equipment independently set to agreed level and report forwarded to relevant authorities.

## **Annex 4 – Plans attached**

Attached



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



**Electrical Lighting**

- ⊕ Fluorescent strip light
- ⊕ Pendant ceiling light
- ⊕ Wall light
- Bulkhead wall light
- ⊕ Emergency light / Fire Exit sign

**Fire Alarm**

- ⊕ Control Panel
- ⊕ Fire Alarm call point
- ⊕ Fire Alarm sounder

**Services**

- ⊕ Spur
- ⊕ Double switched socket
- ⊕ Switch

**Double RCD**

**Single RCD**

**Telephone Point**

**HLB**  
*Architects*

100% RESPONSIBLE FOR THE PROJECT. ALL RESPONSIBILITY TO BE MAINTAINED BY THE ARCHITECTS THROUGHOUT THE PROJECT.

CONTROL PANEL PROTECTED BY 100% RESPONSIBLE FOR THE PROJECT. ALL RESPONSIBILITY TO BE MAINTAINED BY THE ARCHITECTS THROUGHOUT THE PROJECT.

PROJECT: **Government & Family, Le Spanghena, 66 Salsburgh Street, Durham**

DESIGNER: **La Spanghena, Corporation of Existing Restaurant to Village Bar**

DATE: **02/27/10/01**

SCALE: **A**

**WITNESS STATEMENT****Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

URN


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Statement of: Timothy John Robson

Age if under 18: O21 (if over 18 insert 'over 18')

Occupation: Police Sergeant 1590

This statement (consisting of 6 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature:  (witness) Date: 31/10/2012

I am a Police Sergeant in the Durham Constabulary, presently stationed in the Alcohol Harm Reduction Unit. I have 10 years' experience in pure licensing. I hold a National Certificate for Personal Licence Holders, a National Certificate for Designated premises Supervisors, a National Certificate for Licensing Practitioners and I am the holder of a Personal Licence for alcohol retail. I hold an Award in assessment of licensed premises, and I am a Best Bar None assessor.

Fabio's is a bar situated on the top floor of 66 Saddler Street Durham. The bar is sited above an Italian restaurant named La Spaghattata of which the premise licence is named under, which is owned by the same person. La Spaghattata provides a seated area for meals whereas Fabio's bar an offset of La Spaghattata functions primarily as a high volume vertical drinking establishment. My experience in the Durham City area indicated that Fabio's Bar attracts young persons and primarily the student populous of Durham City. The premise is situated near to the peninsular and is therefore located close to a number of colleges. Students must pass this premise.

At 2.30am on the 28<sup>th</sup> July 2011 a call was received from a male reporting that a female had collapsed due to drink. The female aged 23 was on the stairs to Fabio's and was so drunk that she had collapsed.

At about 12.15am on the 7<sup>th</sup> August 2011 a female had her bag stolen from Fabio's Bar, she reported the theft the next morning as she was so intoxicated and drunk that she was unable to report it at the time.

At approximately 12.30am on Tuesday 6<sup>th</sup> December 2011 a male student was in Fabio's with his brother when he dropped a drink he was forcibly removed from the premise by door staff who described him as drunk. The customers in their intoxicated state became aggressive towards the door staff.

At 9am on Monday 23<sup>rd</sup> April 2012 a female reported to the police that she believed that she has had her drink spiked in Fabio's bar at approximately 1.30am on Friday 20<sup>th</sup> April 2012. The female stated she was in Fabio's when they had been in a dispute about drink and had left the premise and been ill all weekend. Police had responded to this female vomiting in a

Signature:  Signature witnessed by: .....

taxi and then fleeing to her home. The officers attending and dealing with this matter are of the opinion that the female was heavily intoxicated.

At 12.20am on the 14<sup>th</sup> June 2012 a report was received of two persons assaulting people outside of Fabio's, this appears to be a dispute amongst students.

At approximately 11pm on 4<sup>th</sup> June 2012 a mobile phone was stolen from a purse left on a table.

On the 28<sup>th</sup> June 2012 an application was received by the Licensing Authority to extend the licence of La Spaghattata and Fabio's. This application was granted.

At 1.30am on Sunday 8<sup>th</sup> July 2012 a male was assaulted by unknown persons in the bar at Fabio's. He was believed to be unconscious for about 5 minutes.

On 28th August 2012 the police received intelligence that there was a male dealing drugs from Fabio's, the witness has seen a male leave Fabio's and was seen to sell packets of substances believed controlled drugs and then to return into the premise.


On 29<sup>th</sup> August 2012 the police received intelligence that Fabio's bar was serving alcohol to under aged persons. A witness reports that in the last week a 17yr old female had left the premise and was extremely drunk, she was seen

At 1.43am on Wednesday 19<sup>th</sup> September 2012 the staff at Fabio's requested the attendance of police in removing a female customer who was being a nuisance and refusing to leave. The caller suggested that the customer may have been taking heroin due to her state and was on the stairs causing staff a problem. On police arrival the police report that she was drunk and disorderly and she resisted arrest.

At 1.30am on Sunday 30<sup>th</sup> September 2012 a female in her early 20's had fallen down the stairs in Fabio's and had a cut to her head. She was unconscious for a time but having regained consciousness she was drunk. Approximately 40 drunken persons were surrounding this female.

During October 2012 Operation Glenside 2012 was ran in the City Centre of Durham which was based on intelligence received by the police. A child volunteer aged 15 years was briefed and accompanied by a police officer the child volunteer would enter a licensed premise and attempt to buy an alcoholic drink. If asked their age they would say that they are 18 if asked for identification they would say that they have none. The words and actions would be recorded on a body worn camera.

At 6.24pm on Thursday October 11<sup>th</sup> 2012 a female child volunteer aged 15 years entered La Spaghattata went upstairs and entered Fabio's Bar. The child volunteer was approached by a young female wearing a white Fabio's T shirt. The child volunteer ordered two glasses of Rose wine from the bar person. The retailer did not ask for age or identification. At 6.30pm the same day the child volunteer paid the female £5 for two glasses of Rose wine and after taking the alcohol the child volunteer and the accompanying police officer went to the toilet. In the toilet a photograph was taken of the alcohol purchased (JC1) and it was poured away.

Signature:  Signature witnessed by: .....

The child volunteer and the police officer then left the premise and an in car video recorded de brief was conducted. Upon return to the station another de brief was carried out. The initial briefing, visit, in car de brief and police station de brief has been produced (TJR1).

At 6.29pm on Monday October 15th 2012 a female child volunteer aged 15 years entered La Spaghattata went upstairs and entered Fabio's Bar. The child volunteer was approached by a young male with a beard wearing a black T shirt. The child volunteer ordered two glasses of Rose wine from the bar person. The retailer did not ask for age or identification but informed the child volunteer that she was entitled to a third glass free if two were bought. The child volunteer declined. At 6.31 the same day the child volunteer paid the female £5 for two glasses of Rose wine and after taking the alcohol the child volunteer and the accompanying police officer went to the toilet. In the toilet a photograph was taken of the alcohol purchased (JC2) and it was poured away. The child volunteer and the police officer then left the premise and an in car video recorded de brief was conducted. Upon return to the station another de brief was carried out. The initial briefing, visit, in car de brief and police station de brief has been produced (TJR1).

At 6.18pm on Tuesday October 16th 2012 a female child volunteer aged 15 years entered La Spaghattata went upstairs and entered Fabio's Bar. The child volunteer was approached by a young male in his early 20's with blonde spiked hair and wearing a burgundy zip up jacket. The child volunteer ordered two glasses of Rose wine from the bar person. The retailer did not ask for age or identification. At 6.19pm the same day the child volunteer paid the male £5 for two glasses of Rose wine and after taking the alcohol the child volunteer and the accompanying police officer went to the toilet. In the toilet a photograph was taken of the alcohol purchased (JC3) and it was poured away. The child volunteer and the police officer then left the premise and an in car video recorded de brief was conducted. Upon return to the station another de brief was carried out. The initial briefing, visit, in car de brief and police station de brief has been produced (TJR1).

Three sales of alcohol have been made to a 15yr old child volunteer on three separate occasions over two weeks. Neither age nor identification has been requested. It is clear that this premise undermines the protection of children from harm objective and there is strong evidence that customers attending this premise have been served alcohol when drunk. During operation Glenside 2012 it was noted that there were persons employed at the premise who were wearing university jumpers such as Josephine Butler college.

Fabio's was an extension of the restaurant situated directly below but in the last 12 months this premise has become a high volume vertical drinking establishment. It attracts young customers and especially students, it is placed near a number of universities and halls of residence yet there is no increase in challenging age.

Since the extension of hours of Fabio's it has been noted that there is a greater propensity for drunkenness and of drink related incidents associated with the bar.

At 10.45pm on Friday 19<sup>th</sup> October 2012 I was on uniform patrol duties in company with Inspector 220 Dobson when we attended Fabio's bar, we were able to enter the main door and walk up a number of flights of stairs passing La Spaghattata restaurant until we entered Fabio's where I noted three door supervisors who were engrossed in their mobile phones. Upon inspecting the premise it was quite full and nearly all of the customers were very young

Signature: [Redacted] Signature witnessed by: .....



in age. It was clear that the premise focussed on a young audience. I spoke to the manager Mr Fabio Ciampolillo and informed him of the need to challenge ages. I pointed out that his door staff were ineffective and that two should be placed on the main entrance on the ground floor. This would enable proper checks to be done of customers at the earliest opportunity where ages could be challenged and drunkenness tests conducted. I was assured that these matters would be remedied. One week later Fabio's was visited by PCSO Haigh of the alcohol harm reduction unit who noted that the door staff were again all working on the top floor inside Fabio's. no checking was being carried out at the entrance and levels of intoxication were high.

At 6.37pm on Monday 5<sup>th</sup> November 2012 I attended Fabios Bar at 66 Saddler Stret Durham when I spoke to Miss [redacted] born [redacted] I cautioned [redacted] and told her I had reason to believe that she had at 6.24pm on Thursday 11<sup>th</sup> October 2012, sold two glasses of Rose wine, with an alcohol content of above 0.5 abv to the child volunteer of 15 years of age. [redacted] confirmed that she had sold the wine to the child. She confirmed that she had not asked for her age nor asked for identification. I reminded her that she was still under caution and that she had committed an offence of selling alcohol to a person under the age of 18yrs in a licensed premise, and that this offence was contrary to section 146 of the Licensing Act 2003 I told her she would be reported for this offence, she made no reply. I informed [redacted] of the provisions of the Fixed Penalty Notice, issued under the Criminal Justice and Police Act 2001. I offered [redacted] the ability to deal with this matter under the provisions of the fixed penalty procedure and she accepted the terms. I issued [redacted] with FPT number 11/A8013717 2 which she signed as accepted. I advised her that she had 21 days with which to pay the penalty. [redacted] said "YEAH".

I then spoke to Mr [redacted] born [redacted] I cautioned [redacted] and told him I had reason to believe that he had at 6.29pm on Monday 15<sup>th</sup> October 2012 sold two glasses of Rose wine, with an alcohol content of above 0.5 abv to the child volunteer of 15 years of age. I pointed out that he had also offered a glass of wine free as two had been bought. [redacted] confirmed that he had sold the wine to the child. He confirmed that he had not asked for her age nor asked for identification. I reminded her that he was still under caution and that he had committed an offence of selling alcohol to a person under the age of 18yrs in a licensed premise, and that this offence was contrary to section 146 of the Licensing Act 2003 I told him he would be reported for this offence, he made no reply. I informed [redacted] of the provisions of the Fixed Penalty Notice, issued under the Criminal Justice and Police Act 2001. I offered [redacted] the ability to deal with this matter under the provisions of the fixed penalty procedure and he accepted the terms. I issued [redacted] with FPT number 11/A8013718 0 which he signed as accepted. I advised him that he had 21 days with which to pay the penalty. [redacted] said "YEAH".

I then spoke to [redacted] born [redacted] I cautioned [redacted] and told him I had reason to believe that he had at 6.18pm on Tuesday 16<sup>th</sup> October 2012 sold two glasses of Rose wine, with an alcohol content of above 0.5 abv to the child volunteer of 15 years of age. [redacted] confirmed that he had sold the wine to the child. He confirmed that he had not asked for her age nor asked for identification. I reminded her that he was still under caution and that he had committed an offence of selling alcohol to a person under the age of 18yrs in a licensed premise, and that this offence was contrary to section 146 of the Licensing Act 2003 I told him he would be reported for this offence, he

Signature: [redacted] Signature witnessed by: .....

made no reply. I informed [redacted] of the provisions of the Fixed Penalty Notice, issued under the Criminal Justice and Police Act 2001. I offered [redacted] the ability to deal with this matter under the provisions of the fixed penalty procedure and he accepted the terms. I issued [redacted] with FPT number 11/A8013719 9 which he signed as accepted. I advised him that he had 21 days with which to pay the penalty. [redacted] said "OKAY".

This premise has undermined the prevention of Crime and Disorder and the Protection of Children from harm objectives and it is evident that the extended hours, poor management and inadequate methods of operation clearly contribute to this.

Signature: [redacted]

Signature witnessed by: .....

Signature: .....

Signature witnessed by: .....

**APPENDIX 4 – STATEMENT OF LICENSING POLICY  
SECTIONS 5.0 & 8.0 & 19.0**

## **Durham County Council 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.

## **8.0 Protection of Children from Harm**

8.1 While the Act does not prohibit children from having free access to any licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from physical, moral or psychological harm.

8.2 The Act makes it an offence for any child under the age of 16 who is not accompanied by an adult from being present:

- at any time on pub premises, or other premises being used exclusively or primarily for the supply of alcohol for consumption on those premises; or
- between the hours of midnight and 05:00 hours on restaurant premises or other premises that supply alcohol for consumption on the premises
- the Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises where it is necessary to prevent physical, moral or psychological harm.

8.3 The Licensing Authority may consider the following when dealing with a Licence application where children may have limited access:

- Limitations on the hours when children may be present.
- Limitations on under 18s
- Limitations or exclusion when certain activities are taking place.
- Requirements for an accompanying adult to be present.
- Full exclusion of people under 18 from the premises when certain licensable activities are taking place (e.g. entertainment of a sexual nature).
- Limitations on the parts of premises to which children might be given access.
- Any other limitations appropriate to the application and according with the four Licensing Objectives.

8.4 The Licensing Authority will work closely with the Police and the Council's Trading Standards Service to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. Alcohol must not be served to persons under the age of 18, except in limited circumstances allowed by the law, and then only after verifying a person's proof of age e.g. 16 and 17 year-olds may drink beer, wine or cider with a table meal in relevant premises, where accompanied by an adult aged 18 years or over. The currently accepted verifications for proof of age are a passport, a photo card driving licence or a proof of age scheme such as Challenge 25

Events which are aimed at children under the age of 18 years on licensed premises will not be looked on favourably by the licensing authority unless the applicant can demonstrate that all safeguards for children have been addressed such as the removal of alcohol advertising.

8.5 Recorded staff training programmes, the use of a refusals register, in-store signage and limited access to alcoholic drink can all reduce the likelihood of illegal sales.

8.6 The Licensing Authority commends the use of the 'Portman Group' Code of Practice on the naming, packaging and the promotion of alcoholic drinks in all licensed premises.

### ***Access to Cinemas***

8.7 In the case of premises which are used for film exhibitions, applicants should include in the Operating Schedule arrangements for restricting access only to those children who meet the required age limit, in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Local Authority.

8.8 The Act provides that it is mandatory for Licensing Authorities to include a condition in all Premises Licences and club certificates authorising the exhibition of film, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the Licensing Authority itself.

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

### ***Children and Public Entertainment***

8.10 Many children go to see and / or take part in an entertainment arranged especially for them. For example, children's film shows and dance or drama school productions, and additional arrangements may be required to safeguard them while at the premises.

8.11 Where entertainment requiring a Licence is specifically presented for children, the Licensing Authority will normally expect the presence of at least one member of staff from the Licensed premises for every 50 children present to ensure their safety and protection from harm and to control their access and egress from the premises. The Council will require those caring for or supervising children to have undergone an appropriate Criminal Record check with the Criminal Records Bureau.

8.12 With regard to this Licensing Objective, the Licensing Authority considers Durham County Council Safeguarding Children Board to be the competent authority for matters relating to the protection of children from harm. A protocol exists between Durham Local Safeguarding Children Board and Durham Constabulary. All safeguarding concerns identified as a result of premises, personal applications and all variations to licences are covered by this protocol.

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

## **19 Reviews**

19.1 The Licensing Act provides a mechanism for reviewing a Premises Licences and Club Premises Certificates where problems associated with a premises undermine the Licensing Objectives following grant or variation.

19.2 At any stage during the life of a Premises Licence or a Club Premises Certificate, an application for a review can be made to the Licensing Authority by any Responsible Authority, Elected Member or Interested Party. However, where an application for a review is considered to be frivolous vexatious or repetitious or where an application for a review is considered not relevant to the Licensing Objectives the Licensing Authority will reject it

19.3 The proceedings set out in the Act for reviewing Premises Licences and Club Premises Certificates represent a key protection for the community. Unless the application is withdrawn, deemed to be frivolous, vexatious or repetitious or does not relate to the Licensing Objectives, the Licensing Authority will hold a Hearing and take any necessary steps to promote the Licensing Objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the Licence for up to 3 months or the revocation of the Licence.

19.4 The Licensing Authority will not expect a Premises Licence to be reviewed more than once within any 12 month period on similar grounds, except in exceptional circumstances or where it arises following a Closure Order.



## **APPENDIX 5 – RELEVANT SECTIONS OF 182 GUIDANCE**

## Section 182 Guidance

### 11.0 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](http://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 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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## LICENSING ACT 2003

**TO: The County Council of Durham as the Licensing Authority.**

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

**Premises: La Spaghetтата (Fabios)**

**Applicant: Chief Constable of Durham**

**Interested Party:**

#### **Date of application:**

I Giles McCourt (Solicitor on behalf of Mr Fabio Ciampolillo – the Premises Licence holder) pursuant to Regulation 9 of The Licensing Act 2003 (Hearings) Regulations 2005 gives notice to the Authority that I consider a hearing to be unnecessary and request that the Authority dispenses with such provided that the review of the licence provides for the following provisions or conditions in addition to any already in existence:

1. The following conditions to 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 taken 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 a Friday and Saturday evenings until close.
- (vi) A further door supervisor will be placed on the entrance to Fabio's Bar from 20:00 hours until close.
- (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.

2. The hours for all licensable activities to be varied to end at 02.00 on Monday through to and including Sunday. In addition the closing hours for the premises to be varied to end at 02.30 on Monday through to and including Sunday.

Signed:



Giles McCourt  
Solicitor  
Mortons Solicitors  
112 High Street West  
Sunderland  
SR1 1TX

Date: 16<sup>th</sup> January 2013

*FORM NEEDS TO BE SIGNED BY ALL INTERESTED PARTIES AND THE APPLICANT, ONE FORM CAN BE USED FOR ALL OR EACH HAVE INDIVIDUAL ONES.*

## LICENSING ACT 2003

**TO: The County Council of Durham as the Licensing Authority.**

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

**Premises: La Spaghattata (Fabios)**

**Applicant: Chief Constable of Durham**

**Interested Party:**

**Date of application: 19<sup>th</sup> November 2012**

I Stephen James Mooney (Deputy Force Solicitor on behalf of the Chief Constable of Durham – the Applicant for Review) pursuant to Regulation 9 of The Licensing Act 2003 (Hearings) Regulations 2005 gives notice to the Authority that I consider a hearing to be unnecessary and request that the Authority dispenses with such provided that the review of the licence provides for the following provisions or conditions in addition to any already in existence:

1. The following conditions to 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 taken 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 a Friday and Saturday evenings until close.
  - (vi) A further door supervisor will be placed on the entrance to Fabio's Bar from 20:00 hours until close.
  - (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.

2. The hours for all licensable activities to be varied to end at 02.00 on Monday through to and including Sunday. In addition the closing hours for the premises to be varied to end at 02.30 on Monday through to and including Sunday.

Signed:.....  .....

Full name/names: **STEPHEN JAMES MOONEY**  
**DEPUTY FORCE SOLICITOR**

Date: **16<sup>th</sup> January 2013**

*FORM NEEDS TO BE SIGNED BY ALL INTERESTED PARTIES AND THE APPLICANT, ONE FORM CAN BE USED FOR ALL OR EACH HAVE INDIVIDUAL ONES.*