



Statutory Licensing Sub-Committee

Date Thursday 24 January 2013
Time 10.00 am
Venue Council Chamber, Council Offices, Chester-le-Street

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes (Pages 1 - 4)
4. Declarations of Interest
5. Application for the Review of a Premises Licence - Etherley Cricket Club, Bishop Auckland (Pages 5 - 50)
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

16 January 2013

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

Councillors B Arthur, D Brown and D Marshall

Contact: Jill Errington

Tel: 03000 269703

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DURHAM COUNTY COUNCIL

At a Meeting of the **Statutory Licensing Sub-Committee** held in Committee Room 2, County Hall, Durham on **Monday 31 December 2012 at 10.00 am**

Present:

Councillor J Shiell (Chair)

Members of the Committee:

Councillors K Holroyd and J Wilkinson

Also Present:

S Grigor (Legal Officer)
H Johnson (Licensing Team Leader)
K Monaghan (Senior Licensing Officer)
Sgt T Robson (Durham Constabulary)
PCSO H Robson (Durham Constabulary)
D Dinsdale (Etherley Cricket Club)

1 Declarations of Interest

There were no declarations of interest.

2 Application for Expedited Review of a Premises Licence - Etherley Cricket Club, Bishop Auckland

Consideration was given to an application and supporting certificate received under s53A of the Licensing Act 2003 from Durham Constabulary for an expedited review of the premises licence of Etherley Cricket Club, Low Etherley, Bishop Auckland (for copy see file of minutes).

The Licensing Team Leader advised the Sub-Committee that it should consider whether any interim steps were necessary pending determination of the summary review application which would take place within 28 days. The options open to the Sub-Committee were modifications to the conditions of the premises licence, exclusion of the sale of alcohol by retail from the licence, removal of the Designated Premises Supervisor (DPS) or suspension of the licence. If Members decided to take interim steps, the Licence Holder would have an opportunity to make representations and a further hearing would have to be held within 48 hours.

Members were informed that although the Cricket Club also held a Club Premises Certificate, this was not affected by these proceedings which related solely to the Premises Licence.

The Licensing Team Leader explained that an email had been received from John Rawle on behalf of the Club. In his email he had referred to the issue regarding the CCTV, indicating that although the Police contended that no CCTV system was

installed and working as required by the Premises Licence, a system was in operation in the premises. Mr Rawle himself had registered the Club with the Information Commissioner's Office and had witnessed the system working. Mr Rawle had also confirmed with the DPS on 22 December 2012 that the system was operating correctly. Two committee members had also witnessed the system in operation on 26 December 2012, prior to the removal of the hard drive by the Police on 27 December.

Sgt Robson, on behalf of Durham Constabulary, explained the reasons for the request for the expedited hearing, indicating that the Club had been monitored by the Police for several months, following an incident at a charity event which had resulted in two people being assaulted. It had come to light that non-private events were being held at the premises and, as a result, the Club had been invited to apply for a premises licence, this application being granted with conditions in October 2012.

On 26 December a further incident had occurred. The DPS was staffing the bar alone and a known male was in the premises. Allegations had been made in November 2012 that this male had been in the premises in possession of a knife and, although the DPS had been made aware, no action had been taken.

Statements taken after the incident on 26 December indicated that the male had consumed at least 9 pints, while he himself admitted to having consumed about 14 pints. Allegations relating to drug misuse had been made in the bar, these causing some discontent. A number of fights had then broken out, resulting in two people being stabbed by the known male, one suffering stab wounds to his abdomen and the other suffering a stab wound to the left side of his rib cage. A photograph of the injuries was circulated to the Sub-Committee.

As a result of the incident, the known male had been charged with a number of offences and remanded in custody.

Sgt Robson explained that Police felt that the consumption of alcohol was vary much a factor in the incident. In relation to the CCTV, evidence had been seized by the Police, who believed that it was not operational. In addition, the DPS had been unable to download footage from the system.

The Sub-Committee's attention was drawn to the conditions of the premises licence, in particular the one which prohibited the serving of alcohol to anyone who was intoxicated, and also the condition in relation to CCTV which required the system to be operational, and the majority of staff to be aware of how to download footage.

The premises was associated with serious crimes such as stabbings, drug misuse, affray and possession of bladed weapons, and the Police were applying for the suspension of the Premises Licence and the removal of the DPS as it was felt that this was a necessary and proportionate response. The premises would still be able to operate under the terms of its Club Premises Certificate, however as the majority of incidents involved members of the public the Police were not seeking any action in relation to this Certificate.

In responding to a question from Councillor Holroyd, Sgt Robson explained that the Police had disconnected the power and removed the hard drive from the CCTV system for forensic investigation.

Mr David Dinsdale then addressed the Sub-Committee on behalf of the Cricket Club, indicating that he had limited information but had been the only member of the committee available to attend the hearing at such short notice.

He acknowledged that a terrible incident had taken place on 26 December, which unfortunately had occurred when disagreements between two families had been aired in the Club.

The Club had experienced no issues with the DPS, who had been steward for over 10 years, and the committee had felt that the application for a premises licence had been the right decision to take.

The Club offered only junior cricket at the moment, with 25-30 young people taking part in sessions. The committee was trying to improve the facilities, source funding and regenerate the club. The members worked on a voluntary basis, and as a result of this incident, all their hard work had been tarnished.

In response to a question from Councillor Shiell, Mr Dinsdale confirmed that the individuals involved in the incident were not members of the Club.

At 10.30am, the Sub-Committee retired to deliberate in private. After reconvening at 10.50am, the Chair delivered the Sub-Committee's decision.

Resolved:

That the Designated Premises Supervisor be removed, and the Premises Licence be suspended with immediate effect pending the summary review.

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Statutory Licensing Sub-Committee

Thursday 24th January 2013, 10am

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



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

Name and Address of Premises: Etherley Cricket Club, Low Etherley,
Bishop Auckland, County Durham, DL14 0HA

1. Summary

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

A copy of the licence is attached at Appendix 1.

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

2. Details of the Application

The application is for a review of the premises licence (DCCC/PLA0057) held by Etherley Cricket Club.

On 28th December 2012, the Licensing Authority received an application for summary review and supporting certificate under section 53A of the Licensing Act 2003 from Durham Constabulary where it was required to consider the matter within 48 hours of receipt of this application. A copy of the application is attached as Appendix 3.

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

On 31st December 2012, the Licensing Statutory Sub Committee met to consider the application where it was decided to suspend the premises licence with immediate effect and to remove Fred Adams as designated premises supervisor. A copy of the notice of determination is attached as Appendix 4.

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

The Licence Holder has not submitted a representation against the Licensing Sub Committee's decision.

The application for review received on 28th December 2012, is deemed by the Licensing Authority to be relevant. The application relates to the following licensing objective:

- The prevention of crime and disorder

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

3. Representations

As part of the review process there is a statutory ten working day consultation period. In regards to this application the consultation period is between 31st December 2012 and 14th January 2013.

No representations have been received by responsible authorities or other persons. There has been two letters of support for the Club and these have been passed to Mr Raw who may submit the letters as additional information.

4. The Parties

The Parties to the hearing will be:

- Sgt Tim Robson, Durham Constabulary – on behalf of the Applicant
- Mr John Raw – on behalf of the premises licence holder

5. Durham County Council Statement of Licensing Policy

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

- 5.0 The Prevention of Crime and Disorder

Relevant information is attached at Appendix 5.

6. Section 182 Guidance

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

- 2.0 - Crime and Disorder
- Part 11 – Reviews

Relevant information is attached at Appendix 6.

7. For Decision

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

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

Background Papers:

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

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

**Appendix 1
Premises Licence**



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
 Granted
 Issued

DCCC/PLA0057
01 November 2012
01 November 2012

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>ETHERLEY CRICKET CLUB LOW ETHERLEY BISHOP AUCKLAND DL14 0HA</p>	<p>DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ</p>
<p>Telephone number:</p>	

Where the licence is time limited the dates
 N/A

Licensable activities authorised by this licence

- Films
- Indoor Sporting Events
- Live Music
- Recorded Music
- Performances of Dance
- Anything similar to live music, recorded music or performance of dance
- Late Night Refreshment
- Sale by Retail of Alcohol

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

Monday	09:30 - 23:30	Non standard/seasonal timings:
Tuesday	09:30 - 23:30	N/A
Wednesday	09:30 - 23:30	
Thursday	09:30 - 23:30	
Friday	09:30 - 01:00	
Saturday	09:30 - 01:00	
Sunday	09:30 - 01:00	

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

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

Films		
Indoors only		
Monday	11:00 - 20:00	Further details
Tuesday	11:00 - 20:00	N/A
Wednesday	11:00 - 20:00	
Thursday	11:00 - 20:00	Non standard/seasonal timings:
Friday	11:00 - 20:00	N/A
Saturday	11:00 - 20:00	
Sunday	11:00 - 20:00	

Indoor sporting events		
Monday	18:00 - 23:00	Further details
Tuesday	18:00 - 23:00	N/A
Wednesday	18:00 - 23:00	
Thursday	18:00 - 23:00	Non standard/seasonal timings:
Friday	18:00 - 23:00	N/A
Saturday	18:00 - 23:00	
Sunday	12:00 - 23:00	

Live music		
Indoors only		
Monday	19:00 - 23:30	Further details
Tuesday	19:00 - 23:30	N/A
Wednesday	19:00 - 23:30	
Thursday	19:00 - 23:30	Non standard/seasonal timings:
Friday	19:00 - 00:00	N/A
Saturday	19:00 - 00:00	
Sunday	19:00 - 23:30	

Recorded music		
Indoors only		
Monday	19:00 - 23:30	Further details
Tuesday	19:00 - 23:30	N/A
Wednesday	19:00 - 23:30	
Thursday	19:00 - 23:30	Non standard/seasonal timings:
Friday	19:00 - 00:00	N/A
Saturday	19:00 - 00:00	
Sunday	12:00 - 23:30	

Performances of dance		
Indoors only		
Monday	19:00 - 23:30	Further details
Tuesday	19:00 - 23:30	N/A
Wednesday	19:00 - 23:30	
Thursday	19:00 - 23:30	Non standard/seasonal timings:
Friday	19:00 - 23:30	N/A
Saturday	12:00 - 00:00	
Sunday	12:00 - 23:30	

Anything of a similar description to live music, recorded music or performances of dance		
Indoors only		
Monday	19:00 - 23:30	Further details
Tuesday	12:00 - 23:30	N/A
Wednesday	12:00 - 23:30	
Thursday	12:00 - 23:30	Non standard/seasonal timings:
Friday	12:00 - 23:30	N/A
Saturday	12:00 - 00:00	
Sunday	12:00 - 00:00	


Late night refreshment		
Indoors only		
Monday	23:00 - 23:30	Further details
Tuesday	23:00 - 23:30	N/A
Wednesday	23:00 - 23:30	
Thursday	23:00 - 23:30	Non standard/seasonal timings:
Friday	23:00 - 00:00	N/A
Saturday	23:00 - 00:00	
Sunday	23:00 - 23:30	

Sale by retail of alcohol		
On and Off Sales		
Monday	11:00 - 23:00	Further details
Tuesday	11:00 - 23:00	
Wednesday	11:00 - 23:00	Non standard/seasonal timings:
Thursday	11:00 - 23:00	
Friday	11:00 - 00:30	
Saturday	11:00 - 00:30	
Sunday	11:00 - 00:30	

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence	
ETHERLEY CRICKET CLUB HIGH ETHERLEY BISHOP AUCKLAND CO DURHAM DL14 0HA 01388 832551	

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

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

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
DCC/PER/C0106 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.

Mandatory condition: exhibition of films

(1) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

(2) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

(3) Where- (a) the film classification body is not specified in the licence, or (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.

(4) In this section- "children" means persons aged under 18; and "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 – Conditions consistent with the premises Operating Schedule

The Prevention of Crime and Disorder

Initial staff training to be carried out by the DPS to ensure no alcohol is sold to anyone underage. Refresher training to be carried out every six months.

No serving alcohol to any person who appears to be drunk.

A CCTV system will be fully installed and working prior to the sale of alcohol commencing. It will be of a good working order and fully maintained to a high standard.

A CCTV system will cover the inside and outside of all entrances and exits to the premises. This is to include the point of sale and any fridges containing alcohol which the public have access to.

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

All CCTV footage will be kept on the system for a minimum of 28 days and will be made available to officers and responsible authorities when requested to do so.

The majority of staff will be trained to operate the CCTV system. This to include viewing and downloading of said system.

Public Safety

Fire exits and equipment clearly marked.

Aware of requirements regarding health and safety.

First aid facilities will be available.

An incident log will be kept at all times.

The Prevention of Public Nuisance

Signage will be displayed encouraging customers to leave quietly.

Off sales will be allowed, however, all drinks (glass containers) must be decanted into plastic glasses if taken from the club house.

The Protection of Children from Harm

Proof of age policy in place for people under 25 years of age via the Challenge 25 Scheme.

The only forms of identification accepted are Passport, Photo Driving Licence or 'PASS' hologram ie ID4U.

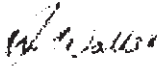
A refusal register will be kept and endorsed after every sale refused. This to include over 18s purchasing alcohol and passing it to under 18s (proxy sales).

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

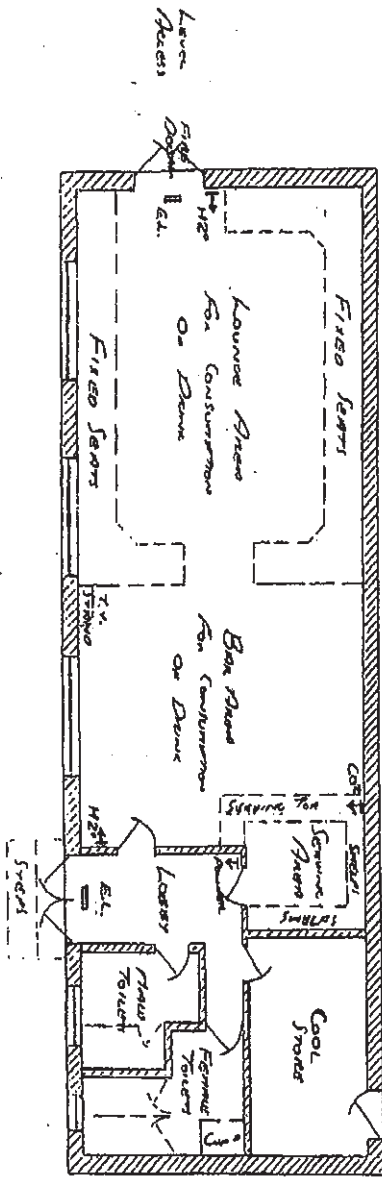
N/A

Annex 4 – Plans attached

Attached

A handwritten signature in black ink, appearing to read 'W. Walker'.

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

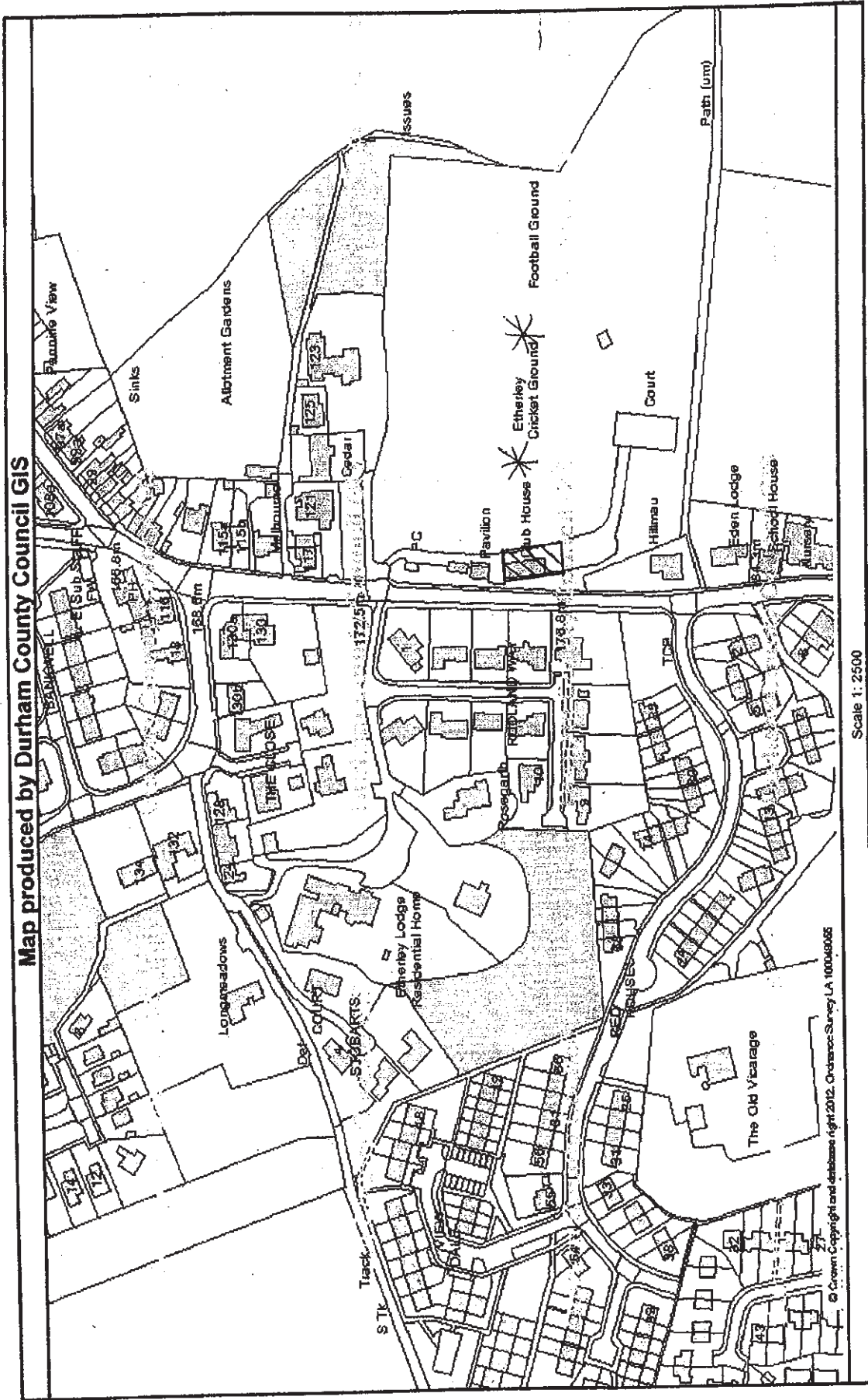


Floor Plan
Scale 1/100

- ↳ N²O WATER EXTRACTOR
- ↳ CO₂ CARBON DIOXIDE EXTRACTOR
- ↳ ROOM ROOM EXTRACTOR
- ↳ EL. EXTRACTOR LIGHT

JADS		Project: CRICKET CLUB	
Jim Atkinson Drawing Services Tel/Fax: 01388 832860		Ernestor	
Date	Scale	Drawn No	Ernestor
2004	1/100	500	Cricket Club

**Appendix 2
Location Plan**



Appendix 3
Application for summary review and supporting
certificate

Durham Police
Force HQ
Aykley Heads
Durham

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

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

Premises²:

Premises licence number (if known): DCCC/PLA0057

Name of premises supervisor (if known): Fred ADAMS

I am a Chief Superintendent ³ in the Durham police force.

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

On the 26th December 2012 shortly before midnight a disturbance took place Etherley Cricket club, the circumstances surrounding this would appear to stem from the following:

- 1) A known male and the suspect [REDACTED] DPS Fred ADAMS have been using drugs in the bar area, when other customers have complained to the manager (Fred Adams DPS) has told them it doesn't matter if they are not doing any harm and has allowed this conduct to continue.
- 2) Knives have been present in the premise [REDACTED] has had a knife and the manager [REDACTED] (DPS) has done nothing about it, immediate positive action should have been taken by the DPS Fred ADAMS who should

¹ Delete as applicable.

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

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

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

have taken responsibility and ejected those with the knives. Witnesses are aware that [REDACTED] is a heavy drug user and he is an addict. Witnesses state that in the past [REDACTED] has carried around what is described as a flick knife around with him which had a 2 inch blade, and was last seen to have it around 2 weeks ago. [REDACTED] frequents Etherley Cricket Club regularly as does his associates.

- 3) A number of disturbances amounting to an affray have occurred during the evening serious assault (Section 18) took place at the licensed premises involving [REDACTED] as a suspect whereby he has stabbed a male once to the chest area narrowly missing his heart. he is also suspected of stabbing a second male 3 times to the abdominal area causing minor puncture wounds. When [REDACTED] was challenged by other customers about his behaviour [REDACTED] Fred Adams the DPS has become hostile towards these persons. Patrons in the bar were heavily intoxicated. This is not the actions of a person who holds responsibility within the premise.
- 4) CCTV was not in working order and is a condition on the operating schedule. Vital evidence was therefore not available for investigating officers.
- 5) Fred Adams the DPS has previous convictions in September 2008 for the production of 9 cannabis plants. At the time of this offence both Fred ADAMS and [REDACTED] were arrested.

These incidents could easily have been prevented if the DPS had taken the appropriate action early on in the night. He has not shown any regard for public safety and as such I am requesting an expedited review on this premises to prevent any further incidents of serious violence and disorder.

The degree of seriousness of the offences associated with this premise indicate that expeditious remedial action must be taken and therefore a standard review process is deemed to be inappropriate.

On the 3rd October 2012 the club applied for a Premise Licence and robust conditions were applied to its operating schedule. These conditions include the fitting of a CCTV system installed and working prior to the sale of alcohol. This has not taken place and as such interim steps to modify the conditions of the premise licence would not be appropriate. The application for a premise licence was due to the premise operating events which attracted members of the public as well as members.

It is firmly believed that the interim steps of the exclusion of the sale of alcohol by retail from the scope of the licence would not resolve matters. Alcohol is a relevant factor but there is evidence that the premise has allowed substance misuse and weapons to be brought into the bar. Offences were alcohol fuelled however the removal of this activity would not deter future incidents.

The removal of the DPS from the licence is a relevant option however it can be seen that there are serious crimes being committed in the premise that would require greater actions to be taken to resolve the underpinning mal management of the premise. The premise has had previous incidents of violence associated with its operation during 2012 and the current committee still have overall control of the current running of the premise.

A serious stabbing, drug misuse, possession of weapons namely a knife, affray, and the failure of the management of the premise to demonstrate that they are capable of preventing the undermining of the licensing objectives, all add to the evidence to support that this premise is associated with serious criminal offences.

In considering this and on the basis of the serious crimes being committed within Etherley Cricket Club, the police seek the removal of the DPS Fred ADAMS, DCC/PER/C0106 and immediate suspension of the premise licence number DCCC/PLA0057 as it is considered both necessary and proportionate for the safety of the public likely to attend the premise.



(Signed)

27.12.17

(Date)

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

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

Durham County Council Licensing
Annand House
North John Street.
Meadowfield.
Durham
DH78RS

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Ch. Superintendent Ivan Wood [on behalf of] the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

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

ETHERLEY CRICKET CLUB
LOW ETHERLEY
BISHOP AUCKLAND
COUNTY DURHAM.
DL14 0HA

Post town: BISHOP AUCKLAND

Post code (if known): DL14 0HA

2. Premises licence details:

Name of premises licence holder (if known): ETHERLEY CRICKET CLUB

Number of premises licence holder (if known): DCCC/PLA0057

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

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

(Please tick the box to confirm)

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

[Please read guidance note 2]

On the 26th December 2012 shortly before midnight a disturbance took place Etherley Cricket club, the circumstances surrounding this would appear to stem from the following:

- 1) A known male and the suspect [REDACTED], [REDACTED] DPS Fred ADAMS have been using drugs in the bar area, when other customers have complained to the manager (Fred Adams DPS) has told them it doesn't matter if they are not doing any harm and has allowed this conduct to continue.
- 2) Knives have been present in the premise - [REDACTED] has had a knife and the manager [REDACTED] has done nothing about it, immediate positive action should have been taken by the DPS Fred ADAMS who should have taken responsibility and ejected those with the knives. Witnesses are aware that [REDACTED] is a heavy drug user and he is an addict. Witnesses state that in the past [REDACTED] has carried around what is described as a flick knife around with him which had a 2 inch blade, and was last seen to have it around 2 weeks ago. [REDACTED] frequents Etherley Cricket Club regularly as does his associates.
- 3) A number of disturbances amounting to an affray have occurred during the evening serious assault (Section 18) took place at the licensed premises involving [REDACTED] as a suspect whereby he has stabbed a male once to the chest area narrowly missing his heart, he is also suspected of stabbing a second male 3 times to the abdominal area causing minor puncture wounds. When [REDACTED] was challenged by other customers about his behaviour [REDACTED] Fred Adams the DPS has become hostile towards these persons. Patrons in the bar were heavily intoxicated. This is not the actions of a person who holds responsibility within the premise.
- 4) CCTV was not in working order and is a condition on the operating schedule. Vital evidence was therefore not available for investigating officers.
- 5) Fred Adams the DPS has previous convictions in September 2008 for the production of 9 cannabis plants. At the time of this offence both Fred ADAMS and [REDACTED] were arrested.

These incidents could easily have been prevented if the DPS had taken the appropriate action early on in the night. He has not shown any regard for public safety and as such I am requesting an expedited review on this premises to prevent any further incidents of serious violence and disorder.

The degree of seriousness of the offences associated with this premise indicate that expeditious remedial action must be taken and therefore a standard review process is deemed to be inappropriate.


On the 3rd October 2012 the club applied for a Premise Licence and robust conditions were applied to its operating schedule. These conditions include the fitting of a CCTV system installed and working prior to the sale of alcohol. This has not taken place and as such interim steps to modify the conditions of the premise licence would not be appropriate. The application for a premise licence was due to the premise operating events which attracted members of the public as well as members.

It is firmly believed that the interim steps of the exclusion of the sale of alcohol by retail from the scope of the licence would not resolve matters. Alcohol is a relevant factor but there is evidence that the premise has allowed substance misuse and weapons to be brought into the bar. Offences were alcohol fuelled however the removal of this activity would not deter future incidents.

The removal of the DPS from the licence is a relevant option however it can be seen that there are serious crimes being committed in the premise that would require greater actions to be taken to resolve the underpinning mal management of the premise. The premise has had previous incidents of violence associated with its operation during 2012 and the current committee still have overall control of the current running of the premise.

A serious stabbing, drug misuse, possession of weapons namely a knife, affray, and the failure of the management of the premise to demonstrate that they are capable of preventing the undermining of the licensing objectives, all add to the evidence to support that this premise is associated with serious criminal offences.

In considering this and on the basis of the serious crimes being committed within Etherley Cricket Club, the police seek the removal of the DPS Fred ADAMS, DCC/PER/C0106 and immediate suspension of the premise licence number DCCC/PLA0057 as it is considered both necessary and proportionate for the safety of the public likely to attend the premise.



Signature of applicant:

Date: 28/12/12

Capacity: Superintendent Delegated Authority

Contact details for matters concerning this application:

Address: Sgt 1590 T.Robson

AHRU

Annand House

North John Street,

Meadowfield.

Durham

DH78RS

Telephone number(s): [REDACTED]

Email: [REDACTED]

Notes for guidance:

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

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

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

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

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

Appendix 4
Notice of Determination – 31st December 2012

DURHAM COUNTY COUNCIL

Statutory Licensing Committee

NOTICE OF DETERMINATION

Licensing Act 2003

Date of Hearing : 31st December 2012
Date of Determination : 31st December 2012
Committee Members : 1. Councillor J. Shiell (Chair)
2. Councillors K Holdroyd, J Wilkinson

1. Type of application or hearing:

Consideration of application by Durham Constabulary under section 53A(1)(b) of the Licensing Act 2003

2. Applicant: Durham Constabulary

3. Premises: Etherley Cricket Club, Low Etherley, Bishop Auckland, County Durham, DL 14 OHA

4. The Application:

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

5. Witnesses

The Committee heard from the following:-

- Helen Johnson, Licensing officer
- Sgt Tim Kelly, Durham Constabulary.
- Mr Dinsdale, Etherley Cricket club

6. Licensing Act 2003

The Sub-Committee took into account the relevant provision of the Act

7. Guidance

The Sub-Committee considered and took account of the guidance issued by the Secretary of State in accordance with section 182 of the Act. The Sub-Committee also considered the Section 53A Summary Review Guidance issued by the Home Office, in particular paragraphs 3.1 to 3.7.

8. Licensing Policy

The Sub-Committee took account of the Council's licensing policy, particularly section 5 and 19.

9. Licensing Objectives

The Sub-Committee took account of the information provided by and on behalf of the Premises Licence Holder and the Applicant for the purposes of the review and with respect to the licensing objectives found:

9.1 Prevention of crime and disorder

The evidence provided was such that this licensing objective had been breached and that some action was needed to prevent crime and disorder.

9.2 Public Safety

The evidence provided was that this licensing objective had been breached and that some further action was needed to protect public safety.

9.3 Prevention of nuisance

It was not necessary to consider this objective in the context of interim steps pending a summary review.

9.4 Protection of Children from Harm

It was not necessary to consider this objective in the context of interim steps pending a summary review.

10. Decision

The Sub-Committee considered the evidence given by the Police and the information provided by and on behalf of the Premises Licence Holder and decided to suspend the premises licence with immediate effect.

11. Evidence and Reasons

11.1 Section 21 of the Violent Crime Reduction Act 2006 made amendments to the Licensing Act 2003 ("the Act") by introducing the provision for a summary review of a premises licence. This added section 53A, 53B and 53C to the Act in respect of summary reviews.

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

11.3 An application and the supporting certificate required under and by section 53A of the Act was received from the Chief Officer of Police by the Licensing Authority on 28th December 2012. Copies of the application were supplied to the premises licence holder and responsible authorities.

- 11.4. In advance of the summary review being determined in accordance with the provisions of section 53C, the Licensing Authority must under section 53B consider, whether it is necessary to take interim steps in respect of the licence. This Sub-Committee, with the authority to consider the application was therefore convened to consider whether any interim steps were necessary pending determination of the summary review application. The interim steps that must be considered are set out at section 53B(3) as:-
- a. Modification of the conditions of the premises licence.
 - b. Exclusion of the sale of alcohol by retail from the scope of the licence.
 - c. Removal of the Designated Premises Supervisor from the licence.
 - d. Suspension of the Licence.
- 11.4 The evidence submitted by Durham Constabulary was that on 26th December 2012, shortly before midnight a disturbance took place at Etherley Cricket club. Two known males had been using drugs in the bar area. When other customers complained to the manager (Fred Adams DPS) he told them it did not matter and if that they were not doing any harm and allowed this conduct to continue.
- 11.5 A number of disturbances amounting to affray occurred in the premises on 26th December 2012. A suspect stabbed a male once to the chest area narrowly missing his heart, he is also suspected of stabbing a second male three times to the abdominal area causing minor puncture wounds. When challenged by other customers about his behaviour, Fred Adams, the DPS became hostile towards these persons. Patrons in the bar were heavily intoxicated.
- 11.5 Sgt Robson also raised with the Committee that there had been a previous disturbance in June 2012, where there was a disturbance at a charity event and excessive amounts of alcohol had been drunk. CCTV was not in working order on the night when the incident occurred and it is a condition on the operating schedule.
- 11.6 Vital evidence was therefore not available for investigating officers. Fred Adams the DPS had previous convictions in September 2008 for the production of nine cannabis plants.
- 11.7 Sgt Robson confirmed that the degree of seriousness of the offences associated with this premises indicated that swift remedial action should be taken and therefore a standard review process is deemed to be inappropriate.
- 11.8 On 3rd October 2012, the club applied for a Premises Licence and robust conditions were applied to its operating schedule. These conditions included the fitting of a CCTV system installed and working prior to the sale of alcohol. This had not taken place and as such interim steps to modify the conditions of the premises licence would not be appropriate. The application for a premises licence was due to the premises operating events which attracted members of the public as well as members. Sgt Robson made the point that the premises licence had a condition that the majority of staff would be trained to operate the CCTV system. This was to include viewing and downloading of the said system which was not evident on the night of the incident. Helen Johnson had made the committee aware of an e-mail from a committee member of the cricket club who had contested the point that CCTV system was not operating

on the night of the incident. The point being made by Sgt Robson is not that the CCTV was not operating but that the premises had failed to demonstrate that there was a suitably qualified person to download the material on the night in question.

11.9 Sgt Robson confirmed that the interim steps of the exclusion of the sale of alcohol by retail from the scope of the licence would not resolve matters. There was strong evidence that the offences were alcohol fuelled, however the removal of the activity would not deter future incidents.

11.10 A serious stabbing, drug misuse, possession of weapons, namely a knife, affray and the failure of the management of the premises to demonstrate that they are capable of preventing the undermining of the licensing objectives, all added to the evidence to support that this premises is associated with serious criminal offences.

11.11. Mr Dinsdale on behalf of Etherley cricket club conceded that the incidents that had occurred were serious and very unfortunate. He stated that in all his years of association with the cricket club there had been very few incidents within the cricket club and in the tenure of the DPS Fred Adams. The known male and suspect were infrequent visitors to the cricket club and it was very unfortunate that the club was facing a suspension of the licence in these circumstances.

11.12. In making their decision the sub-Committee considered all measures before them and considered that the incidents were connected to the management of the premises in that the suspects were known to the DPS. There had been a serious stabbing and systemic failures in the management of the premises that undermined the licensing objectives, namely the prevention of crime and the protection of the safety of the public. In these circumstances the sub-committee considered that the only option before them given the history of these premises was to remove the DPS and to suspend the premises licence with immediate effect.

Signed John Shull (Chair)

Dated the 31st day of December 2012

PLEASE NOTE:

- An Applicant has a right of appeal against the decision of a Licensing Authority (or a part of it) as does a person who has made relevant representations and the Licensee where applicable.
- An appeal must be made to the Justices' Chief Executive for the Magistrates Court covering the area in which the premises are situated.
- It is done by Notice given to the Magistrates Court and it must be done, together with the payment of any fee charged for lodging the appeal, within 21 days beginning with the day on which the person appealing was notified by the Licensing Authority in writing of the decision appealed against.
- If you wish to consider making an appeal you are advised to contact the relevant Magistrates Court.

- **You may consider it is in your interests to seek legal advice on the matter but if you do it is important to do this quickly in view of the time limit imposed.**

Appendix 5
Statement of Licensing Policy

5.0 The Prevention of Crime and Disorder

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

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

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

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

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

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

5.6 Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives they will need to be licensed by the SIA as a supervisor/manager.

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

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

Cumulative impact of Licences on the amenity of particular areas

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

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

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

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

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

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

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

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

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

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

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

Appendix 6
Section 182 Guidance

CRIME AND DISORDER

- 2.1 **Licensing authorities should look to the police as the main source of advice on crime and disorder.** They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 **In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible** and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 **Conditions should be targeted on deterrence and preventing crime and disorder.** For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 **The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises.** These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 In the context of crime and disorder and public safety, the preservation of order on premises may give rise to genuine concerns about the ability of the management team with responsibility for the maintenance of order. This may occur, for example, on premises where there are very large numbers of people and alcohol is supplied for consumption, or in premises where there are public order problems.

2.6 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.7 It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

THE REVIEW PROCESS

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

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

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

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

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

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

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

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

REPETITIOUS GROUNDS OF REVIEW

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

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

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

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

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

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

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

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

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

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

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition),

for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

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

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

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;

- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

REVIEW OF A PREMISES LICENCE FOLLOWING PERSISTENT SALES OF ALCOHOL TO CHILDREN

11.30 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.

- (b) All ejections of patrons
- (c) Any incidents of crime & disorder
- (d) All seizures of drugs or offensive weapons
- (e) Any patron refused entry to the premise

10. Challenge 25 shall be operated at the premise where the only acceptable forms of identification are recognised photographic identification cards such as driving licence, passport or PASS card. When employed door staff will assist in the management of the Premise Age Verification policy.
11. The premise shall, as a standard, use toughened glassware where available and shall risk assess the use of polycarbonate glassware in consultation with Durham Constabulary on days of large scale events.
12. Visual inspection, and personal interaction with customer, will enable staff to determine if the customer is fit to be sold alcohol. If staff believe person to be intoxicated with drink or drugs they will be refused
13. Persons known to be, or suspected of buying on behalf of children will be refused sale and reported to the Police.
14. Where a Pubwatch exists, the premise will be an active member of Pubwatch, and will attend meetings, and join activities
15. Adequate lighting both inside and outside shall be provided at the premises.

Signature



Full name/names:

D. N. DINSDALE

Signed:...



Inspr 220

Full name/names:

Date:

23/1/13

LICENSING ACT 2003

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

Application for Expedited Review of a Premises Licence

Premises: Etherley Cricket Club

Applicant: M.Barton Durham Police

Date of application: 28th December 2012

I being the Applicant pursuant to Regulation 9 of The Licensing Act 2003 (Hearings) Regulations 2005 give notice to the Authority that I consider a hearing to be unnecessary and request that the Authority dispenses with such provided that any licence granted includes the following provisions or conditions in addition to any already put forward in the original application:

1. The removal of designated premises supervisor Fred ADAMS
2. Licensable activities to finish at 22:00, with all patrons leaving the premise at its terminal hour of 22:30. only CPC members and bonafide guests after 22:00
3. Children under the age of 18 years will be supervised by an adult at all times
4. Children under the age of 18 years must not be in the premise after 21:00
5. All planned events likely to attract large numbers of patrons will be risk assessed in advance and should it be deemed necessary door supervision registered under the SIA will be employed to work the duration of that event. The premise will be required to increase the number of Door Staff at the request of Durham Constabulary on days of large scale events and/or where concerns regarding the 4 Licensing Objectives are identified at a ratio of 1;100.
6. In addition to previous conditions, CCTV will be fitted and operational in all internal areas of the premise covered by the licence. The system will record 24hrs a day in all light conditions. Cameras will specifically cover the main entrance achieving facial recognition standard on entry and will be fitted externally covering all exits front and rear. The CCTV will record on a hard drive for 28days in cycle. All members of staff will be trained in its operation such that if a responsible authority makes request for a recording then it will be produced as expediently as possible.
7. All windows and external doors shall be kept closed after 21:00hrs or at any time the regulated entertainment in the form of live or recorded music takes place except for the access and egress of patrons
8. The premise will implement the use of polycarbonate drinking vessels in respect of any customers who consume alcohol in the designated area outside
9. An incident log shall be kept at the premise and made available on request to an authorised Licensing Officer or Police which shall record the following:
 - (a) All crimes reported to the venue

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Signature 

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Signed:  *Inc 220*

Full name/names:

Date: *23/1/13*