

Statutory Licensing Sub-Committee

8th October 2019

Application for the variation of a

Premises Licence

Ordinary Decision



Report of Ian Thompson, Corporate Director of Regeneration and Local Services

Councillor Brian Stephens, Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships

Electoral division(s) affected:

Consett North

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine the application for the variation of a premises licence for Supreme Takeaway, 40a Front Street, Consett, DH8 5AQ.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 The application is for the variation of an existing premises licence for Supreme Takeaway, 40a Front Street, Consett, Co Durham. This application was received on 10th July 2019 to extend late night refreshment Monday, Tuesday, Wednesday 23:00 hrs until 01:00 hrs, Thursday, Friday, Saturday and Sunday until 05:00 hrs (including delivery service).
- 4 County Durham & Darlington Fire and Rescue Service, Durham Safeguarding Children Partnership, Durham County Council Environmental Health, Durham County Council Public Health, have responded to the consultation with no comments.
- 5 Durham County Council Planning Department have not made a representation to the application however, they have outlined the current planning restrictions and stated planning permission would be required to vary these conditions.

Recommendation(s)

- 6 The Sub-Committee is asked to determine the application with a view to promoting the licensing objectives.
- 7 The Sub-Committee is recommended to give appropriate weight to:
- (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representations (including supporting information) presented by all parties;
 - (c) The Durham County Council Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 7.
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018). The relevant parts of the guidance are attached at Appendix 8.

Background

- 8 Background information

Applicant	Mr Hamid Khazae	
Type of Application: Variation of a premises licence	Date received: 10th July 2019	Consultation ended: 26th August 2019

Details of the application

- 9 An application for the variation of a premises licence was received by the Licensing Authority on 10th July 2019. A copy of the application is attached which includes a copy of the existing premises licence for information purposes, at Appendix 3.
- 10 The consultation period was extended until 26th August 2019 as the applicant's agent failed to advertise the application in accordance with the Licensing Act regulations. Compliance has now been achieved.
- 11 The current licensable activities are as follows:

Current Licensable Activities and Opening Hours	Days & Hours
Late Night Refreshment Indoors	Monday to Thursday 23:00 hrs - 00:00 hrs Friday to Sunday 23:00 until 01:00 hrs

Opening Hours	Monday to Thursday 17:00 hrs - 00:00 hrs Friday to Sunday 17:00 - 01:00 hrs
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- 12 The applicant has proposed conditions and the steps that they intend to take in order to promote the four licensing objectives, which are outlined within the application form.
- 13 The applicant has requested the following variations, see below:

Proposed Licensable Activities and Opening Hours	Days & Hours
Late Night Refreshment Indoors and Outdoors	Monday to Wednesday 23:00 hrs until 01:00 hrs Thursday to Sunday 23:00 hrs until 05:00 hrs Christmas Eve, New Years Eve, New Years Day 23:00 hrs until 05:00 hrs
Opening Hours	Monday to Wednesday 10:00 hrs - 01:00 hrs Thursday to Sunday 10:00 hrs until 05:00 hrs

- 14 Members should refer to Durham County Council's Statement of Licensing Policy – Appendix B "Framework of Licensing Hours" for the recommended hours for the operation of licensable activities within the County of Durham. See Attached Appendix 7.

The Representation

- 15 The Licensing Authority received one letter of representation from Durham Constabulary (Responsible Authority) during the consultation period.
- 16 The Licensing Authority deemed the representation as relevant, relating to the following licensing objectives:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance

A copy of the representation is attached as Appendix 4.

- 17 Responses were received from the following Responsible Authorities, confirming that they had no comments to make in relation to the application:

- County Durham and Darlington Fire and Rescue Service
- Durham County Council's Public Health Department
- Durham Safeguarding Children Partnership
- Durham County Council's Environmental Health Department

Copies of these responses are attached at Appendix 5.

For Members' information: A response not amounting to a representation was received from the Planning Department on 23rd July 2019. The response outlined the current planning restrictions and indicated that planning permission would be required to vary these conditions.

The Licensing Authority forwarded these comments to the applicant's agent on 23rd July 2019.

A copy of the planning response is attached at Appendix 6 for information only.

The Parties

18 The Parties to the hearing will be:

- Ms Jane Gilliead - (Licence Holder's Agent)
- Mr Hamid Khazaee – Licence Holder
- Durham Constabulary (Responsible Authority)

Options

19 There are a number of options open to the Sub-Committee:

- (a) Grant the variation subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003;
- (b) Grant the variation subject to modified conditions to that of the operating schedule where the committee considers it appropriate for the promotion of the licensing objectives and the mandatory conditions set out in the Licensing Act 2003;
- (c) To reject the whole or part of the application.

Main implications

Legal Implications

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

See Appendix 1.

Consultation

21 The premises licence application was subject to a 28 day consultation.

See Appendix 1

Conclusion

22 The Sub-Committee is asked to determine the application for the variation of a premises licence in light of the representation received.

Background papers

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

Other useful documents

- None

Contact: Karen Robson

Tel: 03000 265104

Appendix 1: Implications

Legal Implications

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

In this case it was summed up that:

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

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

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

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

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

Consultation

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

The Responsible Authorities were consulted on the application.

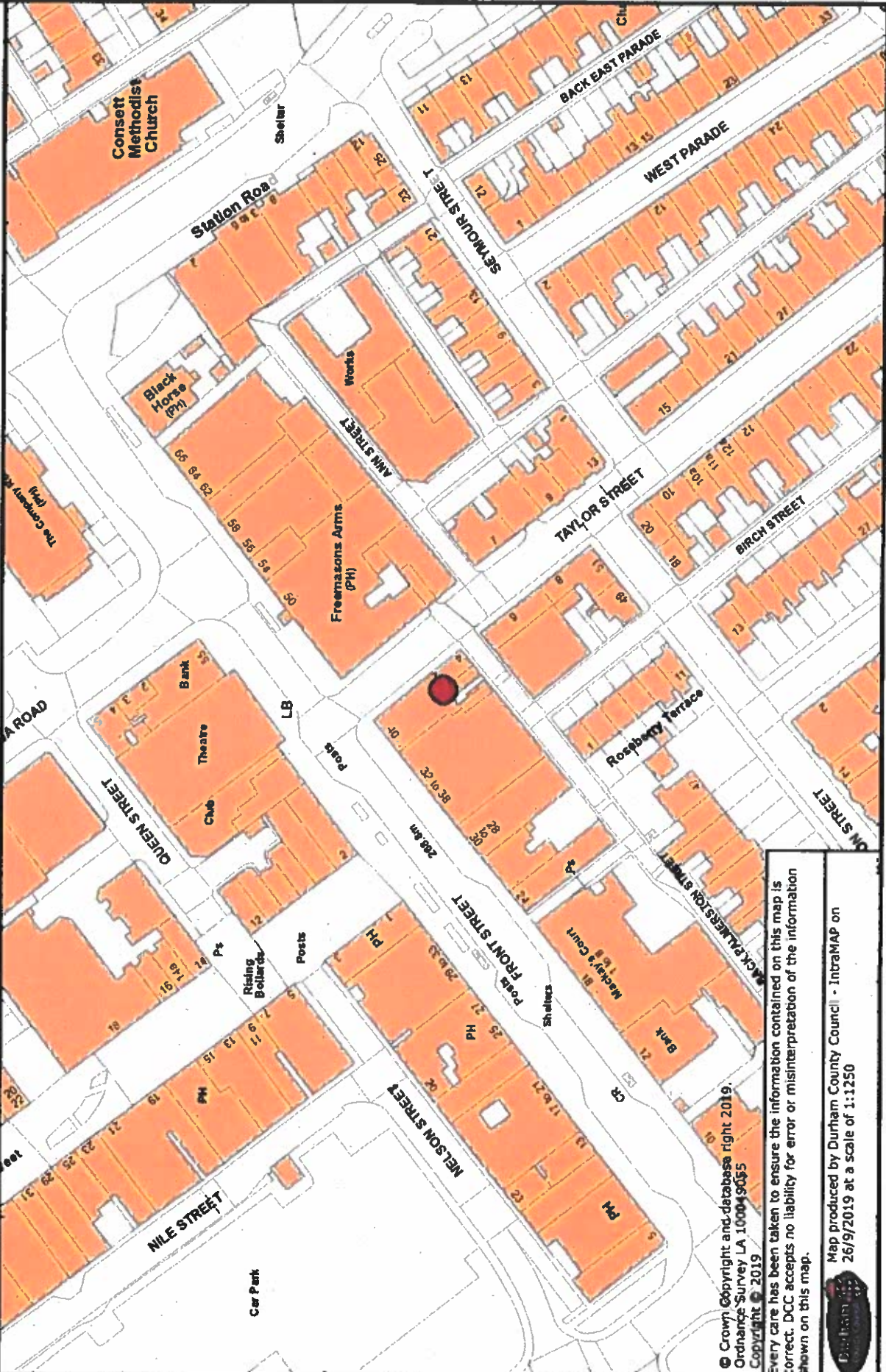
The notice of application was displayed on the premises for a period of 28 days.

Notice of the application was published in a newspaper which was circulated within the vicinity of the premises.

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

Appendix 2: Location Plan

Durham County Council - IntraMAP



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

Map produced by Durham County Council - IntraMAP on
26/9/2019 at a scale of 1:1250



Appendix 3: Application & Premises Licence



* required information

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You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

HAMID

* Family name

KHAZAE

* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

Continued from previous page...

Address

* Building number or name

* Street

District

* City or town

County or administrative area

* Postcode

* Country

Agent Details

* First name

* Family name

* E-mail

Main telephone number

Other telephone number

Include country code.

Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

Agent Business

Is your business registered in the UK with Companies House? Yes No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

Your position in the business

Home country

The country where the headquarters of your business is located.

Continued from previous page...

Agent Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

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APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

- Address OS map reference Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Non-domestic rateable value of premises (£)

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VARIATION

Continued from previous page...

Do you want the proposed variation to have effect as soon as possible?

Yes No

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?

Yes No

You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

30

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

EXTEND THE HOURS FOR LATE NIGHT REFRESHMENT

Section 4 of 18

PROVISION OF PLAYS

See guidance on regulated entertainment

Will the schedule to provide plays be subject to change if this application to vary is successful?

Yes No

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PROVISION OF FILMS

See guidance on regulated entertainment

Will the schedule to provide films be subject to change if this application to vary is successful?

Yes No

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PROVISION OF INDOOR SPORTING EVENTS

See guidance on regulated entertainment

Continued from previous page...

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

Yes No

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PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

Yes No

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PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

Will the schedule to provide live music be subject to change if this application to vary is successful?

Yes No

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PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

Yes No

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PROVISION OF PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

Yes No

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PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

See guidance on regulated entertainment

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

Yes No

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PROVISION OF LATE NIGHT REFRESHMENT

Continued from previous page...

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

Yes No

Standard Days And Timings

MONDAY

Start 23:00

End

Start

End 01:00

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start 23:00

End

Start

End 01:00

WEDNESDAY

Start 23:00

End

Start

End 01:00

THURSDAY

Start 23:00

End

Start

End 05:00

FRIDAY

Start 23:00

End

Start

End 05:00

SATURDAY

Start 23:00

End

Start

End 05:00

SUNDAY

Start 23:00

End

Start

End 05:00

Will the provision of late night refreshment take place indoors or outdoors or both?

Indoors Outdoors Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

BOTH ON SALES AND DELIVERY SERVICE

Continued from previous page...

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where the premises will be used for the provision of late night refreshment at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

CHRISTMAS EVE
NEW YEARS EVE
NEW YEARS DAY ALL 23.00 TO 05.00

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SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

Yes No

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ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

NONE

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HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

Continued from previous page...

WEDNESDAY

Start 10:00 End

Start End 01:00

THURSDAY

Start 10:00 End

Start End 05:00

FRIDAY

Start 10:00 End

Start End 05:00

SATURDAY

Start 10:00 End

Start End 05:00

SUNDAY

Start 10:00 End

Start End 05:00

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

CHRISTMAS EVE
NEW YEARS EVE
NEW YEARS DAY ALL 23.00 TO 05.00

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

I have enclosed the premises licence

Continued from previous page...

I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

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LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

b) The prevention of crime and disorder

CCTV cameras shall encompass the inside and outside of the main entrance and exit to the premises and any place inside the premises where members of the public have access.

CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions and kept for 28 day.

The Premise Licence Holder must ensure at all times an appointed member of staff is capable and competent at downloading CCTV footage onto hard drive or memory stick provided to the police / local authority within a reasonable timescale agreed between the Officer and appointed person.

Equipment must be maintained in good working order, be correctly time and date stamped.

The CCTV system will incorporate a battery backup system to enable 24 hour continuous recording in case any power blackout / failure.

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

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

The premises licence holder is to undertake right to work checks on all staff who are employed at the licensed premise in a paid or unpaid capacity. A copy of any documents checked as part of the right to work check are to be retained at the licenced premises. These documents will be made available to officers and responsible authorities when requested.

If deliveries are to be made then all persons delivering products from the premises must have the correct insurance for their vehicle which includes 'hire & reward'. The premises will ensure that these documents are provided and checked before employment commences, held on site at all times the premises is open for business and made available to Durham Constabulary and Relevant Authorities on request

c) Public safety

Fire exits and fire equipment clearly marked.

All staff must be aware of requirements regarding health and safety.

First aid facilities will be available.

An incident log will be kept at all times.

d) The prevention of public nuisance

The PLH will ensure delivery drivers and staff will adhere to all parking restrictions in the area ie no waiting on yellow line

Continued from previous page...

during permitted times or no parking in Disabled bays unless a valid badge holder is with the vehicle.

A rubbish bin will be located just inside the doorway of the premises for the use of customers.

Staff will carry out regular checks outside the premises during opening hours and immediately after closing to ensure rubbish relating to the premises is not accumulating. Any rubbish found will be cleared away.

e) The protection of children from harm

No children under 16 years will be allowed on the premises between 22:00hrs and closing time if they are not accompanied by an adult.

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NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- **Plays:** no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- **Films:** no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- **Indoor sporting events:** no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- **Boxing or Wrestling Entertainment:** no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- **Live music:** no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- **Recorded Music:** no licence permission is required for:
 - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

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PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Variation Fees are determined by the non-domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £8700 £315.00

Band D - £87001 to £12500 £450.00*

Band E - £125001 and over £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £12500 £900.00

Band E - £125001 and over £1,905.00

If you own a large premise you are subject to additional fees based upon the number in attendance at any one time

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

* Fee amount (£)

190.00

DECLARATION

I/we understand 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.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

Continued from previous page...

* Full name

* Capacity

* Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
 2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/county-durham/change-1> to upload this file and continue with your application.
- Don't forget to make sure you have all your supporting documentation to hand.

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

OFFICE USE ONLY

Applicant reference number

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

Date and time submitted

Approval deadline

Error message

Is Digitally signed



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DWTSNA0038
23 January 2006
23 January 2006

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
SUPREME TAKEAWAY 41A FRONT STREET CONSETT DH8 7SB	DURHAM COUNTY COUNCIL REGENERATION & LOCAL SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number:	

Where the licence is time limited the dates N/A

Licensable activities authorised by this licence Late Night Refreshment

Opening Hours of the Premises		
Mon	17:00-00:00	Non-standard/seasonal timings N/A
Tue	17:00-00:00	
Wed	17:00-00:00	
Thu	17:00-00:00	
Fri	17:00-01:00	
Sat	17:00-01:00	
Sun	17:00-01:00	

Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales: NO ALCOHOL SALES
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The times the licence authorises the carrying out of licensable activities (all in 24hr format)

Late Night Refreshment	Further details
Indoors	N/A
Mon 23:00-00:00	Non-standard/seasonal timings
Tue 23:00-00:00	N/A
Wed 23:00-00:00	
Thu 23:00-00:00	
Fri 23:00-01:00	
Sat 23:00-01:00	
Sun 23:00-01:00	

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
MR HAMID KHA7AFF	
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
N/A

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
N/A

Annex 1 – Mandatory conditions

None

Annex 2 – Conditions consistent with the premises Operating Schedule

General

The premises licence and objectives will be displayed and management will monitor compliance.

The Prevention of Crime & Disorder

The premises will operate zero tolerance towards disorder.
The premises will involve the Police as and when necessary and will support any legal action taken.

Public Safety

All staff to be made aware of Health and Safety issues.
Emergency exits to be kept clear of obstructions.
All staff to be made aware of when to call emergency services.

The Prevention of Public Nuisance

Police to be informed of any disorder as soon as possible.
All ambient noise, smell and litter to be kept to a minimum.

The Protection of Children from Harm

No children employed.
All future guidelines will be adhered to.

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

None

Annex 4 – Plans attached

Attached

6
Signature of Authorised Officer
Head of Environment, Health and Consumer Protection

Appendix 4: Representation

From: Michelle Williamson < >
Sent: 22 August 2019 16:15
To: Karen Robson
Cc: Alcohol Harm Reduction Unit
Subject: Supreme Pizza objection

Hi Karen

Durham Constabulary wish to object to this variation to a premises licence for Supreme Pizza, Front Street, Consett on the grounds of the prevention of crime and disorder and on Public safety.

This licence is one of a number which have all been submitted in a short time scale and all of them are positioned within a very small geographical area centred on Consett Front Street. This area in particular has a high density of late night drinking and refreshment establishments. A police analyst report shows that from first of November 2018 up to 16th July 2019 , Front Street, Consett has been the location of 63 offences of assault. These offences range from common assaults and battery right up to the most serious offences police can deal with under the Offences Against the Person Act (1861), where significant life changing injuries have been inflicted. The greatest proportion of these offences take place between 19:00hrs and 04:00hrs and a large number of these are tagged with an alcohol marker meaning that one or all parties involved were under the influence of alcohol.

Consett at the moment has a culture of late night drinking and it is believed that the granting of later licences for the takeaways in and around late night drinking establishments will effectively hold people on the street for longer. This will lead to an extended period where crime and disorder can take place.

The framework provided in Durham County Councils statement of licencing (2014-2019) Appendix B, suggests that premises offering late night refreshment should open until 01:00hrs and provides a 02:00hrs finish on a weekend. Given that this type of licenced premises is only required to have a licence between the hours of 23:00hrs and 05:00hrs, to grant this application would effectively permit these premises to be open for 24hrs should they so choose. The area in discussion has retail premises which immediately back onto residential street. The noise and disturbance caused by these later opening will impact directly on these local residents. The hour of closing will also cause an issue where night time economy will start to clash with the daily life of residents as people start to get up for and start to travel to work. This will raise issues of public safety as normal road users start to mix with late night revellers.

Many thanks

Michelle

DURHAM CONSTABULARY, Protecting Neighbourhoods, Tackling Criminals, Solving Problems...Around the Clock

NEIGHBOURHOOD POLICING: Use your postcode to get access to local news and events from your Neighbourhood Policing Team, at <https://www.durham.police.uk>

Appendix 5: Responses from Responsible Authorities

From: FS-Derwentside <>
Sent: 25 July 2019 16:24
To: AHS Licensing <Licensing@durham.gov.uk>
Subject: RE: Licensing - Variation Application received Supreme Pizza 41A Front Street Consett County Durham DH8 5AQ

Dear Sir / Madame,

I can confirm that the Fire Authority have no objections in respect of this application,

Regards,
Craig

Craig Farrage
Senior Business Fire Safety Officer

Mob: 0

Ext: 1305

Email: c

To:

Subject:

Variation Application received Supreme Pizza 41A Front Street Consett

Good Morning / Afternoon

I have received an application to vary a licence for the establishment: **Supreme Takeaway, 41A Front Street Consett County Durham DH8 5AQ**

I have no comments or objections to make on behalf of Durham Safeguarding Children Partnership.

My Ref: SB/2019/074

Thanks

Mark Quinn

Quality and Performance Coordinator
Durham Safeguarding Children Partnership



Durham Safeguarding Children Partnership (DSCP)
Keeping Children Safe

dscpsecure@durham.gov.uk
www.durham-scp.org.uk



From: Martin Scott
Sent: 15 July 2019 14:25
To: Karen Baker
Subject: Supreme Takeaway, 41A Front Street Consett

Dear Karen

Thank you for consulting the Nuisance Action Team, regarding the application for a variation for:
Supreme Takeaway, 41A Front Street Consett,

Dated: 10th, July, 2019.

I have no representations to make regarding the application.

Regards

Martin Scott
Senior Environmental Health Officer
Environment, Health & Consumer Protection
Regeneration and Local Services

From: Sean Barry
Sent: 15 July 2019 09:30
To: Karen Baker
Cc: AHS Licensing
Subject: RE: Licensing - Variation Application received Supreme Pizza 41A Front Street
Consett County Durham DH8 5AQ

Good Morning

I have received an application to vary a licence for the establishment: Supreme Pizza 41A Front Street Consett County Durham DH8 5AQ

I have no comments or objections to make on behalf of County Durham Public Health.

My Ref: PH/2019/071

Thanks
Sean

From: Karen Baker
Sent: 10 July 2019 15:00
To:
Subject: Licensing - Variation Application received Supreme Pizza 41A Front Street Consett County Durham DH8 5AQ

The following application has been received/accepted by Durham County Council and is attached.
The current premises licence is also attached.

Les - can you check that the blue notice is on display correctly.

1
Application Type - Application for a variation of a Premises Licence
Applicant: - Mr Hamid Khazaee
Premises – Supreme Takeaway, 41A Front Street Consett County Durham DH8 5AQ
Date of Application – 10th July 2019 Last date for representations – 7th August 2019

Appendix 6: Response from Planning

Karen Baker

From: Jayne Pallas
Sent: 23 July 2019 15:11
To: Karen Baker
Subject: CON28/19/01920 - Planning Response

Hi Karen,

Re. Supreme Takeaway, 40A Front Street, Consett, DH8 5AQ

Thank you for your consultation regarding the above premises licence.

I have searched the planning history for the site and can confirm that the opening hours are currently restricted to 2.30am Monday-Saturday and 1am on Sunday's under application 1/1996/0407/1903. As such, the proposed extension of opening hours detailed within the new licence would require planning permission to vary this condition. I would be grateful if you could pass this information over to the applicant/agent and advise that contact be made with the Planning Department to discuss further (either via pre application advice or the submission of an application).

Many thanks

Jayne Pallas
Planning Officer - Northern Area Office

Planning Development (North)
Regeneration and Local Services
Durham County Council
Room G73 – 82
County Hall
Durham
DH1 5UQ

www.durham.gov.uk

Appendix 7: Statement of Licensing Policy

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

7.0 The Prevention of Crime and Disorder

7.1 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.

7.2 As a matter of policy, the Licensing Authority will require every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter.

7.3 The Licensing Authority recommends that all 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 should be considered by applicants, licensees and event organisers when addressing this issue.

7.4 The Licensing Authority encourages Personal Licence holders to 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. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

7.5 The Licensing Authority recognises and promotes effective and responsible management of all licensed and authorised premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25',. These are considered 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.

7.6 The application for premises licence 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.

7.7 Someone should always be present on premises or at an event during times when licensable activities are taking place who can discuss any problems or

issues arising from the licensable activities offered on the premises with officers from Licensing Authority and Police. 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.

7.8 The Licensing Authority will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that 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.

7.9 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.

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

7.11 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 do to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

7.12 Toughened/Safety Glass Policy: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context).

7.13 Drugs/Knives/Weapons: The Licensing Authority will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands within the

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

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

8.0 Public Safety

8.1 The Act covers a wide range of premises that require Licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants.

8.2 Applicants are advised to seek advice on such matters from the Council's Occupational Safety and Health team, Health and safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service, and incorporate any recommendations in their Operating Schedule before submitting their applications.

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

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

9.0 Prevention of Public Nuisance

9.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

9.2 The concerns relate, amongst other things, to litter, light pollution, noxious odours and noise nuisance resulting from music, human voices, ventilation equipment and vehicles. The Licensing Authority will expect applicants to demonstrate that suitable and sufficient measures have been identified, and will be implemented and maintained, with the intention of preventing public nuisance relevant to the individual style, location and characteristics of the premises and events.

9.3 If an external structure or area is to be used by customers, whether for consumption of alcohol or for smoking, the applicant will be expected to offer measures designed to minimise its impact on local residents in respect of both public nuisance and crime and disorder. These measures may include a restriction on hours that areas / structures will be used, appropriate signage requesting customers to consider local residents and monitoring of such areas by staff.

9.4 The placement of tables and chairs outside of licensed premises may give rise to public nuisance including noise and litter. When tables and chairs are situated on the public highway relevant consents will often be required. Enquiries for such consents should be made to the Council's Highway's Section of the Regeneration and Economic Development Department. In predominantly commercial areas such as shopping centres the Licensing Authority, the use of tables and chairs outside may be allowed however, the Council will normally expect them to be removed before the premises close, and any resulting litter/ debris cleared away.

9.5 Applicants should give consideration to reducing potential noise nuisance by, for example (this list is not exhaustive):

- Assessment of likely noise levels in the premises.
- Assessment of likely noise levels if outdoor drinking is allowed.
- The sound insulation the building would provide (e.g. double glazing, double doors / lobbies to entrances, windows used for ventilation).
- The distance and direction to the nearest noise sensitive premises.
- Likely noise sources outside of the premises (e.g. emptying bottle bins, taxis, unruly customers leaving the premises).
- Dispersal of patrons – where necessary the Licensing Authority will expect a dispersal policy for patrons at the end of the evening. The policy will specify such issues as alterations to the style and volume of music played, public address announcements and use of appropriate signage at exits.
- Ways to limit noise / disorder from patrons leaving the premises.

9.6 The extent to which the above matters will need to be addressed will be dependent on the nature of the area where the premises are situated, the type of

premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.

9.7 Applicants are advised to seek advice from Durham County Councils Environmental Health Team and incorporate any recommendations in their Operating Schedule before submitting their applications.

9.8 Takeaways and fast-food outlets: The Licensing Authority expects takeaways and late night refreshment premises to take reasonable steps in clearing litter from outside their premises and along the pavement in either direction as necessary, whilst the premises are open and at the end of the working day. These premises should maintain clean, dirt or grease free frontages. Such premises should also provide notices displayed advising customers of the location of bins and patrons should use the bins any provided.

Appendix B. Framework Licensing Hours - recommended hours for the operation of licensable activities (the sale of alcohol and the provision of late night refreshment) for categories of licensed premises situated within the County of Durham.

Category of Premise	Weekdays (Sunday to Thursday)	Weekends (Friday night into Saturday morning and Saturday night into Sunday morning)	Bank Holidays
For premises licences and club premises certificates authorising the sale or supply of alcohol for consumption on or off the premises	07.00 to 00.00	07.00 to 01.00	<p>Good Friday Plus 1 Hour For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday</p> <p>(i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour).</p>
For licences not including the sale or supply of alcohol	07.00 to 23.30	07.00 to 00.30	<p>Good Friday Plus 1 Hour For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday</p> <p>(i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour).</p>
For licences not including the sale or supply of alcohol (community centres, village halls)	07.00 to 00.00	07.00 to 01.00	<p>Good Friday Plus 1 Hour For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday</p>

			(i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour).
For licences authorising late night refreshment as the primary licensable activity (takeaways)	01.00	02.00	<p>Good Friday Plus 1 Hour</p> <p>For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday</p> <p>(i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour).</p>

Appendix 8: 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 including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as

appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

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

Public safety

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

Ensuring safe departure of those using the premises

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

Maintenance and repair

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

Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

¹ S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public nuisance

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti- social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.