

Statutory Licensing Sub-Committee

5th November 2019

Consideration of a Temporary Events Notice

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:

Elvet and Gilesgate

Purpose of the Report

- 1 The Sub-Committee is asked to consider an objection notice served by Durham Constabulary, in response to a temporary event notice (TEN) given under part 5 of the Licensing Act 2003 by Mr Christopher Harbron-Hall relating to The Market Place, Durham DH1 3NJ.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 The TEN is to be able to sell Baileys hot chocolate during the Lumiere event on 14th to 17th November 2019 from the entrance to the market hall at the top of the ramp.
- 4 An objection was received by Durham Constabulary on the basis the event will undermine the licensing objectives, namely the prevention of crime and disorder and public safety.

Recommendation(s)

- 5 Members of the Sub-Committee are requested to consider whether to allow the event to proceed or to prohibit the event.
 - 6 The Sub-Committee is recommended to give appropriate weight to:
 - (a) The licensing objectives;
 - (b) The representations (including supporting information) presented by all parties;
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- (c) The Durham County Council Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 5;
- (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 6

Background

7 Background information

Premises User	Mr Christopher Harbron-Hall	
Type of Application: Temporary Event Notice	Nature of premises: Market Hall entrance	Nature of event: To sell Baileys hot chocolate during the Lumiere event
Location of event: Entrance to the market, top of ramp	Date of event: 14th to 17th November 2019	Time of event: 16:30 to 22:00

Details of the notice

- 8 On 24th October 2019, the premises user, Mr Christopher Harbron-Hall, served a temporary event notice for the Market Place, Durham. A copy of this notice is attached as Appendix 3.
- 9 The licensable activities the premises user intends to carry out under the TEN are:
- The sale by retail of alcohol (off the premises only)

The Objection

- 10 On 30th October 2019, the Licensing Authority received an objection notice from Durham Constabulary on the grounds of the prevention of crime and disorder and public safety. This is attached as Appendix 4.

The Parties

- 11 The Parties to the hearing will be:
- Mr Christopher Harbron-Hall (premises user)
 - Sgt Caroline Dickenson, Durham Constabulary (Responsible Authority)

Options

- 12 Members are requested to consider whether:
- (a) to allow the event to proceed and subsequently issue a notice of decision to the premises user and Durham Constabulary or;
 - (b) to allow the event to proceed and attach any conditions from the existing premises licence Members consider appropriate or;
 - (c) to prohibit the event and subsequently issue a counter notice / prescribed form of notice and give reasons to all parties

Main implications

Consultation

- 13 Environmental Health and Durham Constabulary were consulted on the temporary events notice and had three working days to respond with any objections.

See Appendix 1

Conclusion

- 14 The Sub-Committee is asked to consider an objection notice served by Durham Constabulary in response to a temporary event notice and determine whether to allow the event to proceed or to prohibit the event.

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: Helen Johnson

Tel: 03000 265101

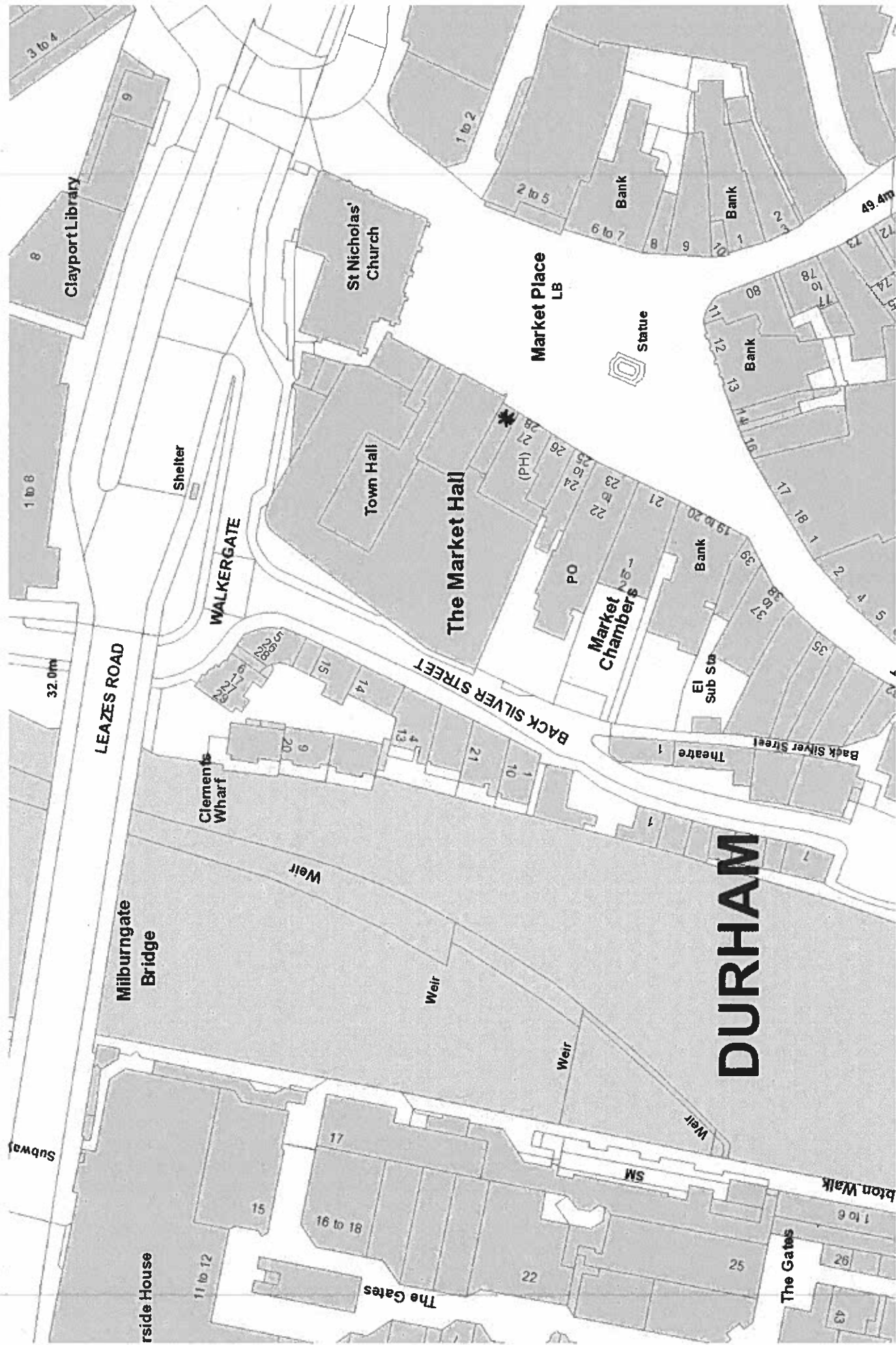
Appendix 1: Implications

Consultation

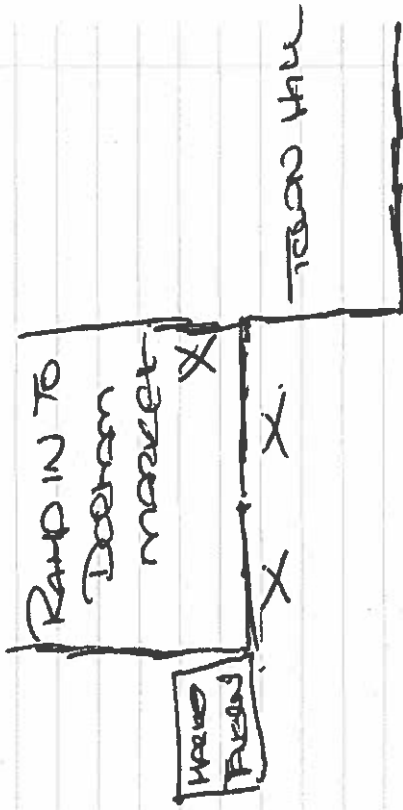
The temporary events notice was served on the Licensing Authority and copied to Durham Constabulary and Environmental Health where they had three working days to consider the notice and raise any objection.

Appendix 2: Location Plan

* Entrance to Indoor Market



RRR RRR.



HOT DAYS

3 TABLES

POP + SWEET LIGHTS

TABLES 6' X 2'

TENNIS TABLE

Appendix 3: Temporary Event Notice

**DURHAM COUNTY COUNCIL, Licensing Services, PO Box 617,
Durham. DH1 9HZ**

Temporary Event Notice

Before completing this notice, please read the guidance notes at the end of the notice. If you are completing this notice by hand, please write legibly in block capitals. In all cases, ensure that your answers are inside the boxes and written in black ink or typed. Use additional sheets if necessary. You should keep a copy of the completed notice for your records. You must send at least one copy of this notice to the licensing authority and additional copies must be sent to the chief officer of police and the local authority exercising environmental health functions for the area in which the premises are situated. The licensing authority will give to you written acknowledgement of the receipt of the notice.

I, the proposed premises user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry on a temporary activity at the premises described below.

1. The personal details of premises user (Please read note 1)	
1. Your name	
Title	Mr <input checked="" type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)
Surname	HARRISON - HALL
Forenames	CHRISTOPHER
2. Previous names (Please enter details of any previous names or maiden names, if applicable. Please continue on a separate sheet if necessary)	
Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other (please state)
Surname	
Forenames	
3. Your date of birth	
4. Your place of birth	
5. National Insurance Number	
6. Your current address (We will use this address to correspond with you unless you complete the separate correspondence box below)	
Post town	Postcode
7. Other contact details	
Telephone numbers	
Daytime	
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail address (if available)	
8. Alternative address for correspondence (If you complete the details below, we will use this address to correspond with you)	

Post town	Postcode
9. Alternative contact details (if applicable)	
Telephone numbers: Daytime	N/A
Evening (optional)	
Mobile (optional)	
Fax number (optional)	
E-Mail address (if available)	

2. The premises	
Please give the address of the premises where you intend to carry on the licensable activities or, if it has no address, give a detailed description (including the Ordnance Survey references) (Please read note 2)	
Durham Indoor Market Market Place Durham DH1 3NS	
Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)? If so, please enter the licence or certificate number below.	
Premises licence number	
Club premises certificate number	
If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, please give a description and details below. (Please read note 3)	
Entrance to Market top of Ramp	
Please describe the nature of the premises below. (Please read note 4)	
Market Hall	
Please describe the nature of the event below. (Please read note 5)	
LUMIERE - To sell Baileys Hot Chocolate during Lumiere	

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3. The licensable activities		
Please state the licensable activities that you intend to carry on at the premises (please tick all licensable activities you intend to carry on). (Please read note 6)		
The sale by retail of alcohol	<input checked="" type="checkbox"/>	
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club	<input type="checkbox"/>	
The provision of regulated entertainment (Please read note 7)	<input type="checkbox"/>	
The provision of late night refreshment	<input type="checkbox"/>	
Are you giving a late temporary event notice? (Please read note 8)	<input type="checkbox"/>	
Please state the dates on which you intend to use these premises for licensable activities. (Please read note 9)		
4th Nov - 17th Nov		
Please state the times during the event period that you propose to carry on licensable activities (please give times in 24 hour clock). (Please read note 10)		
16.30 till 02.00		
Please state the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers. (Please read note 11)		
If the licensable activities will include the sale or supply of alcohol, please state whether these will be for consumption on or off the premises, or both (please tick as appropriate). (Please read note 12)	On the premises only	<input type="checkbox"/>
	Off the premises only	<input checked="" type="checkbox"/>
	Both	<input type="checkbox"/>

Please state if the licensable activities will include the provision of relevant entertainment. If so, please state the times during the event period that you propose to provide relevant entertainment (including, but not limited to lap dancing and pole dancing). (Please see note 13) N/A
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4. Personal licence holders (Please read note 14)						
Do you currently hold a valid personal licence? (Please tick)		<table border="1"> <tr> <td>Yes</td> <td>No</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </table>	Yes	No	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Yes	No					
<input checked="" type="checkbox"/>	<input type="checkbox"/>					
If "Yes" please provide the details of your personal licence below.						
Issuing licensing authority	Dorham County Council					
Licence number	DCC/PEE/C/1863					
Date of issue	May 2019.					
Any further relevant details	—					

5. Previous temporary event notices you have given (Please read note 15 and tick the boxes that apply to you)		
Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year		
Have you already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

6. Associates and business colleagues (Please read note 16 and tick the boxes that apply to you)		
Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your associate(s) have given for events in the same calendar year.		
Has any associate of yours already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If answering yes, please state the total number of temporary event notices (including the number of late temporary event notices, if any) your business colleague(s) have given for events in the same calendar year.		

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: a) ends 24 hours or less before; or b) begins 24 hours or less after the event period proposed in this notice?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
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7. Checklist (Please read note 17)	
I have: (Please tick the appropriate boxes, where applicable)	
Sent at least one copy of this notice to the licensing authority for the area in which the premises are situated	<input checked="" type="checkbox"/>
Sent a copy of this notice to the chief officer of police for the area in which the premises are situated	<input type="checkbox"/>
Sent a copy of this notice to the local authority exercising environmental health functions for the area in which the premises are situated	<input type="checkbox"/>
If the premises are situated in one or more licensing authority areas, sent at least one copy of this notice to each additional licensing authority	<input type="checkbox"/>
If the premises are situated in one or more police areas, sent a copy of this notice to each additional chief officer of police	<input type="checkbox"/>
If the premises are situated in one or more local authority areas, sent a copy of this notice to each additional local authority exercising environmental health functions	<input type="checkbox"/>
Made or enclosed payment of the fee for the application	<input type="checkbox"/>
Signed the declaration in Section 9 below	<input type="checkbox"/>

8. Condition (Please read note 18)
It is a condition of this temporary event notice that where the relevant licensable activities described in Section 3 above include the sale or supply of alcohol that all such supplies are made by or under the authority of the premises user.

9. Declarations (Please read note 19)	
The information contained in this form is correct to the best of my knowledge and belief.	
I understand that it is an offence: (i) to knowingly or recklessly make a false statement in or in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six months, or to both.	
Signature	
Date	22ND OCTOBER 2019.
Name of Person signing	C M. HEBBON - UAW

Appendix 4: Objection Notice – Durham Constabulary

Helen Johnson - Licensing Team Leader (N'hoods)

From: Judith Wilkinson
Sent: 30 October 2019 11:28
To: Valerie Craig <
Subject: FW: Temporary Event Notice Received

• On Behalf Of Alcohol Harm Reduction Unit

30/10/19

To Durham County Council

Please see the below re Tens Application:

To whom it may concern

Durham Constabulary are objecting to the attached TEN under the licencing objective of public safety and prevention of Crime and disorder.

The applicant has already been refused a street traders licence for the event and the reasons for the refusal are documented in full below and were made by Maxine STUBBS who is a traffic management officer employed by Durham Constabulary.

While generally trying to be supportive of those who wish to bring business initiatives to the City Centre as you will appreciate I must consider how such applications will impact on the wider safety of the public both in vehicles and on foot etc.. within the public highway.

In this case it is noted that the tables will be located at the top of the ramp into Durham Market next to Market Tavern within the Market Place space. As well as the space taken up by the tables it is also recognised that should the selling of goods/articles be attractive for purchase (which I'm sure they will be) this brings with it the queuing of customers both of which therefore combine to take up a sizeable amount of footprint.

In respect of the Lumiere event during these days there will be a large installation around the nearby Londonderry Statue which takes out some of the Market Place footprint available for pedestrians passing through.

In liaising with the organiser of the Lumiere Event the Police have raised concerns regarding how people will be managed in the Market Place area around the installation to avoid bottlenecks and potential crushing at busy times and we have made a request that the organisers do not actively put in place any additional street trading facilities which further reduce the available space in the Market Place for pedestrians. In short we have requested that as much footprint as possible be maintained unobstructed for pedestrian movements.

With this in mind the organiser has come up with an audience management plan for the City Centre to keep pedestrians moving and no active street trading facilities is included.

From a Police perspective there should be no additional infrastructure in the Market Place area which is not included within the organisers event plan which could impact on crowd dynamics in this area.

Indeed as part of discussions it has been agreed by DCC that all tables and chairs under licence in the event footprint should be removed during the event to aid the safe movement of people.

On this occasion, while appreciating the efforts of Bear Bottom Durham Group Ltd I cannot lend police support to this proposal which could potentially compromise the event organisers audience management plan. Therefore I have no choice but to offer objection to any proposals which has an impact on the safe management of the Lumiere Event. Of course anything which occurs within Private Land is outside my gift to object to but it should be acknowledged that any off highway activities should not create an adverse impact through queuing to get to that private facility.

The area where the applicant has applied for the TEN for the sale of is also covered by the public space protection order (PSPO) so by granting this TEN would mean any customers who purchase the alcohol will then be in breach of the PSPO and may be liable to action being taken against them.

Thankyou

Caroline
SGT 484 Dickenson
AHRU
Durham Constabulary

Many Thanks

Judith Wilkinson
Harm Reduction Unit

Appendix 5: Statement of Licensing Policy

Durham County Council's Statement of Licensing Policy 2019 – 2024

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

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

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

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

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

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

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

The council recognises and promotes effective and responsible management of all licensed and authorised premises through competent, efficient and regular

instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25'. These are amongst the most important control measures for the achievement of all Licensing Objectives.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- First Aid
 - Public security
 - Event control
 - Polycarbonate Glass
 - Fire Safety
-

- Electrical safety
 - Building safety
 - Transport
 - Drink driving issues
 - Occupancy levels
-

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

Appendix 6: Section 182 Guidance

7. Temporary Event Notices (TENs)

7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

General

7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).

7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing). Under the 2003 Act ‘premises’ can mean any place. Events authorised under a TEN will therefore not always be in a building with a formal address and can take place, for example, in public parks and plots within larger areas of land. In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises are, for example, an open field or a beer tent. Local authorities and “relevant persons” (see below) may wish to make enquiries where appropriate to satisfy themselves of the exact location for where a TEN is being given.

7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.

7.5 If a TEN is sent electronically via GOV.UK or the licensing authority’s own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.

7.6 The police or EHA (“relevant persons”) may impose conditions on a TEN but only where the venue at which the event is to be held has an existing premises

licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).

7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required. Standard and late temporary event notices

7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

Standard temporary event notices

7.9 "Ten working days" (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.

7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.

7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

Late temporary event notices

7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.

7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.

7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing licence conditions.

Limitations

7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:

- the number of times a premises user may give a TEN is 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people;
- the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.
- the number of times a TEN may be given for any particular premises is 15 times in a calendar year;
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:

- the spouse or civil partner of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person; or
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given may be subsequently withdrawn by the TEN user by giving the licensing authority a notice to that effect no later than 24 hours before the beginning of the event period specified in the TEN. Otherwise, the TEN will be included within the limits of TENs allowed in a given calendar year, even if the event does not go ahead.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.20 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.21 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.

7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

Who can give a temporary event notice? Personal licence holders

7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 15 TENs in respect of each premises in a calendar year. Non-personal licence holders

7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies. Role of the licensing authority

7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.

7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.

7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).

7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a "notice (statement of conditions)") and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.

7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.

7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. Under Schedule 3 of the 2003 Act, the licensing authority must also keep a record of such matters including any notice of withdrawal of a TEN, any counter notice to a TEN given following an objection by a relevant person and any TEN received following modification. If requested to do so, a licensing authority must supply a person with a copy of the information contained in any entry in its register. Each licensing authority must also provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment. Licensing authorities may wish to consider bringing TENs to the attention of local councillors and residents by making their register available online or

including relevant details of a TEN when it is received, along with notice of licence applications on the authority's website. There is no requirement to record all the personal information given on a TEN.

Police and environmental health intervention

7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.

7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.

7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.

7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.

7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

Modification

7.37 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

Applying conditions to a TEN

7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:

- if the police or the EHA have objected to the TEN;
- if that objection has not been withdrawn;
- if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

7.39 This decision is one for the licensing authority alone, regardless of the premises user’s views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Duty of premises users to keep and produce TENs

7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014.