

## Yvonne Raine

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**From:** Mark Anslow  
**Sent:** 22 January 2020 09:04  
**To:** Matt Foster  
**Cc:** Karen Robson; AHS Licensing  
**Subject:** RE: (CHE0000068/2) - New Premises Licence Application - 19-20 Elvet Bridge, Durham, DH1 3AA

Hi Matt,

Thank you for the email, and for working with me to try to address as many matters as possible prior to the hearing. As you advise, as it will save us some time at the hearing and help inform members, following completion of our discussions I have clarified my position below:

Any applicants should be able demonstrate that their proposed use of a premises is lawful in planning terms, including complying with any existing conditions and timings that may be imposed upon a planning consent when submitting any application under the Licensing Act. I would also expect that where granted planning consent has been given based on a specific time, that any applicants not exceed that time within any application. In this specific case the premises does not benefit from consent for the A5 class of use required and as such the suitability of the use proposed has not been established. In addition the premises only has permission till 11pm and as such the application till 2.30am is far in excess of the hours given.

In relation to the licensing objectives, lack of permission in this circumstance means that the potential for noise outbreak among other areas, has not been formally quantified and suitably mitigated. The applicant in my opinion has not suitably demonstrated how they will mitigate those issues within the application. As such I consider that based on the use and licenced hours applied for the application is likely to impact on the public nuisance licensing objective. When licensing applications are determined by officers of the Licensing Authority or by the Licensing Sub-Committee, conditions may be imposed upon a licence to ensure consistency between the licensing objectives and any measures already determined by the planning authority that could impact the licensing objectives. As such considering the above my view is that the premises should not be granted a licence which exceeds the 11pm timing imposed by the planning regime. For clarity the relevant sections of the Councils Licensing Act 2003, Statement of Licensing Policy 2019-2024 are 2.7 and 5.8.

We have however in some detail discussed what conditions and hours of use may be suitable in the "hypothetical" situation where the premises benefited from planning consent for the use and hours proposed. In this circumstances I would potentially support the following conditions and hours of use. However I would add the significant caveat that I am unable to "guess" as to what the outcome of the planning consent will be and as such what specific conditions may or not be applicable. However anecdotally speaking the principle of a late night venue to the class of use proposed in this location is likely to not receive objection from this department. Although I would point out that to attain the permission sought similar venues have been required to undertake significant assessment, layout change, limitations on outside areas, installation of specialist equipment and mitigation measures such as re-fenestration.

To clarify although useful in quantifying the intention of your applicant my understanding is that no condition is sought to condition the "Noise management policy" submitted. This therefore allows for change in operation due to market forces without any further controls, as such it is the conditions which underly the management policy that are relevant in relation to supporting the public nuisance licensing objective.

## Hours of operation

- (1) Supply of alcohol (on/off sales) 11:00 to 00:00 Sunday to Thursday; 11.00 to 02.00 Friday to Saturday
- (2) Opening Hours, exhibition of film (indoors) and recorded music (indoors) 07:00 to 00.00 Sunday to Thursday; 07.00-02:30 Friday and Saturday;
- (3) Late Night Refreshment (indoors/outdoors) 07:00 to 00.00 Sunday to Thursday; 07.00-02:30 Friday and Saturday;
- (4) An additional hour applies on the change from GMT to BST;
- (5) An extension shall apply for New Years Eve to the start of permitted hours on New Years Day; and
- (6) An additional hour to the terminal hour on the following notable days when they fall on a Sunday - Thursday: On all Bank Holidays and Sunday preceding all Bank Holidays; Christmas Eve; Christmas Day; Boxing Day; Halloween; New Year's Day; St Andrew's Day; St George's Day; St Patrick's Day; St David's Day; Valentine's Day; Maundy Thursday.

## Conditions

1. Live music on the premises shall be limited to acoustic instruments with amplified voice and backing music.
2. Music played at the premises should never be played at such a level, as customers cannot talk in comfort.
3. The External Terraces **and on street seating area** shall be closed to the public after 23:00 (you will note I have slightly amended this condition just to clarify that it relates to all external areas)
4. All doors and windows to be closed during performance of live/recorded music, except for access and egress.
5. There will be a prominently placed sign at the entry/exit to remind customers to be quiet and refrain from shouting when they leave the premises.
6. Prior to the undertaking of licensable activities, an Outside Management Policy shall be submitted to and approved in writing by the local Environmental Health Department. The policy shall aim to identify how the use of all outside areas, including on street seating and terraces, shall be operated so as to minimise the potential for public nuisance. The approved outside management policy shall be adhered to at all times that licensing activities are occurring at the premises and shall form part of staff training.

regards

**Mark Anslow**  
**Development Assessment Team Leader**  
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