

## Statutory Licensing Sub-Committee

4<sup>th</sup> December 2020

### Application to vary a Premises Licence

#### Ordinary Decision

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### Report of Alan Patrickson Corporate Director of Neighbourhoods and Climate Change

### Councillor Brian Stephens, Cabinet Portfolio Holder for Neighbourhoods and Climate Change

**Electoral division(s) affected: Consett**

#### **Purpose of the Report**

- 1 The Sub-Committee is asked to consider and determine the application to vary a premises licence for Bar 1, 28-30 Front Street, Consett, Co Durham, DH8 5AQ.
- 2 A plan showing the location of the premises is attached at Appendix 2.

#### **Executive summary**

- 3 The application is to vary a premises licence for Bar 1, 28-30 Front Street, Consett, Co Durham, DH8 5AQ.

The application is to propose the following amendments:

Supply of alcohol (on and off the premises) Monday to Sunday  
12:00 hrs until 02:30 hrs.

Recorded music (indoors) Monday to Sunday 12:00 hrs until 02:30 hrs.

Opening Hours - Monday to Sunday 12:00 hrs until 03:00 hrs.

Remove a condition relating to the use of polycarbonate glasses.

- 4 The Licensing Authority received responses from County Durham & Darlington Fire and Rescue Service, the Council's Environmental Health Department, Planning Department, Durham Safeguarding Children's Partnership and Public Health, all who had no comments to make regarding the application.
- 5 One relevant representation in opposition to the application was received from Durham Constabulary.

## 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 representation (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 6;
  - (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 7.

## Background

- 8 The application was submitted by Bar 1 Limited on 13<sup>th</sup> October 2020. The application was subject to a 28-day public consultation which ended on 10<sup>th</sup> November 2020.

## Details of the application

- 9 An application to vary a premises licence was received by the Licensing Authority on 13<sup>th</sup> October 2020. A copy of the application and the current premises licence are attached at Appendix 3.
- 10 The application is deemed by the Licensing Authority to be correctly served and advertised in accordance with the Licensing Act regulations.
- 11 The current licensable activities and proposed amendments as part of the variation application are as follows:

<b>Current Licensable Activities</b>	<b>Days &amp; Hours</b>
Supply of Alcohol (on the premises)	Monday to Sunday 12:00 hrs - 02:00 hrs. <b><i>Proposed - to add off sales of alcohol Times for on/off alcohol</i></b> <b>Monday to Sunday 12:00 hrs - 02:30 hrs.</b>
Recorded Music	Monday to Sunday 12:00 hrs - 02:00 hrs.  <b><i>Proposed</i></b> <b>Monday to Sunday 12:00 - 02:30 hrs</b>

Hours open to the public	Monday to Sunday 12:00 hrs - 02:00 hrs.  <b><i>Proposed</i></b> <b>Monday to Sunday 12:00 hrs - 03:00 hrs</b>
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The applicant has also requested to remove the following condition from the current premises licence:

- Polycarbonate glasses will be used except for wine champagne at private parties.

- 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.

### **The Representations**

- 13 The Licensing Authority received one letter of representation during the consultation period from a responsible authority namely, Durham Constabulary.
- 14 The Licensing Authority deemed the representation to be relevant and relating to the following licensing objectives:
- The Prevention of Crime and Disorder
  - Public Safety
  - The Prevention of Public Nuisance

A copy of the representation along with the response from the applicant is attached as Appendix 4.

- 15 Responses were also received from the following Responsible Authorities: County Durham & Darlington Fire and Rescue Service, the Council's Environmental Health Department, Planning Department, Durham Safeguarding Children's Partnership and Public Health, all who had no comments to make. These are attached as Appendix 5.

### **The Parties**

- 16 The Parties to the hearing will be:
- Miss Samantha Jakeman (Applicant)
  - Miss Jody Armstrong (Applicant's witness and Designated Premises Supervisor)
  - Sgt Caroline Dickenson (Durham Constabulary)

## **Options**

- 17 There are a number of options open to the Sub-Committee:
- (a) Grant the variation of the licence 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 of the licence 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 exclude from the scope of the licence any of the licensable activities to which the application relates;
  - (d) To refuse to specify a person on the licence as the Designated Premises Supervisor;
  - (e) To reject the application to vary the licence.

## **Main implications**

### *Legal Implications*

- 18 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*

- 19 The variation of a premises licence application was subject to a 28 day consultation.

See Appendix 1

## **Conclusion**

- 20 The Sub-Committee is asked to determine the application to vary the 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

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**Contact:** Helen Johnson

Tel: 03000 265101

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## **Appendix 1: Implications**

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### **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.

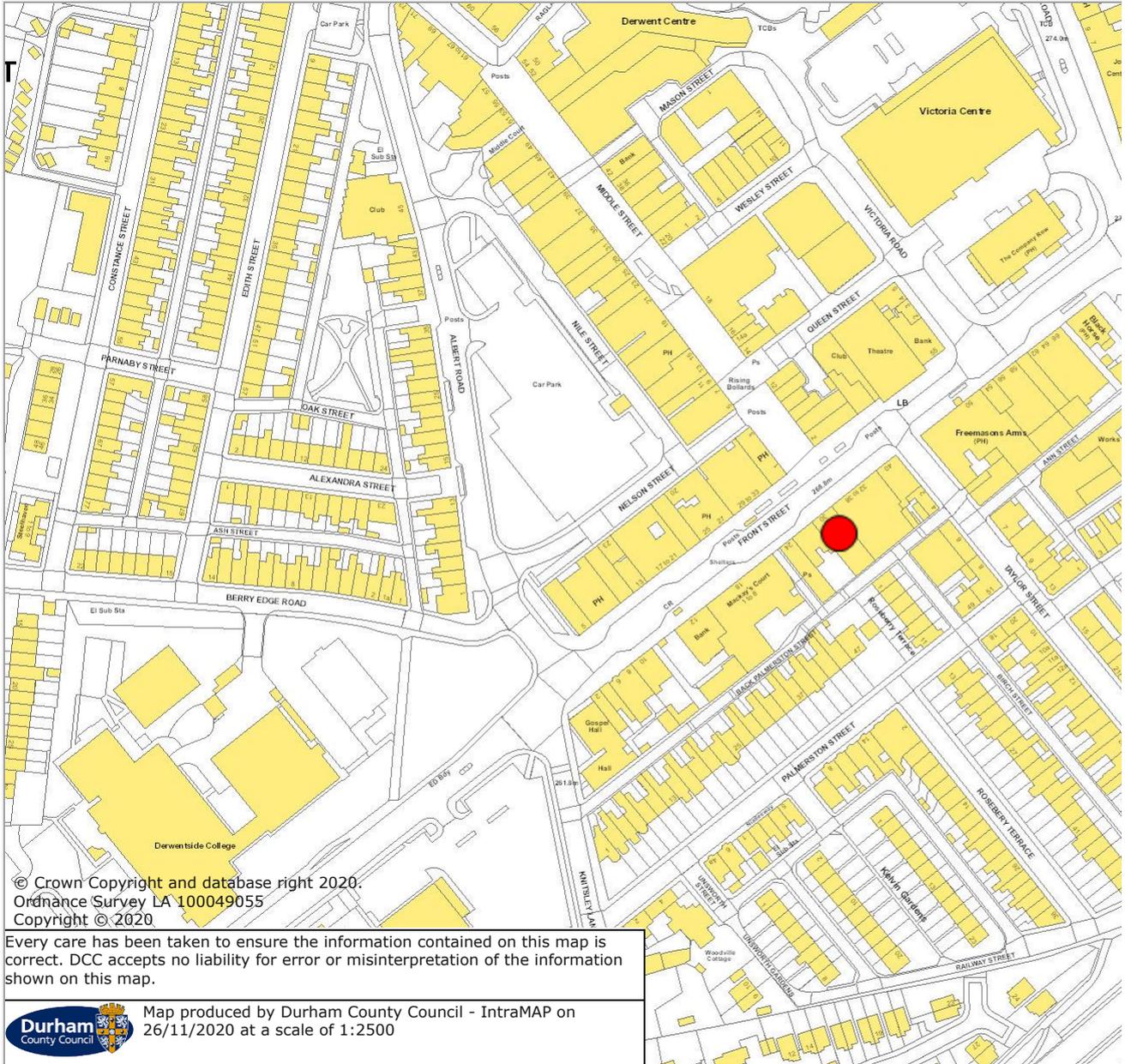
In addition, details of the application were available to view on the Council's website throughout the 28 day consultation period.

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## Appendix 2: Location Plan

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# Durham County Council - IntraMAP



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## **Appendix 3: Application Form & Current Premises Licence**

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Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I/We (

Bar 1 LTD

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number	DCCC / PLA0520.
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Part 1 - Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
BAR 1 LTD 28-30 Front Street Consett DH8 5AQ			
Post town	DH8 5AQ	Postcode	Consett.

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£

Part 2 - Applicant details

Daytime contact telephone number	(		
E-mail address (optional)	@		
Current postal address if different from premises address			
Post town		Postcode	

Part 3 - Variation

m

Please tick as appropriate

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

Yes

No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1)  Yes  No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

- Remove condition - Polycarbonate glasses only will be used - except for wine / champagne at private parties.
- Extend sale of alcohol <sup>and recorded music</sup> until 02:30 and close at 03:00
- Add off sales to the licence

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

#### Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

**Provision of regulated entertainment (Please see guidance note 3)** **Please tick all that apply**

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 4)</u>	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here (please read guidance note 5)</u>		
Mon					
Tue			<u>State any seasonal variations for the exhibition of films (please read guidance note 6)</u>		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 7)</u>		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 8)			<u>Please give further details</u> (please read guidance note 5)	
Day	Start	Finish		
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 6)	
Tue				
Wed				
Thur				<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 7)
Fri				
Sat				
Sun				

D

<b>Boxing or wrestling entertainments</b> <b>Standard days and timings (please read guidance note 8)</b>			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 4)</u>	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<u>Please give further details here (please read guidance note 5)</u>		
Mon					
Tue					
			<u>State any seasonal variations for boxing or wrestling entertainment (please read guidance note 6)</u>		
Wed					
Thur					
			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 7)</u>		
Fri					
Sat					
Sun					

E

PLEASE IGNORE

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	12:00	02:30	Please give further details here (please read guidance note 5)		
Tue	12:00	02:30			
Wed	12:00	02:30	State any seasonal variations for the performance of live music (please read guidance note 6)		
Thur	12:00	02:30			
Fri	12:00	02:30	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat	12:00	02:30			
Sun	12:00	02:30			

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place <u>indoors or outdoors or both</u> – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	12:00	02:30	<u>Please give further details here</u> (please read guidance note 5)		
Tue	12:00	02:30			
Wed	12:00	02:30	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 6)		
Thur	12:00	02:30			
Fri	12:00	02:30	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat	12:00	02:30			
Sun	12:00	02:30			

G

PLEASE IGNORE

Performances of dance Standard days and timings (please read guidance note 8)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	12:00	02:30	Please give further details here (please read guidance note 5)	Both	<input type="checkbox"/>
Tue	12:00	02:30			
Wed	12:00	02:30	State any seasonal variations for the performance of dance (please read guidance note 6)		
Thur	12:00	02:30			
Fri	12:00	02:30	Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat	12:00	02:30			
Sun	12:00	02:30			

H

<p><b>Anything of a similar description to that falling within (e), (f) or (g)</b>          Standard days and timings (please read guidance note 8)</p>			<p>Please give a description of the type of entertainment you will be providing</p>		
Day	Start	Finish	<p><b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 4)</p>	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<p><b><u>Please give further details here</u></b> (please read guidance note 5)</p>		
Wed					
Thur			<p><b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 6)</p>		
Fri					
Sat			<p><b><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u></b> (please read guidance note 7)</p>		
Sun					

I

<b>Late night refreshment</b> Standard days and timings (please read guidance note 8)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 4)		Indoors	<input type="checkbox"/>	
					Outdoors	<input type="checkbox"/>	
Day	Start	Finish	Both				<input type="checkbox"/>
Mon			<b>Please give further details here</b> (please read guidance note 5)				
Tue			<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 6)				
Wed			<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 7)				
Thur							
Fri							
Sat							
Sun							

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption – please tick (please read guidance note 9)	On the premises	<input checked="" type="checkbox"/>
Day	Start	Finish		Off the premises	<input checked="" type="checkbox"/>
Mon	12:00	02:30	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 6)	Both	<input checked="" type="checkbox"/>
Tue	12:00	02:30			
Wed	12:00	02:30			
Thur	12:00	02:30		<b>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 7)	
Fri	12:00	02:30			
Sat	12:00	02:30			
Sun	12:30	02:30			

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 10).

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6)
Day	Start	Finish	
Mon	12:00	03:00	Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7)
Tue	12:00	03:00	
Wed	12:00	03:00	
Thur	12:00	03:00	
Fri	12:00	03:00	
Sat	12:00	03:00	
Sun	12:00	03:00	

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

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

Copy should have already been received.

**M** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)**

**b) The prevention of crime and disorder**

Door Supervisors to wear Hi-visibility  
Jackets at all time  
- Logs kept when Sale of Alcohol is  
Refused. DPS + Head door Supervisor  
to sign each night.

**c) Public safety**

All Entrances, Exits and Passages.  
are to be kept clear at all time  
DPS/Licence to check this.

**d) The prevention of public nuisance**

Signage will be displayed in a  
Prominent Position on the Premises  
requesting customer to leave  
quietly and respect Local residents.

**e) The protection of children from harm**

Challenge 25 Scheme in Place  
Children will not be allowed on  
the Premis after 21.00hrs. Except for

Privat functions and only when  
accompanied by an adult.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee; or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

**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.**

**Part 5 – Signatures** (please read guidance note 12)

**Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent** (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	16/09/20
Capacity	

**Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent** (please read guidance note 14). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

<b>Contact name (where not previously given) and address for correspondence associated with this application</b> (please read guidance note 15)	
<b>Post code</b>	



## LICENSING ACT 2003 PREMISES LICENCE

**Premises Licence Number**  
**Granted**  
**Issued**

<b>DCCC/PLA0520</b>
<b>23 October 2019</b>
<b>08 February 2020</b>

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<p><b>BAR 1</b>            28-30 FRONT STREET            CONSETT            DH8 5AQ</p>	<p>DURHAM COUNTY COUNCIL            NEIGHBOURHOODS AND CLIMATE CHANGE            COMMUNITY PROTECTION            LICENSING SERVICES            PO BOX 617            DURHAM            DH1 9HZ</p>
<p><b>Telephone number:</b></p>	

<p><b>Where the licence is time limited the dates</b>            N/A</p>
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<p><b>Licensable activities authorised by this licence</b>            Live Music            Recorded Music            Performance of Dance            Other Entertainment Similar to Live or Rec Music or Dance Performance            Sale by retail of alcohol</p>
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<b>Opening Hours of the Premises</b>		
		<b>Non-standard/seasonal timings</b>
Mon	12:00-02:30	N/A
Tue	12:00-02:30	
Wed	12:00-02:30	
Thu	12:00-02:30	
Fri	12:00-02:30	
Sat	12:00-02:30	
Sun	12:00-02:30	

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

<p><b>Live Music Indoors</b></p> <p>Mon 12:00-02:00          Tue 12:00-02:00          Wed 12:00-02:00          Thu 12:00-02:00          Fri 12:00-02:00          Sat 12:00-02:00          Sun 12:00-02:00</p>	<p><b>Further details</b>          N/A  <b>Non-standard/seasonal timings</b>          N/A</p>
<p><b>Recorded Music Indoors</b></p> <p>Mon 12:00-02:00          Tue 12:00-02:00          Wed 12:00-02:00          Thu 12:00-02:00          Fri 12:00-02:00          Sat 12:00-02:00          Sun 12:00-02:00</p>	<p><b>Further details</b>          N/A  <b>Non-standard/seasonal timings</b>          N/A</p>
<p><b>Performance of Dance Indoors</b></p> <p>Mon 12:00-02:00          Tue 12:00-02:00          Wed 12:00-02:00          Thu 12:00-02:00          Fri 12:00-02:00          Sat 12:00-02:00          Sun 12:00-02:00</p>	<p><b>Further details</b>          N/A  <b>Non-standard/seasonal timings</b>          N/A</p>
<p><b>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors</b></p> <p>Mon 12:00-02:00          Tue 12:00-02:00          Wed 12:00-02:00          Thu 12:00-02:00          Fri 12:00-02:00          Sat 12:00-02:00          Sun 12:00-02:00</p>	<p><b>Further details</b>          N/A  <b>Non-standard/seasonal timings</b>          N/A</p>
<p><b>Sale by retail of alcohol</b></p> <p>Mon 12:00-02:00          Tue 12:00-02:00          Wed 12:00-02:00          Thu 12:00-02:00          Fri 12:00-02:00          Sat 12:00-02:00          Sun 12:00-02:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          N/A</p>

Part 2

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
BAR 1 LTD 28-30 FRONT STREET CONSETT DH8 5AQ	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
MRS JODY CAROL ARMSTRONG

<b>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</b>

**Annex 1 – Mandatory conditions**

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol -

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-

(a) a holographic mark, or

(b) an ultraviolet feature.

The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

### **Minimum Price of Alcohol:**

1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition:

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula –

$$P = D + (D \times V)$$

Where –

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –  
(i) the holder of the premises licence,  
(ii) the designated premises supervisor (if any) in respect of such a licence, or  
(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Mandatory condition: door supervision**

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing in subsection (1) requires such a condition to be imposed-
  - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
  - (b) in respect of premises in relation to-
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section-
  - (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

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

### **General**

None

### **Prevention of Crime & Disorder**

1. Door supervisors positioned on the entrance to the premises or inside the premises will wear hi-visibility jackets, coats or waistcoats.

2. All door supervisors must be licensed by the Security Industry Authority and must display their SIA licence / badge in a prominent position on their person which can be conveniently inspected.
3. Where a sale of alcohol is refused, a register / log to be updated and maintained.
4. A log will be kept and maintained at the premises which will detail all incidents that occur inside or immediately outside the premises.
5. The premises will operate a CCTV system at all times the premises are open for licensable activities. The CCTV system used shall record for a minimum of 28 days. All images held by the CCTV system will be made available to an officer or any of the Responsible Authorities upon reasonable request.
6. A register / log will be kept on the premises and completed on any occasion where a sale of alcohol is refused; this will be made available to all Responsible Authorities upon request. The register / log must be signed by the DPS on a weekly base, even if there are no refusals.
7. All staff involved in the sale of alcohol will be trained on the Licensing Act 2003 and records will be kept of staff training.
8. Signage is to be prominently placed near the entrance of the venue, stating that management have the right to refuse entry.

### **Public Safety**

1. Polycarbonate glasses only will be used except for wine champagne at private parties.
2. The Premises Licence Holder / DPS shall ensure that all entrances, exits and passageways are always kept clear of debris or furniture.

### **Prevention of Public Nuisance**

1. Signage will be displayed in a prominent position on the premises requesting customers to leave the premises quietly and respect the local residents.
2. All waste will be disposed of appropriately and staff will ensure that the frontage is kept clean and free of any litter.
3. Any deliveries which are made to the premises in anti-social hours will be carefully monitored to ensure noise is kept to the minimum.
4. Staff will receive training on facilitating and encouraging patrons to leave the premises in a quiet and considerate manner.

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

1. The Challenge 25 scheme will be applied by all members of staff including door supervisors where there is a sale of alcohol.
2. "Challenge 25" signage will be displayed within the premises which is a retailing strategy that encourages anyone who is over 18 but looks under 25 to carry and show when requested acceptable ID (a card bearing the PASS hologram, a photographic driving licence or a passport) if they wish to buy alcohol.
3. Staff will be trained on the Challenge 25 scheme, what forms of identification are acceptable and the risk from proxy sales. Refresher training will be provided every 6 months.
4. Children will not be allowed on the premises after 21:00hrs except when there is a private function and only when accompanied by an adult.

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

None

**Annex 4 – Plans attached**

Attached

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**Signature of Authorised Officer  
Head of Community Protection**

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## **Appendix 4: Representation and Response from Applicant**

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From: [Caroline.dickenson@](mailto:Caroline.dickenson@)  
Date: Mon 09/11/2020 06:23  
To: [licensing@durham.gov.uk](mailto:licensing@durham.gov.uk)

To whom it may concern

**Objection to an application for a variation of a Premises Licence (to remove a condition requiring polycarbonate glasses and to extend the hours for the sale of alcohol & recorded music to 02:30 and to add OFF Sales)**

Durham Constabulary wish to object to the application made under the licensing Act 2003 for Bar 1 LTD, 28-30 Front Street, Consett

Durham Constabulary are objecting under the prevention of crime and disorder, the prevention of public Nuisance and public safety.

The applicant has applied to extend the hours for recorded music and the sale of alcohol for consumption both ON and OFF the premises until 2:30am every day with the hours open to the public till 3:00am every day.

The licence was only granted on 23<sup>rd</sup> October 2019 following an application on 4<sup>th</sup> September 2019 whereby on the operating schedule (part 3 of the application form) the applicant stated the premises is to be run as a night club and will have a positive impact on the community, which includes employees, suppliers, customers, the environment and the people of Durham.

Due to COVID 19 the premises was forced to close on 20<sup>th</sup> March 2020 less than 5 months after opening and following licenced premises re-opening on 4<sup>th</sup> July 2020 the venue stated they were now a late bar and has operated as this with numerous restrictions imposed by the government. If this licence was to be extended until 3am would they be a nightclub or late bar the applicant has not explained their intention on the proposed variation.

As per Durham County Council's statement of licencing policy 2019-2024 the recommended hours for the operation of licensable activates for licensed premises situated within the County of Durham are Weekdays Sunday – Thursday 07:00 to 00:00 and weekends Friday night into Saturday morning and Saturday night into Sun day morning are 07:00 to 01:00 plus an addition 1hr for Good Friday and for all other Bank holidays. This premises already operates outside of this framework for the recommended times with the sale of alcohol authorised until 0200hrs, what reason do they have to operate further outside of these hours?

When consideration was made for appropriate times for the policy framework hours, Durham County Council Licensing Authority had regard to concerns expressed by residents, the licensed trade and the responsible authorities which included Durham Constabulary.

In relation to the OFF sales if granted this would allow for alcohol be sold to members of the public for them to consume elsewhere. The applicant has offered no conditions around how the off sales will be controlled and how they will promote the four licencing objective and there is nothing to stop people purchasing the alcohol and then standing in the street until whatever time they please consuming it.

Bar 1 do currently have a temporary Off sale provision under The Business and Planning Act 2020 until 30th September 2021 which provides an automatic extension to the terms of the

premises licence to allow the sale of alcohol for consumption off the premises, subject to a cut off time of 11pm or the closure time of an existing outside area, whichever is earlier. During the 2nd reading of the Business and Planning bill Lord Randall of Uxbridge stated

*As we have heard, this clause deregulates off-sales under the Licensing Act 2003. The change will automatically allow any premises with an on-sales alcohol licence—bars, pubs, clubs, restaurants et cetera—to sell alcohol for consumption off the premises in open containers for the **same hours as for on-sales**. I worry that this will encourage drinking in the street into the early hours. I fear that that would increase anti-social behaviour in town and city centres in the late evening and early morning. The images from the weekend, when in some places social distancing was increasingly reduced as the alcohol intake increased, give me real concern. Sadly, drunken and anti-social behaviour is not unusual in some city centres.*

Following concerns from a number of MP's when the Bill was passed it restricted off-sales until 11pm, and not the same hours as for on-sales which was set out in the initial drafting of the Bill.

Consett is a town centre which is has a mixture of residents and commercial premises, in extending the hours that the patrons can consume alcohol, the propensity for drunkenness and alcohol fuelled violence will increase accordingly. In allowing a premise to be open until 3:00am patrons will consume more alcohol and the effects of excessive consumption will have an adverse effect on the quality of lives of the local community and will have impact on the Crime and Disorder and Public Nuisance objectives. The impact this will have on the local community cannot be ignored as late night revellers make their way home, compete for taxis or wait for food.

Thankyou

Caroline

Sgt 484 Caroline Dickenson  
Licensing Sgt  
Licensing Unit  
Durham Constabulary

***Our Values & Vision:***

**Positive | Fair | Courageous | Inclusive | With Integrity**

Protecting Neighbourhoods, Tackling Criminals, Solving Problems

**From:** Samantha Jakeman  
**Sent:** 23 November 2020 10:08  
**To:** Karen Robson <[Karen.Robson2@durham.gov.uk](mailto:Karen.Robson2@durham.gov.uk)>  
**Subject:** Bar 1 hearing

Hi Karen please see below.

We believe at bar one we are targeted because of the previous owners. we are the only bar in the area who has to use plastic. we sell very little bottles as they have to be decanted into a plastic beakers, and those who drink pints don't like them from a plastic pint glass nor would any one enjoy a glass of wine from a plastic wine glass. Think your self if you go to the pub and you drink John Smiths or Guinness for example and you have to have it served in a plastic pint glass?? Or would you be happy if you ordered a bottle of wine and the staff poured your wine into a plastic jug. It's not very nice. We sell very little bottle beers or alcopops. We have a lot of waste in kegs as it just doesn't sell for that reason.

extra 30mins serving time & 30mins opening time rejection,

We can't see why the police have rejected this as another bar just 100yards from us have a 4.30 am license? So yes the point they raised for the residence & noise of us dispersing customers is valid BUT they will leave us as our license stands or if we are granted the extra time and go over to that venue! So why rejected us? They will still have the noise etc at 4.30 am so can't blame us solely for that. The police should still be out on the street as that Venue is still operating (this all in when Covid guidelines are lifted)

Kind regards

Samantha Jakeman & Jody Armstrong

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## **Appendix 5: Responsible Authorities Comments**

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Chief Fire Officer: Stuart Errington

Fire and Rescue Service Headquarters,  
Belmont Business Park, Durham, DH1 1TW

Date: 15 October 2020  
This matter is being dealt with by: Julie Knox

Our Ref: 7A10450185  
Your Ref: 467050

Direct Dial Telephone:  
E-mail: [julie.knox](mailto:julie.knox)

**Carol Graham**  
Email:

Dear Carol,

**Licensing Act 2003**  
**Regulatory Reform (Fire Safety) Order 2005**  
**Bar 1, 28/30 Front Street, Consett, DH8 5AQ**

I acknowledge your application dated 13 October 2020 for a Variation to Premises Licence under The Licensing Act 2003 in respect of the above named premises.

No representations will be made to the Licensing Authority subject to the responsible person for the above premises ensuring compliance with the requirements of the Regulatory Reform (Fire Safety) Order 2005.

For further guidance please refer to <https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents> which provides information about the Regulatory Reform (Fire Safety) Order 2005.

Should you require any further information please do not hesitate to contact me on the telephone number or e-mail address shown above or visit our website [www.ddfire.gov.uk](http://www.ddfire.gov.uk) and follow the link to Fire safety at work.

Yours faithfully

Julie Knox  
Fire Safety Section



[www.ddfire.gov.uk](http://www.ddfire.gov.uk)

# MEMO



To: Ms Carol Graham  
Licensing Services

From: Mr John S Hayes  
Neighbourhoods and Climate Change

Date: 14 October 2020

Re: **Licensing Application Premises Licence Variation Application  
Bar 1, 28-30 Front Street Consett DH8 5AQ**

With reference to the above licensing application received on 14 October 2020.

I have assessed the application with reference to the prevention of public nuisance licensing objective and would confirm I have no objection to raise in relation to the granting of the above premises licence variation.

  
John Scott Hayes MCIEH  
Principal Public Protection Officer  
Community Protection Service

Contact: Michelle Stephenson  
Direct Tel:  
email:  
Your ref:  
Our ref: CON28/20/02999



Carol Graham

15th October 2020

Dear Carol,

Town and Country Planning Act 1990 (as amended)

Proposed      Licensing - variation of premises licence received  
At              Bar 1 28 - 30 Front Street Consett DH8 5AQ  
For              Carol Graham

Thank you for your consultation regarding the above premises licence. I can confirm that the Planning Department have no comments to make.

Yours sincerely,

Michelle Stephenson  
Planning Officer

**Regeneration, Economy and Growth**

Durham County Council, Planning Development (North), Room 4/86-102, County Hall, Durham,  
DH1 5UL

From: DSCP Secure Tues 03/11/2020 12:02  
To: Carol Graham – Licensing

I have received an application to vary a licence for the establishment: Bar 1, 28-30 Front Street, Consett.

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

My Ref: SW/2020/103

Regards

Stephen Winship

Policy & Strategy Officer  
Durham Safeguarding Children Partnership

County Hall, Durham  
DH1 5UJ

*Durham County Council is following national guidance in response to the Coronavirus outbreak. Accordingly, employees have been asked wherever possible to work from home. While we continue to prioritise essential services, it might take a bit longer than usual to reply to your email. For urgent queries please contact [dscpsecure@durham.gov.uk](mailto:dscpsecure@durham.gov.uk)*

*For more information on the Council's response to the outbreak please visit [www.durham.gov.uk](http://www.durham.gov.uk)*

From: Jenna Smith Friday 16/10/2020 10:49  
To: AHS Licensing

Dear Colleagues

I have received an application to vary a licence for the establishment: Bar 1, 28-30 Front Street, Consett

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

My Ref: PH/2020/115

Kind regards,  
**Jenna Smith**

Business Support – Public Health Team  
Room 3/56 – 3/71  
Durham County Council  
County Hall,  
Durham,  
DH1 5UJ

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## **Appendix 6: Statement of Licensing Policy**

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**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.

**7.3 Prevention of Public Nuisance** - 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 near the premises.

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 **council 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.

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 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 or appropriate signage requesting customers to consider residents and monitoring of such areas by staff.

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 authorisations will often be required from the Highways Authority. Enquiries concerning such consents should be made to the Council's Highway's Section (see Appendix III). In predominantly commercial areas, such as shopping centres, 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.

**Applicants should consider** 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 council 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

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.

**Applicants are advised** to seek advice from Durham County Council's Environmental Health team and incorporate any recommendations in their operating schedule before submitting their applications.

**Takeaways and fast-food outlets - The council 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 display notices advising customers of the location of bins and patrons should be encouraged to use the bins made available.

**Important note: The council considers that it will be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises (“takeaway” premises).**

Takeaway premises are often open late at night and in the early hours of the morning. They can be associated with disorder as people under the influence of alcohol may congregate outside takeaways after leaving or in some cases having been ejected from late-night licensed premises.

Takeaways operate within the night time economy but without the same framework around them, e.g. pubwatch, use of security staff etc. In addition, alcohol sold from takeaways could readily be consumed in public spaces and may not be subject to the same controls associated with other types of licensed premises.

From a health perspective, obesity levels are rising nationally and locally; without action the health of the population will continue to suffer. Responsible licensees can support the ‘Working toward a healthy weight in County Durham’ goals and the council would see the following steps as a contribution to reducing health harms and health inequalities:

- Menu to display calories per portion information for all food offers.
- Menu to offer at least one clear and stated, 'healthy option' and to be priced competitively.
- Menu to display recommended daily calorie limits for adults (For women the recommended limit is 2,000 calories a day for men it's 2,500).
- Menu to offer smaller / half portions.
- Salt and pepper available upon request rather than always on the table

In addition to the information provided above, **Table 3 in Appendix IV** provides recommendations, suggestions and examples of how to prevent the specific nuisance type 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.

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## **Appendix 7: Section 182 Guidance**

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## 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 Act<sup>1</sup>, 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 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.