

## **Statutory Licensing Sub-Committee**

**9<sup>th</sup> December 2020**

### **Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor**



## **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 Local Partnerships**

### **Electoral division(s) affected: Deneside**

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

- 1 The Sub-Committee is asked to consider and determine an application to vary the premises licence for The New Westlea, 5 West Grove, Seaham SR7 8EL to specify an individual as the Designated Premises Supervisor. The application was received from Ms Carol Madeley, the premises licence holder.
- 2 A plan showing the location of the premises is attached at Appendix 2.
- 3 It is a mandatory condition under the Licensing Act 2003 that, where the supply of alcohol is one of the licensable activities, there must be a Designated Premises Supervisor. Guidance states that the Designated Premises Supervisor should normally be the individual who is in day-to-day control of the premises. This is to provide a single point of accountability within the premises should any problems arise.
- 4 For members information Ms Carol Madeley has been the Designated Premises Supervisor for The New Westlea, Seaham since 12<sup>th</sup> August 2015. Ms Madeley notified the licensing authority to remove herself as the Designated Premises Supervisor on 17<sup>th</sup> September 2020 as she was experiencing problems with another person involved with the running of the premises. The licensing authority actioned this request immediately then received a further application on 22<sup>nd</sup> September 2020 to reinstate Ms Carol Madeley as the Designated Premises Supervisor. This application was rejected by the licensing sub-committee on 27<sup>th</sup> October 2020 and it is believed Ms Madeley has lodged an appeal at

the Magistrates Court. A further application was then submitted on 28<sup>th</sup> October 2020 by Ms Madeley to re-name herself again as the Designated Premises Supervisor.

### Executive summary

- 5 The application to vary the Designated Premises Supervisor (DPS) was received on 28<sup>th</sup> October 2020 and names Ms Carol Madeley as the proposed Designated Premises Supervisor.
- 6 Durham Constabulary have made a representation objecting to Ms Carol Madeley being named as the Designated Premises Supervisor.

### Recommendation(s)

- 7 The Sub-Committee is asked to determine the application with a view to promoting the licensing objectives.
- 8 The Sub-Committee is recommended to give appropriate weight to:
  - (a) The steps that are appropriate to promote the licensing objectives;
  - (b) The representations (including supporting information) presented by all parties;
  - (c) Durham County Council's 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;
  - (e) The Licensing Act 2003. The relevant parts of the act are attached at Appendix 7.

### Background

- 9 Background information

Applicant	<b>Ms Carol Madeley</b>	
Type of Application: Vary the DPS	Date received: 28th October 2020	Consultation ended: 10 <sup>th</sup> November 2020
Proposed DPS	Ms Carol Madeley	

- 10 Under Section 37 of the Licensing Act 2003, a copy of the application to vary a Designated Premises Supervisor must also be given to Durham Constabulary. If Durham Constabulary consider that granting the application would undermine the licensing crime prevention objective, they must give notice to the licensing authority stating their concerns.

### **Details of the application**

- 11 An application to specify Ms Carol Madeley as the Designated Premises Supervisor was received by the Licensing Authority on 28<sup>th</sup> October 2020. See Appendix 3.

### **The Representation**

- 12 On 9<sup>th</sup> November 2020 a representation was received from Durham Constabulary's Harm Reduction Unit on behalf of the Chief Officer of Police, objecting to Ms Carol Madeley being named on the premises licence as the Designated Premises Supervisor.

A copy of Durham Constabulary's objection is attached as Appendix 4.

### **The Parties**

- 13 The Parties to the hearing will be:
- Ms Carol Madeley (Applicant & Proposed DPS)
  - Durham Constabulary (Responsible Authority)

### **Options**

- 14 The options open to the Sub-Committee are:
- (a) To grant the application or
  - (b) To reject the application, if it considers it necessary to do so for the promotion of the crime prevention objective.

### **Main implications**

#### *Legal Implications*

- 15 None

#### *Consultation*

- 16 The vary DPS application was subject to a 14 day consultation with Durham Constabulary.

See Appendix 1

## **Conclusion**

- 17 The Sub-Committee is asked to determine the application to vary the Premises Licence to specify Ms Carol Madeley as the Designated Premises Supervisor.

## **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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### **Consultation**

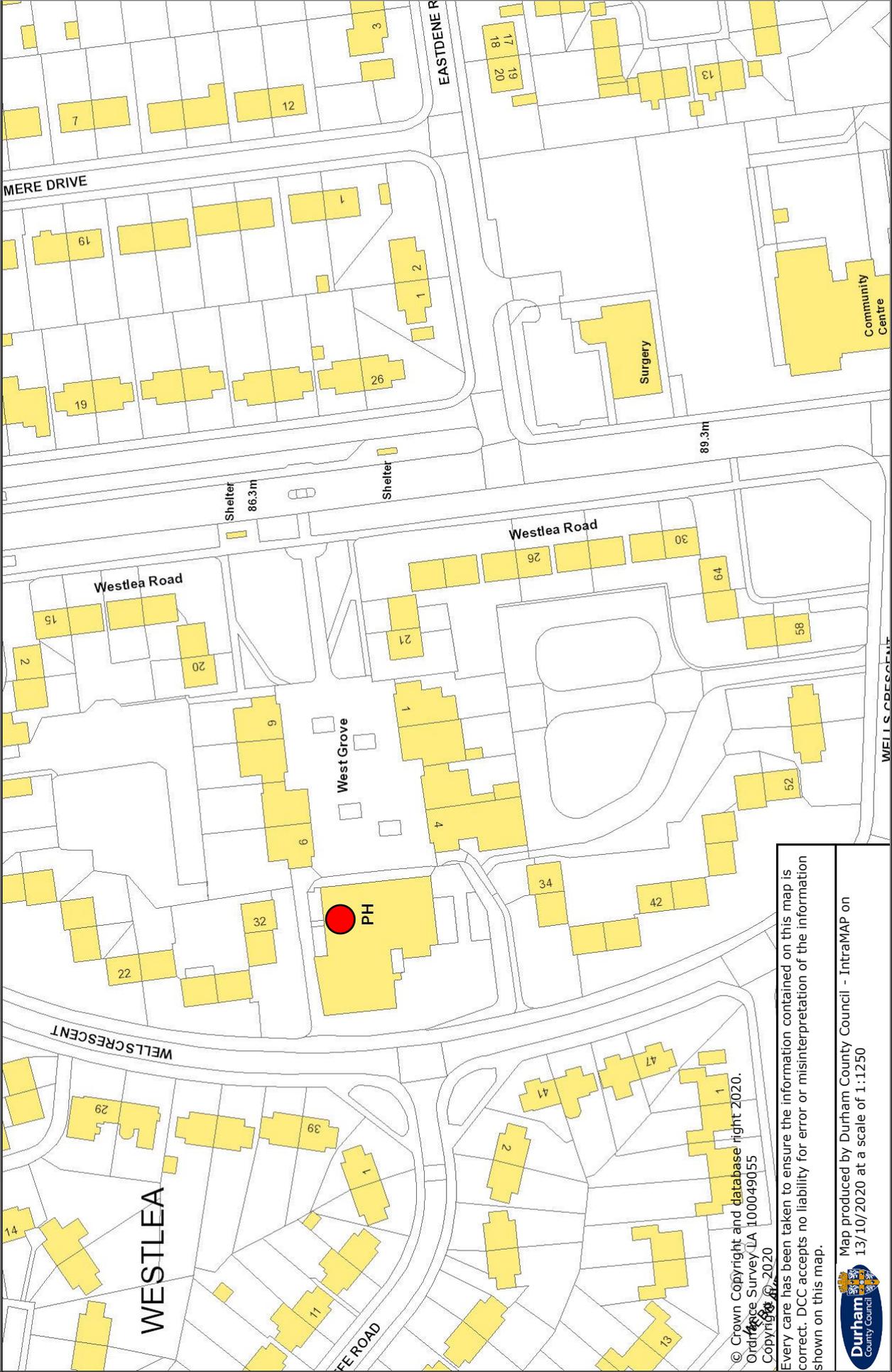
The application was subject to a 14 day consultation with Durham Constabulary in accordance with the Licensing Act 2003 and its regulations.

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## Appendix 2: Location Plan

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Durham County Council - IntraMAP



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Ordnance Survey/EA 100049055  
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

Map produced by Durham County Council - IntraMAP on  
13/10/2020 at a scale of 1:1250



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## Appendix 3: Application Form

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\* required information

Section 1 of 4

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

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

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

Are you an agent acting on behalf of the applicant?

Yes  No

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

Applicant Details

\* First name

\* Family name

\* E-mail

Main telephone number  Include country code.

Other telephone number

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

Are you:

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

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

Applicant Business

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

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

Registration number

Business name  If your business is registered, use its registered name.

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

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 4**

**PREMISES DETAILS**

I/we apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003.

\* Premises licence number

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

Address     OS map reference     Description

**Address**

\* Building number or name

\* Street

District

\* City or town

County or administrative area

Postcode

\* Country

**Contact Details**

E-mail

Telephone number

Other telephone number

Describe the premises. For example, what type of premises it is

Continued from previous page...

Public House

Section 3 of 4

SUPERVISOR

Full Name Of Proposed Designated Premises Supervisor

\* First name

\* Family name

\* Nationality

\* Place of birth

\* Date of birth  /  /   
dd mm yyyy

Personal licence number of proposed designated premises supervisor

Issuing authority of that licence

Full Name Of Existing Designated Premises Supervisor

First name

Family name

\* Would you like this application to have immediate effect under section 38 of the Licensing Act 2003?

Yes  No

I will notify the existing premises supervisor (if any) of this application

\* Will the premises licence or relevant part of it be submitted with this application?

Yes  No

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

Electronically, by the proposed designated premises supervisor

As an attachment to this variation

The premises licence holder can continue the supply of alcohol if, for example, the existing premises supervisor is suddenly indisposed or unable to work.

It is sufficient for the licensee to inform the existing premises supervisor in writing, without sharing the specific details of the application.

Continued from previous page...

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'

#### Section 4 of 4

#### PAYMENT DETAILS

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

This formality requires a fixed fee of £23

#### DECLARATION

I/WE UNDERSTAND THAT 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. [APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED LIABILITY PARTNERSHIP, BUT NOT COMPANIES OR LIMITED LIABILITY PARTNERSHIPS] IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

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

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

\* Full name

\* Capacity

\* Date  /  /   
dd mm yyyy

Full name

Capacity

Date  /  /   
dd mm yyyy

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## **Appendix 4: Representation from Durham Constabulary**

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From:  
Date: Mon 09/11/2020 00:37  
To: licensing@durham.gov.uk

To whom it may concern

Durham constabulary are objecting to the VDPS application for The Westlea, 5 West Grove, Seaham under the prevention of Crime and Disorder.

The applicant Carol MADLEY has previously applied to be the Designated premise supervisor for The Westlea, to which Durham Constabulary objected to on 5th October 2020 and following a hearing on 27th October 2020 Durham County Council licensing Sub-Committee rejected the application.

On 28th October 2020 an application was received by Durham Constabulary whereby Carol MADLEY was again applying to be the Designated premise supervisor for The Westlea and for the following reasons we have no other option but to object to the vary DPS Application.

Carol MADLEY's previous application was refused only the day before this application was received and there is no evidence to suggest there are any changes around the day to day running of the premises.

Although Carol MADLEY was the previous DPS of the Westlea club she removed herself as [redacted] was not adhering to COVID regulations and there was an increase of crime and disorder at the premises, to the point Durham were considering a review of the premises licence.

Carol MADLEY is fully aware of the concerns Durham Constabulary have around the running of the premises especially since the club reopened on 4th July 2020 however she was confident she could adhere to and promote the 4 licencing objectives if [redacted] had no involvement in the running of the premises.

Durham constabulary are aware [redacted] has still been working at the premises and it is suspected he is the person who is currently in charge and making the decisions around the day to day running of the premises. [redacted] is continually returning to the premises and believe that Carol MADLEY cannot control him.

This person should be the DPS Carol MADLEY however it is evident this is not the case and we feel that, should he continue to be present at the premises, the licencing objectives will be undermined and inevitably this will lead to an increase to crime and disorder and public nuisance at the premises.

We therefore have no other option but to object to the vary DPS Application.

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

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## **Appendix 5: Statement of Licensing Policy**

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**3.11 The designated premises supervisor (DPS)** - This person must hold a personal licence and be in general day-to-day control of the premises. No alcohol may be sold or supplied from a licensed premise unless it is sold by a personal licence holder or a personal licence has authorised others to sell alcohol in their absence. This is mandatory.

In 2009, the Government empowered licensing authorities, on the application of a management committee of a community premises, not to apply the normal mandatory conditions in relation to the sale of alcohol. Instead the council can impose a condition rendering the management committee responsible for the supervision and authorisation of all alcohol sales made pursuant to the licence.

Any application for a change of the DPS must be made to the council either electronically, via gov.uk, or in hardcopy. Any hardcopy applications must also be served on the Police. An application form completed by the premises licence holder, a consent form signed by the prospective DPS, the premises licence and the appropriate fee must be submitted.

Where an objection is received by the council from the Police in respect of the proposed DPS, the council is required to hold a hearing before the Licensing Sub-Committee within the timescales set out in the Act and accompanying regulations.

**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.

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## **Appendix 6: Section 182 Guidance**

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## **Specification of new designated premises supervisors**

- 4.31 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.52 to 4.65 of this Guidance.
- 4.32 The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form. The DPS' personal address should not be included in the summary form in order to protect their privacy.
- 4.33 To specify a DPS, the premises licence holder should normally submit an application to the licensing authority (which may include an application for immediate interim effect) with:
- a form of consent signed by the individual concerned to show that they consent to taking on this responsible role, and
  - the relevant part (Part A) of the licence.
- 4.34 If they are applying in writing, they must also notify the police of the application. If the application is made electronically via GOV.UK or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.
- 4.35 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.
- 4.36 The general guidance in Chapter 8 on electronic applications applies in respect of new applications.
- 4.37 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence.
- 4.38 Where there are frequent changes of DPS, the premises licence holder may submit the form in advance specifying the date when the new individual will be in post and the change will take effect.

## **Police objections to new designated premises supervisors**

- 4.39 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular

premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

- 4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- 4.41 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

## 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.

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## **Appendix 7: Relevant part of Licensing Act 2003**

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## LICENSING ACT 2003

### SECTION 37 – APPLICATION TO VARY LICENCE TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR

#### 37 Application to vary licence to specify individual as premises supervisor

- (1) The holder of a premises licence may –
  - (a) If the licence authorises the supply of alcohol, or
  - (b) If he applied under section 34 to vary the licence so that it authorises such supplies,  
Apply to vary the licence so as to specify the individual names in the application (“the proposed individual”) as the premises supervisor.
- (2) Subsection (1) is subject to regulations under-
  - (a) Section 54 (form etc. of applications etc):
  - (b) Section 55 (fees to accompany applications etc):
- (3) An application under this section must also be accompanied by-
  - (a) A form of consent in the prescribed form given by the proposed individual, and
  - (b) The premises licence (or the appropriate part of that licence) or, if that is not practicable, a statement of the reasons for the failure to provide the licence (or part).
- (4) F1 Notice of an application under this section must be given-
  - (a) To the chief officer of police for the police area (or each police area) in which the premises are situated, and
  - (b) To the designated premises supervisor (if there is one)

And that notice must state whether the application is one to which section 38 applies.

- (4a) F2 Notice under subsection (4)(a) is to be given by-
  - (a) The relevant licensing authority, in a case where the holder of the **premises licence submitted the application to the relevant licensing authority** by means of a relevant electronic facility;
  - (b) The holder of the premises licence, in any other case.
- (4b) Notice under subsection (4)(b) is to be given by the holder of the premises Licence.
- (5) Where a chief officer of police notified under subsection (4) is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
- (6) The chief officer of police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (4).

### **38 Circumstances in which section 37 application given interim effect**

- (1) This section applies where an application made in accordance with section 37, in respect of a premises licence which authorises the supply of alcohol, includes a request that the variation applied for should have immediate effect.
- (2) By virtue of this section, the premises licence has effect during the application period as if it were varied in the manner set out in the application.
- (3) For this purpose, “the application period” means the period which-
  - (a) Begins when the application is received by the relevant licensing authority, and
  - (b) Ends-
    - (i) If the application is granted, when the variation takes effect,
    - (ii) If the application is rejected, at the time the rejection is notified to the applicant, or
    - (iii) If the application is withdrawn before it is determined, at the time of the withdrawal.

### **39 Determination of section 37 application**

- (1) This section applies where an application is made, in accordance with section 37, to vary a premises licence so as to specify a new premises supervisor (“the proposed individual”).
- (2) Subject to subsection (3), the relevant licensing authority must grant the application.
- (3) Where a notice is given under section 37(5) (and not withdrawn), the authority must-
  - (a) Hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
  - (b) Having regard to the notice, reject the application if it considers it (F1 appropriate) for the promotion of the crime prevention objective to do so.
- (4) Where an application under 37 is granted or rejected, the relevant licensing authority must give notice to that effect to-
  - (a) The applicant,
  - (b) The proposed individual, and
  - (c) The chief office of police for the police area (or each police area) in which the premises are situated.
- (5) Where a chief office of police gave a notice under subsection (5) of that section (and it was not withdrawn), the notice under subsection (4) of this section must state the authority’s reasons for granting or rejecting the application.
- (6) Where the application is granted, the notice under subsection (4) must specify the time when the variation takes effect.  
That time is the time specified in the application or, if that time is before the applicant is given that notice, such later time as the relevant licensing authority specifies in the notice.

#### **40 Duty of applicant following determination under section 39**

- (1) Where the holder of a premises licence is notified under section 39(4), he must forthwith-
  - (a) If his application has been granted, notify the person (if any) who has been replaced as the designated premises supervisor of the variation, and
  - (b) If his application has been rejected, give the designated premises supervisor (if any) notice to that effect.
- (2) A person commits an offence if he fails, without reasonable excuse, to comply with subsection (1).
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.