

## **Statutory Licensing Sub-Committee**

**23<sup>rd</sup> March 2021**

### **Application for the grant of 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: Sherburn – West Rainton**

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

- 1 The Sub-Committee is asked to consider and determine the application for the grant of a premises licence for The Three Horseshoes, Pit House Lane, Leamside, Durham, DH4 6QQ. The public house has operated under an existing premises licence for many years. The application was submitted to the licensing authority on 5<sup>th</sup> February 2021 by Mr Daryl John Frankland.
- 2 A plan showing the location of the premises is attached at Appendix 2.

#### **Executive summary**

- 3 The application requests the granting of a new Premises Licence for a public house by Mr Daryl John Frankland.

- 4 The application is for the following activities:

Live Music (Indoors) Monday to Sunday 10:00 - 00:00 hrs (New Year's Eve 10:00 – 03:00 hrs New Year's Day)

Recorded Music (Indoors and Outdoors) Monday to Sunday 07:00 - 00:00 hrs (New Year's Eve 07:00 – 03:00 hrs New Year's Day)

Anything of a similar description (Indoors) Monday to Sunday 10:00 - 00:00 hrs (New Year's Eve 10:00 – 03:00 hrs New Year's Day)

Late Night Refreshment (Indoors) Monday to Sunday 23:00 - 00:00 hrs (New Year's Eve 23:00 – 03:00 hrs New Year's Day)

Sale of Alcohol (on and off sales) Monday to Sunday 10:00 hrs - 00:30 hrs (New Year's Eve 10:00 – 03:30 hrs New Year's Day)

- 5 The licensing authority received responses from Durham Constabulary, County Durham and Darlington Fire and Rescue Service, Durham Safeguarding Children Partnership, all with no comments on the application.
- 6 Mediation took place between the applicant and Durham County Council Environmental Health and it was agreed to amend Recorded Music to indoors only.
- 7 The licensing authority received one letter in opposition to the application from West Rainton Parish Council (other persons).

### **Recommendation(s)**

- 8 The Sub-Committee is asked to determine the application with a view to promoting the licensing objectives.
- 9 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**

- 10 Background information – Applicant – Mr Daryl John Frankland

Type of Application: <b>Grant of a premises licence</b>	Date received: <b>5th February 2021</b>	Consultation ended: <b>5th March 2021</b>
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### **Details of the application**

- 11 An application for the grant of a premises licence was received by the Licensing Authority on 5th February 2021. A copy of the application is attached at Appendix 3.

- 12 The application is deemed by the Licensing Authority to be correctly served and advertised in accordance with the Licensing Act regulations.
- 13 The activities now requested are as follows:

<b>Licensable Activities</b>	<b>Days &amp; Hours</b>
Live Music (Indoors)	Monday to Sunday 10:00 hrs – 00:00 hrs New Year's Eve 10:00 hrs until 03:00 hrs New Year's Day.
Recorded Music (Indoors only – following mediation)	Monday to Sunday 07:00 hrs – 00:00 hrs New Year's Eve 07:00 hrs until 03:00 hrs New Year's Day.
Anything of a similar description (Indoors)	Monday to Sunday 10:00 hrs – 00:00 hrs New Year's Eve 10:00 hrs until 03:00 hrs New Year's Day.
Late Night Refreshment (Indoors)	Monday to Sunday 23:00 hrs – 00:00 hrs New Year's Eve 23:00 hrs until 03:00 hrs New Year's Day.
Sale of Alcohol (on and off sales)	Monday to Sunday 10:00 hrs - 00:30 hrs New Year's Eve 10:00 hrs until 03:30 hrs New Year's Day.
Proposed Opening Times	Monday to Sunday 07:00 hrs – 01:00 hrs New Year's Eve 07:00 hrs until 04:00 hrs New Year's Day.

- 14 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 Representation**

- 15 The Licensing Authority received one letter of representation during the consultation period from West Rainton Parish Council (other persons).

The licensing authority deemed the representation as relevant, relating to the following licensing objectives:

- The Prevention of Public Nuisance

A copy of the representation is attached at Appendix 4.

- 16 Responses were received from the following Responsible Authorities:

Durham Constabulary, County Durham and Darlington Fire and Rescue Service, Durham Safeguarding Children Partnership all had no comments on the application.

Mediation took place between the applicant and Durham County Council Environmental Health and it was agreed to amend Recorded Music to indoors only. See Appendix 5.

## **The Parties**

17 The Parties to the hearing will be:

- Mr Daryl John Frankland (Applicant)
- West Rainton Parish Council (other persons)

## **Options**

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

- (a) Grant 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 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.

## **Main implications**

### *Legal Implications*

19 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*

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

See Appendix 1

## **Conclusion**

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

## **Background papers**

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

## **Other useful documents**

- None

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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.

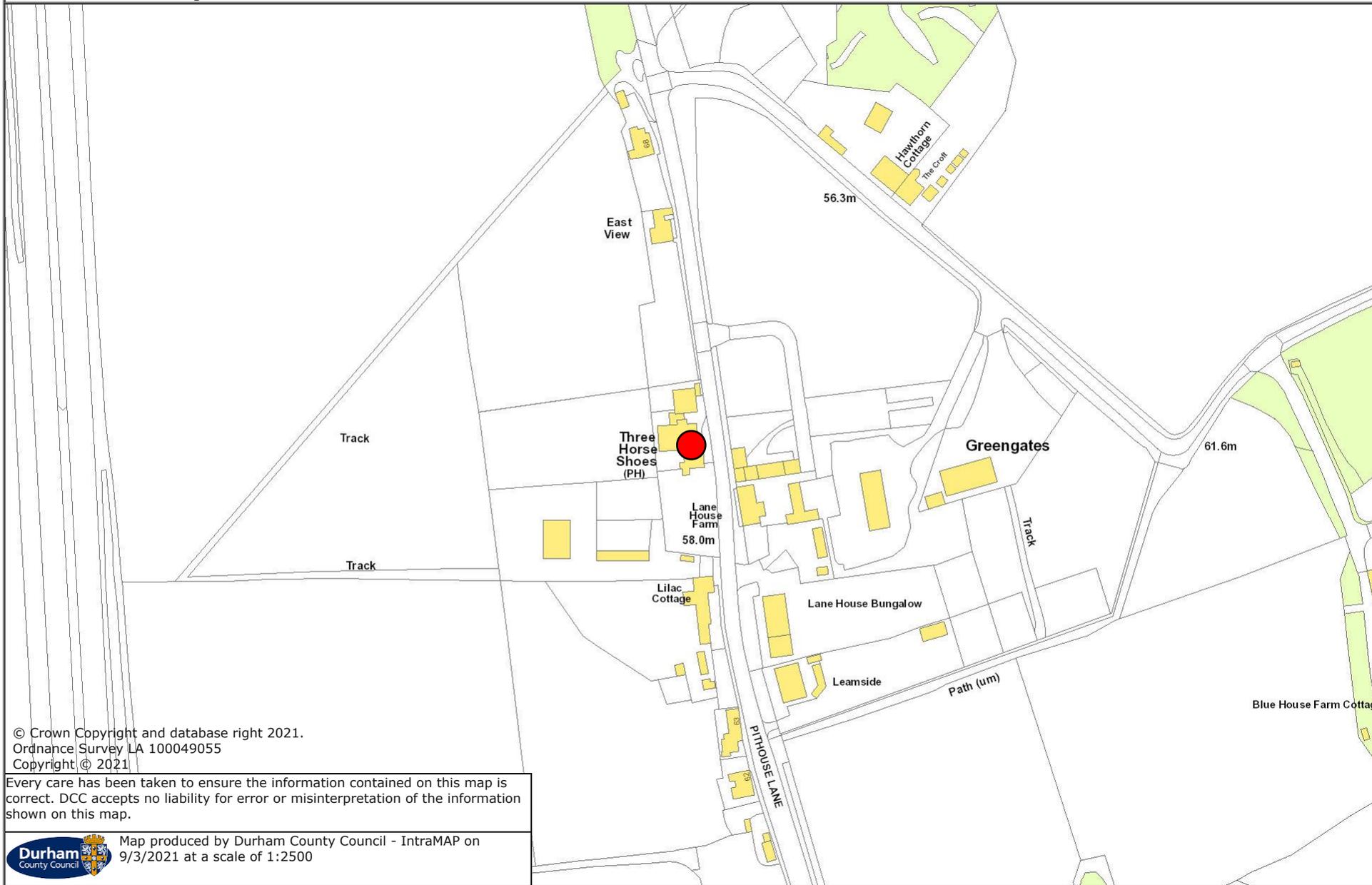
In addition, details of the application were available to view on the Council's website throughout the 28 day consultation period.

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## Appendix 2: Location Plan

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# Durham County Council - IntraMAP



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## **Appendix 3: Application Form**

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## Application for a premises licence to be granted 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 Daryl John Frankand

*(Insert name(s) of applicant)*

**apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003**

#### Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description <b>TheThree Horseshoes Pit House Lane Leamside Durham DH4 6QQ</b>			
<b>Post town</b>	Durham	<b>Postcode</b>	DH4 6QQ
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£ 62,500	

#### Part 2 - Applicant details

Please state whether you are applying for a premises licence as **Please tick as appropriate**

- |     |  |                               |
|-----|--|-------------------------------|
| a)  | an individual or individuals *                     | please complete section (A) X |
| b)  | a person other than an individual *                |                               |
| i   | as a limited company/limited liability partnership | please complete section (B)   |
| ii  | as a partnership (other than limited liability)    | please complete section (B)   |
| iii | as an unincorporated association or                | please complete section (B)   |
| iv  | other (for example a statutory corporation)        | please complete section (B)   |
| c)  | a recognised club                                  | please complete section (B)   |
| d)  | a charity  | please complete section (B)   |



**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr	Mrs	Miss	Ms	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over		Please tick yes	
<b>Nationality</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town				Postcode	
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(B) OTHER APPLICANTS**

**Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.**

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)

Telephone number (if any)
E-mail address (optional)

**Part 3 Operating Schedule**

When do you want the premises licence to start?

DD		MM		YYYY			
1	5	0	3	2	0	2	1

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD		MM		YYYY			

<p>Please give a general description of the premises (please read guidance note 1)</p> <p>Destination public house, large restaurant and outside garden area's. 5 letting bed and breakfast rooms.</p> <p>Licensable activity will only take place in the garden and patio areas and on the ground floor.</p>
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If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

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What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

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) X
- f) recorded music (if ticking yes, fill in box F) X
- 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) X

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

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

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

**A**

Plays Standard days and timings (please read guidance note 7)			<b><u>Will the performance of a play take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
				Both	
Mon			<b><u>Please give further details here</u></b> (please read guidance note 4)		
Tue					
Wed			<b><u>State any seasonal variations for performing plays</u></b> (please read guidance note 5)		
Thur					
Fri			<b><u>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</u></b> (please read guidance note 6)		
Sat					
Sun					

## B

Films Standard days and timings (please read guidance note 7)			Will the exhibition of films take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
Mon				<b><u>Please give further details here</u></b> (please read guidance note 4)	Both
Tue					
Wed			<b><u>State any seasonal variations for the exhibition of films</u></b> (please read guidance note 5)		
Thur					
Fri			<b><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</u></b> (please read guidance note 6)		
Sat					
Sun					

# C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			<b><u>Please give further details</u></b> (please read guidance note 4)
Day	Start	Finish	
Mon			<b><u>State any seasonal variations for indoor sporting events</u></b> (please read guidance note 5)
Tue			
Wed			
Thur			<b><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></b> (please read guidance note 6)
Fri			
Sat			
Sun			

# D

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)			<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
Mon				<b><u>Please give further details here</u></b> (please read guidance note 4)	
Tue					
Wed			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 5)		
Thur					
Fri			<b><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</u></b> (please read guidance note 6)		
Sat					
Sun					

# E

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	X
Day	Start	Finish		Outdoors	
				Both	
Mon	10.00	00.00	<b><u>Please give further details here</u></b> (please read guidance note 4)  Very occasional live music and to support themed events. Amplified and unamplified.		
Tue	10.00	00.00			
Wed	10.00	00.00	<b><u>State any seasonal variations for the performance of live music</u></b> (please read guidance note 5)		
Thur	10.00	00.00			
Fri	10.00	00.00	<b><u>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</u></b> (please read guidance note 6)  New Years Eve 10.00am until 3.00am New Years Day		
Sat	10.00	00.00			
Sun	10.00	00.00			

## F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
				Both	X
Mon	7.00	00.00	<b><u>Please give further details here</u></b> (please read guidance note 4)  Occasional use for themed events.		
Tue	7.00	00.00			
Wed	7.00	00.00	<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)		
Thur	7.00	00.00			
Fri	7.00	00.00	<b><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></b> (please read guidance note 6)  New Years Eve 7.00am until 3.00am New Years Day		
Sat	7.00	00.00			
Sun	7.00	00.00			

# G

Performances of dance Standard days and timings (please read guidance note 7)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	
Day	Start	Finish		Outdoors	
Mon				<b><u>Please give further details here</u></b> (please read guidance note 4)	
Tue					
Wed			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 5)		
Thur					
Fri			<b><u>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</u></b> (please read guidance note 6)		
Sat					
Sun					

# H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	X
Mon	10.00	00.00		Outdoors	
				Both	
Tue	10.00	00.00	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Wed	10.00	00.00			
Thur	10.00	00.00	<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 5)		
Fri	10.00	00.00			
Sat	10.00	00.00	<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 6)		
Sun	10.00	00.00			
			New Years Eve 10.00am until 3.00am New Years Day		

**I**

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	X
Day	Start	Finish		Outdoors	
Mon	23.00	00.00		<b><u>Please give further details here</u></b> (please read guidance note 4)	
Tue	23.00	00.00			
Wed	23.00	00.00	<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 5)		
Thur	23.00	00.00			
Fri	23.00	00.00	<b><u>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</u></b> (please read guidance note 6)  New Years Eve 23.00pm until 3.00am New Years Day		
Sat	23.00	00.00			
Sun	23.00	00.00			

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises		
Day	Start	Finish		Off the premises		
Mon	10.00	00.30		<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5)	Both	X
Tue	10.00	00.30				
Wed	10.00	00.30				
Thur	10.00	00.30	<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 6)  New Years Eve 10.00am until 3.30am New Years Day			
Fri	10.00	00.30				
Sat	10.00	00.30				
Sun	10.00	00.30				

**State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):**

<b>Name</b> Daryl John Frankland	
<b>Date of birth</b>	
<b>Address</b>	
<b>Postcode</b>	
<b>Personal licence number (if known)</b>	
<b>Issuing licensing authority (if known)</b> Durham	



## M

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

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)**

All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licences including times of operation, licensable activities and all conditions. Refresher training will be carried out every 6 months and all training will be recorded in a register. The register will be made available to the Police or an authorised officer of the local authority upon request.

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

The premises shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by Police or authorised officers of the local authority upon request.

Ongoing staff training.

**c) Public safety**

The premises shall maintain an incident book, which shall be made available to the Police and authorised officers of the local authority upon request.

A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff and the public made aware of its operation.

CCTV recording will be retained for a minimum of 28 days.

Ongoing staff training.

**d) The prevention of public nuisance**

Request to customers to respect our neighbours when leaving.

Asking customers to subdue unsocial behaviour.

Ongoing staff training.

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

Operating the challenge 25 scheme. Ensuring all children are supervised whilst on the premises.

Ongoing staff training.

**Checklist:**

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15).

**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.**

**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.**

**Part 4 – Signatures** (please read guidance note 11)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

**Declaration**

- [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I

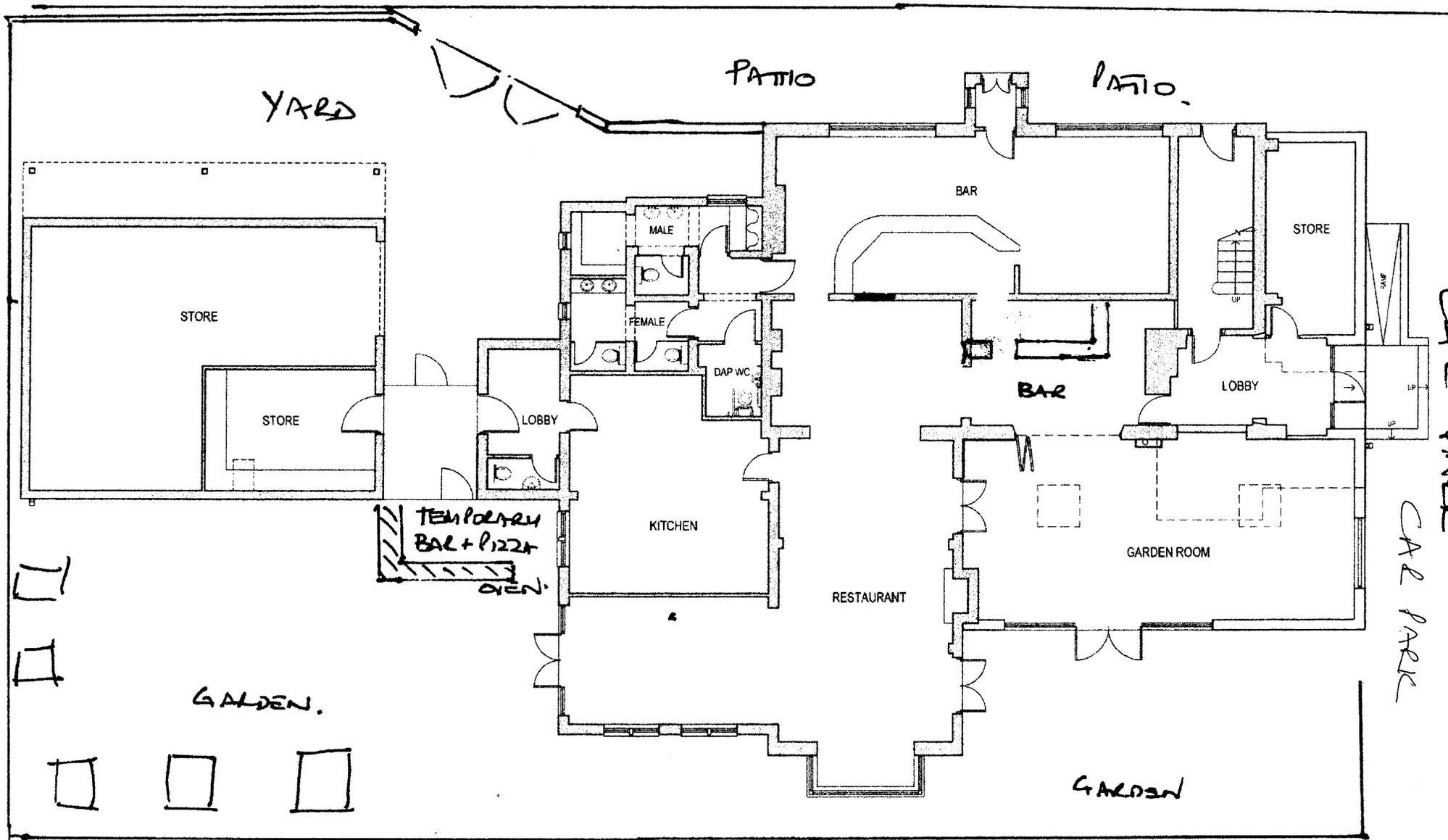
	<p>am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</p> <ul style="list-style-type: none"> <li>• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)</li> </ul>
Signature	
Date	
Capacity	

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent** (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

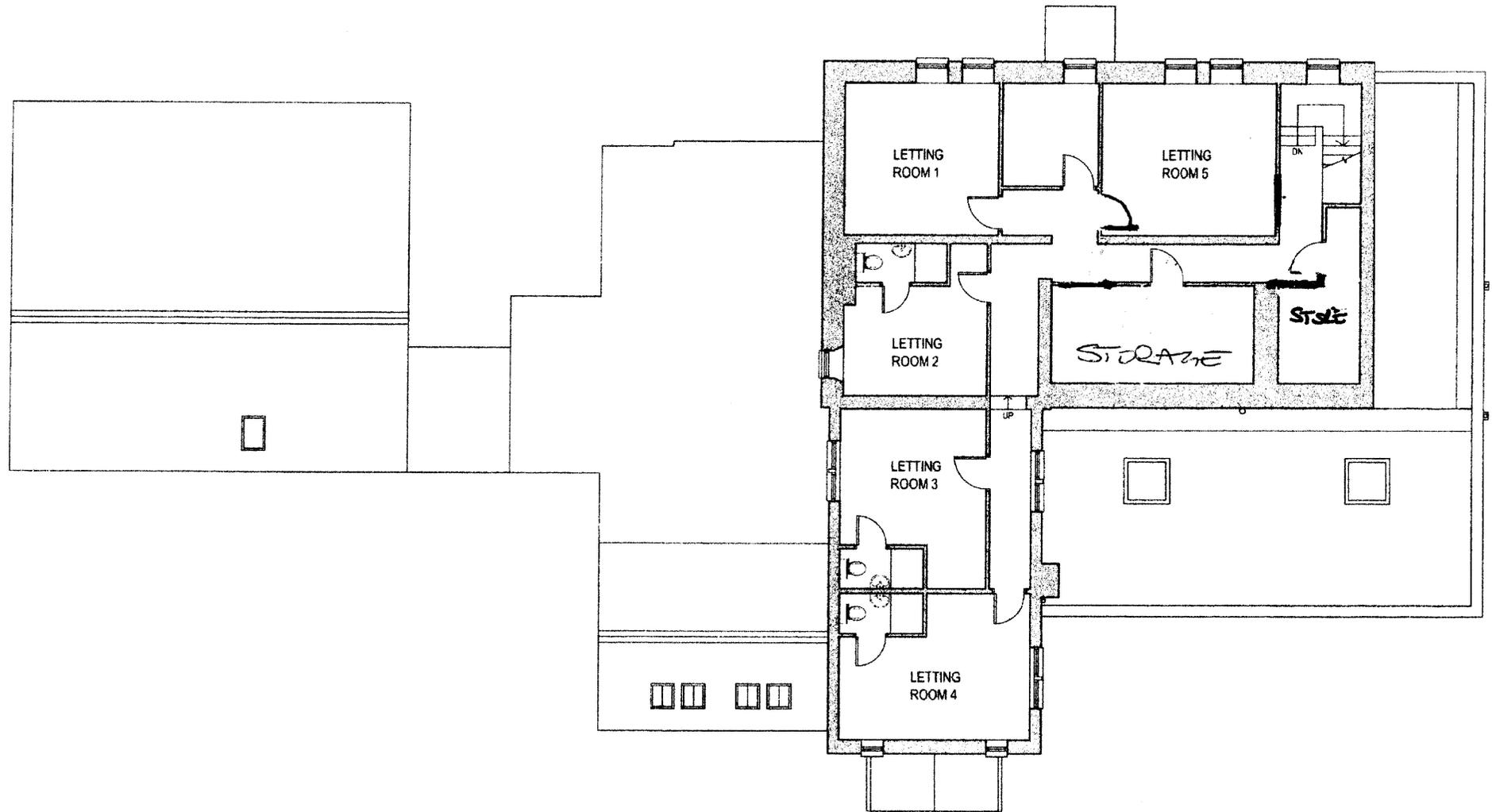
Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

# PIT HOUSE LANE



5 SHEDS.

SCALE 1:37.5



SCALE 137.5 : 1

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## **Appendix 4: Representation**

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Mark Ramshaw  
Parish Clerk  
Trevelyan Place  
Peterlee  
County Durham  
SR8 2NL

Email:

4 March 2021

FAO: The Licensing Section, Durham County Council: [licensing@durham.gov.uk](mailto:licensing@durham.gov.uk)

### **Application for New Premises License – The Three Horse Shoes Leamside**

The Parish Council has considered the above application and would like to make the following comments.

It is noted that details of this new application, as posted on your license applications webpage, represents an extension of existing licensing activities in some areas as summarised below.

<b>Live Music</b>	<b>Existing License Indoors Only</b>	<b>Proposed License</b>
Monday-Sunday New Years Eve/Day	10am-Midnight 10am-3am	10am-Midnight 10am-3am
<b>Recorded Music</b>	<b>Existing License Indoors Only</b>	<b>Proposed License Indoors and outdoors</b>
Monday-Sunday New Years Eve/Day	10am-Midnight 10am-3am	7am-Midnight 7am-3am
<b>Any of a similar description to live music, recorded music of performance of dance</b>	<b>Existing License Indoors Only</b>	<b>Proposed License</b>
News Years Eve/Day	10am-3am	10am-3am
<b>Late Night Refreshments</b>	<b>Existing License Indoors Only</b>	<b>Proposed License</b>
Monday-Sunday New Years Eve/Day	11pm-Midnight 10am-3am	11pm-Midnight 11pm-3am
<b>Supply of alcohol On and Off Premises</b>	<b>Existing License</b>	<b>Proposed License</b>
Monday-Sunday	10am-Midnight	10am-12.30 at night
New Years Eve/Day	10am-3am	10am-3.30am

Of particular concern is the proposed license for the playing of recorded music outdoors from 7am-Midnight every night, and until 3am on New Years Day.

However, it is understood that following mediation with Environmental Health the applicant has amended the application for the new license to request that the playing of Recorded

Music be for indoors only. This change is welcomed, but it is of concern that this important amendment to the application does not appear to be in the public domain.

It is understood that the new premises licence is being applied for as refurbishments are being or have been carried out at the premises which has resulted in an overall increase in existing licensed areas of the premises and also the licensee requests that the outdoor beer garden areas of the premises become additional licensed areas.

Whilst it is acknowledged that music licenses are now only being requested for indoor areas, the extension of the license to the external beer garden areas is likely to lead to increased noise disturbance from music being played indoors, especially if live amplified music. The potential for disturbance to the neighbouring community is likely to increase over the summer months when external doors are likely to be left open.

It is understood that the Environmental Health Department can ask for suitable conditions to be added to the application if they consider there is potential for noise disturbance from the activities proposed at the premises.

It would appear that no such conditions have been requested. Given the considerable time parameters associated with the music license activities, the need for some form of restriction on potential noise levels would seem to be essential to prevent noise disturbance.

For a quiet rural location, not served by public transport, the days and time of all licensed activities is considered to be excessive.

Is it really necessary to have a license for live indoor music / performance dance from 7 in the morning to Midnight every day of the year?

Why is an earlier start time for music being played from 7 am necessary, as opposed to the existing 10 am, as a result of the alterations to the premises?

Is it really necessary to sell alcohol off premises from 10 in the morning to 12.30 at night every day of the year and why has the end time for such sales been extended from 12 midnight as a result of the alterations to the premises?

Noise from private cars and taxis very late at night, every night, could be considerable and will inevitably be of some disturbance to neighbouring properties.

In order to reduce the potential for noise disturbance the Parish Council would like to ask for consideration to be given to:

- Later start and earlier finish for music licenses:
- Restricting live music activities to fewer days
- An earlier finish time for off premises sale of alcohol
- Suitable conditions to be added to the application to reduce potential noise disturbance

Signed:

Mark Ramshaw, Parish Clerk, West Rainton Parish Council

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

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**From:** Alcohol Harm Reduction Unit

**Sent:** 11 February 2021 09:40

**To:** Carol Graham - Licensing Assistant (N'hoods)

**Subject:** FW: Licensing - new premises licence application received - Three Horse Shoes, Leamside, Durham

Hi

No objections from Durham Constabulary

Many thanks, Iain



Chief Fire Officer: Stuart Errington

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

Date: 09 February 2021  
This matter is being dealt with by: Julie Knox

Our Ref: 7A41270020  
Your Ref: 473006

Direct Dial Telephone:  
E-mail:

Dear Carol,

**Licensing Act 2003**  
**Regulatory Reform (Fire Safety) Order 2005**  
**The Three Horseshoes, Pit House Lane, Leamside, Houghton Le Spring, DH4 6QQ**

I acknowledge your application dated 5 February 2021 for a 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



**From:** DSCP Secure

**Sent:** 17 February 2021 09:38

**To:** Carol Graham - Licensing Assistant (N'hoods)

**Subject:** RE: Licensing - new premises licence application received - Three Horse Shoes, Leamside, Durham

My Ref: SW/2021/005

I represent the Durham Safeguarding Children Partnership (DSCP) which is a responsible authority under the Licensing Act. I have received a copy of your application for a premises licence for your premises at the Three Horse Shoes, Pit House Lane, Leamside, Durham. DH4 6QQ.

Having considered the steps you have recorded to promote the licensing objectives, in particular the protection of children, I have no comments or objections regarding your application.

Regards

Stephen Winship

Policy & Strategy Officer  
Durham Safeguarding Children Partnership

**From:** Daryl

**Sent:** 18 February 2021 15:38

**To:** John Hayes

**Cc:** Carol Graham - Licensing Assistant (N'hoods) AHS Licensing

**Subject:** Re: Licensing - new premises licence application received - Three Horse Shoes, Leamside, Durham

Dear Carol

Due to my misunderstanding and having had a conversation with John Hayes from Environmental Health, can you please amend the option in section F to be indoors only on the licence application for the Three Horseshoes, Leamside.

I apologise if any inconvenience caused.

Best wishes

Daryl Frankland

On Thu, Feb 18, 2021 at 3:13 PM John Hayes wrote:

Good afternoon Daryl

Very good talking to you earlier; as I explained I was ringing in relation to your premises licence application for the Three Horse Shoes on Pit House Lane.

I look at applications in relation to the Environmental Health Responsible Authority role of the Prevention of Public Nuisance Licensing Objective and as I explained I would be concerned about a licence which granted outdoor music, in this case you have ticked for recorded music both indoors and outdoors between 0700 to 0000hrs Monday to Friday and 0700 to 0300hrs over New Years Eve and New Years Day, from our discussion I understand your reasoning for this.

As I explained, as your premises will not have a capacity for over 499 people there is no requirement for a licence in relation to music between the hours of 0800 to 2300 on any day; music, where the capacity is below 500 people, only becomes regulated entertainment outside of those hours; you mentioned that you would not require to play recorded music outside of those hours in the outdoor area and wished to amend your application to indoors only for section F of the form.

I explained that you will have to contact licensing to notify them of your decision to amend the application; I would suggest that, if you are happy with my explanation above, that you respond to this email, addressed to licensing and copying me in to confirm that you wish to amend your application as described.

Again thank you for your time and all the best for the future.

Best wishes

John

**John Scott Hayes MCIEH BSc(Hons) PGDipIOA**

**Principal Public Protection Officer**

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

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**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.

**Appendix II Framework Hours: recommended terminal hours for the sale of alcohol and the provision of late-night refreshment for different types of premises**

Category of Premises	Weekdays*	Weekends*	Bank Holidays*
Premises licensed for the sale or supply of alcohol for consumption on or off the premises e.g. pubs, social clubs and nightclubs	07.00 to 00.00	07.00 to 01.00	Good Friday Plus 1 Hour. For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday (i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour)
Premises licensed for the sale of alcohol for consumption off the premises only e.g. off licences, supermarkets and garages	07.00 to 23.30	07.00 to 00.30	Good Friday Plus 1 Hour. For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday (i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour)
Premises with licences not including the sale or supply of alcohol (community centres, village halls)	07.00 to 00.00	07.00 to 01.00	Good Friday Plus 1 Hour. For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday (i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour)
Premises licensed primarily for late night refreshment e.g. takeaways	01.00	02.00	Good Friday Plus 1 Hour. For all other bank holidays, an additional hour be added to the terminal hour of the day preceding the bank holiday (i.e. if the Monday is the bank holiday, the Sunday is normal trading plus 1 hour)

\* **NOTE:** For the purposes of this matrix, weekdays mean Monday to Thursday; Weekends include Friday night into Saturday Morning, Saturday night into Sunday morning and Sunday night into Monday morning; and Bank Holidays means Sunday night into Monday morning and Monday night into Tuesday morning.

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

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## 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.