

Statutory Licensing Sub-Committee

16th June 2021

Application for the grant of a Premises Licence

Ordinary Decision



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

Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships Cllr Mark Wilkes

Electoral division(s) affected:

Elvet and Gilesgate

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine the application for the grant of a Premises Licence for Tesco, 18-29 Claypath, Durham, DH1 1RH.
- 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 and was submitted to the Licensing Authority on 28th April 2021 by Tesco Stores Limited.
- 4 The application requested the following:
 - Supply of Alcohol (off the premises) – Monday to Sunday
06:00 hrs until 00:00 hrs
 - Late Night Refreshment (indoors) – Monday to Sunday
23:00 hrs until 00:00 hrs
- 5 During the consultation period, the Licensing Authority received seven objections from other persons.
- 6 Durham Constabulary, Durham County Council Environmental Health, Durham County Council Planning, Durham Safeguarding Children's Partnership, County Durham & Darlington Fire and Rescue Authority all replied to the consultation with no comments.

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) 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

- 9 Background information

| | | |
|---|---|--|
| Applicant | Tesco Stores Limited | |
| Type of Application: New Premises Licence | Date received: 28th April 2021 | Consultation ended: 27th May 2021 |

Details of the application

- 10 An application for the grant of a new Premises Licence was received by the Licensing Authority on 28th April 2021. A copy of the application is attached at Appendix 3.
- 11 The application is deemed by the Licensing Authority to be correctly served and advertised in accordance with the Licensing Act regulations.
- 12 The licensable activities requested are as follows:

| Licensable Activity | Days & Hours |
|---|---|
| Supply of Alcohol (off the premises) | Monday to Sunday 06:00 hrs until 00:00 hrs |

| | |
|-------------------------------------|---|
| Late Night Refreshment (Indoors) | Monday to Sunday 23:00 hrs until 00:00 hrs |
| Opening hours | Monday to Sunday 06:00 hrs until 00:00 hrs |

- 13 The applicant has proposed the conditions and steps that they intend to take in order to promote the four licensing objectives, which are outlined within the application.

The Representations

- 14 During the consultation period, the Licensing Authority received seven objections from other persons namely, Cllr Liz Brown, J McNulty, Mr Darnell, St Nicholas Community Forum, Mr & Mrs Ashby, City of Durham Parish Council and Durham University.

- 15 The Licensing Authority deemed the objections/representations as relevant, relating to the following licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

A copy of the objections/representations are attached at Appendix 4.

- 16 Responses were received from the following Responsible Authorities, confirming that they had no objections/comments to make in relation to the application:

- Durham Constabulary
- Durham County Council Environmental Health
- Durham County Council Planning
- Durham Safeguarding Children's Partnership
- County Durham and Darlington Fire and Rescue Authority

Copies of the responses are attached at Appendix 5, for information only.

The Parties

- 17 The Parties to the hearing will be:

- Cllr Liz Brown (other person)
- J McNulty (other person)
- Mr Darnell (other person)
- St Nicholas Community Forum (other persons)
- Mr & Mrs Ashby (other persons)
- City of Durham Parish Council (other persons)
- Durham University (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 representations 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

Contact: Karen Robson

Tel: 03000 265104

Appendix 1: Implications

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.

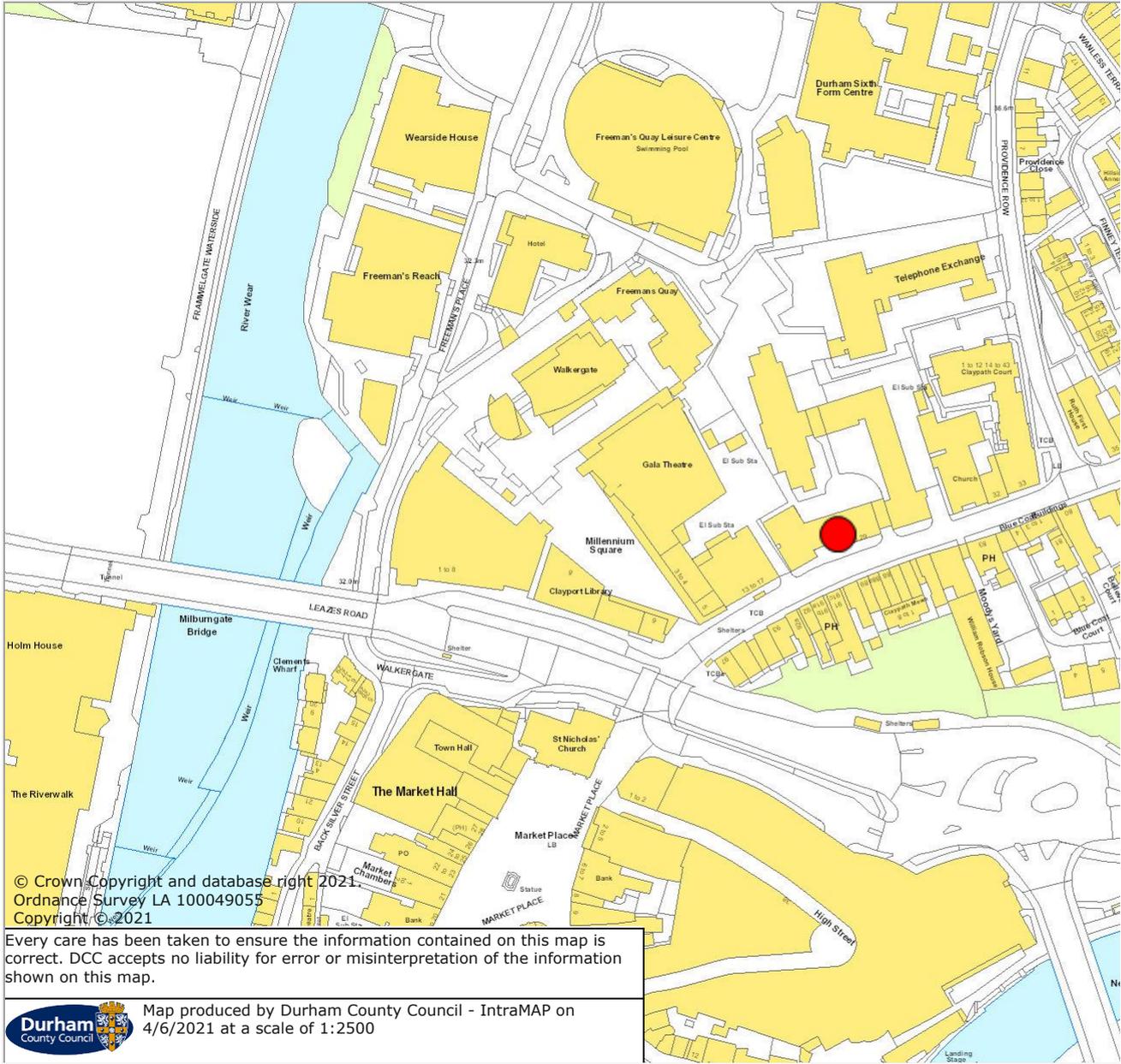
The notice of application was displayed on the premises for a period of 28 days.

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.

Appendix 2: Location Plan

Durham County Council - IntraMAP



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Durham County Council - IntraMAP



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Map produced by Durham County Council - IntraMAP on 4/6/2021 at a scale of 1:2500

Appendix 3: Premises Licence Application

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 Tesco Stores Limited

(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 Tesco Stores Limited, 18 - 29 Claypath, | | | |
| Post town | Durham | Postcode | DH1 1RH |

| | |
|---|---|
| Telephone number at premises (if any) | |
| Non-domestic rateable value of premises | £ Not Yet Assessed, but £315 payment made to cover fee |

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)
- 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)
- e) the proprietor of an educational establishment please complete section (B)

- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
- statutory function or
- a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

| | | | | | |
|--|------------------------------|--|-----------------------------|--------------------------------|--|
| Mr <input type="checkbox"/> | Mrs <input type="checkbox"/> | Miss <input type="checkbox"/> | Ms <input type="checkbox"/> | Other Title (for example, Rev) | |
| Surname | | | First names | | |
| Date of birth | | I am 18 years old or over <input type="checkbox"/> Please tick yes | | | |
| Nationality | | | | | |
| Current residential address if different from premises address | | | | | |
| Post town | | | | Postcode | |
| Daytime contact telephone number | | | | | |
| E-mail address (optional) | | | | | |
| 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) | | | | | |

SECOND INDIVIDUAL APPLICANT (if applicable)

| | | | | | |
|---|------------------------------|-------------------------------|--|--------------------------------|--|
| Mr <input type="checkbox"/> | Mrs <input type="checkbox"/> | Miss <input type="checkbox"/> | Ms <input type="checkbox"/> | Other Title (for example, Rev) | |
| Surname | | | First names | | |
| Date of birth | | | I am 18 years old or over <input type="checkbox"/> Please tick yes | | |
| Nationality | | | | | |
| 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 | |
| Daytime contact telephone number | | | | | |
| E-mail address (optional) | | | | | |

(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 Tesco Stores Limited |
| Address Tesco House Shire Park Kestrel Way Welwyn Garden City Hertfordshire AL7 1GA |
| Registered number (where applicable) 00519500 |

| |
|--|
| Description of applicant (for example, partnership, company, unincorporated association etc.) Limited Company |
| Telephone number (if any) |
| E-mail address (optional) |

Part 3 Operating Schedule

When do you want the premises licence to start? DD MM YYYY

| | | | | | | | |
|--|--|--|--|--|--|--|--|
| | | | | | | | |
|--|--|--|--|--|--|--|--|

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

| | | | | | | | |
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| |
|--|
| <p>Please give a general description of the premises (please read guidance note 1)</p> <p>Retail premises (supermarket) selling a range of goods and services. This includes the sale of alcohol for consumption off the premises. Sales of alcohol for consumption off the premises are made from the supermarket sales floor as shown on the enclosed plan and may also be made through home delivery.</p> |
|--|

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend. N/A

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) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input type="checkbox"/> |

- 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 7) | | | <u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 3) | Indoors | <input type="checkbox"/> |
| | | | | Outdoors | <input type="checkbox"/> |
| | | | | Both | <input type="checkbox"/> |
| Day | Start | Finish | | | |
| Mon | | | <u>Please give further details here</u> (please read guidance note 4) | | |
| Tue | | | | | |
| Wed | | | <u>State any seasonal variations for performing plays</u> (please read guidance note 5) | | |
| Thur | | | | | |
| Fri | | | <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> (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 indoors or outdoors or both – please tick (please read guidance note 3) | Indoors | <input type="checkbox"/> | | | |
| | | | | Outdoors | <input type="checkbox"/> | | | |
| | | | | Both | <input type="checkbox"/> | | | |
| Day | Start | Finish | Please give further details here (please read guidance note 4) | | | | | |
| Mon | | | | | | | | |
| Tue | | | | | | | | |
| Wed | | | | | | State any seasonal variations for the exhibition of films (please read guidance note 5) | | |
| Thur | | | | | | | | |
| Fri | | | | | | 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 6) | | |
| Sat | | | | | | | | |
| Sun | | | | | | | | |

C

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

D

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

E

| | | | | | |
|--|-------|--------|--|----------|--------------------------|
| Live music Standard days and timings (please read guidance note 7) | | | <u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 3) | Indoors | <input type="checkbox"/> |
| | | | | Outdoors | <input type="checkbox"/> |
| | | | | Both | <input type="checkbox"/> |
| Day | Start | Finish | | | |
| Mon | | | <u>Please give further details here</u> (please read guidance note 4) | | |
| Tue | | | | | |
| Wed | | | <u>State any seasonal variations for the performance of live music</u> (please read guidance note 5) | | |
| Thur | | | | | |
| Fri | | | <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> (please read guidance note 6) | | |
| Sat | | | | | |
| Sun | | | | | |

F

| Recorded music Standard days and timings (please read guidance note 7) | | | <u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3) | Indoors | <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | | |
|---|-------|--------|--|----------|--------------------------|--------|-----|--|--|-----|--|--|-----|--|--|------|--|--|-----|--|--|-----|--|--|-----|--|--|------|
| | | | | Outdoors | <input type="checkbox"/> | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1"> <thead> <tr> <th>Day</th> <th>Start</th> <th>Finish</th> </tr> </thead> <tbody> <tr> <td>Mon</td> <td></td> <td></td> </tr> <tr> <td>Tue</td> <td></td> <td></td> </tr> <tr> <td>Wed</td> <td></td> <td></td> </tr> <tr> <td>Thur</td> <td></td> <td></td> </tr> <tr> <td>Fri</td> <td></td> <td></td> </tr> <tr> <td>Sat</td> <td></td> <td></td> </tr> <tr> <td>Sun</td> <td></td> <td></td> </tr> </tbody> </table> | | | | Day | Start | Finish | Mon | | | Tue | | | Wed | | | Thur | | | Fri | | | Sat | | | Sun | | | Both |
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| Wed | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Thur | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fri | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| Sun | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | <u>Please give further details here</u> (please read guidance note 4) | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | <u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5) | | | | | | | | | | | | | | | | | | | | | | | | | |
| | | | <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 6) | | | | | | | | | | | | | | | | | | | | | | | | | |

G

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

H

| | | | | | |
|--|-------|--------|--|----------|--------------------------|
| Anything of a similar description to that falling within (e), (f) or (g) 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 | <u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3) | Indoors | <input type="checkbox"/> |
| Mon | | | | Outdoors | <input type="checkbox"/> |
| | | | | Both | <input type="checkbox"/> |
| Tue | | | <u>Please give further details here</u> (please read guidance note 4) | | |
| Wed | | | | | |
| Thur | | | <u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 5) | | |
| Fri | | | | | |
| Sat | | | <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> (please read guidance note 6) | | |
| Sun | | | | | |

I

| Late night refreshment Standard days and timings (please read guidance note 7) | | | Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3) | Indoors | <input checked="" type="checkbox"/> |
|--|-------|--------|---|----------|-------------------------------------|
| Day | Start | Finish | | Outdoors | <input type="checkbox"/> |
| | | | | Both | <input type="checkbox"/> |
| Mon | 23:00 | 00:00 | <u>Please give further details here</u> (please read guidance note 4) | | |
| | | | | | |
| Tue | 23:00 | 00:00 | | | |
| | | | | | |
| Wed | 23:00 | 00:00 | <u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 5) | | |
| | | | | | |
| Thur | 23:00 | 00:00 | | | |
| | | | | | |
| Fri | 23:00 | 00:00 | <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> (please read guidance note 6) | | |
| | | | | | |
| Sat | 23:00 | 00:00 | | | |
| | | | | | |
| Sun | 23:00 | 00:00 | | | |
| | | | | | |
| | | | | | |

J

| | | | | | |
|---|--------------|---------------|--|------------------|-------------------------------------|
| Supply of alcohol Standard days and timings (please read guidance note 7) | | | Will the supply of alcohol be for consumption – please tick (please read guidance note 8) | On the premises | <input type="checkbox"/> |
| | | | | Off the premises | <input checked="" type="checkbox"/> |
| | | | | Both | <input type="checkbox"/> |
| Day | Start | Finish | State any seasonal variations for the supply of alcohol (please read guidance note 5) | | |
| Mon | 06:00 | 00:00 | | | |
| | | | | | |
| Tue | 06:00 | 00:00 | | | |
| | | | | | |
| Wed | 06:00 | 00:00 | | | |
| | | | | | |
| Thur | 06:00 | 00:00 | | | |
| | | | | | |
| Fri | 06:00 | 00:00 | | | |
| | | | | | |
| Sat | 06:00 | 00:00 | | | |
| | | | | | |
| Sun | 06:00 | 00:00 | | | |
| | | | | | |

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):

| | |
|---|--|
| Name Steven Nicholas Andrzejuk | |
| Date of birth | |
| Address | |
| | |
| Postcode | |
| Personal licence number (if known) | |
| Issuing licensing authority (if known) | |

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 9).

L

| Hours premises are open to the public Standard days and timings (please read guidance note 7) | | | <u>State any seasonal variations</u> (please read guidance note 5) |
|--|-------|--------|--|
| Day | Start | Finish | |
| Mon | 06:00 | 00:00 | <p><u>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</u> (please read guidance note 6)</p> |
| | | | |
| Tue | 06:00 | 00:00 | |
| | | | |
| Wed | 06:00 | 00:00 | |
| | | | |
| Thur | 06:00 | 00:00 | |
| | | | |
| Fri | 06:00 | 00:00 | |
| | | | |
| Sat | 06:00 | 00:00 | |
| | | | |
| Sun | 06:00 | 00:00 | |
| | | | |

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)

Tesco is a large national operator with a range of head office and local support. The company has devised policies, procedures, systems and training to ensure that they sell alcohol in a responsible manner.

There is a detailed training programme which ensures that comprehensive training is provided to employees having regard to their role and the responsibilities and such training is regularly reviewed and appropriate records kept.

b) The prevention of crime and disorder

The premises will have digital CCTV system that covers many areas of the shop floor, including the main area which will be used for display of alcohol.

Images will be retained for a minimum of 21 days

A member of the Management team will ordinarily be on the premises all the time the store is open and person will have responsibility for the premises whilst the premises are open.

c) Public safety

The premises licence holder is fully aware of its responsibilities under a range of health and safety related legislation and has appropriate policies and procedures in place to be confident of complying with the relevant obligations which arise.

d) The prevention of public nuisance

The company has a “good neighbour” policy which seeks to ensure that the premises play an active part in the local community.

e) The protection of children from harm

The premises will operate a Think 25 policy. The checkouts will be programmed to prompt the checkout assistant when an alcohol product is scanned at the till to follow the Think 25 policy.

Colleagues will receive appropriate training both in relation to the underlying law and the Tesco policy, systems and procedures. This training will be documented and repeated as often as Tesco believes to be appropriate.

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.**

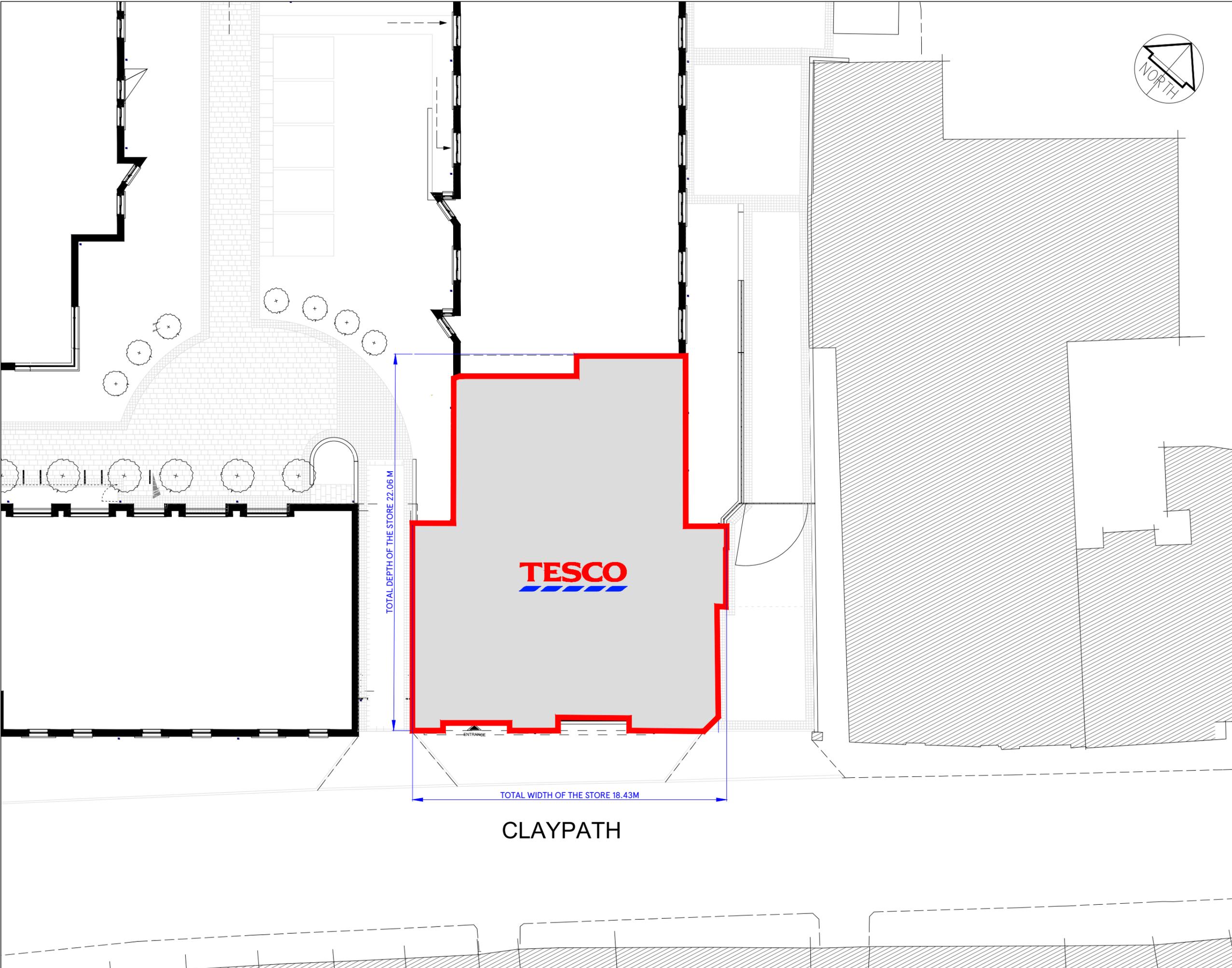
| | |
|--------------------|---|
| Declaration | <ul style="list-style-type: none">• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to 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).• 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) |
| Signature | |
| Date | 28/04/2021 |
| Capacity | Hardish Purewal – Licensing Manager |

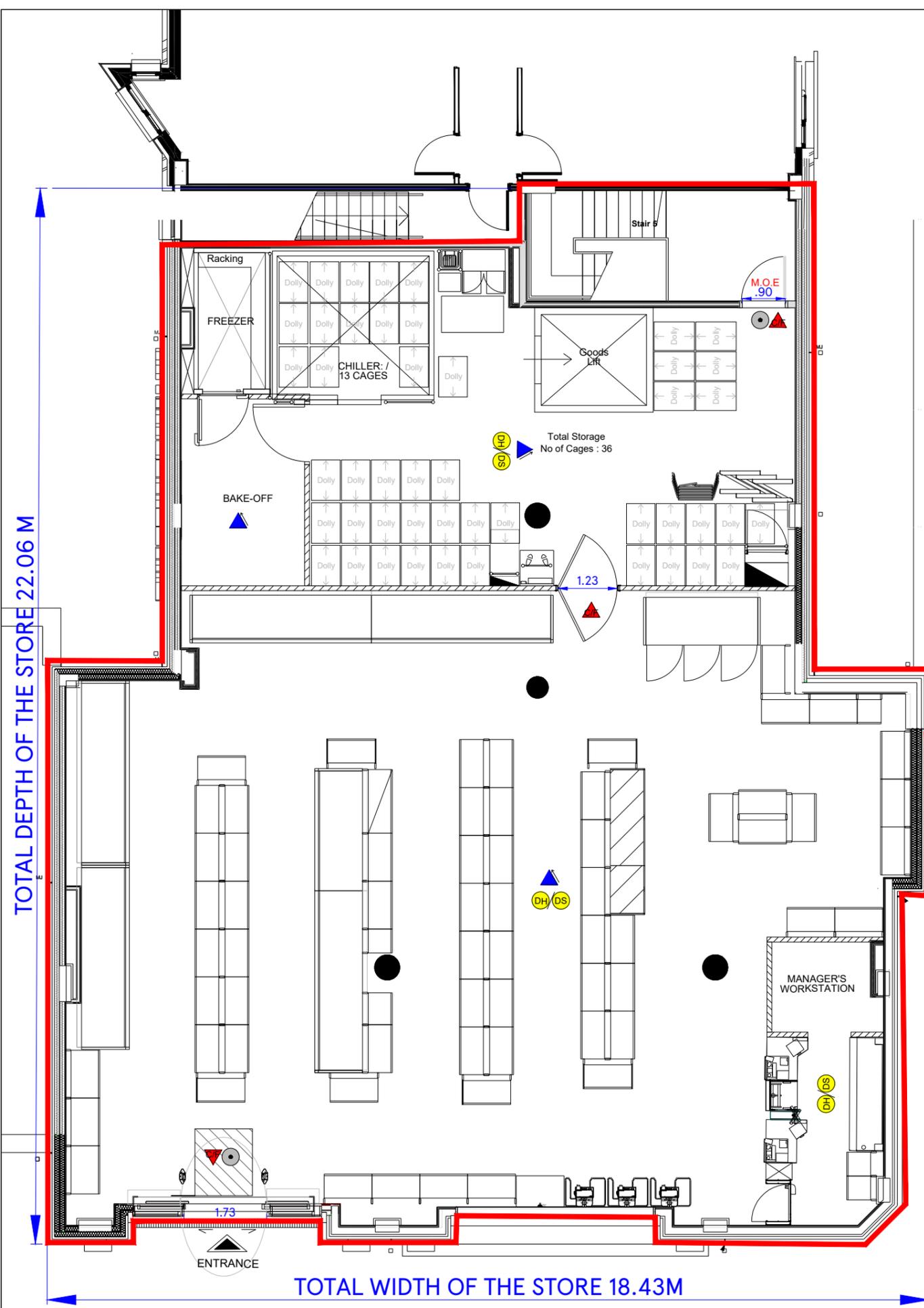
For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

| | |
|-----------|--|
| Signature | |
| Date | |
| Capacity | |

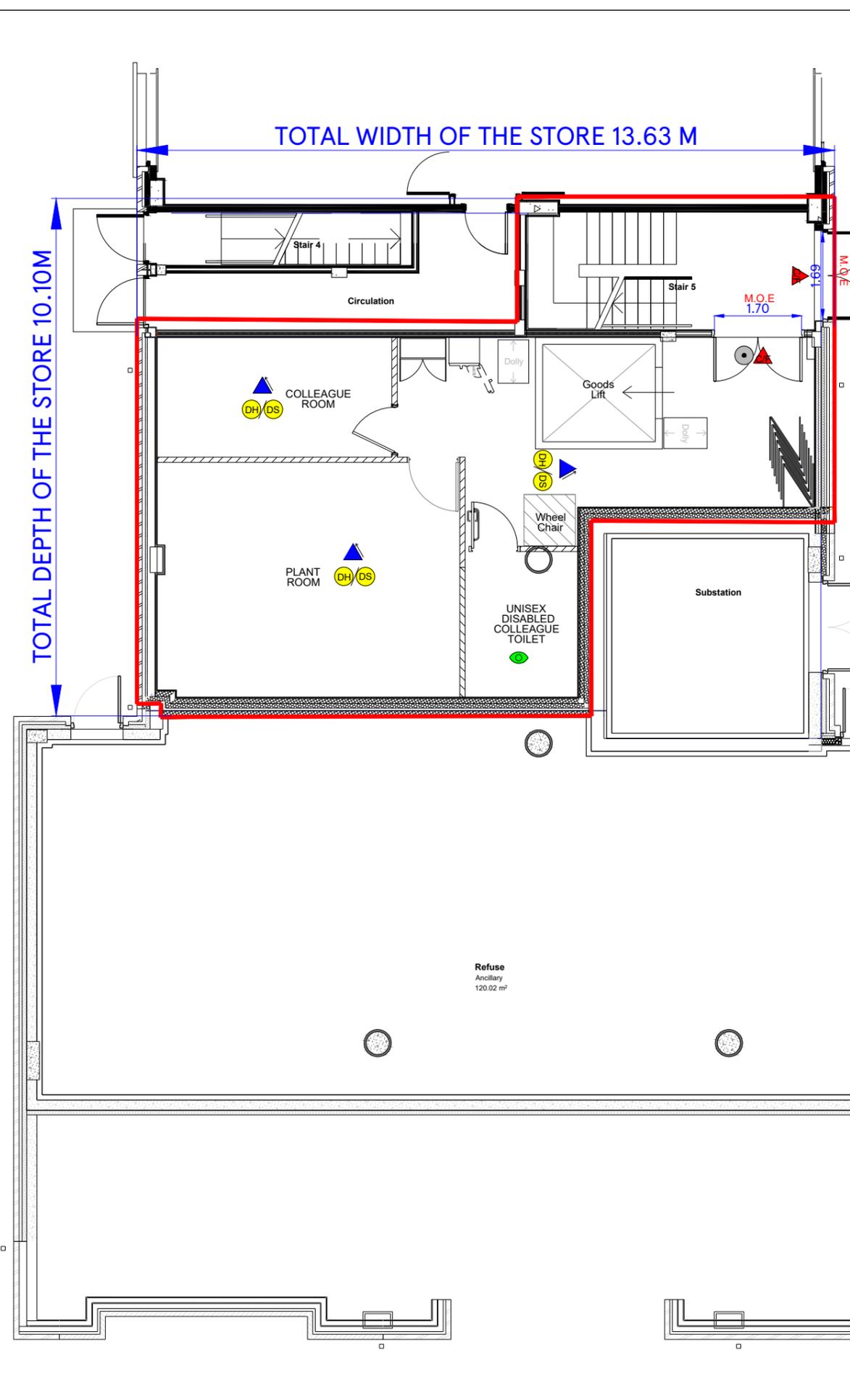
| | | | |
|---|---------------------------|----------|----------------|
| Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14) Licensing Team, Tesco Stores Limited, 5 Falcon Way (Maldon), Shire Park | | | |
| Post town | Welwyn Garden City | Postcode | AL7 1TW |
| Telephone number (if any) | | | |
| If you would prefer us to correspond with you by e-mail, your e-mail address (optional) | | | |



| REV | DATE | AMENDMENTS |
|--|--------------------------------------|------------|
| | | |
| ADDRESS: 18 - 29 CLAYPATH, DURHAM DH1 1RH | | |
| FIRE DETECTION LEGEND | | |
| | SOUNDER | |
| | VISUAL INDICATOR (BEACON) | |
| | 6KG 27A FOAM & 2KG CO2 EXTINGUISHERS | |
| | AREA COVERED BY SMOKE DETECTION | |
| | BREAK GLASS CALL POINT | |
| PROJECT : DURHAM CLAYPATH | | |
| DESCRIPTION PROPOSED SITE BWS LICENSE LAYOUT | | |
| DRAWING NO. DURHAMFeaspg##BWSPLAN | | |
| PHASE | 1 | ISSUE ## |
| SYSTEM ID. No. | DURHAMFeasg##.dwg | |
| SCALE | DATE | |
| 1:200@A3 | 23.04.2021 | |
| UK PLANNING MANAGER | TRISTAN EMPTAGE | |
| STORE PLANNING | | |
| TESCO STORES LIMITED EXPRESS GROUP PLUS BUILDING, THE BOULEVARD, SHIRE PARK, WELWYN GARDEN CITY, HERTFORDSHIRE, AL7 1GB UK <small>THE COPYRIGHT IN ALL RIGHTS OF THIS PUBLICATION BELONGS TO AND IS THE PROPERTY OF TESCO STORES LIMITED. ALL RIGHTS ARE RESERVED. NEITHER THE WHOLE NOR ANY PART OF THIS PUBLICATION MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, WITHOUT THE PRIOR WRITTEN LICENCE FROM THE OWNER. © 1999 TESCO STORES LIMITED.</small> | | |



GROUND FLOOR PLAN



BASEMENT FLOOR PLAN

| REV | DATE | AMENDMENTS |
|--|------|------------|
| | | |
| <p>ADDRESS: 18 - 29 CLAYPATH, DURHAM DH1 1RH</p> | | |
| <p>FIRE DETECTION LEGEND</p> <ul style="list-style-type: none"> SOUNDER VISUAL INDICATOR (BEACON) 6KG 27A FOAM & 2KG CO2 EXTINGUISHERS AREA COVERED BY SMOKE DETECTION BREAK GLASS CALL POINT | | |
| <p>PROJECT : DURHAM CLAYPATH</p> | | |
| <p>DESCRIPTION PROPOSED RETAIL BWS LICENSE LAYOUT</p> | | |
| <p>DRAWING NO. DURHAMFeasgab##BWSPLAN</p> | | |
| <p>PHASE 1 ISSUE ##</p> | | |
| <p>SYSTEM ID. No. DURHAMFeasgr##.dwg DURHAMFeasbg##.dwg</p> | | |
| <p>SCALE 1:100@A3 DATE 23.04.2021</p> | | |
| <p>UK PLANNING MANAGER TRISTAN EMPTAGE</p> | | |
| | | |
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Appendix 4: Representations

From: Cllr Liz Brown
Sent: 04 May 2021 10:41
To: Karen Robson
Cc: Adam Shanley Subject: Re: Tesco Stores 18-29 Claypath Durham City

Dear Karen, Because this supermarket will be open later than others in Durham this may well lead to queues forming blocking the pavement and also associated noise. The Student Castle accommodation is right above it and there are other residents in Claypath therefore this would constitute a public nuisance. I am also worried about public safety as Claypath is a busy thoroughfare. Best wishes. Cllr Liz Brown

On 4 May 2021, at 10:13, Karen Robson > wrote:

Morning Cllr Brown

Thank you for your email. As you know the framework of hours within our Policy is for guidance and premises licences can be issued outside of these suggested times.

If you wish to submit a representation you will need to provide information on how the applicants would undermine the licensing objectives for the licensing authority to consider it is a 'relevant' representation.

Regards, Karen

Karen Robson
Senior Licensing Officer
Community Protection Service
Neighbourhood and Climate Change
Durham County Council
Annand House
Meadowfield
Durham DH7 8RS

Direct: 03000 265104
General Licensing E-mail: licensing@durham.gov.uk
E-mail:

Privacy Notices and Data Protection
We have recently updated our privacy information.
To find out how we collect, use, share and retain your personal data, visit:
www.durham.gov.uk/dataprivacy Web: www.durham.gov.uk
Follow us on Twitter @durhamcouncil
Like us at facebook.com/durhamcouncil
Follow us on linkedin.com/company/durham-county-council
Follow us on Instagram @durham_county_council

From: Cllr Liz Brown
Sent: 01 May 2021 10:02
To: AHS Licensing <Licensing@durham.gov.uk>
Cc: Adam Shanley
Subject: Tesco Stores 18-29 Claypath Durham City

To whom it may concern, I have received notification of this new premises licence. Unfortunately when I have checked the details on the licensing portal it would appear that the requested off licence hours are outside the licensing framework (Statement of Licensing Policy 2019 to 2024 Appendix II). I therefore wish to register an objection to this application. Best wishes. Cllr Liz Brown

From: Mcnul J
Sent: 09 May 2021 17:41
To: AHS Licensing
Subject: Objection to licence application.

My full name is J McNulty and I am a long term resident of Providence Row, Durham DH1 1RS.

I am objecting to the application of Tesco Stores Limited to sell alcohol daily between the hours of 6 am to midnight at 18-29 Claypath, Durham DH1 1RH.

This is on the grounds that it would cause (more) public nuisance. There would be an increased number of individuals congregating in the area of Claypath late in the evening, many of whom will be under the influence of alcohol. There are at least five take-away food outlets in the area, a large shop selling alcohol would attract greater numbers and it would be so tempting to individuals to purchase more alcohol to consume with their takeaways. Noise levels, congestion, litter (empty cans and bottles) and vomiting and urinating in the street will increase. This will be a particular problem at weekends.

I also believe that it will compromise public safety. The increased alcohol consumption caused by greater numbers being attracted by a large late night shopping outlet increases the risk of violence and threatening behaviour. Not everyone can choose to avoid this area late at night. I have to walk there on my way home from work late at night. It is the main pedestrian route to Gilesgate, and therefore I feel it will compromise the safety of local residents.

As a person who has regularly walked this route late at night for many years, I have observed that much of the alcohol-fuelled behaviour in this area at that time is often from permanent residents, ie "locals". So any reference to the university and how it monitors the behaviour of students would, in my view, be a red herring.

Yours faithfully

J McNulty

From: A Darnell
Sent: 19 May 2021 18:51
To: Valerie Craig
Subject: Re: Licensing Act 2003 applications Tesco stores 18-29 Claypath

Dear Valerie

Many thanks for your email.

However, I am surprised at the process. I never anticipated that the applicant would be prepared to accept these conditions except were the Licensing Committee to impose them.

What I am asking for is the Committee to factor my concerns into its deliberations.

Lower Claypath is already affected, negatively, by the night time economy. On any morning after those food retailers have been operating 'normally' the litter and greasiness of the pavement makes it tricky to walk and the residual detritus - including the smell - can be most unpleasant.

Were the planning and licensing process to fail to recognise the downsides of such outlets and not impose some reasonable restrictions on these private sector operations, then this would be an opportunity lost. Our city can fail to give the appearance that someone cares for it. Please look after our city.

I will expand on this if the above is insufficient for your purpose.

Yours,

A Darnell

On 19 May 2021, at 16:11, Valerie Craig

Good afternoon,

Licensing Act 2003 - Objection/Representation - New Premises Licence Application - Tesco, 18-29 Claypath, Durham, DH1 1RH

I write further to your recent e-mail in relation to the new premises licence application for Tesco, Durham.

We have passed your comments onto the applicant, however they have not indicated that they wish to add the conditions you have suggested onto the application therefore if you wish your comments relating to possible litter and potential anti-social behaviour to be taken forward as a relevant representation then you would need to provide me with further detail on how the granting of the premises licence would impact you, and how it would relate to one or more of the following objectives

The Prevention of Public Nuisance * The Prevention of Crime and Disorder * Public Safety *
The Protection of Children from Harm

Please provide as much detail as you can as to how you believe the granting of the application would impact on you and/or the local area.

I can confirm that the applicant has applied for a premises licence to permit the sale of alcohol and the provision of late night refreshment. Full details of the proposed activities and timings can be viewed online via the following link: <http://www.durham.gov.uk/article/2136/Licensing-Act-2003-applications>

For your information, I have attached the operating schedule which has been submitted as part of the application and if granted, these will become conditions on the licence.

Where representations/objections are received in relation to an application and are deemed relevant and not withdrawn, the licensing authority must arrange for a hearing so that the application and any representations can be considered and determined by Members of the Council's Statutory Licensing Sub-Committee.

A copy of all representations/objections will be forwarded to the applicant for their information in accordance with the legislation.

A report will be prepared for all parties and a public hearing will be held, usually within 20 working days from the end of the consultation period. The applicant and any persons making representations will be invited to attend the hearing and be given the opportunity to address the Committee and answer or ask any questions on the day.

Please be aware that the contents of all representations including names (with any personal information redacted) will be published within the committee report and the report will be published on the Council's website where it can be viewed by the public and local press.

If you wish to discuss this matter or require any further information, please do not hesitate to contact me.

Regards,
Valerie

Valerie Craig
Licensing Officer
Community Protection Service
Neighbourhood and Climate Change

From: A Darnell
Sent: 08 May 2021 11:45
To: AHS Licensing <Licensing@durham.gov.uk>
Subject: Licensing Act 2003 applications Tesco stores 18-29 Claypath

Dear Madam/Sir,

Re the application from Tesco Stores for a licence at lower Claypath, 18-29.

While I have no objection in principle I am concerned about litter and other antisocial behaviour.

Were this application to be granted could you please add binding conditions that Tesco are responsible for arranging litter bins (and the regular emptying of those bins), and clearing any grease (and other detritus which may well include vomit) on a daily basis from the public footpath. Also, how will any noise from potential queues be addressed and by whom?

Many thanks

A Darnell
Gilesgate



Licensing Team
Durham County Council
Annand House
8RP John Street North
Meadowfield

Application for a New Premises Licence under Section 17 of the Licensing Act (2003) Tesco Stores Limited, 18 - 29 CLAYPATH, DURHAM DH1 1RH

26th May 2021

Dear Licensing Team

With reference to the above licensing application, St Nicholas Community Forum wish to object to this application under the objectives of public safety, preventing a public nuisance, and preventing crime and disorder.

The St Nicholas Community Forum (SNCF) is a voluntary grouping of residents of the St Nicholas Ward of Durham City covering The Peninsula, much of the town centre including the Market Place, MilleniumPlace and Walkergate, Claypath, Lower Gilesgate and the streets off and the housing estates on The Sands. The aims and objects of SNCF are essentially to promote community awareness and quality of life in our area.

We wish to object on the following grounds.

1. This is situated in a residential area. We have many residents close by and who are all entitled to peace and quiet at night. If somewhere is open late at night for alcohol sales there is potential for increased footfall and for people to congregate on pavements causing much disturbance to those trying to rest, sleep or even study quietly.

Very close by there is Claypath Court flats, Finney Court flats, houses on Bluecoat Court, new flats approved to be built next door to Bluecoat Court, the Student Castle PBSA with over 400 beds (some approved to be let to short term visitors) and residential accommodation above most of the units on Lower Claypath. Further up the street is Claypath and Lower Gilesgate and to the north is Providence Row. All of these are residential dwellings.

2. There is the already a considerable issue of noise on the streets as people walk along Claypath and all the surrounding streets. SNCF with the help of Durham County Council, the



City of Durham Parish Council, Durham University and Durham Police are striving to quieten these residential streets. To have Tesco selling alcohol late at night makes our problems a great deal worse and has the potential to put back any hopes we have of improving the quality of life for residents. SNCF have regularly reported the despair of the residents unable to get a proper sleep at night and the terrible sleep deprivation affecting their health and work performance. We have reported concerns of residents regarding their children who they have stated are too ill from disturbed sleep to go to school or nursery.

3. SNCF would like to note that we have been repeatedly told by the Noise Nuisance Team and the Police that if noise is on the street then no agency can deal with it.

4. To offer evidence regarding noisy queues at night in Durham City, videos of crowds late at night outside Babylon, North Road were submitted to the Police and University this year during Covid lockdown. Investigation revealed that the queues were of students waiting to buy alcohol from the Tesco shop further up North Road and these queues stretched from the Tesco shop to Babylon night club.

5. A further Tesco store (bearing in mind that there is another Tesco store in Durham Market Place) is directly opposite the pubs in Lower Claypath and close to Walkergate. There is potential for the encouragement of impromptu purchasing and continuation of drinking more alcohol, which is damaging to health and has possible harmful consequences regarding the personal safety of some.

6. The area has a Public Space Protection order upon it.

SNCF hope that this application be refused.

Yours faithfully

Janet George
Secretary, St Nicholas Community Forum

Licensing Team
Durham County Council
Annand House
8RP, John Street North
Meadowfield
Durham
DH7 8RS

Leazes Place
Claypath
Durham City
DH1 1RE

May 26th 2021

Dear Licensing Team

Tescos Stores Ltd, 18 - 29 Claypath, Durham DH1 1RH.

We wish to register an objection to the above application for a licence to sell alcohol for consumption off the premises between the hours of 6am and 12 midnight, 7 days per week.

As a member of the City of Durham Parish Council Licensing Committee I declared an interest and took no part when this application was discussed, neither have I read the Council's subsequent submission to the Licensing Authority.

This objection is from my husband, John Ashby, and myself and on behalf of other local residents. We have a very long-standing knowledge of this area and its residential and business communities.

It is accepted that the proposed store cannot be held responsible for any transient noise and disturbance cause by their customers after they leave. However we believe that any application for the sale of alcohol, particularly outside normal hours, should include how the store will be managed so that it does not impact negatively on the local community.

Our objection rests on the following points which are of particular relevance to the early morning and late night hours applied for.

The application fails to address key requirements of the County Council's Statement of Licensing Policy eg 5.5 Locality Considerations. No evidence is provided that the applicant is aware of and understands the local area in which the premises is located and its proximity to the neighbouring very active church, private nursery and school or the adjacent block of retirement flats.

The frontages immediately opposite are almost exclusively late night take away businesses and licensed premises most with accommodation above. The premises is built into a 470+ bed Purpose Built Student Accommodation block and there are 2 other PBSA's each with more than 200 beds, both within 300 metres. The application site is on the border between the commercial city centre and of one of the city's main residential areas

Less than a 2 minute walk in the opposite direction is another Tesco in the Market Place. There is a third one at the top of North Road.

Late night and early morning hours will seriously impact on the amenity and long term health of neighbours.

It also fails to recognise or address any specific matters of relevance such as the likely age of most of its target market and the likelihood of the many young people who live in the area post loading on their way home after a night out. There will be a need for extra supervision by police or wardens at weekends or on particular midweek nights when other special events are closing earlier. The area has a high proportion HMO's where students live among those with different lifestyles particularly families with young children and elderly people.

The application is deficient in its statement of measures to promote the 4 licensing objectives.

Ma - In its general statement the application relies on the existence of its own company policies to deliver responsible selling of alcohol. No mention is made of any particular measures for this uniquely situated store. There is no indication of a risk assessment for this particular location nor the characteristics of the likely customers. Unfortunately these policies have already demonstrably failed to prevent problems at its nearby North Road and Market Place stores.

No suggestions are made as to how the particular circumstances of very large numbers of young people around small premises late at night will be managed without the need for extra support from stretched police or warden resources, particularly at weekends and on special times eg national University sports days.

Mb - The prevention of crime and disorder. While digital CCTV will cover 'many' areas [quote]of the store some will not be covered. There is no indication on the attached plan where any CCTV points are located nor how many are considered necessary. The potential for shoplifting this causes is not adequately addressed.

During the early hours and late at night a member of the management team should be on the premises all the time, not just 'ordinarily' [quote] which could mean anything. This will be necessary to prevent and deal with any disorderly queuing and to encourage compliance with promised signage urging respect for neighbours.

Mc - Public safety Here again there is only a general statement about the company's confidence that it will be able to comply with any regulations which arise. However the shop frontage is narrow compared with the space needed for even a short queue without over spill onto the adjacent service road. This is steep and narrow without room for any queuing down the side of the building. At busy times, late at night this will need some oversight.

The Lower Claypath area is already a busy centre of late night take-aways and licensed premises, many with their own queues blocking the footpath on that opposite side. If Tesco customers have also to wait outside both footpaths may be impeded for passing pedestrians resulting in a potential conflict point.

This stretch of Claypath is heavily traffic-ed in both directions by taxis serving the late evening economy and delivery vehicles, both parked and moving associated with the restaurants and takeaways.

The traffic lights at the nearby T junction with Providence Row will be busier and even less easy at night for pedestrians attracted to that side of Claypath on their way home.

Md - The prevention of public nuisance Tesco's 'good neighbour' policy is said to ensure they play an active part in the community. However there is no indication of their awareness of any local

initiatives such as the County and Parish Councils' joint Shh! 11pm - 7am campaign. There is no mention of preventing noise nuisance as people enter and leave the store. 'Respect for Our Neighbours' signage should clearly be visible on leaving.

The footpath on that side is newly installed and greater store footfall will need more anti-littering signs and bins. Groups are likely to gather outside talking loudly regardless of the lateness of the hour, as happens already elsewhere in the commercial parts of the centre.

There is no mention of measures to mitigate increased noise disturbance caused by late night deliveries. The Parish Council has opposed other late night alcohol delivery proposals around the city.

Me -The protection of children from harm. Again no indication of any detailed measures to manage the circumstances particular to this store, especially the implications of late and early hours sales of alcohol. Claypath has been an area where vulnerable adults have been known to gather but there is no mention of liaison with the police and other local partners about this as part of a risk assessment.

With store management only 'ordinarily' on site any responsibility for adequate oversight of eg underage sales and valid identification is devolved to check-out staff. An acceptable statement of policy and action is required rather than a generalised statement about staff training.

We respectfully request the Committee to reject this application.

Yours faithfully

J and E Ashby



**CITY OF DURHAM
PARISH COUNCIL**

Learning from the past.
Building for the future.

Licensing Team
Durham County Council
Annand House
8RP, John Street North
Meadowfield
Durham
DH7 8RS

City of Durham Parish Council
Office 3 D4.01d
Clayport Library
8 Millennium Place
Durham
DH1 1WA

28 May 2021

Dear Licensing team,

Re: Application for a new premises licence by Tesco Stores Limited at Tesco Stores 18-29 Claypath. Durham. DH1 1RH

With reference to the above licensing application, the City of Durham Parish Council wishes to object to this application under the objectives of public safety, preventing a public nuisance, and preventing crime and disorder.

This application is for the supply of alcohol (off the premises) Monday to Sunday 6:00am to midnight and for the sale of late night refreshment (indoors) Monday to Sunday 11:00pm to midnight.

The premises is based within the Purpose Built Student Accommodation (473 bedrooms) building known as "Student Castle", within the Durham City Conservation Area and within very close proximity of the retirement home Claypath Court. Planning permission for a (Use Class A1) retail unit to the ground floor of this building was granted in July 2015.

The Parish Council Licensing Committee considered this application at its meeting on 25th May 2021. In reaching its decision, the Parish Council Licensing Committee had regard to the Licensing Act 2003, the Section 182 Guidance and the County Council's Statement of Licensing Policy 2019 to 2024. The Parish Council Licensing Committee feels that, should this application be granted in its current form, it will fail to uphold two of the four licensing objectives. Each of which are addressed in turn.

Prevention of public nuisance

Firstly, it should be noted that this application is in breach of Durham County Council's Licensing Framework hours for this category of premises (i.e. "premises licensed for the sale of alcohol for consumption off the premises only e.g. off licences, supermarkets and garage") which are 07.00 to 23.30 weekdays and 07.00 to 00.30 on weekends.

The Parish Council is unclear as to why the applicant is requesting permission for this license until midnight, as this is not in line with other Tesco stores in Durham City. This is not only in conflict with the County Council's Licensing Framework hours but also the University's work on the resident led "Shh...11pm-7am" campaign. This application causes real concern regarding the potential of a public nuisance in the form of late-night noise to local residents. Durham is a small, compact city centre with many residential streets in very close proximity to one another. The Parish Council believes that full consideration should be given to the risk of disturbance to residents. As such, the Parish Council objects to this license and its proposed operating hours in the interests of preventing a public nuisance.

The proposed operating hours for this premises must be set in line with the County Council's Licensing Framework hours for this category of premises. Furthermore, recent experience at other Tesco premises in the City has shown that there are issues of people gathering outside the premises and this application must be supplemented with a fully worked through management plan to provide reassurance that this will not be an occurrence at this premises.

The Parish Council also wishes to have reassurances that the delivery of items to this store will be taking place in accordance with the agreed February 2015 Student Castle Management Plan which states: *"The Service road from Claypath and adjacent to the Church has limited passing points and controls will need to be introduced to ensure that servicing vehicles are not sat on Claypath waiting to enter the site. As such it is proposed that Student Castle will oblige operators of the retail unit to arrange for deliveries to occur during the following hours: Retail Servicing and deliveries or collections shall only be between the hours of 09:30 to 16:30 and 18:00 and 21:00 Monday to Saturday and no collections or deliveries outside of the hours 09:00 to 13:00 on Sundays and Bank Holidays."*

Prevention of crime and disorder

This application includes the supply of alcohol (off the premises) Monday to Sunday 6:00am to midnight. The Parish Council wishes to object to this in the interests of preventing crime and disorder.

The applicant is clearly targeting the student market in Durham city and the prospect of the further supply of potentially discounted alcohol to densely populated buildings such as these PBSAs, outside of the licensing framework hours, is totally unacceptable.

Incidents of alcohol-fuelled, late-night crime and disorder and anti-social behaviour are increasing in Durham City (Durham Constabulary report on alcohol related ASB incidents in Durham City centre, Durham City section data at December 2019). The Parish Council feels that this application, being granted in its current form, would further exacerbate this issue. The Parish Council feels that this application, which seeks to service a high concentration of people in a small compact area, would have a further cumulative impact on crime and disorder taking place.

Furthermore, whilst the Parish Council welcomes the provision of CCTV capable of delivering pictures of evidential quality in all lighting conditions, it is unclear from the operating schedule where this CCTV would be positioned. The Parish Council feels that CCTV must encompass the inside and outside of the main entrance and exit to the premises and all areas inside the premises where the sale and supply of alcohol occurs. The CCTV should also incorporate a battery backup system to enable 24 hour continuous recording in case of any power blackout/failure.

The license holder must also ensure at all times that an appointed member of staff is capable and competent at viewing and downloading CCTV footage and this be made available to the appropriate authorities in a reasonable timeframe to be determined by the authorities and Tesco management.

Public safety

There is no mention within the operating schedule as to where this alcohol is to be stored. Most alcohols are flammable and therefore, without further details on the storage location and arrangements of the alcohol, it is difficult to ascertain if this represents an unacceptable breach of public safety.

This application should therefore be refused.

Yours sincerely,

Adam Shanley
Clerk to the City of Durham Parish Council

From: SHEPHERD, H L.
Sent: 27 May 2021 16:14
To: AHS Licensing <Licensing@durham.gov.uk>
Subject: Licensing Application Comments - Tesco Stores Limited, 18-28 Claypath

Licensing Application Reference – Tesco Stores Limited, 18-29 Claypath
Applicant – Tesco Stores Limited
Respondent – Durham University (Community Liaison)
Contact –

For any licensing applications within Durham City Centre, and which involve the sale of alcohol (whether for on site or off site consumption) I would ask that the licence holder make a number of considerations specific to the local context. These are based on local understanding and experience between Durham University and partners in the City in relation to the Night Time Economy. For this particular application these are set out below and, I believe, are in line with Durham County Council's statement on its licensing policy which promotes contextualised licensing applications as follows: *"Durham County Council considers that achieving good practice in connection with the licensing objectives involves focusing on these objectives whilst at the same time considering the issues specific to different areas of local authority and different types of licensed premises. In this way the policy aims to positively influence the level of focus required on each objective in each area."*

1. Outside the Framework Hours

I note that the proposed sale of alcohol from the premises is to be to midnight, 7 days a week. This is outside of the County Council's Framework Hours for applications for licenses for the sale of alcohol solely off the premises. I would be very concerned to see the local authority approve this 'variation' given the following comments on the potential for public nuisance.

2. The licence holder's premises are located within Durham's PSPO area.

Designed to prevent the consumption of open alcohol outside of licensed premises, this is an important deterrent to anti-social behaviour in the city centre. Under the licensing objective "prevention of public nuisance" the applicant should actively promote the PSPO area and subsequent requirements on its customers. This could be easily achieved by simple signage at the exit to the premises.

Because of the location and sales being for off-premises consumption, many purchases of alcohol at the premises will be made by individuals who are returning to their accommodation within the City Centre on foot and thus within the PSPO area. This is different to other sites outside of the City Centre where purchases are more likely to be transported home by vehicle.

The concern is that the failure to promote the PSPO may increase the likelihood, particularly later on an evening after other parts of the night time economy have closed, of individuals consuming the alcohol purchased while returning home on foot; an act which could (and has been seen to) increase nuisance from transient anti-social noise.

3. The licence holder's premises are located within an area commonly associated with transient, anti-social noise late on an evening and into the night.

Durham University supports the City of Durham Parish Council and its elected members, and the city's residents groups, in tackling anti-social noise between the hours of 11pm and 7am. A particular feature of the location of the applicant's premises is its proximity to residential accommodation in the immediate vicinity and on the surrounding streets – both student and non-student.

As the proposed opening hours and sale of alcohol hours, go beyond the 11pm 'curfew', the applicant should consider its role in promoting respectful behaviour from its customers as they exit the premises. There is a poster campaign available via the City of Durham Parish Council and we would recommend either physical or digital visibility of the imagery from 11pm, 7 nights a week, to support respectful behaviour from customers leaving the premises.

Again, this falls under the licensing objective "prevention of public nuisance" and is in line with guidance within the County Council's statement on licensing policy that applicants should consider posters encouraging "neighbour courtesy".

4. Further Locality Considerations

I have concerns about the location of the site and the applicant's ability not to undermine the public nuisance objective post 11pm.

Within the vicinity of the site there are thousands of students living in both private HMO (Houses in Multiple Occupation) accommodation and large blocks of privately provided purpose built student accommodation. This gives Claypath, and some of the streets which spur from it, a heavy footfall particularly late evening when the Night Time Economy begins to cease operation.

The site is also:

- a) within a few hundred yards walking distance of the Walkergate Complex, Market Place and Elvet Bridge areas all of which have premises forming part of Durham's vibrant and varied Night Time Economy.
- b) within yards of two popular bus stop areas (lower Claypath and Leazes roundabout) and one of the busier taxi waiting areas (side of Prince Bishops).

Though I am certain the footfall aspect hasn't escaped the notice of the applicant, I am concerned about the potential for 'concentration' of customers between 11pm and midnight, as it will be one of a very small number of outlets where the sale of alcohol (albeit for off-premises consumption) will be possible at these times. I can see scope for a combination of factors leading to high footfall between 11pm and midnight as both student and non-student populations leave the surrounding licensed venues and head home. There is also the potential that many of these customers may be under the influence of alcohol. This could be a recipe for even greater disturbance to the surrounding residents from transient noise than already exists and so I hope the local authority will consider the suggestions above in light of these observations.

5. Good Neighbour Policy

It has not been possible to review Tesco's application in relation to the public nuisance control measure stated in its application due to a lack of public availability of the policy. However, it is worth noting in the applicant's favour that previous engagement during the pandemic, between the University and local management of the two Tesco stores within the City already, has been positive.

Kind regards,

H Shepherd
Community Liaison Officer

PVC Colleges & Student Experience Office
Palatine Centre, Durham University, Stockton Road, Durham, DH1 3LE
email:

Please note that following the University's most recent Coronavirus Advice I am now working remotely from home. My hours may not always be standard however I will endeavour to get back to all emails and phone calls within a reasonable time frame. If I reply to you by email on an evening or weekend please do not feel

you have to reply outside of your own working pattern. If you wish to read the University's advice you can find all the information sent to both staff and students here: <https://www.dur.ac.uk/coronavirus/>

If you are ever in need of **urgent support** please contact: Your GP | NHS (when your GP surgery is closed) – 111 | Samaritans - 116 123 (freephone) | Emergency services (Police, Fire, Ambulance) – 999 | You can access **emergency medical help** from your local Accident and Emergency Department (24 hours) | Further information is available at <https://www.dur.ac.uk/counselling.service/selfhelp/crisis/>



Appendix 5: Responses from Responsible Authorities

TESCO STORES LTD – 18 -29 CLAYPATH, DURHAM, DH1 1RH

From: LicensedEconomyTeam

Tues 11/5/2021 12:50

No objections from Durham Constabulary

Many thanks, Iain

To: Ms Mary-Anne Hunter
Licensing Services

From: Mr Richard Wormald
Neighbourhoods and Climate Change

Date: 5 May 2021

**Licensing Application New premises application
Tesco, 18-29 Claypath DH1 1RH**

With reference to the above licensing application received on 28 April 2021.

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 new premise licence application

**Mr R. Wormald
Senior Environmental Health Officer
Community Protection**

T:

E: www.durham.gov.uk

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Contact:
Direct Tel:
email:
Your ref:
Our ref: CON28/21/01667



4th May 2021

Dear Mary-Anne,

Proposed Application for a new Premises Licence
At Tesco 18 - 29 Claypath Durham DH1 1RH
For Mary-Anne Hunter

With reference to the above consultation, I can advise that planning permission DM/14/03842/FPA was granted in July 2015 for redevelopment of the above which included a new A1 retail unit, which is the subject of this enquiry.

Although a condition was attached to the approval restricting the use of the unit to A1, it does not appear that any opening hours were specified. As such, I can confirm that the planning department have no comments to make at this time.

I hope the above is of assistance, however, please do not hesitate to contact me if you would like to discuss further.

Yours sincerely,

Michelle Stephenson
Planning Officer

Regeneration, Economy and Growth

Durham County Council, Planning Development (Central East), Room 4/86-102, County Hall,
Durham, DH1 5UL Main Telephone:

My Ref: SW/2021/037

Fri 14/5/2021 16:07

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 Tesco Stores Limited, 18-29 Claypath, Durham, DH1 1RH.

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.

Stephen Winship

Policy & Strategy Officer
Durham Safeguarding Children Partnership

Tel :
County Hall, Durham
DH1 5UJ



Chief Fire Officer: Stuart Errington

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

Date: 05 May 2021

This matter is being dealt with by: Julie Knox

Our Ref: 7D40850085

Your Ref: 475861

Direct Dial Telephone:

E-mail: julie.knox@

Mary-ann.hunter@durham.gov.uk

Dear Mary-ann,

Licensing Act 2003
Regulatory Reform (Fire Safety) Order 2005
Tesco, 18-29 Claypath, Durham, DH1 1RH

I acknowledge your application dated 28 April 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 and follow the link to Fire safety at work.

Yours faithfully

Julie Knox
Fire Safety Section



www.ddfire.gov.uk

**Appendix 6: Statement of Licensing Policy &
Framework of Hours**

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.

7.4 Protection of Children from Harm - the protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Secretary of State's Guidance to the Licensing Act 2003 also makes clear that the authority must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

While the Act does not prohibit children from having free access to any licensed premises, the council recognises that limitations may have to be considered where it appears necessary to protect children from physical, moral or psychological harm and the effects of alcohol on parenting. Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises.

Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

The council will expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises. **The council will also expect** any licence holder who wishes to hold events for children to provide it, and the Police, with a detailed risk assessment of that event including how the event will be managed, staffing levels for the event and how any child will be prevented from being exposed to any harm.

The council will give considerable weight to representations about child protection matters particularly from the Local Safeguarding Children's Board who act as the responsible authority under the Act for matters relating to child protection. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations.

These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the council, linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries), this evidence will be considered. The council will also consider what action is appropriate to ensure this licensing objective is effectively enforced.

In relation to applications for the grant of a licence in areas where evidence is presented, on high levels of alcohol-related harms in persons aged under 18, the council will also consider what conditions may be appropriate to ensure that this objective is promoted effectively.

The council will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises where it is necessary to prevent physical, moral or psychological harm.

The council will expect all licence holders or premises, that wish to allow children on to their premises, to ensure that access is restricted where appropriate. This could include ensuring that all children are accompanied and that they do not have access to, or sight of, alcohol. **The council will consider** the following when dealing with a licence application where children may have limited access:

- Limitations on the hours when children may be present.
- Limitations or exclusion when certain activities are taking place.
- Requirements for an accompanying adult to be present.
- Full exclusion of people under 18 from the premises when certain licensable activities are taking place (e.g. entertainment of a sexual nature).
- Limitations on the parts of premises to which children might be given access.
- Any other limitations appropriate to the application and according with the four licensing objectives.

The council recommends that retailers of alcohol ensure that their staff are properly trained in all aspects of responsible retailing, including the sale of alcohol and age restricted sales. The Council fully endorses and promotes knowledge of and adherence to Challenge 25 within the retail business sector.

Further advice and information on age restricted sales and training can be found by contacting Durham County Council's Trading Standards service at trading.standards@durham.gov.uk

The council will work closely with the Police and the Council's Trading Standards service to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. We know alcohol is harmful to the health of children and young people whose minds and bodies are still developing.

Alcohol must not be served to persons under the age of 18, except in limited circumstances allowed by the law, and then only after verifying a person's proof of age e.g. 16 and 17-year-olds may drink beer, wine or cider with a table meal in relevant premises, where accompanied by an adult aged 18 years or over. The currently accepted verifications for proof of age are a passport, a photo card driving licence or a proof of age scheme such as Challenge 25.

The council is aware of a young person's vulnerability to alcohol and events, which are aimed at children under the age of 18 years on licensed premises, will not be supported by the council unless the applicant can demonstrate that all safeguards for children have been addressed (such as the removal of alcohol advertising).

The council, Durham Constabulary Harm Reduction Unit and the Local Safeguarding Children Board have produced a "good practice guide" for an event catering for under-18's and mixed events of under and over 18's. This guide is highly recommended by the council and should be adhered to by licence holders and event organisers. The guide is reproduced in Appendix I.

Recorded staff training programs, the use of a refusals register, in-store signage and limited access to alcoholic drink can all reduce the likelihood of illegal sales and proxy sales and are encouraged by the council.

Access to Cinemas: The 2003 Act requires that any premises showing films must ensure that children are not able to view age restricted films (as classified by the British Board of Film Classification). **The council will expect** any licence holder or applicant who intends to show films to outline suitably robust measures on how they will protect children from exposure to this potential harm. The authority may impose suitable conditions if it believes it is required for the promotion of the four licensing objectives.

The Act provides that it is mandatory for Licensing Authorities to include a condition in all premises licences and club certificates authorising the exhibition of film, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the council itself.

Should the council need to adopt its own system of film classification the information regarding such classifications will be published on the council's website.

Children and Public Entertainment: Many children go to see and/or take part in entertainment arranged especially for them. For example, children's film shows and dance or drama school productions, and additional arrangements may be required to safeguard them while at the premises. Where many children are likely to be present on any licensed premises, for example a children's pantomime, disco/rave or similar event, the authority expects all children to be supervised by an appropriate number of adults and to ensure that the venues put measures in place to prevent any child being exposed to harm.

Where entertainment requiring a licence is specifically presented for children, the council will normally expect the presence of at least one member of staff from the Licensed premises for every 50 children present to ensure their safety and protection from harm and to control their access and egress from the premises. The council will require those caring for or supervising children to have undergone an appropriate criminal record check with the Disclosure and Barring Service.

Venue operators may also apply their own admissions policy to their premises. If a venue has carried out a risk assessment that deems it appropriate to exclude children or young persons from their premises, then that is a matter for them.

The council will expect all venue operators to risk assess their venues accordingly against the nature of the licensable activities they intend to carry out. This could include, for example, allowing accompanied children into a premise up until a certain time and then excluding them for the rest of the time the premises are open.

Regarding this licensing objective, the council considers Durham County Council Safeguarding Children Board to be the competent authority for matters relating to the protection of children from harm. A protocol exists between Durham Local Safeguarding Children Board and Durham Constabulary. All safeguarding concerns identified because of premises, personal applications and all variations to licences are covered by this protocol.

Applicants are advised to seek advice from the Local Safeguarding Children Board and incorporate any recommendations in their Operating Schedule before submitting their applications.

The council strongly recommends that events, involving persons under the age of 18 years and persons over 18 years, do not take place unless there are sufficient and robust control measures in place. Experience has shown that mixed age events are extremely difficult to control and manage and they have led to persons under the age of 18 being exposed to alcohol and entertainment late into the night.

It is the council's view that mixed age events should not take place within the late-night economy, particularly at venues that are alcohol and entertainment-led and which are operating late at night. It is the council's view that these mixed aged events can have an adverse impact on a young persons wellbeing as well exposing them to unacceptable levels of harms associated with the night time economy.

In addition to the information above, **Table 4 in Appendix VI** provides recommendations, suggestions and examples of how to protect children from each of the dangers outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, cliental 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.

Appendix 7: Section 182 Guidance

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 Act¹, 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.

Protection of children from harm

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their

premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
 - restrictions on the parts of the premises to which children may have access;
 - age restrictions (below 18);
 - restrictions or exclusions when certain activities are taking place;
 - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
 - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises Certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

Offences relating to the sale and supply of alcohol to children

2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

Table of relevant offences under the 2003 Act

| Section | Offence | Prosecuting Authority |
|----------------|---|---|
| Section 145 | Unaccompanied children prohibited from certain premises | Police and/or Licensing Authority |
| Section 146 | Sale of alcohol to children | Police, Licensing Authority and/or Local Weights and Measures Authority |
| Section 147 | Allowing the sale of alcohol to children | Police, Licensing Authority and/or Local Weights and Measures Authority |
| Section 147A | Persistently selling alcohol to children | Police and/or Local Weights and Measures Authority |
| Section 149 | Purchase of alcohol by or on behalf of children | Police and/or Licensing Authority |
| Section 150 | Consumption of alcohol by children | Police and/or Licensing Authority |
| Section 151 | Delivering alcohol to children | Police and/or Licensing Authority |
| Section 152 | Sending a child to obtain alcohol | Police and/or Licensing Authority |
| Section 153 | Prohibition of unsupervised sales by children | Police and/or Licensing Authority |