

Statutory Licensing Sub-Committee

22nd June 2021

Application to vary a Premises Licence

Ordinary Decision



Report of Alan Patrickson Corporate Director of Neighbourhoods and Climate Change

Councillor Mark Wilkes, Cabinet Portfolio Holder for Neighbourhoods and Climate Change

Electoral division(s) affected: Elvet and Gilesgate

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine the application to vary a premises licence for Durham Food Store, 83 Claypath, Durham, DH1 1RG.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 The application is to vary a premises licence for Durham Food Store, 83 Claypath, Durham DH1 1RG.

The original application proposed the following:

Supply of alcohol (off the premises) Monday to Sunday
00:00 hrs until 24:00 hrs (24 hours per day).

- 4 The Licensing Authority received responses from County Durham & Darlington Fire and Rescue Service, the Council's Environmental Health Department, Planning Department and Public Health also Durham Safeguarding Children's Partnership, all who had no comments to make regarding the application.
- 5 Four relevant representations were received, three in opposition to the variation application, from Durham Constabulary, Durham University and City of Durham Parish Council. Also, one in support of the variation application from Mr & Mrs Ashby.
- 6 The licensing authority made the applicant aware of the representations received and the applicant subsequently amended the variation application as detailed below:

Supply of alcohol (off the premises) each Friday evening into Saturday morning until 03:00 hrs and each Saturday evening into Sunday morning until 03:00 hrs ONLY.

The supply of alcohol would remain as per the existing premises licence, Monday to Thursday 08:00 hrs until 23:00 hrs and Sunday 09:00 hrs until 23:00 hrs.

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 representation (including supporting information) presented by all parties;
 - (c) The Durham County Council Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 6;
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018). The relevant parts of the guidance are attached at Appendix 7.

Background

- 9 The application was submitted by Mr Muhammad Khurram Shahzad on 2nd May 2021. The application was subject to a 28-day public consultation which ended on 30th May 2021.

Details of the application

- 10 An application to vary a premises licence was received by the Licensing Authority on 2nd May 2021. A copy of the application and the current premises licence are 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 current licensable activities and proposed amendments as part of the variation application are as follows:

Current Licensable Activities	Days & Hours
Supply of Alcohol (off the premises)	Monday to Saturday 08:00 hrs - 23:00 hrs Sunday 09:00 hrs – 23:00 hrs <i>Amended variation - Additional</i> Friday & Saturday - 23:00 hrs - 03:00 hrs
Hours open to the public	Monday to Saturday 08:00 hrs – 23:00 hrs Sunday 09:00 hrs – 23:00 hrs <i>Amended variation - Additional</i> Friday & Saturday 23:00 hrs - 03:00 hrs

- 13 The licensing authority communicated the amendments made by the applicant for the supply of alcohol, however, all representations remain.

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

The Representations

- 14 The licensing authority received four relevant representations within the consultation period, three in opposition to the application, namely Durham Constabulary (Responsible Authority), Durham University (other person) and City of Durham Parish Council (other persons). One in support of the application from Mr & Mrs Ashby (other persons).
- 15 The Licensing Authority deemed the representations to be relevant and relating to the following licensing objectives:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - Protection Children from Harm

A copy of the representations are attached as Appendix 4.

- 16 Responses were also received from the following Responsible Authorities: County Durham & Darlington Fire and Rescue Service, the Council's Environmental Health, Planning and Public Health Departments, Durham Safeguarding Children's Partnership, all who

had no comments to make regarding the application. These are attached as Appendix 5.

The Parties

17 The Parties to the hearing will be:

- Mr Muhammad Khurram Shahzad (Applicant)
- Sgt Caroline Dickenson- Durham Constabulary (Responsible Authority)
- Durham University – Ms Hannah Shepherd – (other person)
- City of Durham Parish Council – Cllr Nicola Brown (other person)
- Mr & Mrs Ashby (other persons)

Options

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

- (a) Grant the variation of the licence subject to conditions that are consistent with the operating schedule accompanying the application and the mandatory conditions set out in the Licensing Act 2003;
- (b) Grant the variation of the licence subject to modified conditions to that of the operating schedule where the committee considers it appropriate for the promotion of the licensing objectives and the mandatory conditions set out in the Licensing Act 2003;
- (c) To exclude from the scope of the licence any of the licensable activities to which the application relates;
- (d) To refuse to specify a person on the licence as the Designated Premises Supervisor;
- (e) To reject the application to vary the licence.

Main implications

Legal Implications

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

See Appendix 1

Conclusion

- 21 The Sub-Committee is asked to determine the application to vary the 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.

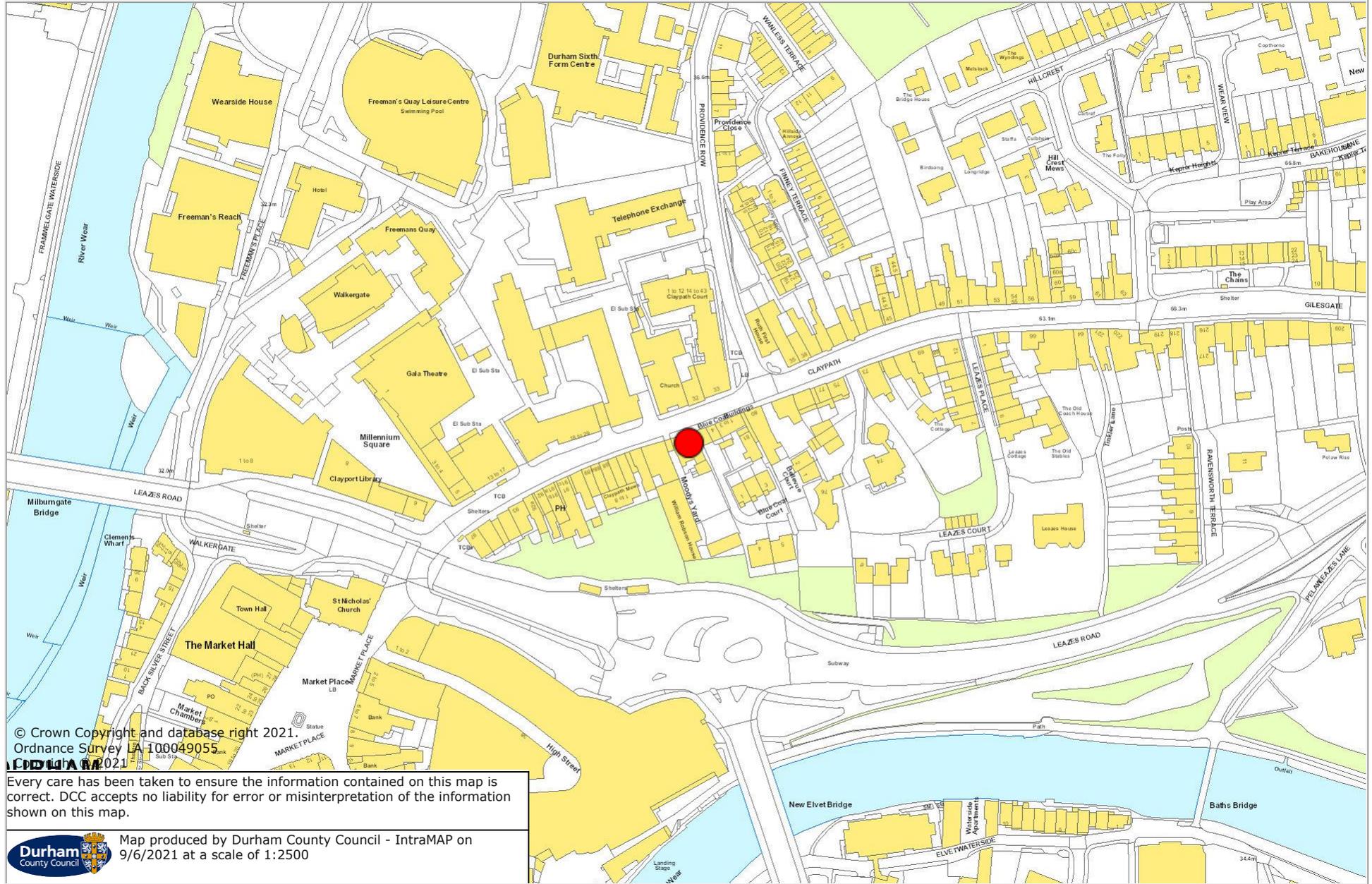
The notice of application was displayed on the premises for a period of 28 days.

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



© Crown Copyright and database right 2021.
Ordnance Survey LA100049055
© Durham CC 2021

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



Map produced by Durham County Council - IntraMAP on 9/6/2021 at a scale of 1:2500

Appendix 3: Application Form & Current Premises Licence



* required information

Section 1 of 18

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

System reference

Not Currently In Use

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

Your reference

DCCC/PLA0424

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

Are you an agent acting on behalf of the applicant?

- Yes No

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

Applicant Details

* First name

Muhammad Khurram

* Family name

Shahzad

* E-mail

Main telephone number

Include country code.

Other telephone number

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

Are you:

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

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

Applicant Business

Is your business registered in the UK with Companies House?

- Yes No

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

Is your business registered outside the UK?

- Yes No

Business name

Durham Food Store

If your business is registered, use its registered name.

VAT number

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

Legal status

Sole Trader

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Business Address

If you have one, this should be your official address - that is an address required of you by law for receiving communications.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 18

APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

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

- Address OS map reference Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...

Non-domestic rateable
value of premises (£)

Section 3 of 18

VARIATION

Do you want the proposed
variation to have effect as
soon as possible? Yes No

Do you want the proposed variation to have effect in relation to the
introduction of the late night levy?

Yes No

You do not have to pay a fee if the only
purpose of the variation for which you are
applying is to avoid becoming liable to the
late night levy.

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

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

Previous license timing are from 08:00 to 23:00
Applying to extend premises license to 24 hour

Section 4 of 18

PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will the schedule to provide plays be subject to change if this application to
vary is successful?

Yes No

Section 5 of 18

PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will the schedule to provide films be subject to change if this application to
vary is successful?

Yes No

Section 6 of 18

PROVISION OF INDOOR SPORTING EVENTS

Continued from previous page...

[See guidance on regulated entertainment](#)

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

- Yes No

Section 7 of 18

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

- Yes No

Section 8 of 18

PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide live music be subject to change if this application to vary is successful?

- Yes No

Section 9 of 18

PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

- Yes No

Section 10 of 18

PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

- Yes No

Section 11 of 18

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

- Yes No

Section 12 of 18

PROVISION OF LATE NIGHT REFRESHMENT

Continued from previous page...

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

- Yes No

Section 13 of 18

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

- Yes No

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Continued from previous page...

Will the sale of alcohol be for consumption?

- On the premises Off the premises Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 14 of 18

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

Section 15 of 18

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

TUESDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

WEDNESDAY

Start	<input type="text" value="00:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

THURSDAY

Start	<input type="text" value="00:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

FRIDAY

Start	<input type="text" value="00:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SATURDAY

Start	<input type="text" value="00:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="00:00"/>	End	<input type="text" value="24:00"/>
Start	<input type="text"/>	End	<input type="text"/>

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

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

I have enclosed the premises licence

Continued from previous page...

I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

Section 16 of 18

LICENSING OBJECTIVES

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

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

We have this premises license from June 2013 and was amended on 16th June 2018 and always followed the rules

b) The prevention of crime and disorder

If the C.C.T.V. equipment fails, then Police and the Licensing Authority will be informed immediately by telephone and immediate steps will be taken to put the equipment back into working order.

A notice will be displayed at the entrance to the premises advising that C.C.T.V. is in operation.

At least one C.C.T.V. camera will be in operation at the front of the premises at all times when the premises is in use.

We have a capacity limit of 2 persons at a time to prevent overcrowding which could lead to crime and disorder.

c) Public safety

A C.C.T.V. system has been installed and is working to the satisfaction of Durham Police and the Licensing Authority. Recordings will be maintained for an appropriate period of time to be agreed with the Police and the Licensing Authority.

Adequate and appropriate First Aid equipment and materials are available on the premises.

Appropriate fire safety procedures are in place including fire extinguishers (foam, H2O and CO2), fire blanket, internally illuminated fire exit signs, numerous smoke detectors and emergency lighting. All appliances are inspected annually.

All emergency exits shall be kept free from obstruction at all times.

d) The prevention of public nuisance

All customers will be asked to leave quietly.

Clear and legible notices will be prominently displayed to remind customers to leave quietly and have regard to our neighbors.

e) The protection of children from harm

We have a proof of age policy that has been formulated in discussion with the Police and the Licensing Authority.

The licensee and staff will ask persons who appear to be under the age of 25 for photographic ID such as proof of age cards, the Citizen Card, photographic driving licence or passport, an official identity card issued by HM Forces or by an EU country, bearing the photograph and date of birth of bearer.

All staff will be trained for UNDERAGE SALES PREVENTION regularly.

A register of refused sales shall be kept and maintained on the premises.

Section 17 of 18

NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18

PAYMENT DETAILS

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

Variation Fees are determined by the non-domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £8700 £315.00

Band D - £87001 to £12500 £450.00*

Band E - £125001 and over £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then your are required to pay a higher fee

Band D - £87001 to £12500 £900.00

Band E - £125001 and over £1,905.00

If you own a large premise you are subject to additional fees based upon the number in attendance at any one time

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

* Fee amount (£)

DECLARATION

* I/we understand it is an offence, liable on conviction to a fine up to level 5 on the standard scale, under section 158 of the licensing act 2003, to make a false statement in or in connection with this application.

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

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

Continued from previous page...

* Full name	<input type="text" value="Muhammad Khurram Shahzad"/>
* Capacity	<input type="text" value="Owner"/>
* Date	<input type="text" value="02"/> / <input type="text" value="05"/> / <input type="text" value="2021"/>
	dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/county-durham/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

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.

OFFICE USE ONLY

Applicant reference number	<input type="text" value="DCCC/PLA0424"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

[1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#) [13](#) [14](#) [15](#) [16](#) [17](#) [18](#) [Next >](#)



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DCCC/PLA0424
16 June 2018
16 June 2018

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>DURHAM FOOD STORE 83 CLAYPATH DURHAM CITY DH1 1RG</p>	<p>DURHAM COUNTY COUNCIL ADULT AND HEALTH SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ</p>
<p>Telephone number:</p>	

<p>Where the licence is time limited the dates N/A</p>
--

<p>Licensable activities authorised by this licence Sale by retail of alcohol</p>

Opening Hours of the Premises		
Mon	08:00-23:00	Non-standard/seasonal timings
Tue	08:00-23:00	
Wed	08:00-23:00	
Thu	08:00-23:00	
Fri	08:00-23:00	
Sat	08:00-23:00	
Sun	09:00-23:00	

<p>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales: OFF ALCOHOL SALES ONLY</p>

The times the licence authorises the carrying out of licensable activities (all in 24hr format)

Sale by retail of alcohol	Further details
<p>Mon 08:00-23:00 Tue 08:00-23:00 Wed 08:00-23:00 Thu 08:00-23:00 Fri 08:00-23:00 Sat 08:00-23:00 Sun 09:00-23:00</p>	<p>Non-standard/seasonal timings</p>

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
MR MUHAMMAD KHURRAM SHAHZAD 83 CLAYPATH DURHAM DH1 1RG	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	N/A
Charity no:	N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol
MR MUHAMMAD KHURRAM SHAHZAD 83 CLAYPATH DURHAM DH1 1RG

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol
DURHAM COUNTY COUNCIL

Annex 1 – Mandatory conditions

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

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

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

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

- (a) a holographic mark, or
- (b) an ultraviolet feature.

Minimum Price of Alcohol:

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

2 For the purposes of the condition:

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula –

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

Where –

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

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

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

Annex 2 – Conditions consistent with the premises Operating Schedule

General

Strong management controls and effective training of all staff so they are aware of the premises licence and the requirements with particular attention to:

- A - No selling of alcohol to underage
- B - No drunk and disorderly behaviour on premises
- C - No violent and anti-social behaviour
- D - No harm to children

Prevention of Crime & Disorder

CCTV system installed to monitor entrance, exit and other parts of premises. Not selling alcohol to drunk or intoxicated customers.

Staff will be well trained in asking customers to use premises in an orderly and respectful manner.

Public Safety

Internal and external lighting fixed to promote the safety objective.

Training and implementation of underage ID checks.

Log book recording system shall be kept upon the premises.

Prevention of Public Nuisance

Noise reduction measures to address the public nuisance objective.

Prominent, clear and legible notices will be displayed at the exit requesting the public to respect the needs of nearby residents and to leave the premises and the area quietly.

Protection of Children from Harm

Safeguards to be in place to see that alcohol is not served to or purchased on behalf of under age children.

A 'Challenge 25' age verification policy is operated which requires anyone looking under the age of 25 to produce photographic evidence of proof of age from a passport, driving licence or PASS accredited scheme before any alcohol is supplied. The actions of staff operating the policy to be regularly monitored.

The applicant will work with the police to minimise the risk of proxy provision / proxy sales. (This is alcohol purchased or obtained for young people by relatives or older friends).

Where a sale of alcohol is refused if a person appear intoxicated or appears to be under 18, a refusal register / log to be updated. The register to be made available to the police on request.

All staff responsible for selling age restricted goods to be trained to implement the age verification policy. Staff training to include the risk from proxy sales. Training records for staff to be maintained and refresher training to be provided annually.

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

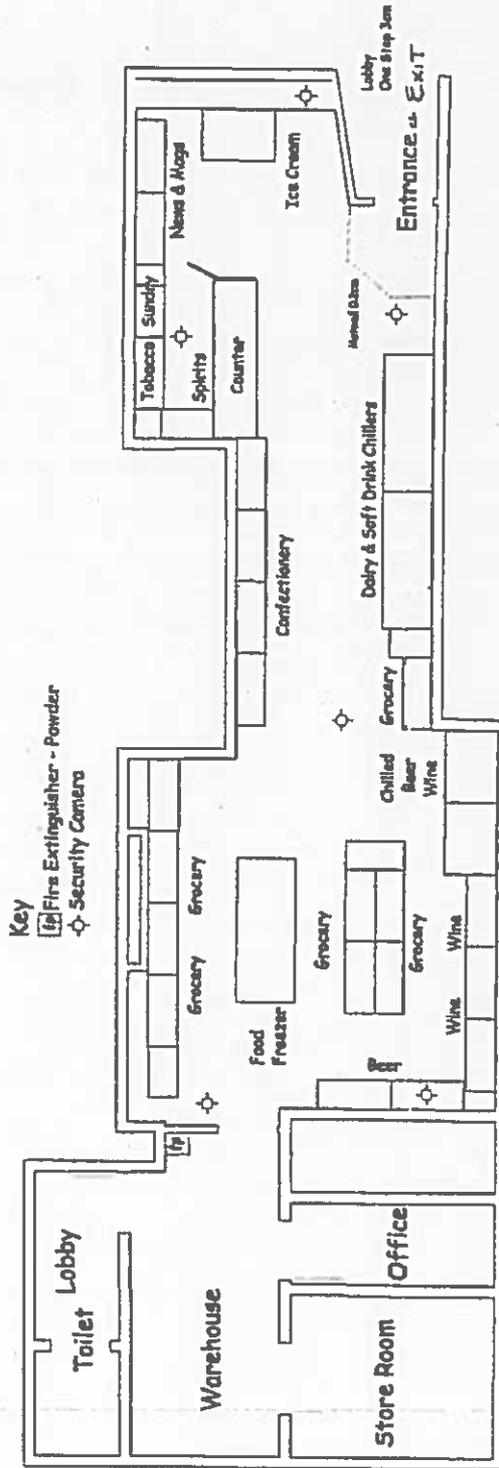
None

Annex 4 – Plans attached

Attached



Signature of Authorised Officer
Head of Environment, Health and Consumer Protection



Durham City Newstore
 83 Claypath
 Durham
 DH1 1RG
 Scale 1:100
 Drawing Reference: R800408
 Drawn by R Baker - Lockett & Co
 20th April 2009

The display of alcohol is to be permitted throughout the store, spirits only located behind the counter.

Copyright - Lockett & Co, 13 Church Street, Kidderminster, Worcestershire DY10 2AH
 Do not scale from drawing, site dimensions to be used at all times

Appendix 4: Representations

From: Caroline Dickenson
Sent: 29 May 2021 19:23
To: Helen Johnson - Licensing Team Leader (N'hoods)

Subject: FW: Premises licence variation - Durham Food Store, 83 Claypath, Durham, DH1 1RG

To Whom it may concern

Durham Constabulary would like to object to the application to vary a premises licence for, Durham Food Store, 83 Claypath, Durham, DH1 1RG under the prevention of Crime and Disorder, the prevention of public nuisance, public safety and protection of children from harm objective.

The applicant Mr Muhammad Khurram Shazad has submitted a full variation to amend the sale of alcohol for off sales from Monday to Sunday 08:00-23:00hrs to Monday to Sunday 00:00-23:59hrs which if granted would allow for 24hr alcohol sales.

Any increased hours of trading will have a significant bearing on the likelihood for crime and disorder as evidence suggests that late night, alcohol-related crime and anti-social behaviour remains a problem in parts of County Durham. Considerations need to be taken around the possibility of disturbance to businesses and residents late at night and in the early hours of the morning, and the effect that any such disturbance may have on the promotion of the licencing objectives.

As per Durham County Council's statement of licencing policy 2019-2024 the recommended terminal hours for the sale of alcohol for off licences situated within the County of Durham are Weekdays Sunday – Thursday 07:00 to 23:30 and weekends Friday night into Saturday morning and Saturday night into Sunday morning are 07:00 to 00:30 plus an addition 1hr for Good Friday and for all other Bank holidays. When consideration was made for appropriate times for the policy framework hours, Durham County Council Licensing Authority had regard to concerns expressed by residents, the licensed trade and the responsible authorities which included Durham Constabulary. Any increased hours of trading will have a significant bearing on the likelihood for crime and disorder as evidence suggests that late night, alcohol-related crime and anti-social behaviour remains a problem in parts of County Durham.

By allowing a premise to be open and have an alcohol licence for 24 hrs per day is likely to draw unwelcome attention and increased footfall at unsociable hours. Patrons will have access to more alcohol after the closure of pubs in the city and due to this being an off licence the alcohol will be consumed elsewhere where there is no control. We also have concerns that the accessibility of alcohol 24 hours daily could also attract children late in the evening or the early hours or the morning which has potential to fuel anti-social behaviour in the local community.

Any increased hours of trading will have a significant bearing on the likelihood for crime and disorder as evidence suggests that late night, alcohol-related crime, noise, public nuisance, anti-social behaviour, low-level nuisance (non reportable crime inc. shouting, swearing, urination in public, littering) will be increased and remains a problem in parts of Durham City.

When consideration is made around any applications received I will liaise with the neighbourhood policing teams who have expert knowledge of Durham City and responsibility for policing the area where Durham Food Store is and have received the comments below from Sgt Mole.

This shop is right at the top of millennium square in the area of all the take-aways and taxi rank, this would grant a licence for this premises to sell alcohol to persons waiting for taxis and eating take-aways 24 hours a day every day. Given that this area is covered by the PSPO in Durham city I can envisage that this will cause huge issues on a night into the early hours of the morning. This is not an area where people will come to shop on an evening to take home their purchases. Given that we have had licence extensions for single events refused (players for a late night boxing match), due to the fact that the residents in the area would be disproportionately affected by extending the night time economy, I can see no way in which this would be helpful. I would be opposed to any 24hr licences applied for within the limits of the city.

Durham Constabulary are also aware the shop has failed three purchase whereby the business had sold alcohol to underage volunteers working with trading standards. The first occasion was on 16th February 2019 whereby a 16 year old volunteer entered the shop and purchased a bottle of wine. The volunteer wasn't challenged in any way and the member of staff was issued with a fixed penalty ticket. The 2nd occasion was on 30th August 2019 during a trading standards led operation a 15 year old volunteer purchased a bottle of wine and was not challenged in any way. The owner of the shop was unable to provide details of the staff member to officers so we could not issue a fixed penalty ticket. Finally the 3rd occasion was on 13th September whereby a 15 year old volunteer purchased a bottle of wine and was not challenged in any way. The member of staff who sold the alcohol to the volunteer was issued with fixed penalty ticket. The designated premise supervisor when all 3 failed test purchases took place was Mr Muhammad Khurram Shazad who is the applicant for the variation of premise licence and also still the DPS.

Although these test purchases were in 2019 due to COVID 19 the police and local authority have been unable to carry out any compliance testing and test purchases since March 2020.

Durham City is an attractive place, to live, work and visit. The quality of the environment and its unrivalled heritage have prompted some to describe it as the perfect city and a must see destination. Durham Constabulary feel there is no need to have premises within the city which sell alcohol all night, as it will be a magnet for anti-social behaviour. The city is undergoing development and being given the opportunity to grow significantly, to capture emerging business growth sectors and to expand and enhance its leisure offer to visitors and tourists and we feel the opening up of an all-night off-licence would be a retroactive step and detrimental to the area.

Durham Constabulary cannot support the variation for 24hr alcohol sales, the applicant has put on the application that they have this premises license from June 2013 which was amended on 16th June 2018 and have always followed the rules which is not the case due to the 3 failed test purchases and we feel the proposed conditions are not adequate to prevent Crime and Disorder, the prevention of public nuisance, public safety and the protection of children from harm..

Thankyou

Caroline

Sgt 484 Caroline Dickenson
Licensing Sgt
Durham Constabulary

Our Values & Vision:

Positive | Fair | Courageous | Inclusive | With Integrity
Protecting Neighbourhoods, Tackling Criminals, Solving Problems

From: SHEPHERD, HANNAH L.

Sent: 28 May 2021 13:58

To: AHS Licensing <Licensing@durham.gov.uk>

Cc:

Subject: Representation - ref: variation to DCCC/PLA0424, Durham Food Store, 83 Claypath

Licensing Application Variation Reference – DCCC/PLA0424

Applicant – Durham Food Store, 83 Claypath

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 24 hours per day, 7 days a week. This is hugely outside of the County Council's Framework Hours for applications for licenses for the sale of alcohol solely off the premises. The recommended hours are 07.00-23.30 weekdays and 07.00-00.30 weekends.

I feel it is very important that DCC consider the potential ramifications on the public safety objective of having alcohol available to purchase 24 hours a day, 7 days a week in a City centre location, a stone's throw from the river and where consumers will mostly travel from the venue on foot. I would be extremely concerned, given the local authority's commitments to public safety in respect of the river, to see the local authority approve this 'variation'. It also dramatically increases the potential for public nuisance leaving no hour of the day 'quiet' for local residents.

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 courtesies".

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 in peaks, post-11pm. This will be one of a very small number of outlets where the sale of alcohol (albeit for off-premises consumption) will be possible after 11pm.

I can see scope for a combination of factors leading to high footfall just after 11pm and, when night clubs open again, peaks at closing time of the surrounding licensed venues as both student and non-student populations 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. Neighbour relations

I note that there are some aspects of the application which provide a level of reassurance of the applicant's intentions to prevent nuisance. However my concern is how effective they will be once consumers have left the premises.

Most of the complaints we see about transient anti-social noise from members of the community, where it is believed to be students causing the noise, can be traced back to the Night Time Economy

and retailers need to understand that the 'reach' of their influence does rather end when consumers leave the premises.

We all have a duty to recognise that anti-social noise can have a lasting and most detrimental impact on the health, safety and wellbeing of the wider community. Thus, while a commitment to prevention of nuisance from anti-social noise is admirable, maintaining business within the framework hours is a far more effective control.

Hannah Shepherd

Community Liaison Officer

PVC Colleges & Student Experience Office

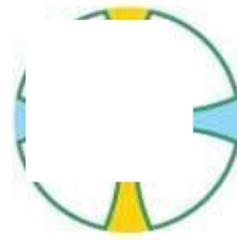
Palatine Centre, Durham University, Stockton Road, Durham, DH1 3LE

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/>





**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

1 June 2021

Dear Licensing team,

Re: Application to vary a premises licence by Mr Muhammad Khurram Shazad at Durham Food Store, 83 Claypath. Durham. DH1 1RG

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 24 hours daily.

It is the expectation of the Licensing Authority that, when preparing an operating schedule, applicants are required to set out the steps necessary, if any, for the promotion of the licensing objectives. In doing so, applicants are expected to have regard to the Statement of Licensing Policy and to be aware of the expectations of the licensing authority and responsible authorities in terms of the steps that are necessary to promote the licensing objectives.

The premises is located directly opposite 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.

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 three 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 24 hour license. This is not only in conflict with the County Council’s Licensing Framework hours but also 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.

When dealing with applications and issuing licences, the Council (when their discretion is engaged) is more likely to impose stricter conditions on premises operating in residential areas. Proper consideration should therefore be given to the proximity of licensed premises not only to residents and businesses, but also in relation to other sensitive premises, to ensure they are in a position that does not adversely affect their ability to ensure the promotion of the licensing objectives.

The proposed operating hours for this premises must remain in line with the County Council’s Licensing Framework hours for this category of premises. Whilst each application should be considered on its own merits, granting a 24 hour license in Durham City Centre would set a highly unwelcome precedent which the Parish Council considers to be unacceptable.

Prevention of 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 an area densely populated by students, 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 believes that this application, being granted in its current form, would further exacerbate this issue. The Parish Council believes 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.

Public safety

For reasons set out above, the Parish Council believes that this application, being granted in its current form, would also fail to promote the key objective of public safety.

This application should therefore be refused.

Yours sincerely,

Adam Shanley
Clerk to the City of Durham Parish Council

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

Durham Food Store 83 Claypath Durham DH1 1RH.

We are writing to support to the above application for a licence to sell alcohol for consumption off the premises 24 hours per day, 7 days per week.

We have a very long standing knowledge of this area and its residential and business communities

[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 is the only local general store on this side of the city. It is one of the few independent businesses remaining in the city and as such is part of the city's commitment to commercial growth. It is valued as a genuine family run business serving the needs of elderly neighbours otherwise faced with a journey up and down Claypath to the national chain store in the Market Place for essential supplies of milk etc.

The opening of the same national chain immediately opposite poses a real threat to its continuance as it is unlikely to be unable to price match such competition.

We understand that this application is sought not out of any desire to retail alcohol for 24hrs, 7 days a week but in order to allow greater flexibility of staffing throughout each day to maximise opening and promote its sustainability.

The shop is limited in size so won't attract large groups. There have been no complaints among local residents about its operation to date.

We hope that this application can be approved on the condition that the management will work closely with the police to prevent and act immediately in the unlikely event of any problems in the delivering of the 4 Licensing Objectives.

Yours faithfully

E and J Ashby.

Appendix 5: Responsible Authorities Comments



Chief Fire Officer: Stuart Errington

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

Date: 07 May 2021
This matter is being dealt with by: Julie Knox

Our Ref: 2E40851090
Your Ref: 476301

Valerie.craig@durham.gov.uk

Dear Valerie,

Licensing Act 2003
Regulatory Reform (Fire Safety) Order 2005
Durham Food Store, 83 Claypath, Durham, DH1 1RG

I acknowledge your application dated 2 May 2021 for a Variation to Premises Licence under The Licensing Act 2003 in respect of the above named premises.

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

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

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

Yours faithfully

Julie Knox
Fire Safety Section



From: Richard Wormald
Sent: 13 May 2021 11:37
To: Valerie Craig
Subject: SR 234934 RWO 13-5-21

MEMO

To: Ms Valerie Craig
Licensing Services

From: Mr Richard Wormald
Neighbourhoods and Climate Change

Date: 13 May 2021

Re: **Licensing Application Minor Variation**
Durham Food Store, 83 Claypath Durham City DH1 1RG

licensing application received on 5 May 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 minor variation

Mr R. Wormald
Senior Environmental Health Officer
Community Protection

Web: www.durham.gov.uk
Follow us on Twitter @durhamcouncil
Like us at facebook.com/durhamcouncil

From: Michelle Stephenson
Sent: 14 May 2021 10:21
To: Valerie Craig
Subject: RE: CON28/21/01727 83 Claypath

Good morning Valerie,

Thank you for your email.

Apologies, I was referring to the opening hours of the premises. I couldn't find any planning history for the premises so am unsure if there was any restrictions on opening hours. So if it is just the licensing hours changing I wouldn't have any concerns.

Kind regards,

Michelle Stephenson
Planning Officer

Planning Development Management
Regeneration, Economy and Growth
County Hall, Durham, County Durham, DH1 5UL

From: Valerie Craig
Sent: 14 May 2021 08:18
To: Michelle Stephenson
Subject: RE: CON28/21/01727 83 Claypath

Good morning,

Thank you for your email.

I note you say providing there are no changes in respect of the times planning have no concerns, just to clarify, the premises licence is currently for sale of alcohol from 08:00 – 23:00 Monday to Saturday and 09:00 – 23:00 Sunday. They are applying to change the times for sale of alcohol to 24hours each day Monday to Sunday.

Thanks,
Valerie

Valerie Craig
Licensing Officer
Community Protection Service
Neighbourhood and Climate Change

From: Public Health
Sent: 05 May 2021 09:06
To: Helen Johnson - Licensing Team Leader (N'hoods)
Cc: Valerie Craig; AHS Licensing
Subject: RE: Premises licence variation - Durham Food Store, 83 Claypath, Durham, DH1 1RG

Dear Colleagues

I have received an application to vary a licence for the establishment: Durham Food Store, 83 Claypath, Durham, DH1 1RG.

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

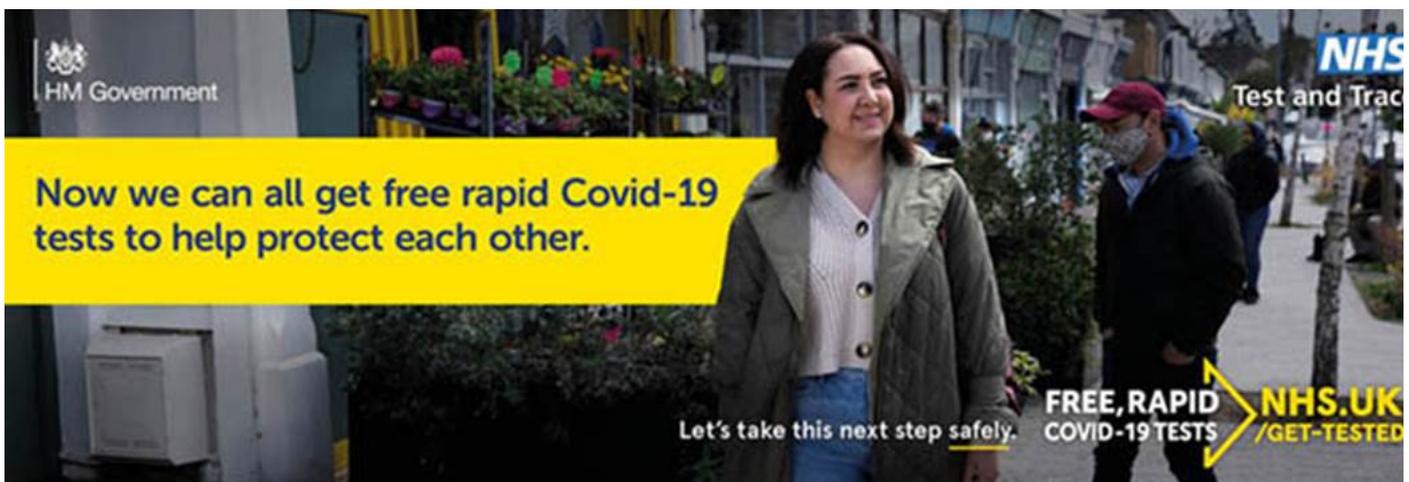
My Ref: PH/2021/041

Kind Regards,

Emily Coleby

Business Support Apprentice – Public Health Team
Procurement, Sales and Business Services in Resources
Durham County Council
County Hall,
Durham,
DH1 5UJ

emily.coleby@durham.gov.uk



From: Valerie Craig
Sent: 04 May 2021 15:38
To: Amanda Healy

; DSCP Secure

Andrew Cook

; EHCP

udson
; Fire

From: DSCP Secure
Sent: 14 May 2021 16:14
To: Valerie Craig
Subject: RE: Premises licence variation - Durham Food Store, 83 Claypath, Durham, DH1 1RG

I have received an application to vary a licence for the establishment: Durham Food Store, 83 Claypath, Durham, DH1 1RG.

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

My Ref: SW/2021/039

Stephen Winship

Policy & Strategy Officer
Durham Safeguarding Children Partnership

County Hall, Durham
DH1 5UJ

Durham Safeguarding Children Partnership (DSCP)

Keeping Children Safe

dscpsecure@durham.gov.uk
www.durham-scp.org.uk

Durham
Safeguarding Children Partnership

The logo for Durham Safeguarding Children Partnership features the word "Durham" in a bold, yellow font, with a blue swoosh underneath it. Below "Durham" is the text "Safeguarding Children Partnership" in a smaller, blue font.

Appendix 6: Statement of Licensing Policy

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