

Statutory Licensing Sub-Committee

19th October 2021

**Application to vary a Premises
Licence**

Ordinary Decision



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

**Councillor John Shuttleworth, 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 Fat Hippo Durham, 36 Saddler Street, Durham DH1 3NU.
- 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 Fat Hippo Durham, 36 Saddler Street, Durham DH1 3NU and was submitted by the current premises licence holder Fat Hippo Restaurants Limited.

The current premises licence authorises on sales of alcohol only therefore the application requests to also permit the supply of alcohol to be consumed off the premises with food. Details are as follows:

- Sale of Alcohol for consumption both on and off the premises 11.00 am until 00.00 Monday to Saturday, 12.00 pm to 11.30 pm Sunday, 12.00 pm to 11.30 pm Christmas Day and Good Friday, from the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day
- 4 During the consultation period the Licensing Authority received 1 representation opposing the application from the City of Durham Parish Council.
 - 5 Responses were received from Public Health, the Durham Safeguarding Children Partnership, Environmental Health, County Durham & Darlington Fire and Rescue Service and Durham

Constabulary all confirming they had no comments to make regarding the application.

- 6 At the time of writing this report, there is ongoing mediation between the applicant and the Parish Council. Members will be updated at the hearing with any outcome of this.

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 Martin Wilson of St James' Square Law Firm on behalf of the premises licence holder Fat Hippo Restaurants Limited on 24th August 2021. The application was subject to a 28 day public consultation which ended on 21st September 2021.

Details of the application

- 10 An application to vary the premises licence was received by the Licensing Authority on 24th August 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 the changes requested by the variation application are as follows:

Current Licensable Activity and Hours	Proposed Hours
<p>Sale of Alcohol (on sales):</p> <p>Monday to Saturday: 11:00 – 00:00 hrs Sunday: 12:00 – 23:30 hrs Christmas Day: 12:00 – 23:30 hrs Good Friday: 12:00 – 23:30 hrs</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day</p>	<p>Sale of Alcohol (on and off sales):</p> <p>Monday to Saturday: 11:00 – 00:00 hrs Sunday: 12:00 – 23:30 hrs Christmas Day: 12:00 – 23:30 hrs Good Friday: 12:00 – 23:30 hrs</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day</p>
<p>Hours open to the public:</p> <p>Not stated</p>	<p>Proposed Opening Hours:</p> <p>Monday to Saturday: 11:00 – 00:00 hrs Sunday: 12:00 – 23:30 hrs Christmas Day: 12:00 – 23:30 hrs Good Friday: 12:00 – 23:30 hrs</p> <p>From the end of permitted hours on New Year's Eve to the start of permitted hours New Year's Day</p>

The Representations

- 13 During the consultation period, the Licensing Authority received 1 representation opposing the application from the City of Durham Parish Council.
- 14 The Licensing Authority deemed the representation to be relevant and relating to the following licensing objectives:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance

A copy of the representation is attached at Appendix 4.

- 15 Responses were also received from Public Health, the Durham Safeguarding Children Partnership, Environmental Health, County Durham & Darlington Fire and Rescue Service and Durham

Constabulary all who had no comments to make. These are attached as Appendix 5 for information only.

The Parties

16 The Parties to the hearing will be:

- Fat Hippo Restaurants Limited (Applicant and Licence Holder)
- Mr Martin Wilson, St James' Square Law Firm (Licence holder's Solicitor)
- Mr Adam Shanley, Clerk of the City of Durham Parish Council (Other person)

Options

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

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

Main implications

Legal Implications

18 The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

Consultation

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

See Appendix 1

Conclusion

20 The Sub-Committee is asked to determine the application to vary the premises licence in light of the representation received.

Background papers

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

Other useful documents

None

Contact: Helen Johnson

Tel: 03000 265101

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.

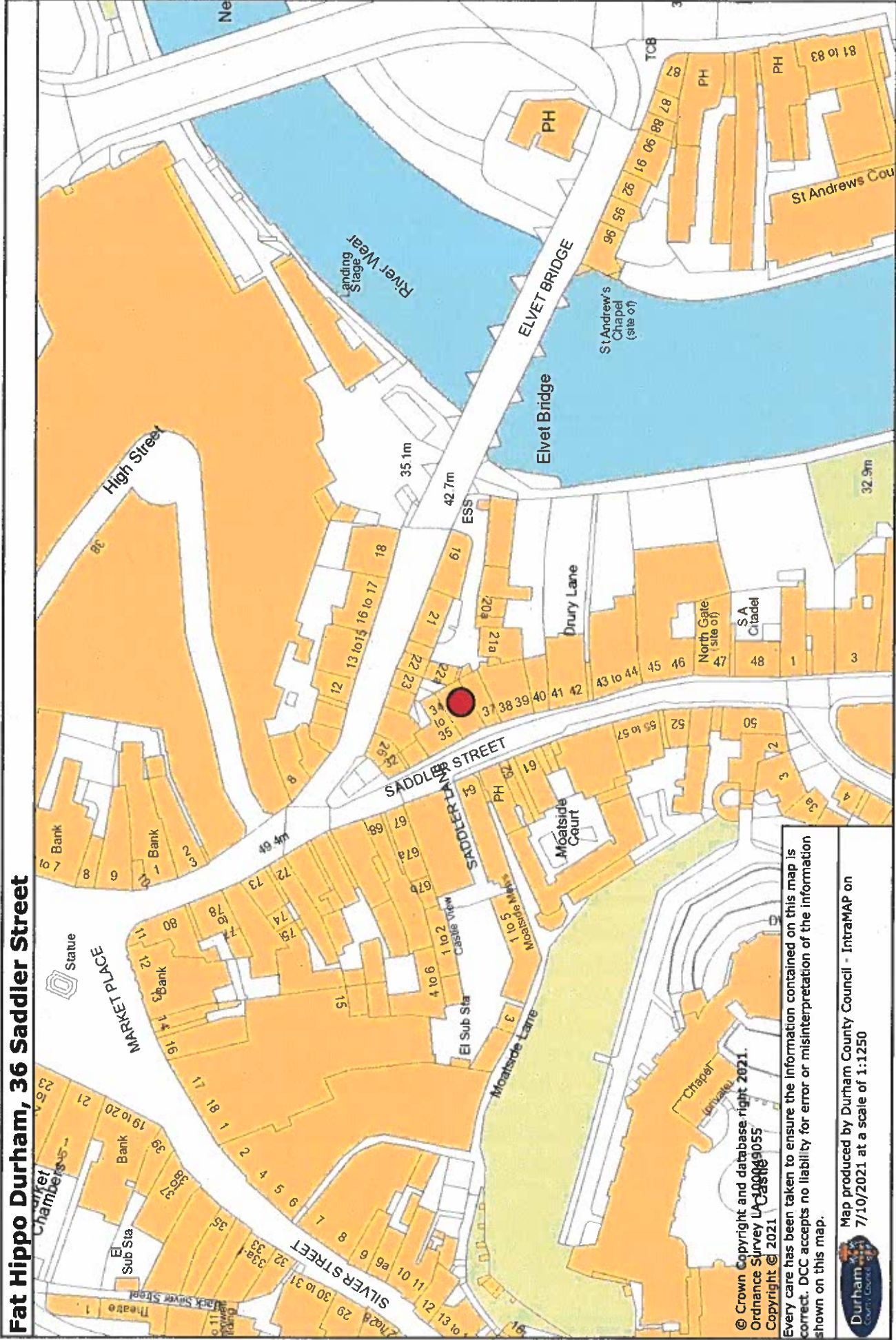
The notice of application was displayed on the premises for a period of 28 days.

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

Fat Hippo Durham, 36 Saddler Street



© Crown Copyright and database right 2021.
 Ordnance Survey UA100049055
 Copyright © 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
 7/10/2021 at a scale of 1:1250



Appendix 3: Application and current Premises Licence

DURHAM COUNTY COUNCIL, Licensing Services, PO Box 617, Durham. DH1 9HZ

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I/We Fat Hippo Restaurants Ltd

(Insert name(s) of applicant)

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

Premises licence number LAPREG/05/0480
--

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
Fat Hippo Durham 36 Saddler Street			
Post town	Durham	Postcode	DH1 3NU

Telephone number at premises (if any)	0191 370 9470
Non-domestic rateable value of premises	£41,750

Part 2 – Applicant details

Daytime contact telephone number	
E-mail address (optional)	

Current postal address if different from premises address			
Post town		Postcode	

Part 3 - Variation

Please tick as appropriate

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

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

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

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

To also permit the supply of alcohol to be consumed off the premises with food.

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

Part 4 Operating Schedule

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

- | Provision of regulated entertainment (Please see guidance note 3) | Please tick all that apply |
|---|-----------------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

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

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

In all cases complete boxes K, L and M

A

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

B

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

C

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

D

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

E

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

F

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

G

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

H

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

I

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

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption – please tick (please read guidance note 9)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 6) Christmas Day 12:00 – 23:30 Good Friday 12:00 – 23:30 From the end of permitted hours on New Year’s Eve to the start of permitted hours on New Year’s Day <u>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 7) N/A		
Mon	11:00	00:00			
Tue	11:00	00:00			
Wed	11:00	00:00			
Thur	11:00	00:00			
Fri	11:00	00:00			
Sat	11:00	00:00			
Sun	12:00	23:30			

K

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

N/A

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6)
Day	Start	Finish	From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day
Mon	11:00	00:00	
Tue	11:00	00:00	
Wed	11:00	00:00	<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 7)
Thur	11:00	00:00	
Fri	11:00	00:00	N/A
Sat	11:00	00:00	
Sun	12:00	23:30	

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

N/A

Please tick as appropriate

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

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

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

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

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

The Premises Licence Holder shall ensure that all relevant members of staff receive training in their responsibilities under the Licensing Act 2003. Such training shall be documented and records made available upon request from the Police or an authorised officer of the Licensing Authority.

All delivery customers shall be advised at the point of ordering and prior to delivery that they will be required to provide satisfactory proof of age upon delivery and if this is not forthcoming delivery will be refused.

There will be a 'self-declaration' of age when orders are placed online, and proof of age and identity will be confirmed upon delivery.

Alcohol may only be sold for consumption off the premises during the days and hours stipulated in the licence and may only be delivered during those hours.

Alcohol for consumption on and off the premises may only be sold as ancillary to food sales and all sales of alcohol must be accompanied by a food offering.

The Licence Holder shall ensure that all records and order details, to be kept available for inspection on request by any representative of Durham Constabulary or the Licensing Authority.

The Licence Holder shall ensure that the delivery drivers carry with them at all times details of the sales order which will include name, address, telephone number and details of the order. These records will be produced upon request by any representative of Durham Constabulary or the Licensing Authority.

The Licence Holder shall ensure that an Aide Memoire is available in the vehicles to remind delivery drivers and staff to check proof of age for anyone who appears to be under 25 by requesting ID.

The Licence Holder shall ensure that a refusal book is kept in each delivery vehicle and maintained to record the refusal of sales. Details will be taken of person(s) being refused and reasons for sales being refused will be recorded in addition to date, time and signature of the driver.

All delivery staff shall be over the age of 18 years.

b) The prevention of crime and disorder

N/A

c) Public safety

N/A

d) The prevention of public nuisance

N/A

e) The protection of children from harm

N/A

Checklist:

Please tick to indicate agreement

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

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 5 – Signatures (please read guidance note 12)

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

Signature	
Date	18/08/21
Capacity	Applicant’s Solicitor

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

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)	

Notes for Guidance

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.

1. 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 for the late night levy
2. 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 of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.
3. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
 - Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

- any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- 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:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - 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;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - 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.
4. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
 5. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
 6. For example (but not exclusively), where the activity will occur on additional days during the summer months.
 7. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
 8. Please give 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.
 9. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
 10. Please give 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 or the presence of gaming machines.
 11. Please list here steps you will take to promote all four licensing objectives together.
 12. The application form must be signed.
 13. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

14. Where there is more than one applicant, each of the applicants or their respective agents must sign the application form.
15. This is the address which we shall use to correspond with you about this application.



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

LAPREG/05/0480
24 November 2005
01 December 2020

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
FAT HIPPO DURHAM 36 SADDLER STREET DURHAM DH1 3NU	DURHAM COUNTY COUNCIL NEIGHBOURHOODS AND CLIMATE CHANGE COMMUNITY PROTECTION LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number: 0191 3709470	

Where the licence is time limited the dates N/A

Licensable activities authorised by this licence Sale by retail of alcohol
--

Opening Hours of the Premises	
NOT STATED	Non-standard/seasonal timings

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

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

Sale by retail of alcohol	Further details														
<table style="width: 100%; border: none;"> <tr><td style="width: 15%;">Mon</td><td style="width: 15%;">11:00-00:00</td></tr> <tr><td>Tue</td><td>11:00-00:00</td></tr> <tr><td>Wed</td><td>11:00-00:00</td></tr> <tr><td>Thu</td><td>11:00-00:00</td></tr> <tr><td>Fri</td><td>11:00-00:00</td></tr> <tr><td>Sat</td><td>11:00-00:00</td></tr> <tr><td>Sun</td><td>12:00-23:30</td></tr> </table>	Mon	11:00-00:00	Tue	11:00-00:00	Wed	11:00-00:00	Thu	11:00-00:00	Fri	11:00-00:00	Sat	11:00-00:00	Sun	12:00-23:30	Alcohol shall not be sold or supplied on the premises otherwise than to persons having table meals there and for consumption by such persons as an ancillary to a meal. Non-standard/seasonal timings Christmas Day 12:00 - 23:30 Good Friday 12:00 - 23:30 From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day
Mon	11:00-00:00														
Tue	11:00-00:00														
Wed	11:00-00:00														
Thu	11:00-00:00														
Fri	11:00-00:00														
Sat	11:00-00:00														
Sun	12:00-23:30														

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
FAT HIPPO RESTAURANTS LTD	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	
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 MICHAEL COLIN PHILLIPS

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

Annex 1 – Mandatory conditions

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

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

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

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

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

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

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

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

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

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

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

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

(a) a holographic mark, or

(b) an ultraviolet feature.

The responsible person must ensure that -

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

(i) beer or cider: ½ pint;

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

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

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

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

Minimum Price of Alcohol:

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

2 For the purposes of the condition:

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

(b) "permitted price" is the price found by applying the formula -

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

Where -

(i) P is the permitted price,

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

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

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

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

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

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

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

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

This Premises Licence has been granted upon conversion under schedule 8 of the Licensing Act 2003 of the previous Justices' On Licence, and such rights and restrictions that applied to such Licence are hereby incorporated into this Premises Licence, subject to any express terms to the contrary hereinafter specified, and/or any restriction applying to a Premises Licence and/or any licensable activity.

Annex 2 – Conditions consistent with the premises Operating Schedule

General

None

Prevention of Crime & Disorder

None

Public Safety

None

Prevention of Public Nuisance

None

Protection of Children from Harm

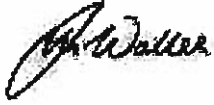
None

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

None

Annex 4 – Plans attached

Attached

A handwritten signature in black ink, appearing to read "A. Waller". The signature is written in a cursive style with a large initial "A" and a long, sweeping underline.

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



Appendix 4: Representation

From: Adam Shanley <
Sent: 20 September 2021 16:20
To: AHS Licensing <
Subject: Fat Hippo

Dear Licensing team,

Please find attached my Parish Council's response to this application.

Kindest regards,

Adam Shanley
Clerk to City of Durham Parish Council



**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

20 September 2021

Dear Licensing team,

Re: Application to vary a premises licence by Fat Hippo, 36 Saddler Street. Durham. DH1 3NU

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 crime and disorder and public nuisance.

This application seeks permission for the sale of alcohol (on and off the premises) Monday to Saturday 11.00am to midnight, Sunday 12.00pm to 11.30pm, Christmas Day and Good Friday 12.00pm to 11.30pm and from the end of permitted hours New Year's Eve to the start of permitted hours New Year's Day.

The Parish Council Licensing Committee considered this application at its meeting on 6th September 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

The prevention of public nuisance is an important licensing objective. Two of the greatest irritations to residents are noise and public nuisance associated with licensed premises. If representations are made, noise and nuisance might preclude the grant of a licence or certificate or, if one has already been granted, could be a ground for review, with a view to the imposition of further conditions or, if the licensing objectives cannot be achieved by such conditions, revocation of the licence or certificate.

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.

Under section M of the application, the applicant has simply stated **Not Applicable** under actions/ measures to prevent a public nuisance. Clearly no regard has been given to this important objective.

Durham is a small, compact city centre with many residential streets in very close proximity to one another. Furthermore, Durham City has a number of Purpose-Built Student Accommodation (PBSAs). The applicant appears to be targeting the student market in Durham city and the prospect of regular deliveries of alcohol to densely populated buildings such as these PBSAs represent an unacceptable public nuisance to students living and studying in these buildings.

The Parish Council is concerned at the prospect of the delivery of alcohol taking place up until midnight on most days and feels that the off sales part of this application should be limited to 10pm in order to avoid any excessively late night noise disturbance to local residents.

Public safety

Public safety is an important licensing objective as it is about protecting the safety and even the lives of everyone. It is expected that anyone visiting a licensed venue in the County or making an order for delivery can do so in complete safety, as they will be visiting premises that have been constructed or adapted with safety in mind.

The Licensing Authority expects that the applicant will detail in their operating schedule the steps that will be taken to promote public safety.

If the alcohol is to be delivered by one driver only until late into the night, the Parish Council would have concerns about the safety of this individual and their vulnerability to crime.

The Parish Council would also like to have some further assurances regarding collections of orders from the premises itself. The premises is located in the middle of Saddler Street, within the heart of the City and in a main thoroughfare for pedestrians in the City. The main access route is characterised by narrow footpaths for pedestrians and there is no turning circle on this route. More information is therefore needed regarding how the vehicle (whether car, van or bike) is to travel to and from the premises, park up and pick up the order. Particularly at weekends, Saddler Street can become very crowded with groups of pedestrians on both footpaths and the roadway. Any extra vehicular movements and parking could be a potential hazard. How does the applicant propose to deal with this?

Preventing crime and disorder

Firstly, incidents of alcohol-fuelled, late-night crime and disorder and anti-social behaviour are increasing in Durham City (Durham Constabulary report on alcohol related ASB incidents in Durham City centre, Durham City section data at December 2019). The Parish Council feels that this application being granted in its current form would further exacerbate this issue.

Again, the applicant has offered a commitment to promote the prevention of crime and disorder as **Not Applicable**.

Although the Parish Council welcomes the Aide Memoire in all vehicles for all delivery drivers to check age, there is no commitment by the applicant to operate a 'Challenge 25' policy. Equally, the Parish Council does not believe that a self-declaration of age upon making an order is acceptable and should be tightened with a condition to the license. The age of a customer is more difficult to establish when alcohol is simply being delivered to a residential property and potentially late at night/in the early hours of the morning where visibility is reduced.

The application does not include the condition of delivery drivers having to wear a bodycam on exchange of the alcohol. The Parish Council feels that this is imperative in order to retain evidence of age verification having been carried out.

It is unclear from this application whether the applicant is proposing a fast-turn around service such as those offered by companies such as Deliveroo, Uber Eats, etc. and the Parish Council believes that this must be controlled via a condition to the application to ensure that there must be a clearly stated lead in time between order and delivery, as agreed between the applicant and the licensing authority.

Added to this, should the applicant propose to use the services of a (third party) courier service on occasions to facilitate the delivery of alcohol, there is no information in this application to advise what controls the applicant proposes to put in place to ensure that the courier service is complying with the procedures on age verification (e.g. maintaining a log book, Challenge 25, etc.).

There is no commitment from this applicant to ensure that nobody who appears drunk will be served alcohol and it is unclear from this application whether there will be a limit on the number of units of alcohol which may be permitted per order. The website should state not only any minimum purchase required for a delivery but also a maximum (agreed as reasonable between the applicant and the Licensing authority) number of units permitted per transaction.

The operating schedule also seems to suggest that the delivery of the alcohol will be carried out by one driver only. One individual late at night delivering alcohol is considered extremely vulnerable to crime. Presumably alcohol from other orders will also be stored inside the delivery van. It is imperative that the van be locked at all times when the employee is delivering the alcohol.

Finally, authorised staff, employed by Durham Police, must be given free access to all parts of the premises, at all reasonable times, for the purpose of inspection to ensure compliance with the terms and conditions of the license and to ensure the promotion of the licensing objectives.

For the reasons set out above, this application should therefore be refused in its current form.

Yours sincerely,

Adam Shanley

Clerk to the City of Durham Parish Council

Appendix 5: Responses from Responsible Authorities

Helen Johnson - Licensing Team Leader (N'hoods)

Subject: RE: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - THE FAT HIPPO 36 SADDLER STREET DURHAM DH1 3NU
Attachments: App to Vary Prem Lic.pdf

From: Licensed Economy Team

Sent: 17 September 2021 11:59

To: Tracey Lock

Subject: FW: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - THE FAT HIPPO 36 SADDLER STREET DURHAM DH1 3NU

Hi

No objection from Durham Constabulary

Thanks

PC Iain Robertson
Licenced Economy Team
Durham Constabulary

Helen Johnson - Licensing Team Leader (N'hoods)

Subject: Re: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - THE FAT HIPPO 36 SADDLER STREET DURHAM DH1 3NU

From: Public Health

Sent: 25 August 2021 10:32

To: Helen Johnson - Licensing Team Leader (N'hoods)

Cc: Tracey Lock AHS Licensing

Subject: RE: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - THE FAT HIPPO 36 SADDLER STREET DURHAM DH1 3NU

Dear Colleagues

I have received an application to vary a licence for the establishment: THE FAT HIPPO 36 SADDLER STREET DURHAM DH1 3NU

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

My Ref: PH/2021/083

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**

Helen Johnson - Licensing Team Leader (N'hoods)

Subject: RE: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - THE FAT HIPPO 36 SADDLER STREET DURHAM DH1 3NU

From: DSCP Secure

Sent: 03 September 2021 15:53

To: Tracey Lock

Subject: RE: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - THE FAT HIPPO 36 SADDLER STREET DURHAM DH1 3NU

I have received an application to vary a licence for the establishment: Fat Hippo 36 Saddler Street Durham DH1 3NU.

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

My Ref: SW/2021/075

Stephen Winship

Policy & Strategy Officer
Durham Safeguarding Children Partnership

Helen Johnson - Licensing Team Leader (N'hoods)

Subject: SR 245026 RWO 9-9-21

From: Richard Wormald

Sent: 09 September 2021 13:59

To: Tracey Lock

Subject: SR 245026 RWO 9-9-21

MEMO

To: Mrs Tracey Lock
Licensing Services

From: Mr Richard Wormald
Neighbourhoods and Climate Change

Date: 9 September 2021

Re: **Licensing Application Variation**
Fat Hippo Durham, 36 Saddler Street Durham City DH1 3NU

With reference to the above licensing application received on 24 August 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 above variation

Mr R. Wormald
Senior Environmental Health Officer
Community Protection



Chief Fire Officer: Stuart Errington

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

Date: 31 August 2021

Our Ref: 2E40850130

This matter is being dealt with by: Julie Knox

Your Ref: 486720

Dear Tracey,

Licensing Act 2003

Regulatory Reform (Fire Safety) Order 2005

Fat Hippo Restaurants Ltd, Fat Hippo, 36 Saddler Street, Durham, DH1 3NU

I acknowledge your application dated 24 August 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



www.ddfire.gov.uk

Appendix 6: Statement of Licensing Policy

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.

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.

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

¹ S 177 of the 2003 Act now only applies to performances of dance.

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.