

Statutory Licensing Sub-Committee

7th February 2022

**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:

Deerness, Durham

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine the application to vary a premises licence for R & B Convenience Store, Broom Lane, Ushaw Moor, Durham DH7 7LQ.
- 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 R & B Convenience Store, Broom Lane, Ushaw Moor, Durham DH7 7LQ and was submitted by the current premises licence holder Mr Lokugamage Rohitha Jathunarachchi.

The application requests the following amendments to the current premises licence:

- To increase the permitted hours for the Sale of Alcohol for consumption off the premises to 5.30 am until 11.00 pm Monday to Sunday
- 4 On 22nd December 2021, following mediation with Durham Constabulary, the applicant added some additional conditions to the application.
 - 5 During the consultation period the Licensing Authority received one representation opposing the application from Brandon and Byshottles Parish Council.

- 6 Responses were received from Fire Safety, Public Health, Environmental Health, Durham Constabulary and the Durham Safeguarding Children Partnership all confirming they had no comments to make regarding the application.

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 7;
 - (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 8.

Background

- 9 The variation application was submitted by the premises licence holder Mr Lokugamage Rohitha Jathunarachchi on 15th December 2021. The application was subject to a public consultation which ended on 12th January 2022.

Details of the application

- 10 An application to vary the premises licence was received by the Licensing Authority on 15th December 2021.
- A copy of the application and the current premises licence are attached at Appendix 3.
- 11 On 22nd December 2021, following mediation with Durham Constabulary, the applicant added the following additional conditions to the application:
- The premises shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by Police or authorised officers of the local authority upon request.
 - A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff. CCTV recording will be retained for a

minimum of 28 days. The premises will ensure that a trained member of staff is available to operate the CCTV system at all times and download any images requested by Police or an authorised officer of the local authority and provided within 28 hours of a request being made.

Please see Appendix 4, for confirmation.

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

Current Licensable Activity and Hours	Proposed Hours
Sale of Alcohol (off sales): Monday to Sunday: 07:00 – 23:00 hrs	Sale of Alcohol (off sales): Monday to Sunday: 05:30 – 23:00 hrs
Hours open to the public: Monday to Sunday: 06:00 – 23:00 hrs	Proposed Opening Hours: Monday to Sunday: 05:30 – 23:00 hrs

The Representation

- 14 During the consultation period, the Licensing Authority received one representation opposing the application from Brandon and Byshottles Parish Council.
- 15 The Licensing Authority deemed the representation to be relevant and relating to the following licensing objectives:
 - The Prevention of Crime and Disorder
 - The Prevention of Public Nuisance

A copy of the representation is attached at Appendix 5.

- 16 Responses were also received from Fire Safety, Public Health, Environmental Health, Durham Constabulary and the Durham Safeguarding Children Partnership who all had no comments to make.

These are attached as Appendix 6 for information only.

The Parties

17 The Parties to the hearing will be:

- Mr Lokugamage Rohitha Jathunarachchi (Applicant and Licence Holder)
- Brandon and Byshottles Parish Council (Other person)

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 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: Yvonne Raine

Tel: 03000 265256

Appendix 1: Implications

Legal Implications

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that:

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this, it was stated that any condition attached to the licence should be an enforceable condition.

Consultation

The premises licence application was subject to a 28 day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

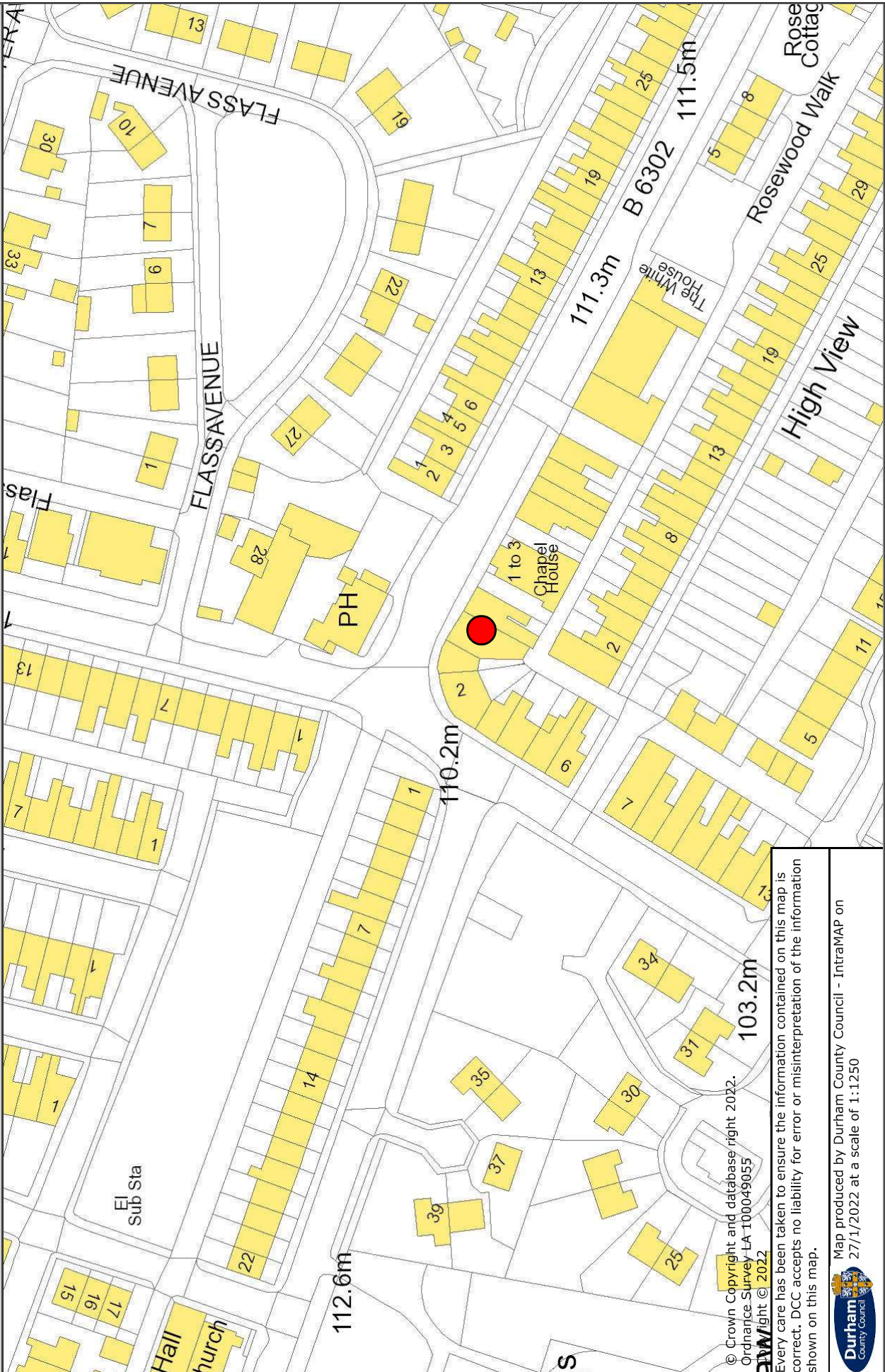
The notice of application was displayed on the premises for a period of 28 days.

Notice of the application was published in a newspaper which was circulated within the vicinity of the premises.

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

Appendix 2: Location Plan

Durham County Council - IntraMAP



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

Map produced by Durham County Council - IntraMAP on
27/1/2022 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 LOKUGAMAGE ROHITHA JATHUNARACHCHI

(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	LAPRE /07/0593
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Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description R&B CONVENIENCE STORE BROOM LANE LISHAW MOOR			
Post town	DURHAM	Postcode	DH7 7LQ

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£ 4650

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

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)

RETAIL CONVENIENCE SHOP
OFF LICENCE
NEWS
GROCERIES
TOBACCO.

CURRENT SHOP OPENING HOURS
MON - SUN 05:30 - 23:00.

PROPOSED VARIATION

RETAIL ALCOHOL SALE FOR
SAME AS CURRENT SHOP
OPENING HOURS

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

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (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 boxing or wrestling entertainment</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

E

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

G

Performances of dance Standard days and timings (please read guidance note 8)			<u>Will the performance of dance 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 performance of dance</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 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					
			<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)		
Thur					
Fri			<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)		
Sat					
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"/>
				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 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 checked="" type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 6)					
Mon	5.30	23.00						
Tue	5.30	23.00						
Wed	5.30	23.00						
Thur	5.30	23.00				<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)		
Fri	5.30	23.00						
Sat	5.30	23.00						
Sun	5.30	23.00						

K

<p>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).</p> <p>N/A</p>

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			<u>State any seasonal variations</u> (please read guidance note 6)
Day	Start	Finish	
Mon	5.30	23.00	
Tue	5.30	23.00	
Wed	5.30	23.00	
Thur	5.30	23.00	
Fri	5.30	23.00	<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)
Sat	5.30	23.00	
Sun	5.30	23.00	

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.

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)

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

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	14-12-2021
Capacity	SOLE TRADER

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)			



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

LAPRE/07/0593
13 August 2007
03 June 2015

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
R & B CONVENIENCE STORE BROOM LANE USHAW MOOR DURHAM DH7 7LQ	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number:	

Where the licence is time limited the dates N/A

Licensable activities authorised by this licence Sale by Retail of Alcohol
--

The opening hours of the premises (all times in 24hr format)	
Monday	06:00 - 23:00
Tuesday	06:00 - 23:00
Wednesday	06:00 - 23:00
Thursday	06:00 - 23:00
Friday	06:00 - 23:00
Saturday	06:00 - 23:00
Sunday	06:00 - 23:00

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

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

Sale by retail of alcohol Off Sales Only		
Monday	07:00 - 23:00	Further details
Tuesday	07:00 - 23:00	
Wednesday	07:00 - 23:00	Non standard/seasonal timings:
Thursday	07:00 - 23:00	
Friday	07:00 - 23:00	
Saturday	07:00 - 23:00	
Sunday	07:00 - 23:00	

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence	
MR LOKUGAMAGE ROHITHA JATHUNARACHCHI	

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 LOKUGAMAGE ROHITHA JATHUNARACHCHI

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 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

None

The Prevention of Crime and Disorder

Visual inspection, and personal interaction with customer, will enable staff to determine if the customer is fit to be sold alcohol. If staff believe the person to be intoxicated with drink or drugs they will be refused.

CCTV has already been installed and will be maintained to home office standards. Recordings will be stored for a minimum of 28 days (minimum of 15 cameras in operation).

A member of staff will be available at all times that the premises is open to download CCTV footage when requested by an authorised officer.

Notices will be clearly displayed at entrance and around the premise stating CCTV is in operation.

Persons known to be, or suspected of buying on behalf of children will be refused and reported to the Police.

External lighting will be installed, if required by Responsible Authorities, and will be in full working order.

Authorised staff employed by Durham Police shall have free access to all parts of the licensed premises, at all reasonable times, for the purposes of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.

Public Safety

Provision will be implemented to ensure that the front of the premise is kept clean and free from rubbish.

An Incident Book will be maintained within the premise, and will record and report all instances of disorder.

The Prevention of Public Nuisance

Staff will be responsible for ensuring that groups of young people are discouraged from congregating outside the premise. The DPS will actively work with local Beat Officers/PCSO's in the reporting of any ASB connected to the premise.

The Protection of Children from Harm

"Challenge 25" policy in place 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 the staff operating the policy should be regularly monitored.

All staff responsible for selling age restricted goods should be trained to implement the age verification policy. Training records for staff should be maintained and refresher training should be provided annually. Staff training records will be held within the premise and available on request by any authorised officer.

Safeguards will be in place to try to ensure that alcohol is not purchased or obtained for young people by relatives or older friends (proxy provision) and that the applicant will work actively with the police to minimise this risk. Staff training should include the risk from proxy sales.

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

Signs will be displayed and the law adhered to regarding alcohol and children.

If concerns arise about a child the police will be contacted for advice/assistance and not make our own investigations or conclusions.

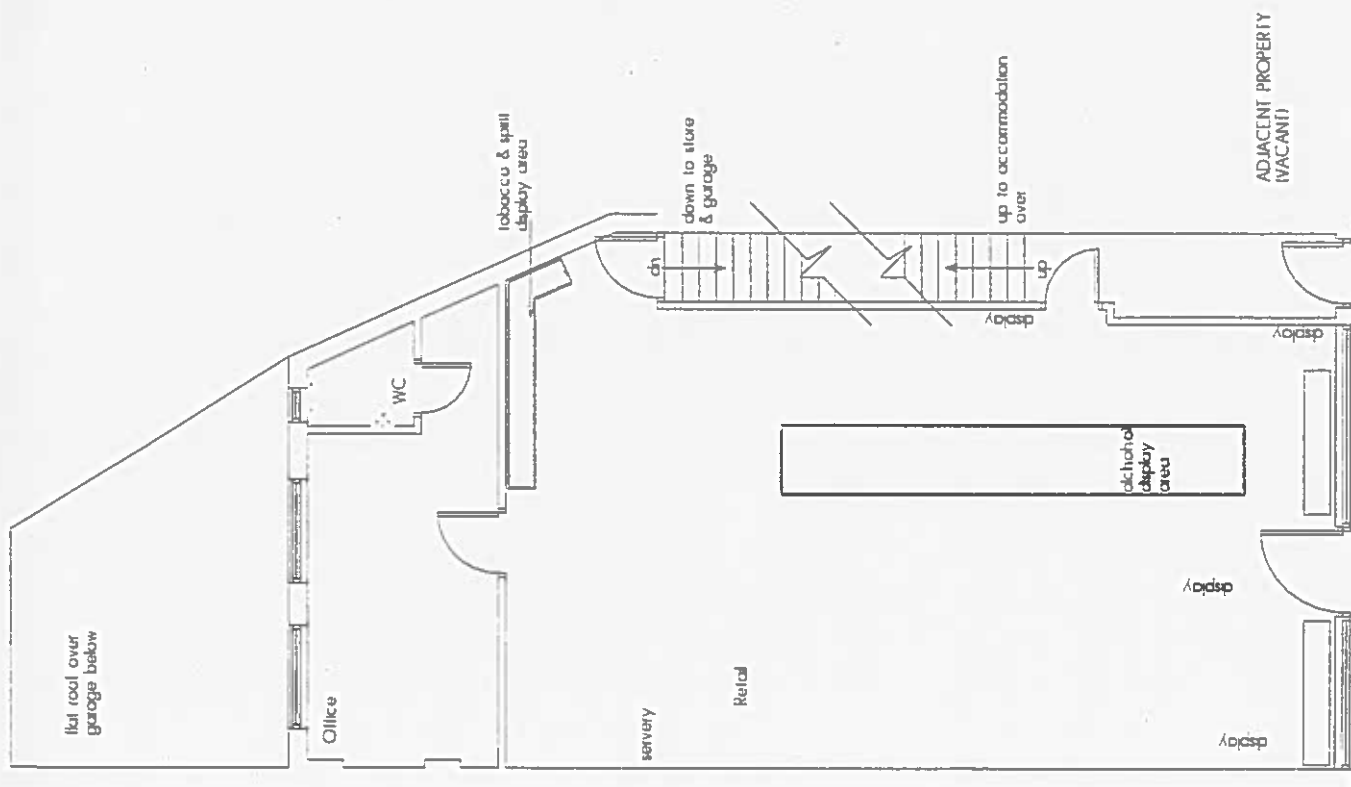
Annex 3 – Conditions attached after a hearing by the licensing authority

None

Annex 4 – Plans attached

Attached

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



DO NOT SCALE FROM THIS DRAWING
 All dimensions and notes used should be checked and verified on site before any work is put in hand. Any discrepancies should be immediately reported to the architect.

Job	Licensing Plan C & S News Ushaw Moor
Client	
Drawing	CF Plan
Date	June 07
Scale	1:100

Appendix 4: Additional conditions following mediation with Durham Constabulary

From: Kelly Hyde
Sent: 22 December 2021 09:08
To: Helen Johnson - Licensing Team Leader (N'hoods) <[h.johnson@nhs.uk](#)>
Subject: FW: premises licence variation

Hello,

Please could you add the below to the application for R&B Convenience Store Ushaw Moor?

Thanks in advance

Regards

Kelly
Licensed Economy Team

From: Rohitha Jathunarachchi <[r.jathunarachchi@nhs.uk](#)>
Sent: 19 December 2021 16:27
To: Kelly Hyde <[k.hyde@nhs.uk](#)>
Subject: Re: premises licence variation

Hello,

On the points you have made:

- The premises currently operates the Challenge 25 scheme and we keep a register of refusals behind the counter. The EPOS system we use is compatible with the age restrictions and records refusals as well.
- The CCTV system we use keeps a record for over 28 days

I agree to adding these to the application.

Kind regards,

Lokugamage Rohitha Jathunarachchi

On 19 Dec 2021, at 10:16, Kelly Hyde

> wrote:

Hello,

I am in receipt of your licence variation and would like to ask for the following to be added to your application:

- The premises shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by Police or authorised officers of the local authority upon request.
- A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff. CCTV recording will be

retained for a minimum of 28 days. The premises will ensure that a trained member of staff is available to operate the CCTV system at all times and download any images requested by Police or an authorised officer of the local authority and provided within 48 hours of a request being made.

Should you agree to this I will arrange this with the licensing authority.
I look forward to hearing from you.

Kelly

PCSO 6627 Hyde
Licensing Officer
Licensed Economy Team
Annand House
Meadowfield
Phone:
Phone:
<image001.png>

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Appendix 5: Representation

From: Info - Brandon and Byshottles Parish Council

Sent: 23 December 2021 14:02

To: Tracey Lock

Subject: FW: LICENSING ACT 200 3- APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - R & B CONVENIENCE STORE BROOM LANE USHAW MOOR DURHAM DH7 7LQ

Dear Tracey

With reference to your email (as below) regarding the variation of a premises licence. In Ushaw Moor.

Brandon and Byshottles Parish Council would like to object to the licence with regards to the following:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance

The Parish Council does not feel that alcohol sales from 5.30 am is appropriate. The business of the licensed premises are located whereby traffic and visitors border the route of nearby residents and businesses, consequently resulting in the above.

I trust the above will be taken into consideration.

Regards
Susan

Mrs Susan Howe
Clerk to the Council
Brandon & Byshottles Parish Council
Goatbeck Terrace
Langley Moor
Durham
DH7 8JJ

Appendix 6: Responses from Responsible Authorities



Chief Fire Officer: Stuart Errington

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

Date: 16 December 2021
This matter is being dealt with by: Julie Knox

Our Ref: 2E42150015
Your Ref: 496774

Direct Dial Telephone:
E-mail:

Dear Tracey,

Licensing Act 2003
Regulatory Reform (Fire Safety) Order 2005
R & B Convenience Store, Broom Lane, Ushaw Moor, Durham, DH7 7LQ

I acknowledge your application dated 15 December 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

From: Public Health <

Sent: 17 December 2021 12:49

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

Cc: Tracey Lock < ; AHS Licensing <Licensing@durham.gov.uk>

Subject: RE: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - R & B CONVENIENCE STORE BROOM LANE USHAW MOOR DH7 7LQ

Dear Colleagues

I have received an application to vary a licence for the establishment: R & B CONVENIENCE STORE BROOM LANE USHAW MOOR DH7 7LQ

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

My Ref: PH/2021/0137

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

From: Sarah Clement-Dawson

Sent: 21 December 2021 09:13

To: Tracey Lock

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

Subject: RE: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - R & B CONVENIENCE STORE BROOM LANE USHAW MOOR DH7 7LQ



MEMO

To: Mrs Tracey Lock
Licensing Services

From: Dr Sarah Clement-Dawson
Neighbourhoods and Climate Change

Date: 21 December 2021

Re: **Licensing Application - Variation
Premier - R & B Convenience Store, Broom Lane, Ushaw Moor, Durham,
DH7 7LQ**

With reference to the above licensing application received on 20 December 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 of the premises licence.

Sarah Clement-Dawson
Senior Contaminated Land Officer
Development Assessment Team
Community Protection Service
Neighbourhoods and Climate Change
Durham County Council
Annand House
Meadowfield
Durham
DH7 8RS

Direct: (Please note, the majority of the time I work remotely and therefore emailing is advised.)
Switchboard: 03000 260000
E-mail:

From: Licensed Economy Team

Sent: 30 December 2021 06:56

To: Tracey Lock

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

Subject: RE: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - R & B CONVENIENCE STORE BROOM LANE USHAW MOOR DH7 7LQ

Good morning,

Durham Constabulary have no objections to this application.

Thank you

Kind regards

Vikki Gill 8118

Durham Constabulary

Admin Clerical Officer

Licensing Economy Team

Annand House Meadowfield

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From: DSCP Secure <

Sent: 07 January 2022 16:25

To: Tracey Lock <

Subject: FW: LICENSING ACT 2003 - APPLICATIONS RECEIVED - VARIATION OF A PREMISES LICENCE - R & B CONVENIENCE STORE BROOM LANE USHAW MOOR DH7 7LQ

I have received an application to vary a licence for the establishment: R & B Convenience Store Broom Lane Ushaw Moor DH7 7LQ.

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

My Ref: SW/2021/119

Stephen Winship

Policy & Strategy Officer
Durham Safeguarding Children Partnership

Tel :
County Hall, Durham
DH1 5UJ



Durham Safeguarding Children Partnership (DSCP)

Keeping Children Safe

dscpsecure@durham.gov.uk

www.durham-scp.org.uk



Appendix 7: 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.

7.3 Prevention of Public Nuisance - Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping near the premises.

The concerns relate, amongst other things, to litter, light pollution, noxious odours and noise nuisance resulting from music, human voices, ventilation equipment and vehicles. The **council will expect** applicants to demonstrate that suitable and sufficient measures have been identified, and will be implemented and maintained, with the intention of preventing public nuisance relevant to the individual style, location and characteristics of the premises and events.

If an external structure or area is to be used by customers, whether for consumption of alcohol or for smoking, the **applicant will be expected** to offer measures designed to minimise its impact on residents in respect of both public nuisance and crime and disorder. These measures may include a restriction on hours that areas / structures will be used or appropriate signage requesting customers to consider residents and monitoring of such areas by staff.

The placement of tables and chairs outside of licensed premises may give rise to public nuisance including noise and litter. When tables and chairs are situated on the public highway, relevant authorisations will often be required from the Highways Authority. Enquiries concerning such consents should be made to the Council's Highway's Section (see Appendix III). In predominantly commercial areas, such as shopping centres, the use of tables and chairs outside may be allowed however, the **council will normally expect** them to be removed before the premises close, and any resulting litter/debris cleared away.

Applicants should consider reducing potential noise nuisance by, for example (this list is not exhaustive):

- Assessment of likely noise levels in the premises
- Assessment of likely noise levels if outdoor drinking is allowed
- The sound insulation the building would provide (e.g. double glazing, double doors / lobbies to entrances, windows used for ventilation)
- The distance and direction to the nearest noise sensitive premises.
- Likely noise sources outside of the premises (e.g. emptying bottle bins, taxis, unruly customers leaving the premises)
- Dispersal of patrons – where necessary the council will expect a dispersal policy for patrons at the end of the evening. The policy will specify such issues as alterations to the style and volume of music played, public address announcements and use of appropriate signage at exits
- Ways to limit noise / disorder from patrons leaving the premises

The extent to which the above matters will need to be addressed will be dependent on the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.

Applicants are advised to seek advice from Durham County Council's Environmental Health team and incorporate any recommendations in their operating schedule before submitting their applications.

Takeaways and fast-food outlets - The council expects takeaways and late-night refreshment premises to take reasonable steps in clearing litter from outside their premises and along the pavement in either direction as necessary, whilst the premises are open and at the end of the working day. These premises should maintain clean, dirt or grease free frontages. Such premises should also display notices advising customers of the location of bins and patrons should be encouraged to use the bins made available.

Important note: The council considers that it will be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises (“takeaway” premises).

Takeaway premises are often open late at night and in the early hours of the morning. They can be associated with disorder as people under the influence of alcohol may congregate outside takeaways after leaving or in some cases having been ejected from late-night licensed premises.

Takeaways operate within the night time economy but without the same framework around them, e.g. pubwatch, use of security staff etc. In addition, alcohol sold from takeaways could readily be consumed in public spaces and may not be subject to the same controls associated with other types of licensed premises.

From a health perspective, obesity levels are rising nationally and locally; without action the health of the population will continue to suffer. Responsible licensees can support the ‘Working toward a healthy weight in County Durham’ goals and the council would see the following steps as a contribution to reducing health harms and health inequalities:

- Menu to display calories per portion information for all food offers.
- Menu to offer at least one clear and stated, 'healthy option' and to be priced competitively.
- Menu to display recommended daily calorie limits for adults (For women the recommended limit is 2,000 calories a day for men it's 2,500).
- Menu to offer smaller / half portions.
- Salt and pepper available upon request rather than always on the table

In addition to the information provided above, **Table 3 in Appendix IV** provides recommendations, suggestions and examples of how to prevent the specific nuisance type outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

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

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

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

Appendix 8: 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 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.