

# Statutory Licensing Sub-Committee

16<sup>th</sup> December 2022

## Application for the Review of a Premises Licence



### Ordinary Decision

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## 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, Durham

#### Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application to review the premises licence in respect of The Woodman Inn, 23 Gilesgate, Gilesgate, Durham DH1 1QW.
- 2 A plan showing the location of the premises is attached at Appendix 2.

#### Executive summary

- 3 On 1<sup>st</sup> November 2022, an application was received from Mr Adam Shanley, Clerk to the City of Durham Parish Council (Other person) asking for a review of the premises licence (licence number LAPRE/07/0026) for The Woodman Inn, 23 Gilesgate, Gilesgate, Durham DH1 1QW.
- 4 During the consultation period the Licensing Authority received two representations in support of the review application from Mr Mark Anslow of Durham County Council's Environmental Health Department (Responsible Authority) and Ms J George of the St Nicholas Community Forum (Other person).
- 5 A response was received from the Council's Planning Department providing information only.
- 6 Durham Constabulary, the Home Office Immigration Enforcement Team and the Fire Safety Authority all responded to the consultation with no representations.

## Recommendation(s)

- 7 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 8 The Sub-Committee is recommended to give appropriate weight to:
- (a) The steps that are appropriate to promote the licensing objectives;
  - (b) The representations (including supporting information) presented by all parties;
  - (c) Durham County Council's Statement of Licensing Policy - Section 3.19 of the policy states that the licensing authority may reinstate or impose conditions about live music following a review of a premises licence or Club Premises Certificate (relating to premises authorised to supply alcohol for consumption on the premises) where it can be demonstrated that live music has undermined the promotion of the licensing objectives and such action is appropriate.  
  
Other relevant parts of the policy are attached at Appendix 8;
  - (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 9.

## Background

- 9 Background information

Applicant	<b>Mr Adam Shanley</b>	
Type of Application: <b>Review of a Premises Licence</b>	Date received: <b>1<sup>st</sup> November 2022</b>	Consultation ended: <b>29<sup>th</sup> November 2022</b>
Current Premises Licence Holder	<b>The Woodman Durham Limited</b>	
Current Designated Premises Supervisor	<b>Ms Claire Ann Cowie</b>	

- 10 The premises licence in respect of The Woodman Inn, 23 Gillesgate, Durham currently permits the following licensable activities:

<b>Licensable Activity</b>	<b>Days &amp; Hours</b>
Sale of Alcohol (on and off sales)	Monday to Thursday: 11:00 – 00:00 hrs Friday and Saturday: 11:00 – 01:00 hrs Sunday: 12:00 – 00:00 hrs. From 11:00 - 01:00 hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 hrs on New Years Eve until 01:00 hrs on 2nd January each year.
Live Music (indoors)	Monday to Saturday: 11:00 – 23:00 hrs Sunday: 12:00 – 23:00 hrs. From 11:00 - 01:00 hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 hrs on New Years Eve until 01:00 hrs on 2nd January each year.
Recorded Music (indoors)	Monday to Sunday: 11:00 – 23:00 hrs
Late Night Refreshment (indoors)	Monday to Saturday: 23:00 – 23:30 hrs From 23:00 hrs on New Years Eve until 05:00 hrs on New Years Day
Opening Hours	Monday to Thursday: 11:00 – 00:30 hrs Friday and Saturday: 11:00 – 01:30 hrs Sunday: 12:00 – 00:30 hrs. From 11:00 - 01:30 hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 hrs on New Years Eve until 01:30 hrs on 2nd January each year.

11 A copy of the premises licence is attached at Appendix 3.

## **Details of the application**

- 12 The review application submitted by Mr Adam Shanley was received on 1<sup>st</sup> November 2022.
- 13 The application is deemed by the Licensing Authority to be relevant, and the application was advertised in accordance with the regulations.
- 14 The application for review relates to the following licensing objective:
- The Prevention of Public Nuisance
- 15 A copy of the review application is attached at Appendix 4.

## **The Representations**

- 16 During the consultation period, the Licensing Authority received two representations in support of the review application from:
- Mr Mark Anslow of Durham County Council's Environmental Health Department (Responsible Authority)
  - Ms J George of the St Nicholas Community Forum (Other person)

Copies of the representations are attached at Appendix 5.

- 17 Durham County Council's Planning Department responded to the consultation providing information only. See Appendix 6.
- 18 Durham Constabulary, the Home Office Immigration Enforcement Team and the Fire Safety Authority all responded to the consultation with no representations.

Copies of these responses are attached at Appendix 7, for information only.

## **The Parties**

- 19 The Parties to the hearing will be:
- Mr Adam Shanley, Clerk to the City of Durham Parish Council (Applicant)
  - The Woodman Durham Limited (Premises Licence holder)
  - Mr Matthew Foster, Mincoffs Solicitors (Premises Licence holder's Solicitor)
  - Mr Mark Anslow, Nuisance Action Team Leader, Environmental Health (Responsible Authority)

- Ms J George, Honorary Secretary, St Nicholas Community Forum (Other person)

## **Options**

20 The options open to the Sub-Committee are:

- (a) To take no further action;
- (b) To modify or add conditions to the licence;

Under section 177A(4) of the Licensing Act 2002, a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if the premises licence licensed the music.

- (c) Exclude a licensable activity from the licence;
- (d) Remove the Designated Premises Supervisor;
- (e) Suspend the licence for a period (not exceeding three months);
- (f) Revoke the licence.

## **Main implications**

### *Legal Implications*

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

See Appendix 1.

### *Consultation*

22 The review application was subject to a 28 day consultation.

See Appendix 1

## **Conclusion**

23 The Sub-Committee is asked to determine the application for the review of the premises licence for The Woodman Inn, 23 Gilesgate, Gilesgate, Durham DH1 1QW.

## **Background papers**

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

- None

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**Contact:** Helen Johnson

Tel: 03000 265101

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## **Appendix 1: Implications**

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### **Legal Implications**

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

In this case it was summed up that:

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

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

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

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

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

### **Consultation**

The premises licence review 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 displayed at the Council's Head Office at County Hall, Durham.

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

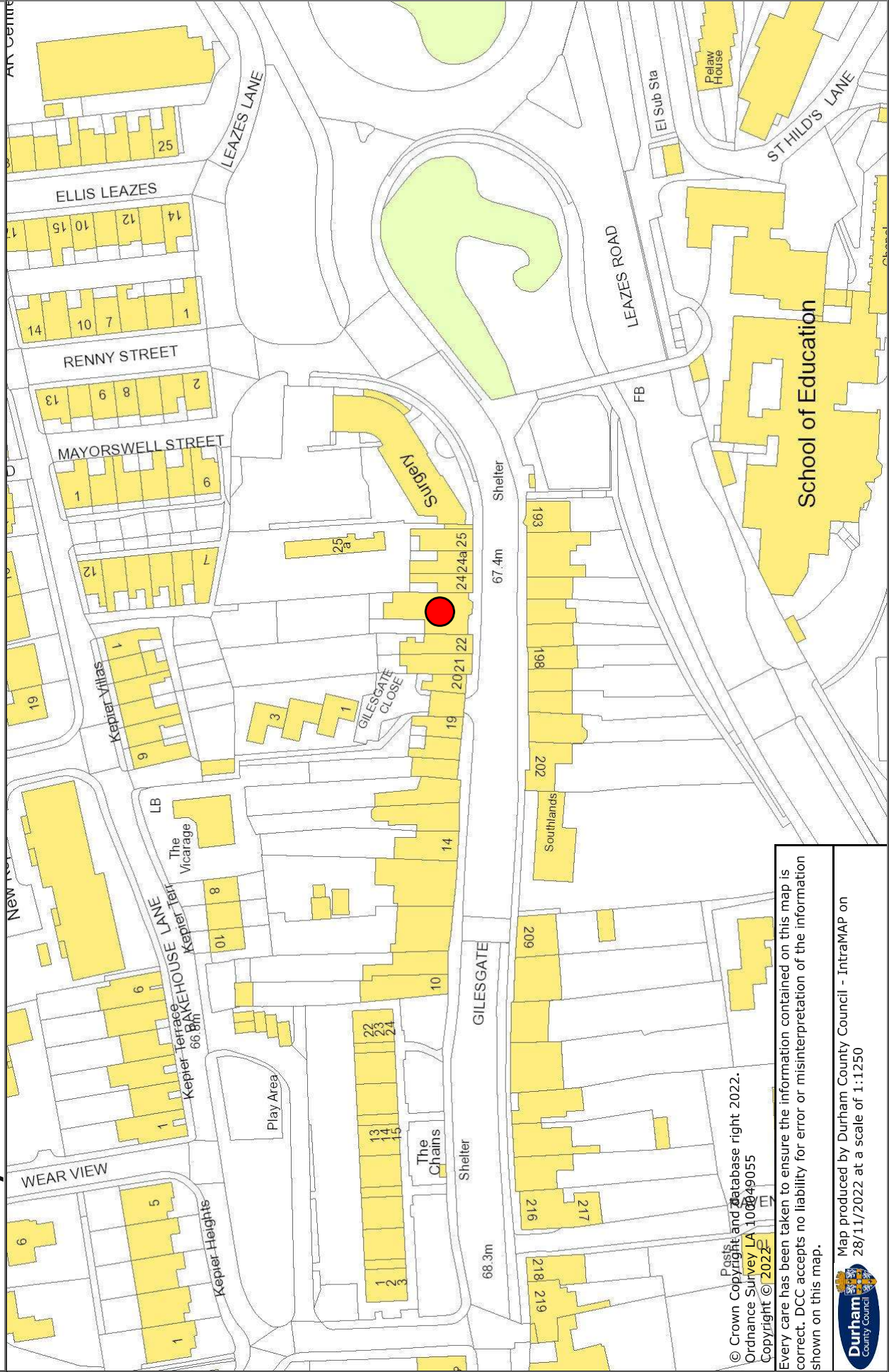
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## Appendix 2: Location Plan

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# Durham County Council - IntraMAP



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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 28/11/2022 at a scale of 1:1250

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## **Appendix 3: Premises Licence**

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## LICENSING ACT 2003 PREMISES LICENCE

**Premises Licence Number**  
**Granted**  
**Issued**

<b>LAPRE/07/0026</b>
<b>24 November 2005</b>
<b>17 May 2022</b>

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<p><b>WOODMAN INN</b>            23 GILESGATE            GILESGATE            DURHAM            DH1 1QW</p>	<p>DURHAM COUNTY COUNCIL            NEIGHBOURHOODS AND CLIMATE CHANGE            COMMUNITY PROTECTION            LICENSING SERVICES            PO BOX 617            DURHAM            DH1 9HZ</p>
<p><b>Telephone number:</b></p>	

<p><b>Where the licence is time limited the dates</b>            N/A</p>
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<p><b>Licensable activities authorised by this licence</b>            Live Music            Recorded Music            Facilities for Making Music            Facilities for Dancing            Late Night Refreshment            Sale by retail of alcohol</p>
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<b>Opening Hours of the Premises</b>		
Mon Tue Wed Thu Fri Sat Sun	11:00-00:30 11:00-00:30 11:00-00:30 11:00-00:30 11:00-01:30 11:00-01:30 12:00-00:30	<p><b>Non-standard/seasonal timings</b>            From 11:00 - 01:30hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter.            From 11:00 on New Years Eve until 01:30 on 2nd January each year.</p>

<p><b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:</b>            ON AND OFF ALCOHOL SALES</p>
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**The times the licence authorises the carrying out of licensable activities (all in 24hr format)**

<p><b>Live Music Indoors</b></p> <p>Mon 11:00-23:00          Tue 11:00-23:00          Wed 11:00-23:00          Thu 11:00-23:00          Fri 11:00-23:00          Sat 11:00-23:00          Sun 12:00-23:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          From 11:00 - 01:00hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter.          From 11:00 on New Years Eve until 01:00 on 2nd January each year.</p>
<p><b>Recorded Music Indoors</b></p> <p>Mon 11:00-23:00          Tue 11:00-23:00          Wed 11:00-23:00          Thu 11:00-23:00          Fri 11:00-23:00          Sat 11:00-23:00          Sun 11:00-23:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b></p>
<p><b>Facilities for Making Music Indoors</b></p> <p>Mon 11:00-00:00          Tue 11:00-00:00          Wed 11:00-00:00          Thu 11:00-00:00          Fri 11:00-01:00          Sat 11:00-01:00          Sun 12:00-00:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          From 11:00 - 01:00hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter.          From 11:00 on New Years Eve until 01:00 on 2nd January each year.</p>
<p><b>Facilities for Dancing Indoors</b></p> <p>Mon 11:00-00:00          Tue 11:00-00:00          Wed 11:00-00:00          Thu 11:00-00:00          Fri 11:00-01:00          Sat 11:00-01:00          Sun 12:00-00:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          From 11:00 - 01:00hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter.          From 11:00 on New Years Eve until 01:00 on 2nd January each year.</p>
<p><b>Late Night Refreshment Indoors</b></p> <p>Mon 23:00-23:30          Tue 23:00-23:30          Wed 23:00-23:30          Thu 23:00-23:30          Fri 23:00-23:30          Sat 23:00-23:30</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          New Years Eve 23:00 - 05:00</p>

<b>Sale by retail of alcohol</b>	<b>Further details</b>
Mon 11:00-00:00	<b>Non-standard/seasonal timings</b> From 11:00 - 01:00hrs on Christmas Eve, Boxing Day, Good Friday and any Sunday or Monday forming part of a Bank Holiday/Public Holiday weekend including Easter. From 11:00 on New Years Eve until 01:00 on 2nd January each year.
Tue 11:00-00:00	
Wed 11:00-00:00	
Thu 11:00-00:00	
Fri 11:00-01:00	
Sat 11:00-01:00	
Sun 12:00-00:00	

Part 2

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
THE WOODMAN DURHAM LIMITED 23 GILESGATE DURHAM DH1 1QW	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	11423356
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
MS C A COWIE

<b>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</b>

**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.

## **Annex 2 – Conditions consistent with the premises Operating Schedule**

### **General**

None

### **Prevention of Crime & Disorder**

No irresponsible sales promotion of alcoholic beverages shall be offered to customers.

No customers carrying open or sealed bottles shall be admitted to the premises at any time the premises are open to the public.

A sign will be displayed on the premises indicating the standard hours during which the sale of alcohol is permitted.

### **Public Safety**

All fire doors will be maintained effectively self closing and shall not be held open other than by approved devices.

Notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade shall be summoned, are to be prominently displayed.

### **Prevention of Public Nuisance**

No regulated entertainment of any type shall take place outside the premises in any areas which are within the licence holders control after 22:00hrs save for any seven days notice of which has been given to the licensing authority and the police.

When amplified musical entertainment is taking place inside the premises after 22:00hrs windows and doors, save for entrance and exit purposes, will be kept shut.

A sign will be located at the exit(s) requesting that customers leaving the premises do so quietly and with consideration to neighbours.

Doors and windows to be kept closed whenever entertainment is taking place.

If complaints of noise nuisance are received and are substantiated a noise limiting device to be installed and used when entertainment is taking place. It would also be necessary to have double glazing installed to prevent noise breakout.

**Protection of Children from Harm**

No one under the age of 16 will be allowed to enter or remain on the premises after 22:00hrs save on Christmas Eve and New Year's Eve.

Anyone who appears to be under the age of 18 and who is attempting to buy alcohol must be required to produce proof of age before such a sale is made.

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

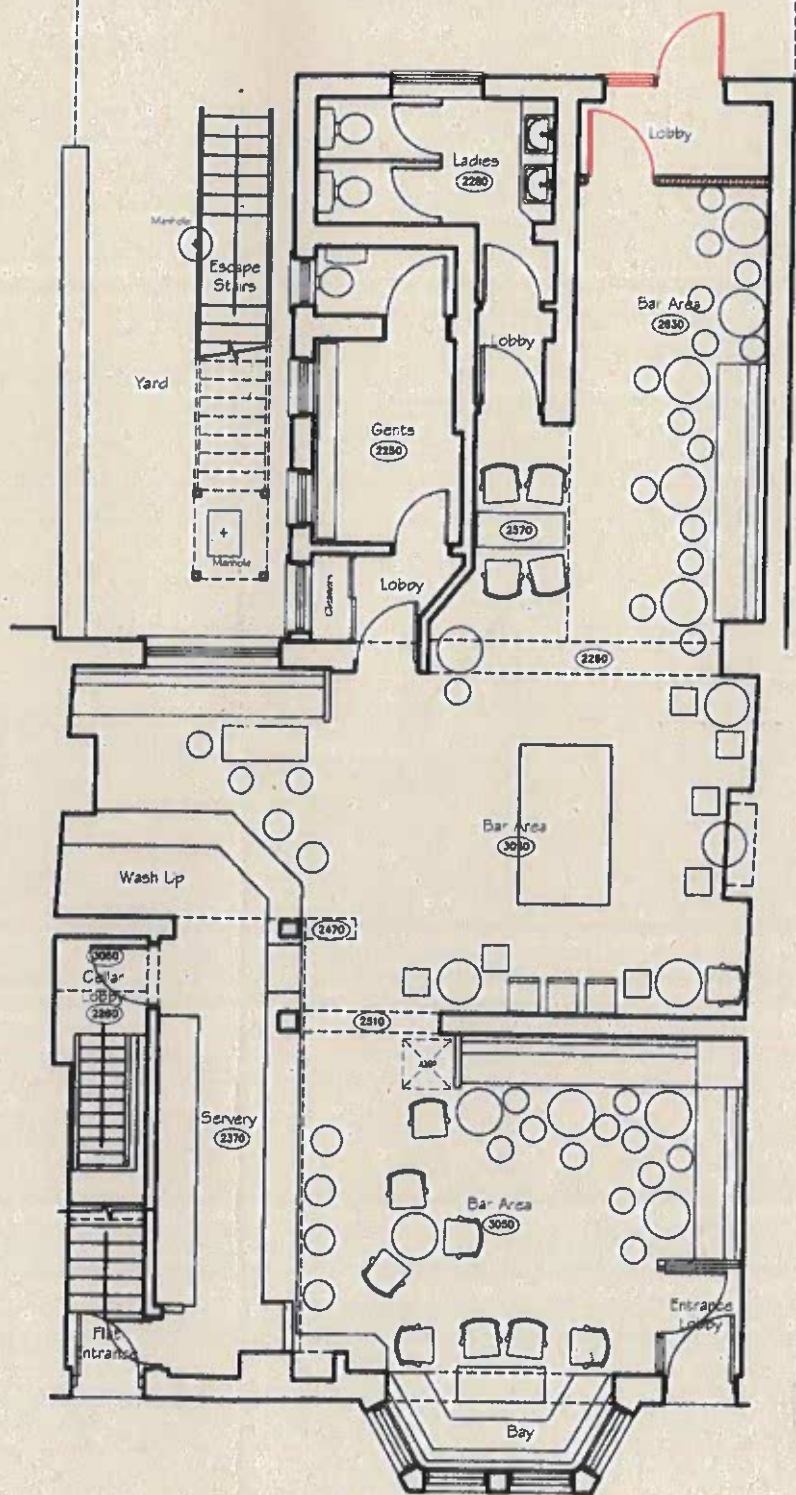
None

**Annex 4 – Plans attached**

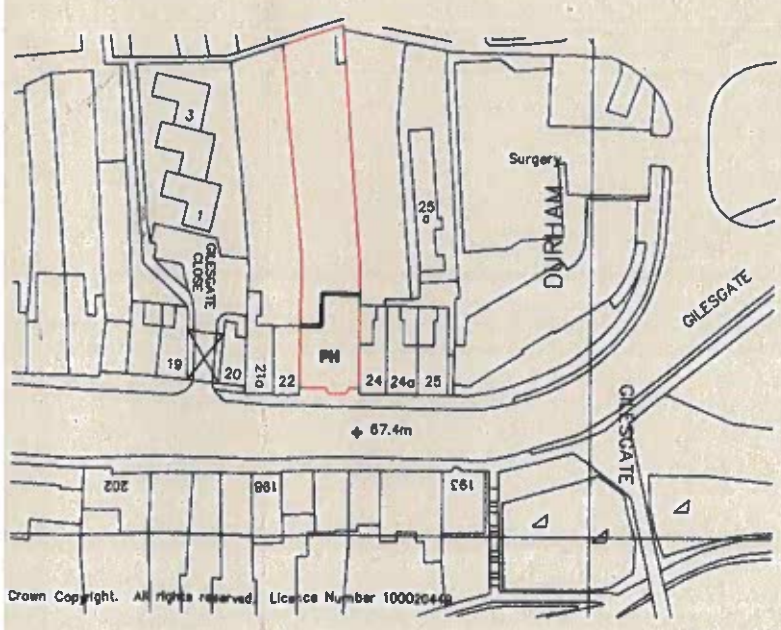
Attached

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





**GROUND FLOOR AS PROPOSED**



Crown Copyright. All rights reserved. Licence Number 100020449

# LOCATION PLAN

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## **Appendix 4: Review application**

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

Application for the review of a premises licence or club premises certificate 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 Adam Shanley, on behalf of the City of Durham Parish Council

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the  
premises described in Part 1 below

### Part 1 – Premises or club premises details

**Postal address of premises or, if none, ordnance survey map reference or description**

The Woodman Inn pub  
23 Gilesgate  
Durham

**Post town** Durham

**Post code (if known)** DH1 1QW

**Name of premises licence holder or club holding club premises certificate (if known)**

Not known

**Number of premises licence or club premises certificate (if known)**

Not known

### Part 2 - Applicant details

I am

Please tick ✓ yes  
✓

1) an individual, body or business which is not a responsible  
authority (please read guidance note 1, and complete (A)  
or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates  
(please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Please tick ✓ yes

Mr ✓ Mrs  Miss  Ms  Other title  
(for example, Rev)

**Surname**

Shanley

**First names**

Adam

**I am 18 years old or over**

Please tick ✓ yes  
✓

**Current postal  
address if  
different from  
premises  
address**

City of Durham Parish Council  
Office 3 D4.01d  
Clayport Library  
8 Millennium Pl

**Post town**

Durham

**Post Code**

DH1 1WA

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address

N/A

Telephone number (if any)

N/A

E-mail address (optional)

N/A

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address N/A
Telephone number (if any) N/A
E-mail address (optional) N/A

**This application to review relates to the following licensing objective(s)**

- Please tick one or more boxes ✓
- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input type="checkbox"/>            |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/>            |

**Please state the ground(s) for review** (please read guidance note 2)

The City of Durham Parish Council hereby formally requests a review of this premises license, under Section 51 of the Licensing Act 2003.

Since re-opening earlier this year, this premises has failed to promote the licensing objective of preventing a public nuisance to nearby local residents.

A marquee has been erected to the rear of this premises – without appropriate planning consent – and is being used for events. Music is played from this premises at an excessive level and the Parish Council and County Council have received a number of statutory noise nuisance complaints.

Conditions on the license include the following:

**Prevention of Public Nuisance**

*No regulated entertainment of any type shall take place outside the premises in any areas which are within the licence holders' control after 22:00hrs save for any seven days' notice of which has been given to the licensing authority and the police.*

*When amplified musical entertainment is taking place inside the premises after 22:00hrs windows and doors, save for entrance and exit purposes, will be kept shut.*

*A sign will be located at the exit(s) requesting that customers leaving the premises do so quietly and with consideration to neighbours.*

*Doors and windows to be kept closed whenever entertainment is taking place.*

*If complaints of noise nuisance are received and are substantiated a noise limiting device to be installed and used when entertainment is taking place. It would also be necessary to have double glazing installed to prevent noise breakout.*

On 10<sup>th</sup> October 2022, we were advised that:

*The Live Music Act deregulated live music in circumstances such as these before 11pm so from a Licensing perspective there are currently no conditions or restrictions relating to live or recorded music before 11pm on the Premises Licence for the Woodman Inn. This does not mean that the disturbance experienced cannot be addressed, noise disturbances can be dealt with via noise legislation. In addition if it's possible to demonstrate that one of the Licensing objectives is being undermined, in this case the prevention of public nuisance, then it is possible for a review of the licence to be submitted.*

Since then, there have been a number of complaints via the Council's website and directly to officers. Enforcement officers visited the site last week (w/c 24<sup>th</sup> October 2022) and were given assurances by the premises that this issue would be resolved. However, this weekend (29<sup>th</sup> and 30<sup>th</sup> October 2022) has seen a number of disturbances take place due to excessive noise from this premises. The following video was posted to Facebook and this illustrates the point:

Officers have attempted to resolve this matter informally with the licensee but to no avail seemingly. It is clear that this premises is causing a real issue for local residents and a review must be undertaken in order to address the noise disturbances to residents.

**Please provide as much information as possible to support the application** (please read guidance note 3)

This premises is not promoting the important licensing objective of preventing a public nuisance. The Community Trigger process has also been commenced in relation to this premises.



**Please tick ✓ yes**

Have you made an application for review relating to the premises before

**No**

If yes please state the date of that application

Day    Month    Year

--	--	--	--	--	--	--	--

**If you have made representations before relating to the premises please state what they were and when you made them**

N/A

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate ✓
- 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 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date **31/10/2022**

.....

Capacity **Clerk to the City of Durham Parish Council**

.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6) Adam Shanley, on behalf of the City of Durham Parish Council City of Durham Parish Council Office 3 D4.01d Clayport Library 8 Millennium Pl	
<b>Post town</b> Durham	<b>Post Code</b> DH1 1WA
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

## **Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

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## **Appendix 5: Representations**

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**From:** Mark Anslow <  
**Sent:** 14 November 2022 12:37  
**To:** AHS Licensing <  
**Subject:** The Woodman Inn, 23 Gilegate, Durham, response to review



# MEMO

**To:** Ms Yvonne Raine  
Licensing Services

**From:** Mr Mark Anslow  
Neighbourhoods and Climate Change

**Date:** 14 November 2022

**Re:** **Licensing Review application**  
**The Woodman Inn, 23 Gilegate Gilesgate Durham DH1 1QW**

With reference to the above licensing review application received on 3 November 2022.

I would provide below a precis of our involvement to date to inform the committee:

- A complaint was received on the 8/10/22 concerning “extremely” loud music from karaoke arising from the marquee serving the Woodman Inn. The client provide a video recording of loud karaoke within her garden taken at 22.10. The music/singing was loud with the song clearly audible meatloaf “bat out of Hell”. Following by shouting and screaming from audience members.
- We received further contact from the Parish Council and the Secretary for the St Nicholas Community Forum, advising that they had also been approached by members of the community in relation to the noise arising.
- An initial email was sent to the Woodman on the 12/10/22 advising of the complaint and requesting a meeting to discuss
- A further complaint was received on the 17/10/22 advising that loud music/singing was arising from the venue on the night of the 15/10/22. A video recording was also provided taken at 21.24pm which again clearly demonstrates loud music where the song is clearly identifiable Amy Winehouse “Back to black”.
- An email response was received from the Woodman on the 19/10/22 agreeing to a meeting on the 27/10/22

- A meeting was held on the 27/10/22 at the venue with myself, licensing enforcement and planning enforcement on behalf of DCC and G McCarroll, D McCarroll and C Cowie from the Woodman. We viewed the marquee and discussed its use and the nature of complaints. I advised that based on the recordings, location of marquee and residential properties that any loud noise arising was likely to be intrusive to surrounding residents. Mr McCarroll accepted this and agreed not to have any further “loud noise events” in the marquee. However we discussed that there was a children’s Halloween party and another event proposed. The Halloween event was during the day on the following Sunday and the date of the unidentified event was not given but that it wouldn’t have music associated with it as was a social gathering rather than disco etc. I agreed that it was reasonable to allow these booked events to go ahead as it was at too late a point to cancel. In addition we discussed using the marquee for football associated events during England Matches during the world cup. It was agreed that this was acceptable assuming it was managed and only associated with the football events. This meeting was generally positive with the directors accepting the concerns raised and agreeing to relevant mitigation.
- An update was sent to relevant parties following the meeting advising of the agreement made and that there was an agreed children’s Halloween party and the events for the world cup.
- Further complaints were received on the 31<sup>st</sup> in relation to a loud party on Saturday and the children’s party on the Sunday. The Saturday party was an adults Halloween party that I was not aware of following my visit. The venue put videos (since removed) of the Saturday even on their website, which demonstrated significant noise arising from music.
- I contacted the Woodman on the 31<sup>st</sup> to clarify that I was not made aware of the Saturday event and to check if further events were proposed. A response was received on the 4<sup>th</sup> confirming there was no intention to have further noisy events.
- On the 9/11/22 I was advised of a further concern raised from a nearby resident relating to noise impact from voices from persons using the marquee/beer garden area.

It is clear from complaints, evidence supplied and my professional opinion, that use of the marquee for events such as karaoke and discos is likely to lead to a significant impact on residents and is clearly contrary to the public nuisance licensing objective.

Action was agreed to mitigate the impact at the above meeting demonstrating the compliance of the operators. However they were made aware of the noise complaints on the 8<sup>th</sup> following contact from residents and again by ourselves on the 12<sup>th</sup> and further loud noise events were allowed to continue. It was foreseeable by the licence holder that having high noise events in a marquee in such proximity to residential properties would lead to a negative impact and does show a general lack of consideration of the impact on nearby residents.

I would therefore confirm that I support the representation made in relation to the impact on the public nuisance licensing objective. I do consider that appropriate conditions are necessary to safeguard the potential future impact associated with use of the beer garden/marquee. As the relevant responsible authority in relation to the public nuisance licensing objective we would be happy to work with the applicant and the licence holder to discuss relevant potential conditions prior to the hearing. We will also attend the hearing to provide any clarification to the committee as required.

regards

**Mark Anslow**  
**Nuisance Action Team Leader**  
Community Protection  
Neighbourhoods and Climate Change  
Durham County Council  
Annand House  
Meadowfield  
Durham  
DH7 8RS

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**From:** J George <  
**Sent:** 23 November 2022 19:23  
**To:** AHS Licensing  
**Cc:** Adam Parish Clerk Shanley <

**Subject:** [EXTERNAL]:SNCF report, Woodman Inn, Lower Gilesgate

Dear Licensing Team

Please find attached a report from St Nicholas Community Forum regarding the Woodman Inn, Lower Gilesgate. I also have two video clips posted on social media showing activity in the rear garden/marquee should you wish them.

Kind regards, J



---

Honorary Secretary: J George Email:

Ms Yvonne Raine  
Licensing Services

**Re: Licensing Review application The Woodman Inn, 23 Gilesgate, Gilesgate Durham DH1 1QW**

19th November 2022

Dear Ms Raine

The St Nicholas Community Forum is a voluntary grouping of residents of the St Nicholas Ward of Durham City, covering The Peninsula, much of the town centre including the Market Place, Millenium Place and Walkergate, Claypath, Lower Gilesgate and the streets off, and the housing estates on the Sands.

The aims and objects of SNCF are essentially to promote community awareness and quality of life in our area. SNCF is an active Resident Group. We meet regularly, have dialogue as appropriate and contributions from, around 75 members local to the area. We contribute to and engage with the relevant stakeholders in Durham City. I am secretary of SNCF and the point of contact from those who do have my details.

### Background

From January 2020, some local residents established a working group with the intention of raising funds to purchase the Woodman Inn for community ownership. In 2019, the City of Durham Parish Council had previously registered the Woodman Inn as an Asset of Community Value. Residents understood that the previous ways that the Woodman Inn had been run were commercially unsuccessful, and for it to be open there would have to be new and different ways it attracts customers. Appendix 1 \* notes the varied strategies the group discussed to keep the premises financially viable and also to be a place of value to all residents, young and old.

Unfortunately, hampered by the pandemic, the residents were not able to achieve their aim within the time limit. We were therefore very pleased to discover in 2022 that the Woodman Inn was to reopen and visited on the 27.4.22 to offer our congratulations. SNCF had shared some of the suggestions made by the former Woodman Inn steering group.

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We have always had good past relationships with the Woodman Inn, previous landlords had initiated engagement with SNCF and worked cooperatively regarding local objectives. There were never any concerns raised or disruption experienced by those who lived nearby.

From August 2022, the rear garden seems to have been formally used for arranged entertainment, rather than occasional sitting outside in good weather. That outside use, outdoor garden TV and advertised entertainments in a thin walled marquee covering the length of the rear garden, has resulted in issues of excessive noise disturbance to residents living to the rear and the side of the garden.

The second concern to those residents has been that the volume of noise when it has occurred, has not been reduced by the Woodman Inn following resident requests to do so at the time.

#### Timeline of concerns.

12.8.22 Very loud evening music from the Woodman Inn, two separate households contact me during the evening, and the noise can be heard at my house as well. I live three streets away. I walked up the road about 10.15pm to check the source of the noise and confirm it was the Woodman Inn. Some residents submit noise complaints to Durham County Council as per the protocols agreed between the Police, Council, Parish Council and University. There has been much work regarding anti-social behaviour in Durham City for some considerable time and so residents are well versed in the requirement to report. All the Agencies stress to us the need to report formally to 101/ or follow the processes agreed and published in the "What to do if" leaflet delivered to every household in the Parish this Autumn. The question "has this been reported" is usually the first asked of residents whenever a concern is raised.

13.8.22 I e mail Landlady G B noting the loudness of the music and the upset to residents reported to me, confirmation that I too heard the music and requesting that the music is less loud in future.

16.8.22 Reply from G B saying she will keep a check on the volume. However, there has been no reduction in subsequent volumes on the following dates.

8.10.22 I have complaints from two different houses that the noise level coming from karaoke in an outside marquee (the length of the garden) is unacceptably loud. I telephoned and spoke to J behind the bar (who stated they are allowed music until 1am) then C (manager, who says it will go on until 10.30pm). C tells me they had been visited by Licensing yesterday who said they could proceed. I'm told that G and

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D (landlords) who lease the pub are outside in the noisy marquee at the time of my call. I tried to explain that the noise is too loud and ask if it can be reduced to acceptable levels. The noise was such that it was difficult conducting a phone conversation. I was told it was unlikely the volume would be turned down. Another resident who telephoned was told they *"had a business to run"*. Noise ends at 10.40pm. I was informed by a resident that at least three other people had gone to the Woodman Inn and complained about the noise.

8.10.22 A resident telephoned 101 but was informed that Police would not attend before 11pm.

8.10.22 I e mail Landlady G B re the noise, no response.

15.10.22 I have complaints from residents about the loudness of the singing/music coming from the Woodman Inn. It is from the marquee and described by a resident as *"deafening"*. It is so loud it is heard inside the houses of residents. I can also hear it clearly enough to identify (e.g an Abba song being played around 10.35pm).

Part of an e mail to me from a resident *"Just to let you know the Woodman have got live music again tonight and we can hear it INSIDE the house. It's awful... It's in the marquee - we went up to make sure but it's deafening"*.

The Noise Action Team, Licensing Team and the Planning Team, plus the City of Durham Parish Council have been involved and responded to submitted complaints (to them and copied to me), and have talked to the Woodman Inn, visiting 27.10.22.

29.10.22 Extremely loud noise from the Woodman Inn, ending a little after 11pm. I have complaints from some residents and can hear it in my house, a distance away. One resident tries to telephone to ask for noise reduction and is unable to get through by phone. A video of a noisy crowd in the marquee at the Halloween party was posted on social media.

Part of an e mail to me from a resident *"I couldn't hear the TV over it - it's louder than ever, and I notice you can't ring them - the phone number's not working"*.

30.11.22 Part of an e mail from a resident and copied to me *"I think the childrens party at the Woodman must be today as there is loud music coming from the marquee. I have no problem with the occasional event but I think the music is exceptionally loud and unnecessary on a Sunday afternoon"*.

30.10.22 Extremely loud music from the Woodman Inn. I have complaints from residents, and I'm informed that local students are also unhappy with the noise.

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Part of an e mail copied to me, sent to Noise Action Team.

*“the noise from the Woodman Inn marquee was unacceptably loud... At 9.30 pm most of our street were outside their homes complaining about the noise, and this did include students... I hope the Woodman Inn considers future events and the distress it is causing members of the local community by holding them inside the pub and regulating the noise level”.*

31.11.22 Part of an e mail copied to me described the Halloween weekend as *“horrendous noise level coming from events held in the marquee in the garden of the Woodman Inn”.*

4.11.22 G B writes to the Noise Action Team, the Parish Council and myself. The letter states *“we will continue to work with you on this, despite the fact we have no knowledge of who this minority may be. Perhaps if they had approached us directly, we could have addressed the matter there and then... Regardless of the above, we will ensure that noise is kept to an absolute minimum for this minority of people whilst continuing to provide our community with a social hub for this area”.*

4.11.22 I asked for comment from a resident regarding issues raised in this letter and they replied *“We did contact her direct. Then they made it impossible to do so by blocking the phones. We’re not trying to close them down, we’re just asking for some consideration and to stop them running a virtual nightclub on our doorstep”.* I had also contacted the Woodman Inn, by email on the 13.8.22 and the 8.10.22 and by telephone on the 8.10.22. The facts of that resident's experience and that G B did reply to my email, and that J (staff) and C the manager spoke with me in the telephone call contradict the suggestion that no-one had approached The Woodman Inn directly.

5.11.22 My letter of response to G B included the following *“You'll be aware that there has long been initiatives to reduce noise in residential streets in Durham and protocols have been agreed with the Council, Police, University, Parish Council and Residents Associations. Every household has been leafleted with advice on what to do if there is a problem and they are asked to report it. The Police and Crime Commissioner has made anti-social behaviour one of her main priorities and all organisations are working together now in Durham. The fact that the Council have been in touch promptly with you will be as a result of all this work coming together not because of any vendetta, of which there is not. It may be that a higher level of noise is tolerated in the City centre but there is a big drive to quieten streets that ordinary people live in.*

*I e mailed you on the 13th August and on the 8<sup>th</sup> October about the noise, and that some neighbouring residents had complained to me. I telephoned on the 8<sup>th</sup> October and spoke to two of your staff, but they told me the Woodman Inn is a business and music was allowed,*

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*so we had no reduction in volume. On the Halloween weekend, the telephone didn't appear to take calls.*

*Mr Mark Anslow has responded to reports sent to him and he told us that he visited you before the weekend of the 29<sup>th</sup> October discos, so it was disappointing that the Halloween weekend was again very loud, certainly as loud as previous times. I think there was a hope that the volume of noise would be reduced.*

*I have asked everyone who has been in touch with me if there was the same problem when previous landlords managed the pub and they have all said no. I wonder if a good part of the reason this has now changed is because of the use of the rear garden of the Woodman Inn. Landlords such as the Q's, had music but contained it inside the building and no one ever contacted me to complain.*

*I hope this explains the situation a little more to you and I'm sorry you feel you are the target of something, that is just not true at all. The top and bottom of the problem is that people living behind and beside the Woodman feel the level of noise that comes from it at times is too much. Some of your neighbours are as upset as you are, but I hope this can be resolved, and Mark and his colleagues will I expect be working hard on this. All that residents are asking is for things to be quieter."*

I have spoken with some residents from four different streets, all behind or alongside the Woodman Inn rear garden and they have confirmed to me verbally that they have found the noise very loud when there has been entertainments outside. Residents on the opposite side of the road to the Woodman Inn do not have a problem with noise.

5.11.22 A resident on the same side of the street as the Woodman Inn told me that family members sleeping in the rear bedrooms could hear the words of the conversations people were having in the outdoors rear of the Woodman Inn. The resident also reported turning off their doorbell the nights when there has been entertainment advertised there, as it has been rung. They are sure it was not by students and they reported that they have never had problems in the past, just when the Woodman Inn began evening party/music nights.

The concern from residents to SNCF is the level of noise from the rear garden. We are a residential neighbourhood with a mix of permanent people (some with young children), working people and those who are retired. The students who live in our local streets are quiet (we have had a prolonged Ssh campaign) and some students have spoken to me and explained they chose to live in this part of the City because it is much quieter. While loud

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noise until 11pm might be the norm in the City centre, the Woodman Inn is situated among residential houses.

Following discussion at the monthly SNCF meeting 8.11.22, we would like to repeat how pleased residents are to see the Woodman Inn open again and we wish it well.

Our prime wish is that there is no noise disturbance to neighbours. Past experience has been that when entertainment is within the building residents are not disturbed. The noise levels described above have been so loud they have been a Public Nuisance. We are concerned that entertainments in the garden generate a lot of noise, both from music played and people gathering outside to talk and drink. We request that future entertainment happens in ways that do not cause nuisance to those living beside and behind the building.

We also hope that the Woodman Inn does understand that their neighbours behind them are genuinely upset, and that the noise has been so loud that they haven't been able to enjoy peaceful evenings in their own homes.

We would like to ask for a mechanism by which residents can contact someone at the time if noise is unacceptably loud, and who would respond appropriately at that time. We have been told by 101 staff that Police would not attend any noise complaints before 11.00pm and we are very aware that the Police are very busy elsewhere. We know that Durham County Council Noise Officers are not available out of office hours and that the University Community Response Team only deals with student issues.

We would like to thank everyone for their prompt and helpful response and hope very much we can live in harmony together in future.

Yours sincerely

J George  
Secretary SNCF

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Appendix 1

1. September 2019, SNCF letter to the City of Durham Parish Council.

*“We envisage that the Woodman could become a community hub. The space in the Woodman could be available for all sorts of imaginative community initiatives such as craftwork, a whole range of classes, a parent and baby safe place, a place for meetings of residents, formal groups and clubs, a space for dancing and exercise and gardening to name a few. It is suitable for those with mobility problems as it has ground floor easy access and downstairs toilets. There is a large and beautiful garden to sit in, some of which could become a place for vegetable, herb and fruit growing and for therapeutic gardening. There are upstairs rooms for those able to manage stairs. With thought and support the local community could make very good use of the Woodman Inn and it would be a really valuable asset for us all.”*

2. In 28.1.20 The Parish Clerk and SNCF talked to a Durham County Council Officer re Community Led Housing, exploring the feasibility of creating affordable housing upstairs. *“We discovered that one route would be to have a pub/community hub downstairs but living accommodation upstairs which we make affordable and/or over 55's. There was then, funding that would pay 65% of the whole cost of purchase and renovation of the living space (i.e. upstairs), a possible strategy to guarantee a monthly income”.*

3. Our local medical practice Claypath Surgery employs two Social Prescribers, tasked with engaging patients with appropriate activities to enhance their health and wellbeing. SNCF currently holds a free monthly coffee morning for all to come to for chat and a hot drink at Claypath Delicatessen. It is hoped to have a place for patients to meet for community activities, and the Woodman Inn is very near by. SNCF understands that Claypath Medical Practice will accept a significant increase in patient numbers once new housing is constructed beyond Sherburn Road. The Practice is also responsible for Durham University students, who number over 22,000 in 2021/2 and these factors could require expansion of their current facilities, a strategy the Woodman Inn might be able to explore.

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## **Appendix 6: Response from the Planning Department**

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Contact: Jess White  
Direct Tel:  
email:  
Your ref:  
Our ref: CON28/22/03121



Yvonne Raine

25th November 2022

Dear Yvonne Raine

Town and Country Planning Act 1990 (as amended)

Proposed Application for the review of a premises licence  
At Woodmand Inn 23 Gillesgate Durham DH1 1QW  
For Yvonne Raine

A consultation has been forwarded on to the Local Planning Authority regarding the Application for the review of a premises licence.

We have been made aware of a structure that has been erected within the curtilage of this site, which has resulted in noise and nuisance complaints. The issue is currently being dealt with by Enforcement Officers.

Yours sincerely

Jess White  
Assistant Planning Officer

**Regeneration, Economy and Growth**

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

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## **Appendix 7: Responses from Responsible Authorities**

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**From:** Iain Robertson

**Sent:** 04 November 2022 09:21

**To:** Yvonne Raine

**Subject:** [EXTERNAL]:FW: Licensing Act 2003 - Review application - The Woodman Inn, 23 Gilesgate, Gilesgate, Durham DH1 1QW

**Importance:** High

Hi Yvonne

Many thanks for the attached correspondence relating to a review of The Woodman Inn premises licence. Having interrogated our systems I wish to state that Durham Constabulary have no comments to make as a responsible authority.

Many thanks

A/Sgt Iain Robertson

Licensed Economy Team

Durham Constabulary

**From:** ISD Alcohol Licensing  
**Sent:** 08 November 2022 11:20  
**To:**

**Subject:** [EXTERNAL]:RE: Application for a review of a premises license - The Woodman Inn pub

Good morning to you.

Having searched our databases, we can find no record of any immigration offences in relation to the above premises, therefore Immigration Enforcement will not be making any representations at this time

Kindest regards,

Liz Bonini  
Alcohol and LNR Licensing Team  
Data & Sanctions Team (DAST)  
Interventions Sanctions and Compliance (ISC)  
Immigration Enforcement  
15th Floor Lunar House, Croydon



Chief Fire Officer: Stuart Errington

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

Date: 14 November 2022

This matter is being dealt with by: Amy Davison

Ext:

Our Ref: 7A41000120

Your Ref:

Direct Dial Telephone:

E-mail:

Dear Yvonne

**Licensing Act 2003**

**Regulatory Reform (Fire Safety) Order 2005**

**Admiral Taverns Ltd, Woodman Inn, 23 Gilesgate, Durham, DH1 1QW**

I acknowledge your application dated Tuesday 1 November 2022 for a Review of 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.

A suitable and sufficient fire safety risk assessment must be carried out in order to comply with the above Order.

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

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

Yours faithfully

Amy Davison  
Fire Safety Section

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## **Appendix 8: Statement of Licensing Policy**

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**3.10 Review of a premises licence or club premises certificate** - At any stage during the life of an authorisation, any premises that has a premises licence or club premises certificate may have that licence reviewed by any of the named responsible authorities or by a person defined in the Act as 'any other person' e.g. residents, councilors, MPs etc. At any time following the grant of a licence or Club Premises Certificate, any person or responsible authority may apply for a review of it.

The Police may also submit a summary review if there is a premises associated with serious crime and disorder. When the council instigates a review, it will ensure that there is a clear separation of functions between the officer acting as the licensing authority and the officer acting as a responsible authority.

Applications for review must relate to one or more of the licensing objectives and must not (where the review is submitted by any person who is not a responsible authority) be considered as frivolous, vexatious or repetitious by the licensing authority. Where an application for a review is frivolous vexatious or repetitious, or where an application for a review is considered not relevant to the licensing objectives, the council will reject it.

The council expects responsible authorities and other parties to give early notice to licence holders of any concerns about issues identified at premises and of the need for improvement. It is expected that requests for a review of any licence will be sought only if such notice has failed to resolve the matter or problem. It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues;
- Asking DCC Licensing Services to talk to those who manage the premises on your behalf; or
- Talking to the relevant "responsible authority" e.g. environmental health in relation to noise nuisance, or the police in relation to crime and disorder, about the problem.

A review application is also subject to a similar consultation period to that of a new licence or variation, during which relevant representations may be submitted. The Act provides strict guidelines, timescales and procedures for review applications and hearings and the council will deal with every review application in accordance with these rules. Further details on review applications can be found in Appendix IV of this policy.

At a review, the council may take the following steps (if any) where such steps are considered appropriate for the promotion of the licensing objectives:

- a) Modify the conditions of the licence
- b) Exclude a licensable activity from the scope of the licence
- c) Remove the designated premises supervisor
- d) Suspend the licence for a period not exceeding three months
- e) Revoke the licence.

In cases where there is evidence that the crime prevention objective is being undermined, revocation of the licence will be seriously considered by the authority, even in the first instance.

There is a right of appeal to the Magistrates' Court against the decision of the licensing sub-committee, and if an appeal is lodged by the licence-holder, the original decision of the licensing authority will not take effect until the appeal is determined or withdrawn. There is an exception to this in the case of a summary review brought only by the police.



**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.

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**Appendix 9: Section 182 Guidance & Extract from the Licensing  
Act 2003**

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## Section 182 Guidance - The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be

positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

## **Repetitious grounds of review**

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
  - representations considered by the licensing authority when the premises licence or certificate was granted; or
  - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more

than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

## **Powers of a licensing authority on the determination of a review**

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
  - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)<sup>10</sup>;
  - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - suspend the licence for a period not exceeding three months;
  - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the

representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient to revoke the licence.

## **Reviews arising in connection with crime**

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;
  - for the organisation of racist activity or the promotion of racist attacks;
  - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
  - for unlawful gambling; and
  - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

## **Review of a premises licence following closure order or illegal working compliance order**

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;



- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

## **Review of a premises licence following persistent sales of alcohol to children**

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

## 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.

## Licence conditions - Live Music or recorded music

16.36 Any existing licence conditions (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and
- the music takes place between 08.00 and 23.00 on the same day.

16.37 Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of regulated entertainment all doors and Windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.

16.38 More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.

16.39 Chapter 9 of this Guidance sets out how a licensing authority must determine applications for a new licence or to vary an existing premises licence. Licence conditions imposed, in accordance with paragraphs 9.41 to 9.43, for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23.00 and 08.00.

16.40 These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.

16.41 Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.

## **Licence reviews: Live and recorded music**

16.55 On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension<sup>74</sup> and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition

16.56 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements

## Extract from the Licensing Act 2003

### 177A Licence review for live and recorded music

(1) Subsection (2) applies where—

(a) music takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises,

(b) at the time of the music, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises,

(c) if the music is amplified, it takes place in the presence of an audience of no more than 500 persons, and

(d) the music takes place between 8am and 11pm on the same day (or, where an order under section 172 has effect in relation to music, during any times specified under that order).

(2) Any condition of the premises licence or club premises certificate which relates to live music, recorded music or both does not have effect in relation to the music unless it falls within subsection (3) or is added to the licence in accordance with subsection (4).

(3) A condition falls within this subsection if, on a review of the premises licence or club premises certificate it is altered so as to include a statement that this section does not apply to it.

(4) On a review of a premises licence or club premises certificate a licensing authority may (without prejudice to any other steps available to it under this Act) add a condition relating to **F5**... music as if—

(a) the **F5**... music were regulated entertainment, and

(b) the licence or certificate licensed the music.

(4A) This section does not apply to music which, by virtue of a provision other than paragraph 12A or 12C of Schedule 1, is not regarded as the provision of regulated entertainment for the purposes of this Act.

(5) In this section—

- “condition” means a condition—

(a) included in a premises licence by virtue of section 18(2)(a) or (3)(b), 35(3)(b), 52(3) or 167(5)(b),

(b) included in a club premises certificate by virtue of section 72(2)(a) or (3)(b), 85(3)(b) or 88(3),

(c) added to a premises licence by virtue of its inclusion in an application to vary the licence in accordance with section 34 or 41A which is granted under section 35(2) or 41B(3) (as the case may be), or

(d) added to a club premises certificate by virtue of its inclusion in an application to vary the certificate in accordance with section 84 or 86A which is granted under section 85(2) or 86B(3) (as the case may be);

- “live music” means entertainment of a description falling within, or of a similar description to that falling within, paragraph 2(1)(e) of Schedule 1;
- “music” means live music or recorded music or both;
- “recorded music” means entertainment of a description falling within, or of a similar description to that falling within, paragraph 2(1)(f) of Schedule 1; and
- “supply of alcohol” means—
  - (a) the sale by retail of alcohol, or
  - (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.