Hearing before the Members of the Licensing Sub-Committee

Monday 6TH February 2023
9:30am
Durham County Council, County Hall, Durham, DH1 5UL

Blue Eye, 25 Elvet Bridge, Durham, DH1 3AA

Applicants Information

INDEX

No.	Document	Page
1	Summary of Noise Impact by Dave Cross	2-5
2	Copy Noise Management Plan from Theakston Estates, 2018	6-7
3	Hours for some Premises in the locality	8
4	Temporary Event Notice Acknowledgements for December 2022 to January 2023	9-16
5	Extracts from Durham County Council Statement of Licensing Policy	17-23

MEMORANDUM

Client : Simon Brind
Project : Blue Eye, Elvet Bridge, Durham
Contact : Wisterock William Stephenson
Agent : Mincoffs
Start Date : Jan 2023

Summary of Noise Impact Re: extension of trading hours at Blue Eye Café / Bar in Durham City Centre

Café bar with proposed extension of trading hours to 1:30am for sale of alcohol and open, with recorded music, until 2am.
25 Elvet Bridge. Capacity ca 50. over two floors, gnd flr & 1st Flr.

Site surveys
Some observations and ambient noise measurements around Elvet Bridge from around 11pm on two Saturday nights in January 2023.
Some bars seemed quiet, from the *Half Moon* on New Elvet with 6 patrons chatting outside, and on the East end of the bridge: the *Swan & Cignets* (closing at 11pm), *Mixology* (busy, with loud music only when door opened), *Tango* (shut), and at the west end of bridge : *Jimmy Allens* with substantial queue behind barriers on the south side, and with some music clearly identifiable from there and from *Osbournes* which had some small outdoor loudspeakers thru the courtyard 2 doors up (leading down to Riverwalk), *Smallest Gin Bar* (silent) then *Blue Eye* which is the last bar on the Bridge. Music from *Blue Eye* was just detectable in the bass though only within approx. 25mtrs of the façade. Saddler Street, was full of people, but there was no music audible. The nearest bar to the junction with Elvet Bridge is *The Shakespeare* which would have closed at 23:00. No music from any venue was audible on Saddler Street.
The loudest venue by far was down on the Riverwalk - "*Bridewell Goal*", part of *Jimmy Allens*, with loud outdoor speakers (they were turned up around 23:10). I couldn't hear anything or see any activity from the many other bars / restaurants on Riverwalk such as *Boatclub*, *Whisky River*, or even *Klute* ! I understand that the Licenced hours at *Jimmy Allens* and *Klute* are sales until 2am and open until 2:30am, though *Jimmy Allens* website suggests that it is open until 2am.

The door to *Blue Eye* was only opened for access, and there was a door supervisor located just inside the door welcoming guests on arrival and departure. The noise escape with door open was distinct and briefly elevated noise directly opposite the door to around 75dB(A).

On those Saturday nights, *Jimmy Allens* provided the most prominent music noise, and continues until 2am Thu - Sat. I understand that Klute is open until 2am on Tue, Fri, Sat & Suns and *Osbornes* is open until 1am

I was advised that there are a few student lettings on upper floor properties on Saddler Street. A few properties there seemed to have doors serving the upper floors. Some of those properties would have the potential for exposure to noise from the premises with facades on the bank lane which runs from the south side of Elvet Bridge down to the Riverwalk (i.e. *Osbornes*, *Klute* & *Jimmy Allen*'s).

Table 1 Saturday night ambient noise on Elvet Bridge

Location	Time	Ambient Noise Levels			
		L_{Aeq}	L_{Ceq}	L_{Af90}	L_{Af99}
	hh:mm	dB			
Centre of E Bridge	23:12	61.3	68.7	57.0	56.1
West End of E Bridge	23:14	69.3	74.5	65.6	63.9
Junct. Elvet bridge & Saddler St	23:18	66.0	68.6	58.1	54.7

Table 2. Internal noise levels in Blue Eye from all sources during normal trading

Location	Time	Internal Noise Levels						
		Leq		LZeq (Hz)				
		L_{Aeq}	L_{Ceq}	40	50	63	80	100
	hh:mm	dB						
Centre of gnd flr room	22:05	81.7	88.5	62.0	75.3	80.3	85.7	73.4
Upstairs room	22:20	73.3	82.0	63.0	75.5	77.9	74.7	71.7
Street outside	22:30	67.0	69.3	49.3	54.5	59.3	56.7	49.8

The premises

The public entrance is near the centre of the north facing façade onto Elvet Bridge.
The front façade is dominated by three very large windows. On the first floor, are two much smaller, openable sash windows.
There is a bar / servery & kitchen on the ground floor.
There are no doors or windows on the rear of the premises.
The building is 'listed'.

A music system is provided, with 2 loudspeakers on the ground floor, in the 2 front corners facing into the body of the room, with a single bass speaker under the east-most window; and on the first floor, also with 2 loudspeakers in the front corners and a single bass speaker under the east-most window.
The music volume for each room is independently controlled from behind the ground floor bar.

Noise transmission test.

I undertook measurements of the window performance. The source noise was music played through the premises existing music system at an abnormally high volume to overcome most ambient noise.
Two logging meters were used, synchronised with each other.
The interior noise measurements were taken approx. 3mtrs from the centre of the front façade, and the exterior measurements were made approx.. 5 mtrs from the corresponding position on the front façade. Both meters were at approx. 1.2 mtrs above ground level.
The test was repeated with the source in the upstairs room and the receiver position unchanged on the street outside.
No correction was made for the distance attenuation from source to external measuring position. There were several events outdoors which contributed to the external noise levels, but an examination of the logged data clearly identified several clear correspondences of music noise levels apparent in both at moments when there was no significant extraneous noise.

Three of those measurements of the ground floor noise transmission and 3 from the upstairs were adopted as reliable indicators of the window performance. The multiple measurements sought to minimise the impact of environmental noise. These are tabulated below as the DW dB. Comparisons were made using both ‘A’ and ‘C’ weighted noise measurements.

Table 3. Front Window transmission loss (indoor to outdoor noise attenuation)

	DW (A) dB	DW (C) dB
Ground Floor	26.6	13.7
	24.4	15.3
	25.5	14.1
First Floor	22.4	22.9
	24.2	22.7
	24.9	30.0

First floor measurements include the greater distance, and angle of incidence, from first floor window to measuring microphone.
If an adjustment was to be made for the additional noise attenuation over distance to the receiver outdoors, then these results would show a slightly lower DW rating.

Those data correspond well with the expected performance of 5mm or 6mm float glass. That was also my guess of the glazing I saw in the ground floor windows.

This performance can usefully be improved to reduce the proportion of bass noise escape through the windows.

Noise Management Plan
A Noise Management plan was produced by Theakston Estates, dated 2018. This included the proposal to re-locate the loudspeakers so that the faced away from the front façade (and which has subsequently been done). It also advised keeping the first floor windows closed and ensuring that the front door was not fixed open when loud music was being played.
It is also adopted policy that after 11pm, the outdoor seating area is cleared.
These are all appropriate and effective measures.

Alterations
Following my surveys, and analysis, I make 3 further proposals :-

1. The bass loudspeakers (one each on gnd floor & 1st floor) should be relocated further away from the windows and from the front door, by at least 4 mtrs.
2. The 3 large ground floor windows can be upgraded. Either, the existing glazing is replaced with 10.8mm acoustic laminated glass, or, the existing glass is retained, and secondary glazing is fitted to the inside of the existing frames, comprising a gap of approx. 12mm followed by secondary glazing of 6.5mm laminated glass. (**NOTE** Listed Building consent may be necessary).
3. A noise limiter is fitted to the music system, which sets the maximum music volume with a simultaneous ‘A’-weighted and ‘C’-weighted limit. This would be calibrated to achieve the adopted maximum music noise levels in the centre

of the ground floor and upstairs rooms. Those limits would depend on whether the proposal to upgrade the windows was adopted, as shown in the table below.

Those internal noise limits would be :-

	Ground Floor music limit		Upstairs music limit	
	LAeq	LCeq	LAeq	LCeq
	dB			
Windows left as at present	81	87	75	83
Ground Flr Windows upgraded as proposed	86	92	75	83

Conclusions

In my professional opinion, moving the bass speakers away from the windows will be adequate to ensure that Blue Eye does not increase the existing ambient noise level on and around Elvet Bridge.

In view of the potential to cause disturbance to residents in the vicinity, I believe that that risk would be reduced significantly by adopting either the enhanced noise insulation work to the windows, and/or installing the environmental noise limiter.

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Theakston
ESTATES

30 August 2018

LPA ref: DM/18/02199/FPA

25 Elvet Bridge, Durham - Noise Management Plan

Introduction

This statement has been prepared to accompany an application for 'the change of use from A2 (Financial and Professional) to A4 (Drinking Establishments (ref: DM/18/02199/FPA)'.

The application site is Grade II Listed and is three storeys in height, albeit the top floor forms part of the adjacent building. The building is finished in brick and dates from the late 18th century. At ground floor, the property has a traditionally designed shop front with two bays and single entrance door that opens inwards. The shop front windows are not openable which will help mitigate any noise generated by the premises. At first floor, there are two traditional sash windows. There are no windows at the rear of the property nor access from the rear of the property. The case officer has confirmed in correspondence that the closest residential properties to the premises are located in Saddler Street which is to the rear of the property, albeit as confirmed earlier, there are no windows or doors on the rear elevation of the premises.

The Noise Management Plan Measures

The aim of this Noise Management Plan is to put in place reasonable measures to reduce the noise impact of potential sources of noise associated with the premises which will be implemented by the operator/tenant. The following table summarises the potential sources of noise together with mitigation measures to be implemented by the operator/tenant.

Issue	**Measures to be implemented**
Inside Music	Any speakers to be located inside of the building, pointing inwards in each room rather than towards the front elevation onto Elvet Bridge. This will ensure that all music associated with the building is projected into the building and not outside the building. The Manager of the operation will ensure that all equipment is installed and maintained as set out above. When music is being played at a level that could be considered to cause a nuisance, the main entrance door and sash windows at first floor will remain closed when not in use and will not be wedged open. Staff members and door staff, as applicable, will ensure this is the case. The first-floor windows will remain fully closed after 11pm if any music is being played.
Deliveries and Collections	Deliveries and collections will be carried out between the following times: Monday to Friday – 9am until 5pm Saturdays and Sundays – None

	Bank Holidays - None
External Smoking arrangements and patron noise when leaving premises	There is no designated smoking area associated with the proposal and as such, any smoking would likely take place at the front of the property. Potential noise from groups of smokers will be overseen by the staff operating the premises. Any discarded cigarette, cigar ends etc would be swept up by staff periodically. Discrete signage will be provided which would most likely be a sticker applied to the entrance door (noting that advertisement consent maybe required which would be the subject of a separate application) to remind customers to be considerate when smoking and leaving the premises.
Refuse and recycling bins, storage and collection	All refuse and recycling associated with the property will be stored in the storage area as shown on the application drawings. Collections of all refuse and recycling, including glass bottles will take place between 9am and 5pm when bins will be taken out of the main entrance door onto Elvet Bridge at the time of collection by a commercial contractor.
Equipment such as chillers, extraction equipment and air conditioning units	No such facilities are proposed as part of this application.
Complaints	Any complaints should be directed to the manager who will investigate the matter and take steps to reduce the noise source/mitigate any effects.

This Noise Management Plan will be reviewed by the operator/tenant periodically throughout the operation of the use to ensure that noise is kept to a minimum.

Premises	Opening Hours	Sale of Alcohol Hours	Recorded Music Hours
Blue Eye	Mon 11:00-02:30^Tue 11:00-02:30^Wed 11:00-02:30^Thu 11:00-02:30^Fri 11:00-02:30^Sat 11:00-02:30^Sun 12:00-00:50	Mon 11:00-02:30^Tue 11:00-02:30^Wed 11:00-02:30^Thu 11:00-02:30^Fri 11:00-02:30^Sat 11:00-02:30^Sun 12:00-00:30	Mon 11:00-02:30^Tue 11:00-02:30^Wed 11:00-02:30^Thu 11:00-02:30^Fri 11:00-02:30^Sat 11:00-02:30^Sun 12:00-00:30
Jimmy Allens	Mon 11:00-02:30^Tue 11:00-02:30^Wed 11:00-02:30^Thu 11:00-02:30^Fri 11:00-02:30^Sat 11:00-02:30^Sun 12:00-00:50	Mon 11:00-02:30^Tue 11:00-02:30^Wed 11:00-02:30^Thu 11:00-02:30^Fri 11:00-02:30^Sat 11:00-02:30^Sun 12:00-00:30	Mon 11:00-02:30^Tue 11:00-02:30^Wed 11:00-02:30^Thu 11:00-02:30^Fri 11:00-02:30^Sat 11:00-02:30^Sun 12:00-00:30
Klute	Mon 11:00-02:30^Tue 11:00-02:30^Wed 11:00-02:30^Thu 11:00-02:30^Fri 11:00-02:30^Sat 11:00-02:30^Sun 12:00-02:30	Mon 11:00-02:00^Tue 11:00-02:00^Wed 11:00-02:00^Thu 11:00-02:00^Fri 11:00-02:00^Sat 11:00-02:00^Sun 11:00-02:00	Mon 11:00-02:30^Tue 11:00-02:30^Wed 11:00-02:30^Thu 11:00-02:30^Fri 11:00-02:30^Sat 11:00-02:30^Sun 12:00-02:30
Fabio's (La Spegiatta)	Mon 10:30-02:30^Tue 10:30-02:30^Wed 10:30-02:30^Thu 10:30-02:30^Fri 10:30-02:30^Sat 10:30-02:30^Sun 10:30-02:30	Mon 10:30-02:00^Tue 10:30-02:00^Wed 10:30-02:00^Thu 10:30-02:00^Fri 10:30-02:00^Sat 10:30-02:00^Sun 10:30-02:00	
The Library	Mon 07:00-00:30^Tue 07:00-00:30^Wed 07:00-00:30^Thu 07:00-00:30^Fri 07:00-01:30^Sat 07:00-01:30^Sun 07:00-23:50	Mon 09:00-00:00^Tue 09:00-00:00^Wed 09:00-00:00^Thu 09:00-00:00^Fri 09:00-01:00^Sat 09:00-01:00^Sun 09:00-23:30	Mon 09:00-00:00^Tue 09:00-00:00^Wed 09:00-00:00^Thu 09:00-00:00^Fri 09:00-01:00^Sat 09:00-01:00^Sun 09:00-23:30
Whisky River	Mon 10:00-02:00^Tue 10:00-02:00^Wed 10:00-02:00^Thu 10:00-02:00^Fri 10:00-02:00^Sat 10:00-02:00^Sun 10:00-02:00	Mon 10:00-02:00^Tue 10:00-02:00^Wed 10:00-02:00^Thu 10:00-02:00^Fri 10:00-02:00^Sat 10:00-02:00^Sun 10:00-02:00	Mon 10:00-02:00^Tue 10:00-02:00^Wed 10:00-02:00^Thu 10:00-02:00^Fri 10:00-02:00^Sat 10:00-02:00^Sun 10:00-02:00
Mixology	Mon 07:00-00:00^Tue 07:00-00:00^Wed 07:00-00:00^Thu 07:00-00:00^Fri 07:00-01:00^Sat 07:00-01:00^Sun 07:00-00:00	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 11:00-00:00	Mon 10:30-02:00^Tue 10:30-02:00^Wed 10:30-02:00^Thu 10:30-02:00^Fri 10:30-02:00^Sat 10:30-02:00^Sun 10:30-02:00

Contact: Mrs Valerie Evans
Direct Tel:
email:
Your ref:
Our ref: MAU 115880

Mr Wisterock William Stephenson

02 December 2022

Dear Sir/Madam

APPLICATION FOR 'LATE' TEMPORARY EVENT NOTICE
TEN REFERENCE NO: DCCTEN87712
BLUE EYE, 25 ELVET BRIDGE, DURHAM, DH1 3AA

I acknowledge receipt of your notification and confirm it will be processed as detailed below:

Premises User	Mr Wisterock William Stephenson
Premise Address	Blue Eye, 25 Elvet Bridge, Durham City, DH1 3AA
Event Date(s) and Time(s)	10/12/2022 01:00 - 02:00 11/12/2022 01:00 - 02:00
Nature of Event	Extended hours
Licensable Activities	Sale of Alcohol - Yes Regulated Entertainment - Yes
Maximum Number of People at the Event	70

The authority must receive responses from the Responsible Authorities, namely Durham Constabulary and Environmental Health within 3 working days of receipt of the notification. If no representations are received within this time period your event will be permitted to proceed. It is important that you keep this letter for future reference and read and understand the notes attached. On the event date, it should be kept at the premises and be available for inspection by a Police Constable or other authorised person (ie Licensing Officer, Fire Officer or Environmental Officer).

Neighbourhoods and Climate Change
Durham County Council, Community Protection, Licensing Services, PO Box 617, Durham, DH1 9HZ
www.durham.gov.uk

If a representation is received the licensing authority will notify you that the event cannot proceed.

If you require any further information, please do not hesitate to contact me.

Yours faithfully

Mrs Valerie Evans
Licensing Officer

Contact: Ms Isabella Cole
email:
Your ref:
Our ref: MAU 115882

Mr Wisterock Stephenson
Blue Eye Bar and Cafe
25 Elvet Bridge
Durham City
DH1 3AA

02 December 2022

Dear Mr Stephenson

APPLICATION FOR 'STANDARD' TEMPORARY EVENT NOTICE
TEN REFERENCE NO: DCCTEN87713
BLUE EYE BAR & CAFE

I acknowledge receipt of your notification and confirm it will be processed as detailed below:

Premises User	Mr Wisterock Stephenson
Premise Address	Blue Eye Bar & Cafe 25 Elvet Bridge, Durham City, DH1 3AA
Event Date(s) and Time(s)	17/12/2022 01.00-02.00 18/12/2022 01.00-02.00
Nature of Event	Extended Opening Hours for seasonal celebrations.
Licensable Activities	Sale of Alcohol - Yes Regulated Entertainment - Yes
Maximum Number of People at the Event	70

The authority must receive responses from the Responsible Authorities, namely Durham Constabulary and Environmental Health within 3 working days of receipt of the notification. If no representations are received within this time period, your event will be permitted to proceed.
It is important that you keep this letter for future reference and read and understand the notes attached. On the event date, it should be kept at the premises and be available for inspection by a Police Constable or other authorised person (i.e. Licensing Officer, Fire Officer or Environmental Officer).

If a representation is received the licensing authority will arrange a committee hearing within 7 working days to determine the notification.

Neighbourhoods and Climate Change
Durham County Council, Community Protection, Licensing Services, PO Box 617, Durham, DH1 9HZ
www.durham.gov.uk

If a standard TEN is refused at a hearing, the premises user may appeal against the decision. Appeals must be made to the local Magistrates' court within 21 days. An appeal may not be brought later than five working days from the day of the planned event. For further advice and guidance, please contact our Licensing Team using the details provided at the bottom of the page.

If you require any further information, please do not hesitate to contact me.

Yours sincerely
Isabella Cole.

Ms Isabella Cole
Licensing Officer

Contact: Ms Lynn Hodgson
email:
Your ref:
Our ref: MAU 115881

Mr Wisterock William Stephenson

02 December 2022

Dear Sir/Madam

APPLICATION FOR 'STANDARD' TEMPORARY EVENT NOTICE
TEN REFERENCE NO: DCCTEN87711
BLUE EYE

I acknowledge receipt of your notification and confirm it will be processed as detailed below:

Premises User	Mr Wisterock William Stephenson
Premise Address	Blue Eye, , 25 Elvet Bridge, , Durham City, DH1 3AA
Event Date(s) and Time(s)	24/12/2022 01:00 - 02:00 25/12/2022 01.00 - 02.00
Nature of Event	Extended hours
Licensable Activities	Sale of Alcohol - Yes Regulated Entertainment - Yes
Maximum Number of People at the Event	70

The authority must receive responses from the Responsible Authorities, namely Durham Constabulary and Environmental Health within 3 working days of receipt of the notification. If no representations are received within this time period, your event will be permitted to proceed. It is important that you keep this letter for future reference and read and understand the notes attached. On the event date, it should be kept at the premises and be available for inspection by a Police Constable or other authorised person (i.e. Licensing Officer, Fire Officer or Environmental Officer).

If a representation is received the licensing authority will arrange a committee hearing within 7 working days to determine the notification.

If a standard TEN is refused at a hearing the premises user may appeal against the decision. Appeals must be made to the local Magistrates' court within 21 days. An appeal may not be brought later than five working days from the day of the planned event. For

further advice and guidance, please contact our Licensing Team using the details provided at the bottom of the page.

If you require any further information, please do not hesitate to contact me.

Yours faithfully

Ms Lynn Hodgson
Licensing Officer

Contact: Mrs Kelsev Tate
email:
Your ref:
Our ref: MAU 115878

Mr Wisterock William Stephenson

02 December 2022

Dear Sir/Madam

APPLICATION FOR 'STANDARD' TEMPORARY EVENT NOTICE
TEN REFERENCE NO: DCCTEN87714
BLUE EYE

I acknowledge receipt of your notification and confirm it will be processed as detailed below:

Premises User	Mr Wisterock William Stephenson
Premise Address	Blue Eye, 25 Elvet Bridge, Durham City, DH1 3AA
Event Date(s) and Time(s)	31/12/2022 01:00 - 02:00 01/01/2023 01:00 - 02:00
Nature of Event	Extended hours
Licensable Activities	Sale of Alcohol Regulated Entertainment
Maximum Number of People at the Event	70

The authority must receive responses from the Responsible Authorities, namely Durham Constabulary and Environmental Health within 3 working days of receipt of the notification. If no representations are received within this time period, your event will be permitted to proceed. It is important that you keep this letter for future reference and read and understand the notes attached. On the event date, it should be kept at the premises and be available for inspection by a Police Constable or other authorised person (i.e. Licensing Officer, Fire Officer or Environmental Officer).

If a representation is received the licensing authority will arrange a committee hearing within 7 working days to determine the notification.

If a standard TEN is refused at a hearing the premises user may appeal against the decision. Appeals must be made to the local Magistrates' court within 21 days. An appeal

may not be brought later than five working days from the day of the planned event. For further advice and guidance, please contact our Licensing Team using the details provided at the bottom of the page.

If you require any further information, please do not hesitate to contact me.

Yours faithfully

Mrs Kelsey Tate
Licensing Officer

This Licensing Policy aims to work with and alongside other, shared Council priorities and plans.

Alcohol is a contributory factor of violent crime, domestic abuse, sexual violence, anti-social behavior and has links to criminal and sexual exploitation. The main health consequences of alcohol misuse are liver disease, cancers (liver, oral, oesophageal, gastric, colon, breast), hypertension, stroke, acute intoxication and injuries.

Up-to-date statistical information for alcohol related harm can be found on *Durham Insight* https://www.durhaminsight.info. *Durham Insight* is a publicly accessible website storing a range of shared intelligence and population data for County Durham. It provides users with an easy way to access data and information for insights about their local area.

Key objectives within the County Durham "Alcohol Harm Reduction Strategy 2015 – 2020 Plan on a Page" are:

- Prevention and early intervention
- Providing specialist interventions to promote recovery
- Protecting children and vulnerable adults at risk
- Strengthening leadership, management and governance

In County Durham the numbers of increasing risk and high-risk drinkers are above the national average and this contributes to increasing pressure on our emergency services, our hospitals and support services such as the County Durham Drug and Alcohol Recovery Service. The Licensing Authority recognises the impact alcohol can have upon population-level health.

In addition, we know health inequalities due to alcohol harm in County Durham are significant. Levels of alcohol harm are greater in County Durham than the England average. For all six key indicators highlighted in the 2018 Local Alcohol Profile County Durham is statistically significantly higher than England. Four out of the six indicators are ranked in the worst 30% of all local authorities nationally.

The council recognises this dis-proportionate impact of alcohol harm and will continue to promote and support responsible licensees and premises. We will encourage licensing objectives that reflect health considerations in this policy and which contribute to reducing health inequalities and poor outcomes for the people of County Durham.

A list of relevant council strategies, policies and plans, together with links to other pertinent departments and local organisations, is provided in the Appendix X. Applicants, especially those who are not already established in, or familiar with, County Durham may find this section particularly useful.

2.7 Licensing and planning integration - The planning authority of Durham County Council is a responsible authority under the Licensing Act 2003. It can

make representations on applications or call for reviews of existing licences based upon any of the four licensing objectives.

The planning authority have policies that impact on the county's night time economy. The council recognises that licensing applications should not be a rerun of the planning application process. The planning authority is directed at development of land and the use of premises upon it. The licensing authority is directed at the licensable activities and responsible management of said premises upon that land.

Whilst there is a clear distinction and separation between the licensing authority and planning authority in terms of their remit, there are times when there are overlapping considerations. To secure proper integration across the council's range of policies, the licensing authority will expect applicants to demonstrate that their proposed use of a premises is lawful in planning terms, including complying with any existing conditions and timings that may be imposed upon a planning consent when submitting any application under the Licensing Act.

Where the planning authority has granted planning consent to a specific time, the licensing authority would expect any applicants under the Licensing Act to not exceed that time within any application.

Where the planning authority has granted a planning consent that contains conditions which, if not complied with, may undermine the promotion of the licensing objectives (such as a restriction in the opening hours based on potential public nuisance issues), the licensing authority would expect applicants to demonstrate how they will mitigate those issues within any application. Failure to do so could lead to representations being made against an application.

When licensing applications are determined by officers of the Licensing Authority or by the Licensing Sub-Committee, conditions may be imposed upon a licence to ensure consistency between the licensing objectives and any measures already determined by the planning authority that could impact the licensing objectives.

2.8 Avoidance of duplication - There are many stakeholders in the leisure industry, covering a wide range of disciplines. Many are involved, directly or indirectly, in the promotion of the Licensing Objectives, particularly those relating to the prevention of crime and disorder and public nuisance.

Many of their strategies deal in part with the licensing function and the Licensing Authority will, wherever appropriate, participate in multi- disciplinary working groups to ensure proper integration of local crime prevention, public health, planning, transport, tourism and cultural strategies and to obtain information on the effects of this Policy on local regulated entertainment.

The Licensing Authority recognises the need to avoid as far as possible duplication with other regulatory regimes. Whilst having regard to the planning

regime, the council recognises that there should be a clear separation of the planning and licensing regimes.

The granting of a licence under the Licensing Act does not relieve the applicant of the need to apply for Planning Permission or Building Regulation approval where appropriate. Nor does the grant qualify as, or remove the need for, any form of consent or release, for example, from covenants imposed in the title to the property whether such were imposed by the Local Authority. Appendix X provides a list of other relevant strategies which applicants may wish to consider in addition to the council's licensing policy. Appendix VIII also provides information on planning and development control matters together with the links to licensing policy and practice.

There are other council strategies and policies that affect the leisure industry, night time economy etc. that fall outside the regulatory licensing regime. For example, the council recognises that we all have a role in reducing waste and whilst plastic products are an important part of everyday life, there is a growing realisation of the inherent wastefulness of those items that are designed to be used only once and then thrown away. The council has adopted a County Durham pledge to further reduce waste which may be adopted by a wide variety of partner organisations from across the public, private and community sector.

The government intends to introduce a ban, with exemptions, on the supply of plastic drinking straws to the end user in England by April 2020. There will be exemptions designed to cater for medical / accessibility needs: the supply of single use plastic straws to the end user will be permitted in registered pharmacies (in store and online) and in catering establishments (including health, educational and care settings).

In commercial catering establishments, such as pubs and restaurants, there will be a ban on actively offering plastic straws to customers. It will be a requirement for plastic straws to be kept behind the counter and be available to customers on demand only.

A ban on beverage carton straws will come into force in line with the Single Use Plastics Directive implementation timetable; this is to allow the industry time to develop and introduce alternatives.

Takeaway boxes and cups made from expanded polystyrene are proposed to be banned as the Government targets rarely recycled plastic that ends up in incinerators and landfill sites.

The council would encourage the licensed trade to sign up to this pledge and take steps to reduce single use plastics. To find out more information about Rubbish & Recycling in County Durham go to http://www.durham.gov.uk/recycling

2.9 Licensing policy development, consultation and review – Before determining its policy, the council must consult the persons listed in section 5(3) of the 2003 Act. These are:

areas, may also be subject to further restrictions regarding their operation and use.

Premises applying for early morning daytime hours to sell alcohol will be given particular consideration in relation to their proximity to schools, play areas, nurseries, children's centres and other youth amenities to protect children from harm. This may include other groups (such as persons who are alcohol-dependent) who could become more vulnerable or present a greater risk of crime, disorder and public safety issues as a result of excessive alcohol consumption or who may be drawn to particular premises if they are licensed to sell alcohol at earlier times.

5.8 Licensing hours – In 2003 the Government expressed a view that "more flexible opening will help address the issue of large numbers of patrons leaving at the same fixed time and as such will reduce disorder and disturbance whilst helping promote business and cultural development". The Government also wishes to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and local employment and attractive to domestic and international tourists.

The council acknowledges these principles but believes that full consideration should be given to the risk of disturbance to residents and possibly to businesses when licensable activities continue late at night and into the early hours of the morning. Whilst the Act removed set permitted hours for on-sales and leaves applicants to decide what is appropriate to include in the operating schedule, the council recognises the impact licensing hours have in an area.

Important note: The council will make appropriate decisions on licensing hours for the locality of each premises.

As part of their operating schedule submitted with any application, the applicant is expected to consider the statutory guidance, this policy and any other available data relevant to their prospective locality and the potential impact their operation may have on that area.

Where it is appropriate and proportionate to do so, the council may seek to reduce the hours for licensable activities to promote an orderly and gradual dispersal from a certain area or certain premises.

All applicants and existing licence holders are expected to achieve and to adhere to any relevant planning permissions, including hours of operation. Applicants are encouraged to secure any necessary planning permissions before applying for any licence. Where the planning authority has set a terminal hour on a premises' planning permission, the licensing authority may only grant a licence to that hour should that be appropriate for the promotion of the licensing objectives. Efforts will be made to ensure consistency and integration between licensing and planning policy as detailed in Point 2.7 of this policy.

The hours granted to premises refer to the hours during which licensable activities may take place. In the absence of reasonable and extenuating circumstances, the

council would normally expect the premises to close within a reasonable time after the terminal hour for licensable activities.

<u>Important note:</u> Policy recommended 'framework' hours (see Appendix II) are intended to guide applicants when preparing their operating schedules. These are the council's general recommendations. It must be emphasised that where no relevant representations are received, an application must be granted in accordance with the hours included in the application.

There will be a general presumption that licensed premises in residential and mixed residential/commercial areas will have a greater potential to undermine the public nuisance licensing objective. For this reason, applicants and existing licence holders may expect greater scrutiny of applications and operations in connection with their licensed premises and associated activities.

When its discretion is enabled, the council will consider the possibility of disturbance to businesses and residents late at night and in the early hours of the morning, and the detrimental effects that any such disturbance may give rise to. These are important matters to be considered when addressing the hours during which licensable activities may be undertaken.

The council has considered the Secretary of State's Guidance in determining this policy. The specified framework hours on any given day is not (and should not be regarded as) the 'usual' or 'normal' terminal hour for licensable activities in the County. Instead, the 'framework hours' serve to identify those types of premises where the council will pay particular regard to local factors and the likely effect on the local neighbourhood of carrying out the proposed licensable activities (sale/supply of alcohol and the provision of late-night refreshment).

In considering appropriate times for policy framework hours, the council has had regard to concerns expressed by residents, the licensed trade and the responsible authorities including Durham Constabulary. The council acknowledges that in addition to location and other factors, risks differ depending on whether premises are licensed to sell alcohol for consumption on or off the premises and for premises licensed only for regulated entertainment or late-night refreshment.

The council expects that, where applications to provide licensable activities outside these framework hours are made, applicants will volunteer particularly robust conditions in their operating schedules in respect of all the licensing objectives. In preparing the operating schedule, applicants who wish to provide licensable activities outside the Framework Hours should have regard to:

- The location of the premises and the character of the area in which they are situated
- The proposed hours during which licensable activities will take place and the proposed hours during which customers will be permitted to remain on the premises
- The adequacy of their proposed measures to promote the licensing objectives

- In the case of a premises having been previously licensed, any relevant issues relating to the previous licence
- Whether customers have access to public transport when leaving the premises at night-time and in the early hours of the morning
- The proximity of the premises to other licensed premises in the immediate and local area and the hours of operation of those other premises
- Policies and proposals for the timely and orderly dispersal of customers

The council also expects applicants to provide particularly robust conditions in their operating schedules to promote the prevention of public nuisance in cases where outside areas (such as beer gardens, patios and marquees) will be used by customers after 21.00 hours any night of the week.

Important note:

- **There must be no presumption that an application made for timings within the framework hours will be automatically granted**
- **Where relevant representations are made, each case will be considered on its merits**

The following should be considered when deciding on the hours applied for:

- Applicants should limit their applications to the hours they genuinely intend and reasonably expect to operate
- When completing the Operating Schedule, applicants should consider all the Licensing Objectives. (Representations are more likely to result from inadequately considered Operating Schedules)
- Where relevant representations are made, the Licensing Committee shall determine whether the proposed measures in the Operating Schedule address the issues underpinning the framework hours policy. As each application will be determined on its own merits, the individual circumstances will vary between each application
- Although this policy applies to all licensable activities, the Licensing Authority will have regard to the proposed use of the premises when considering whether and how this policy should apply in any given case

The following types of premises, where licensable activities are authorised, are not considered to make a significant contribution to the problems of late-night crime and disorder and anti-social behaviour and, as such, these premises will generally have greater freedom to operate outside framework hours:

- Theatres
- Cinemas
- Hotels
- Large supermarkets

5.9 **Takeaway premises and late-night refreshment** - there are often concerns about noise, nuisance, crime and disorder and anti-social behaviour in respect of premises open late and providing hot food and drink. Applicants and licensees of

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

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

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