

## Statutory Licensing Sub-Committee

6<sup>th</sup> June 2023

### Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor



## Ordinary Decision

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### Report of Alan Patrickson, Corporate Director of Neighbourhoods and Climate Change

### Councillor John Shuttleworth, Cabinet Portfolio Holder for Rural Communities and Highways

**Electoral division(s) affected:** Bishop Auckland Town

### Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application to vary the premises licence for The Pavilion, South Church Road, Bishop Auckland. DL14 7JU to specify an individual as the Designated Premises Supervisor. The application was submitted by the Agent, Mr Christian Burns on behalf of the premises licence holders Barton Leisure Pavillion N/E Limited.
- 2 This is a re-scheduled meeting following an agreed adjournment on 22<sup>nd</sup> May 2023 to give the applicant the opportunity to attend.
- 3 A plan showing the location of the premises is attached at Appendix 2.
- 4 It is a mandatory condition under the Licensing Act 2003 that, where the supply of alcohol is one of the licensable activities, there must be a Designated Premises Supervisor. Guidance states that the Designated Premises Supervisor should normally be the individual who is in day-to-day control of the premises. This is to provide a single point of accountability within the premises should any problems arise.

### Executive summary

- 5 Barton Leisure Pavillion N/E Limited have held the premises licence for The Pavilion, Bishop Auckland since 28<sup>th</sup> March 2023. The licence permits the Sale of alcohol and the Provision of regulated entertainment.

- 6 The application to vary the Designated Premises Supervisor (DPS) named on the premises licence for The Pavilion, South Church Road, Bishop Auckland was received on 13<sup>th</sup> April 2023 and names Mr Christopher Burton as the proposed Designated Premises Supervisor. Mr Burton is the Director of the company Barton Leisure Pavillion N/E Limited.
- 7 Durham Constabulary has made a representation objecting to Mr Christopher Burton being named as the Designated Premises Supervisor.
- 8 Mr Burton has provided some information relating to his son's medical condition.

### **Recommendation(s)**

- 9 The Sub-Committee is asked to determine the application with a view to promoting the licensing objectives.
- 10 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. The relevant parts of the policy are attached at Appendix 7;
  - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018). The relevant parts of the guidance are attached at Appendix 8;
  - (e) The Licensing Act 2003. The relevant parts of the act are attached at Appendix 9.

### **Background**

- 11 Background information

Applicant	<b>Barton Leisure Pavillion N/E Limited</b>	
Type of Application: <b>Vary the DPS</b>	Date received: <b>13<sup>th</sup> April 2023</b>	Consultation ended: <b>27<sup>th</sup> April 2023</b>
Premises:	<b>The Pavilion, South Church Road, Bishop Auckland. DL14 7JU</b>	
Proposed DPS	<b>Mr Christopher Burton</b>	

- 12 Barton Leisure Pavillion N/E Limited have held the premises licence for The Pavilion, Bishop Auckland since 28<sup>th</sup> March 2023. The licence permits the Sale of alcohol and the Provision of regulated entertainment.

A copy of the premises licence is attached at Appendix 3, for information.

- 13 Under Section 37 of the Licensing Act 2003, a copy of the application to vary a Designated Premises Supervisor must also be given to Durham Constabulary. If Durham Constabulary consider that granting the application would undermine the licensing crime prevention objective, they must give notice to the licensing authority stating their concerns.

### **Details of the application**

- 14 An application from Barton Leisure Pavillion N/E Limited to specify Mr Christopher Burton as the Designated Premises Supervisor on the premises licence for The Pavilion, South Church Road, Bishop Auckland was received by the Licensing Authority on 13<sup>th</sup> April 2023.

Please see Appendix 4.

- 15 Mr Burton has provided some information relating to his son's medical condition.

Please see Appendix 5.

### **The Representation**

- 16 On 24<sup>th</sup> April 2023, a representation was received from Durham Constabulary's Licensed Economy Team on behalf of the Chief Officer of Police, objecting to Mr Christopher Burton being named on the premises licence as the Designated Premises Supervisor.

A copy of Durham Constabulary's objection and their additional information is attached as Appendix 6.

### **The Parties**

- 17 The Parties to the hearing will be:
- Barton Leisure Pavillion N/E Limited (Applicant & Premises Licence Holder)
  - Mr Christian Burns (Applicant's agent)
  - Mr Christopher Burton (Proposed DPS)

- Acting Sgt Iain Robertson, Durham Constabulary (Responsible Authority)

## **Options**

- 18 The options open to the Sub-Committee are:
- (a) To grant the application or
  - (b) To reject the application, if it considers it necessary to do so for the promotion of the crime prevention objective.

## **Main implications**

### *Legal Implications*

- 19 None

### *Consultation*

- 20 The vary DPS application was subject to a 14 day consultation with Durham Constabulary.

See Appendix 1

## **Conclusion**

- 21 The Sub-Committee is asked to determine the application to vary the Premises Licence to specify Mr Christopher Burton as the Designated Premises Supervisor.

## **Background papers**

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended December 2022)

## **Other useful documents**

- None

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**Contact:** Yvonne Raine

Tel: 03000 265256

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## **Appendix 1: Implications**

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### **Consultation**

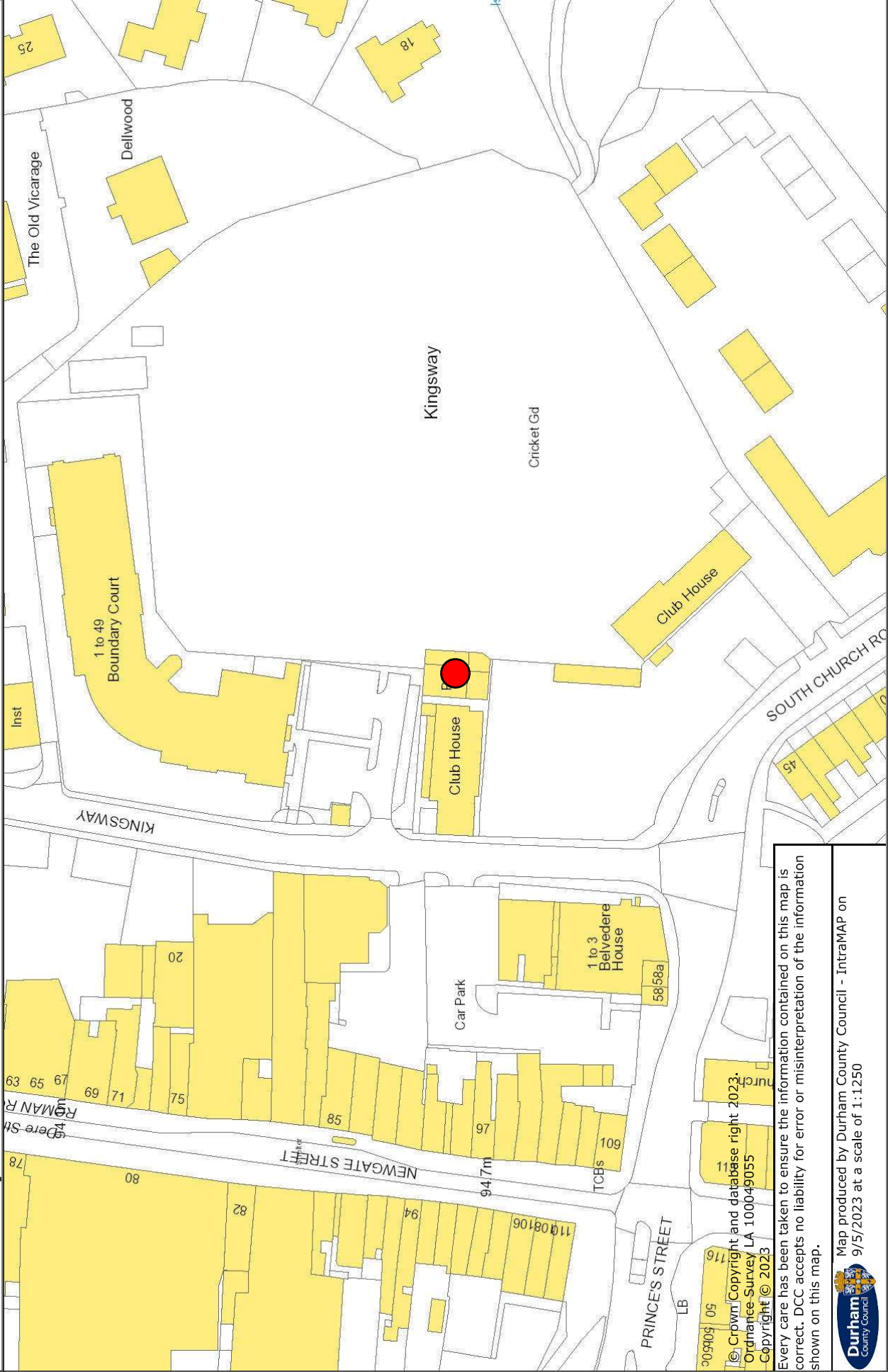
The application was subject to a 14 day consultation with Durham Constabulary in accordance with the Licensing Act 2003 and its regulations.

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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.

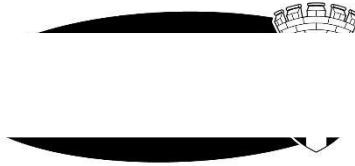
 Map produced by Durham County Council - IntraMAP on 9/5/2023 at a scale of 1:1250

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## **Appendix 3: Premises Licence**

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## LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number  
Granted  
Issued

DCCC/PLA0563
08 May 2020
28 March 2023

### Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<b>THE PAVILION</b> BISHOP AUCKLAND CRICKET CLUB SOUTH CHURCH ROAD BISHOP AUCKLAND DL14 7JU	DURHAM COUNTY COUNCIL NEIGHBOURHOODS AND CLIMATE CHANGE COMMUNITY PROTECTION LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</b>	

<b>Where the licence is time limited the dates</b> N/A
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<b>Licensable activities authorised by this licence</b> Live Music Recorded Music Sale by retail of alcohol
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Opening Hours of the Premises		
Mon	11:00-23:30	<b>Non-standard/seasonal timings</b> New Years Eve until 02:00am
Tue	11:00-00:00	
Wed	11:00-00:00	
Thu	11:00-00:00	
Fri	11:00-00:00	
Sat	11:00-00:00	
Sun	11:00-23:30	

<b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:</b> ON ALCOHOL SALES ONLY
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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>                  Thu 19:00-23:00                  Fri 19:00-23:00                  Sat 19:00-23:00                  Sun 15:00-21:00</p>	<p><b>Further details</b>                  N/A  <b>Non-standard/seasonal timings</b>                  New Years Eve until 01:00am</p>
<p><b>Recorded Music Indoors</b>                  Mon 12:00-23:00                  Tue 12:00-23:00                  Wed 12:00-23:00                  Thu 12:00-23:00                  Fri 12:00-23:00                  Sat 12:00-23:00                  Sun 12:00-23:00</p>	<p><b>Further details</b>                  N/A  <b>Non-standard/seasonal timings</b>                  New Years Eve until 01:30am</p>
<p><b>Sale by retail of alcohol</b>                  Mon 11:00-23:00                  Tue 11:00-23:30                  Wed 11:00-23:30                  Thu 11:00-23:30                  Fri 11:00-23:30                  Sat 11:00-23:30                  Sun 11:00-23:00</p>	<p><b>Further details</b>                  N/A  <b>Non-standard/seasonal timings</b>                  New Years Eve until 01:30am</p>

Part 2

<p><b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b></p>	
<p>BARTON LEISURE PAVILION N/E LTD</p>	
<p><b>Registered number of holder, for example company number, charity number (where applicable)</b></p>	
<p>Company no:</p>	
<p>Charity no:</p>	<p>N/A</p>

<p><b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b></p>
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**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol**

**Annex 1 – Mandatory conditions**

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

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

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

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

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

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

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

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

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

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

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

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

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

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

The responsible person must ensure that –

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

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

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

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

#### **Minimum Price of Alcohol:**

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

2 For the purposes of the condition:

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

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

Where –

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

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

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

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

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

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

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

### **General**

There will be sufficient and competent staff on duty at the premises to fulfil all terms and conditions of the licensing requirements.

All members of staff will undertake training in regard to the licensing objectives. Full training will be given on the challenge 25 scheme, acceptable forms of identification, operating procedures, drug policies and dealing with drunk and disorderly. Training records will be kept and training will be refreshed frequently.

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

Alcohol and other drinks may not be removed from the premises in open containers.

A log will be kept and maintained on the premises which will detail any incidents including any action taken and made available to the Police and authorised officers upon request.

Management of the premises will risk assess all events to determine the number of SIA trained door staff that will be required.

A CCTV system will be installed and in operation at all times the premises are being used for licensable activities. It must be operated by properly trained staff. All public areas will be covered, including entrances, exits and the external area. Recordings will be retained for a minimum of 28 days.

The premises will ensure that at least one trained member of staff is available to operate the CCTV system at all times the premises is open and download any images requested by an authorised officer.

The premises will operate zero tolerance related to drugs. The premises will be regularly checked by management and any drugs seized will be handed to the police.

The management will liaise with the police on any issues relating to crime and disorder.

### **Public Safety**

Staff will be trained on matters of safety and evacuation.

Spillages and breakages will be removed as soon as possible to reduce the risk of harm to customers and staff.

### **The Prevention of Public Nuisance**

Notices will be displayed at all exits to request customers to leave the premises quietly and respect the needs of the local residents.

Contact numbers for local taxi operators will be made available to customers.

Noise or vibration shall not emanate from the premises as to cause nuisance to nearby properties.

### **The Protection of Children from Harm**

The Challenge 25 scheme will be applied by all members of staff where there is a sale of alcohol.

Acceptable forms of identification are either a card bearing the PASS hologram, a photographic driving licence or passport.

Children under the age of 16 shall not be permitted to enter the premises after 21:00 unless they are with an appropriate adult and attending a pre booked function. A notice will be displayed advising customers of this.

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

**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**

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## **Appendix 4: Application form**

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**County Durham**  
**Application to vary a premises licence to specify an individual as designated premises supervisor**  
**Licensing Act 2003**

For help contact  
[licensingapplications@durham.gov.uk](mailto:licensingapplications@durham.gov.uk)  
Telephone:

\* required information

**Section 1 of 4**

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

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

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

Are you an agent acting on behalf of the applicant?

- Yes  No

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

**Applicant Details**

\* First name

\* Family name

\* E-mail

Main telephone number  Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

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

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

**Applicant Business**

Is the applicant's business registered in the UK with Companies House?  Yes  No

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

Registration number

Business name

If the applicant's business is registered, use its registered name.

VAT number

Put "none" if the applicant is not registered for VAT.

Legal status



*Continued from previous page...*

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Agent Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Include country code.

Other telephone number

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

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

**Agent Business**

Is your business registered in the UK with Companies House?  Yes  No

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

Is your business registered outside the UK?  Yes  No

Business name

If your business is registered, use its registered name.

VAT number

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

Legal status

*Continued from previous page...*

Your position in the business

Home country

The country where the headquarters of your business is located.

**Agent Business Address**

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

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 4**

**PREMISES DETAILS**

I/we apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003.

\* Premises licence number

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

- Address     OS map reference     Description

**Address**

\* Building number or name

\* Street

District

\* City or town

County or administrative area

Postcode

\* Country

**Contact Details**

E-mail

Telephone number

Other telephone number

Describe the premises. For example, what type of premises it is



*Continued from previous page...*

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this variation

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'

#### Section 4 of 4

#### PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.  
This formality requires a fixed fee of £23

#### DECLARATION

I/WE UNDERSTAND THAT 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. [APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED LIABILITY PARTNERSHIP, BUT NOT COMPANIES OR LIMITED LIABILITY PARTNERSHIPS] IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

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

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

\* Full name

\* Capacity

\* Date  /  /   
dd mm yyyy

Full name

Capacity

\* Date  /  /   
dd mm yyyy

**OFFICE USE ONLY**

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

[1](#) [2](#) [3](#) [4](#) [Next >](#)

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## **Appendix 5: Information from applicant**

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**From:** Christopher Burton  
**Sent:** 22 May 2023 10:03  
**To:** Yvonne Raine <  
**Subject:** [EXTERNAL]:Christopher Burton,

Hi, this is an email that explains

Again I apologize for the late cancellation and any disruption I've caused.

Apologies

Christopher Burton

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## **Appendix 6: Representation from Durham Constabulary**

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**From:** Iain Robertson  
**Sent:** 24 April 2023 13:50  
**To:** Valerie Evans  
**Cc:** Helen Johnson - Licensing Team Leader (N'hoods) ; P  
Conroy  
**Subject:** [EXTERNAL]:FW: Vary DPS - The Pavilion, South Church Road, Bishop Auckland, DL14 7JU

To whom it may concern

With regards to the attached varied designated premises supervisor application for the The Pavilion, South Church Road, Bishop Auckland, DL14 7JU proposing Mr Christopher Burton, Durham Constabulary wish to object to Mr Burton as DPS as it is felt that the crime and disorder licensing objective will be undermined.

When a licensing application is received, Durham Constabulary, a responsible authority under the Licensing Act 2003, carry out certain background checks of the proposed. Checks carried out on the police national computer revealed

Durham Constabulary feel that the information provided places serious concerns over Mr Burton holding the position of designated premises supervisor and feel that the crime and disorder licensing objective may be seriously undermined if allowed to continue in the role.

Based on the above circumstances, Durham Constabulary feel that objecting to this application is justified.

A/Sgt Iain Robertson  
Licensed Economy Team  
Durham Constabulary

**From:** Iain Robertson  
**Sent:** 10 May 2023 12:48  
**To:** Yvonne Raine  
**Subject:** [EXTERNAL]:Committee report for Christopher Burton

Hi Yvonne

Please find attached my annotated additions to the initial VDPS objection for Mr Burton. I have no further information/exhibits to disclose to the committee.

Many thanks

A/Sgt Iain Robertson  
Licensed Economy Team  
Durham Constabulary

DURHAM CONSTABULARY, Protecting Neighbourhoods, Tackling Criminals, Solving Problems...Around the Clock

NEIGHBOURHOOD POLICING: Use your postcode to get access to local news and events from your Neighbourhood Policing Team, at <https://www.durham.police.uk>

This email carries a disclaimer, a copy of which may be read at <https://www.durham.police.uk/Pages/E-Mail-and-SMS-Text-Disclaimer.aspx>

To whom it may concern

With regards to the attached varied designated premises supervisor application for the The Pavilion, South Church Road, Bishop Auckland, DL14 7JU proposing Mr Christopher Burton, Durham Constabulary wish to object to Mr Burton as DPS as it is felt that the crime and disorder licensing objective will be undermined.

When a licensing application is received, Durham Constabulary, a responsible authority under the Licensing Act 2003, carry out certain background checks of the proposed. Checks carried out on the police national computer revealed

Durham Constabulary feel that the information provided places serious concerns over Mr Burton holding the position of designated premises supervisor and feel that the crime and disorder licensing objective may be seriously undermined if allowed to continue in the role.

Durham Constabulary respectfully request that the licensing authority consider revocation of his personal licence due to the circumstances outlined at point 1. I have been informed that Mr Burton only completed his personal licence course on 11<sup>th</sup> January 2023 and suggest that his obligations outlined at point 1 should be fresh in his mind.

Based on the above circumstances, Durham Constabulary feel that objecting to this application is justified.

A/Sgt Iain Robertson

Licensed Economy Team

Durham Constabulary

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## **Appendix 7: Statement of Licensing Policy**

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**3.11 The designated premises supervisor (DPS)** - This person must hold a personal licence and be in general day-to-day control of the premises. No alcohol may be sold or supplied from a licensed premise unless it is sold by a personal licence holder or a personal licence has authorised others to sell alcohol in their absence. This is mandatory.

In 2009, the Government empowered licensing authorities, on the application of a management committee of a community premises, not to apply the normal mandatory conditions in relation to the sale of alcohol. Instead the council can impose a condition rendering the management committee responsible for the supervision and authorisation of all alcohol sales made pursuant to the licence.

Any application for a change of the DPS must be made to the council either electronically, via gov.uk, or in hardcopy. Any hardcopy applications must also be served on the Police. An application form completed by the premises licence holder, a consent form signed by the prospective DPS, the premises licence and the appropriate fee must be submitted.

Where an objection is received by the council from the Police in respect of the proposed DPS, the council is required to hold a hearing before the Licensing Sub-Committee within the timescales set out in the Act and accompanying regulations.

**6.1 The designated premises supervisor (DPS)** - The application for a premises licence must identify a designated premises supervisor (DPS) who must also hold a personal licence. It is important that the DPS is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years.

Most premises, where alcohol is sold under a premises licence, must have a designated premise supervisor (DPS). The DPS will be named in the premises licence, a summary of which must be displayed on the premises. A DPS must be a personal licence holder. Every sale of alcohol must be made or authorised by a person who holds a personal licence (or must be made or authorised by the management committee in the case of community premises).

The Licensing Act 2003 does not require a DPS, or any other personal licence holder, to always be present on the premises when alcohol is sold. However, DPS and the premises licence holder always remain responsible for the premises. The premises licence holder will be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.

The DPS is the person who has day-to-day responsibility for the running of the business associated with the retail sale of alcohol. All businesses and organisations selling or supplying alcohol, except members' clubs and certain community premises must have a designated premises supervisor. Whoever holds this role must be named in the operating schedule, which you will need to complete as part of the application process, when you apply for a premises licence.

The person chosen to be the DPS will act as primary contact for the council and the Police. They must understand the social and local issues and potential problems associated with the sale of alcohol and have a good understanding of the business itself.

If the police or authorised council officers have any questions or concerns about the business, they will expect to be able to reach the DPS. Each business may have only one supervisor selected for this role, but the same person may act as the DPS at more than one business.

The Licensing Act requires the DPS and personal licence holders to take responsibility for the sale and supply of alcohol. This is because of the impact alcohol has on the wider community, on crime and disorder and antisocial behaviour. Because of these issues, selling alcohol carries greater responsibility than licensing regulated entertainment and late-night sales of food and non-alcoholic drinks.

**The council will expect** the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that normally the DPS would be present at the licensed premises most of the time. To put it another way, the council will be concerned if the DPS is regularly absent from the premises and if difficulties are encountered when trying to contact a DPS. Such concerns will be magnified should there be any licensing related problems associated with the premises.

**7.1 The Prevention of Crime and Disorder** - Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment can, if not properly managed, become a source of public nuisance, generating crime and disorder problems. **The council expects** all licensed premises to be properly managed at all times to prevent this from happening and will focus attention on standards of management practice at licensed premises when carrying out its administrative and enforcement functions.

**The council encourages, and will look positively on,** the provision by licensees of comprehensive and documented staff training. Documented staff training conducted in respect of:

- Preventing underage sales
- Minimising drunkenness
- Managing and resolving conflict
- Emergency procedures
- Compliance with the licence conditions
- Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol
- Identification and refusal of underage sales
- Use of accredited training courses and recognised industry qualifications (e.g. BII)

**The council expects** every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden, a marquee, in a smoking shelter etc.

The **council expects** all applicants to demonstrate, in their operating schedules, that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business, have been identified and will be implemented and maintained with the intention of preventing crime and disorder.

**The council recommends** that procedures to deal with drunken customers, violence and anti-social behaviour, in and outside premises, and the provision of closed-circuit television in certain premises should be considered by applicants, licencees and event organisers when addressing this issue.

**The council encourages** personal licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. **The council encourages** involvement in the "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

**The council recognises and promotes** effective and responsible management of all licensed and authorised premises through competent, efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice,



such as 'Challenge 25'. These are amongst the most important control measures for the achievement of all Licensing Objectives.

**The council will take a positive view** of anyone who invests in appropriate training, and nationally accredited qualifications tailored to the licensing sector. Training records should be kept available for inspection by relevant enforcement agencies as a matter of good practice.

It is important that qualified and competent people are present who can discuss any problems or matters of concern arising from the licensable activities at or near to the premises with officers from DCC Licensing Services and Police.

**The council also considers it to be good practice** if the DPS or premises licence holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises
- At all times when the premises are a "vertical drinking establishment" where little or no seating is provided
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

**Maximum occupancy:** When its discretion is invoked, the council will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that premises or event. Any such decision will be based on the nature and style of the operation.

The council will consider information provided by the applicant and any other body (the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service) before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

**Security:** Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives, they will need to be licensed by the SIA as a supervisor/manager. The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment as well as the hours of trading.

**Toughened/Safety Glass:** Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies especially to any premises associated with a higher risk for potential crime and disorder. This will be particularly

relevant for high-volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues.

The council and several of its partners have signed a collective new pledge as part of an ongoing campaign to eradicate single use plastics. The agreement commits all signatories to significantly reduce, and work towards ultimately removing, the use of unnecessary single use plastics from their operations. If alternatives to normal glass are used, the use of suitable alternatives, including non-single use plastics, is encouraged.

**Drugs/Knives/Weapons: The council will expect** licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands or consumed within the premises to prevent tragedies and harm because of drug misuse.

**The council will expect** licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The council also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

In addition to the information provided above, **Table 1 in Appendix VI** provides recommendations, suggestions and examples for how to prevent the specific crime/disorder outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

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## **Appendix 8: Section 182 Guidance**

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## Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.

## **Specification of new designated premises supervisors**

- 4.61 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.84 to 4.97 of this Guidance.
- 4.62 The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form. The DPS' personal address should not be included in the summary form in order to protect their privacy.
- 4.63 To specify a DPS, the premises licence holder should normally submit an application to the licensing authority (which may include an application for immediate interim effect) with:
- a form of consent signed by the individual concerned to show that they consent to taking on this responsible role, and
  - the relevant part (Part A) of the licence.
- 4.64 If they are applying in writing, they must also notify the police of the application. If the application is made electronically via GOV.UK or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.
- 4.65 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.
- 4.66 The general guidance in Chapter 8 on electronic applications applies in respect of new applications.
- 4.67 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence. The DPS is not required to be present at all times when licensed premises are used for the sale of alcohol.
- 4.68 Where there are frequent changes of DPS, the premises licence holder may submit the form in advance specifying the date when the new individual will be in post and the change will take effect.

## **Police objections to new designated premises supervisors**

- 4.69 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for

selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

- 4.70 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- 4.71 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

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## **Appendix 9: Relevant part of Licensing Act 2003**

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## LICENSING ACT 2003

### SECTION 37 – APPLICATION TO VARY LICENCE TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR

#### 37 Application to vary licence to specify individual as premises supervisor

- (1) The holder of a premises licence may –
  - (a) If the licence authorises the supply of alcohol, or
  - (b) If he applied under section 34 to vary the licence so that it authorises such supplies,  
Apply to vary the licence so as to specify the individual names in the application (“the proposed individual”) as the premises supervisor.
- (2) Subsection (1) is subject to regulations under-
  - (a) Section 54 (form etc. of applications etc):
  - (b) Section 55 (fees to accompany applications etc):
- (3) An application under this section must also be accompanied by-
  - (a) A form of consent in the prescribed form given by the proposed individual, and
  - (b) The premises licence (or the appropriate part of that licence) or, if that is not practicable, a statement of the reasons for the failure to provide the licence (or part).
- (4) F1 Notice of an application under this section must be given-
  - (a) To the chief officer of police for the police area (or each police area) in which the premises are situated, and
  - (b) To the designated premises supervisor (if there is one)

And that notice must state whether the application is one to which section 38 applies.

- (4a) F2 Notice under subsection (4)(a) is to be given by-
  - (a) The relevant licensing authority, in a case where the holder of the **premises licence submitted the application to the relevant licensing authority** by means of a relevant electronic facility;
  - (b) The holder of the premises licence, in any other case.
- (4b) Notice under subsection (4)(b) is to be given by the holder of the premises Licence.
- (5) Where a chief officer of police notified under subsection (4) is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
- (6) The chief officer of police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (4).

### **38 Circumstances in which section 37 application given interim effect**

- (1) This section applies where an application made in accordance with section 37, in respect of a premises licence which authorises the supply of alcohol, includes a request that the variation applied for should have immediate effect.
- (2) By virtue of this section, the premises licence has effect during the application period as if it were varied in the manner set out in the application.
- (3) For this purpose, “the application period” means the period which-
  - (a) Begins when the application is received by the relevant licensing authority, and
  - (b) Ends-
    - (i) If the application is granted, when the variation takes effect,
    - (ii) If the application is rejected, at the time the rejection is notified to the applicant, or
    - (iii) If the application is withdrawn before it is determined, at the time of the withdrawal.

### **39 Determination of section 37 application**

- (1) This section applies where an application is made, in accordance with section 37, to vary a premises licence so as to specify a new premises supervisor (“the proposed individual”).
- (2) Subject to subsection (3), the relevant licensing authority must grant the application.
- (3) Where a notice is given under section 37(5) (and not withdrawn), the authority must-
  - (a) Hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
  - (b) Having regard to the notice, reject the application if it considers it (F1 appropriate) for the promotion of the crime prevention objective to do so.
- (4) Where an application under 37 is granted or rejected, the relevant licensing authority must give notice to that effect to-
  - (a) The applicant,
  - (b) The proposed individual, and
  - (c) The chief office of police for the police area (or each police area) in which the premises are situated.
- (5) Where a chief office of police gave a notice under subsection (5) of that section (and it was not withdrawn), the notice under subsection (4) of this section must state the authority’s reasons for granting or rejecting the application.
- (6) Where the application is granted, the notice under subsection (4) must specify the time when the variation takes effect.  
That time is the time specified in the application or, if that time is before the applicant is given that notice, such later time as the relevant licensing authority specifies in the notice.

#### **40 Duty of applicant following determination under section 39**

- (1) Where the holder of a premises licence is notified under section 39(4), he must forthwith-
  - (a) If his application has been granted, notify the person (if any) who has been replaced as the designated premises supervisor of the variation, and
  - (b) If his application has been rejected, give the designated premises supervisor (if any) notice to that effect.
- (2) A person commits an offence if he fails, without reasonable excuse, to comply with subsection (1).
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.