

Statutory Licensing Sub-Committee

12th January 2024

Application for the Review of a Premises Licence



Ordinary Decision

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:

Tanfield Ward, Stanley

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application to review the premises licence in respect of The Top House, 103 Front Street, Stanley, County Durham. DH9 0TB.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 On 14th November 2023, an application was received from Mrs Nicola Anderson of the Durham County Council Licensing Enforcement Team (Responsible Authority) asking for a review of the premises licence (licence number DCCC/PLA0178) for The Top House, 103 Front Street, Stanley, County Durham. DH9 0TB. The current premises licence holders are FB Taverns FH Limited.
- 4 During the consultation period the Licensing Authority received one representation in support of the review application from Durham Constabulary.
- 5 The Durham Safeguarding Children Partnership and the Home Office Immigration Enforcement Team both responded to the consultation with no representations.
- 6 Meetings have subsequently taken place between the Premises Licence Holders, Mrs Anderson and Durham Constabulary to discuss the contents of the review application.

As a result of these discussions, on the 18th December 2023 the premises licence holder's legal representative submitted some background information and an action plan to address the concerns. The action plan has been approved by all parties.

Recommendation(s)

- 7 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 8 The Sub-Committee is recommended to give appropriate weight to:
 - (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representations (including supporting information) presented by all parties;
 - (c) Durham County Council's Statement of Licensing Policy - the relevant parts of the policy are attached at Appendix 9;
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended August 2023). The relevant parts of the guidance are attached at Appendix 10.

Background

- 9 Background information

Applicant	Mrs Nicola Anderson, Durham County Council Licensing Enforcement Team	
Type of Application: Review of a Premises Licence	Date received: 14th November 2023	Consultation ended: 12th December 2023
Current Premises Licence Holder	FB Taverns FH Limited (since 3 rd July 2023)	
Designated Premises Supervisor	Mrs Tanya Lea-Ann Hardy (since 15 th September 2022)	

- 10 The premises licence in respect of The Top House, 103 Front Street, Stanley currently permits the following licensable activities:

Licensable Activity	Days & Hours
Films (indoors only)	Monday to Sunday: 11:00 – 02:00 hrs
Live Music (indoors only)	Monday to Saturday: 09:00 – 02:00 hrs, Sunday: 14:00 – 00:30 hrs, Sundays before a Bank Holiday (including Easter Sunday): 14:00 – 02:00 hrs, Good Friday, Bank Holiday Mondays and Christmas Day: 11:00 – 02:00 hrs, From 11:00 hrs on New Years Eve until 23:00 hrs on New Years Day
Recorded Music (indoors only)	Monday: 09:00 – 02:00 hrs Tuesday to Sunday: 11:00 – 02:00 hrs
Performances of Dance (indoors only)	Monday to Saturday: 11:00 – 02:00 hrs, Sunday: 14:00 – 00:30 hrs, Sundays before a Bank Holiday (including Easter Sunday): 14:00 – 02:00 hrs, Good Friday, Bank Holiday Mondays and Christmas Day: 11:00 – 02:00 hrs, From 11:00 hrs on New Years Eve until 23:00 hrs on New Years Day
Entertainment Similar to Live Music, Recorded Music or Performances of Dance (indoors only)	Monday to Sunday: 09:00 – 02:00 hrs
Sale of Alcohol (on and off sales)	Monday to Sunday: 09:00 – 02:00 hrs
Opening Hours	Monday to Sunday: 09:00 – 02:30 hrs

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

Details of the application

12 The review application submitted by the Durham County Council Licensing Enforcement Team was received on 14th November 2023.

13 The application is deemed by the Licensing Authority to be relevant, and the application was advertised in accordance with the regulations.

14 The application for review relates to the following licensing objective:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance

15 A copy of the review application is attached at Appendix 4.

The Representations

16 During the consultation period, the Licensing Authority received one response in support of the review application from Durham Constabulary (Responsible Authority).

A copy of this response is attached at Appendix 5.

17 The Durham Safeguarding Children Partnership and the Home Office Immigration Enforcement Team both responded to the consultation with no representations.

Copies of these responses are attached at Appendix 6, for information only.

18 Meetings have taken place between the Premises Licence Holders, Mrs Anderson and Durham Constabulary to discuss the contents of the review application.

Please see Appendix 7 for correspondence between all parties.

19 As a result of these discussions, on the 18th December 2023 the premises licence holder's legal representative submitted some background information and an action plan to address the concerns. The action plan has been approved by all parties.

A copy of this information and the action plan are attached at Appendix 8 for Members consideration.

The Parties

20 The Parties to the hearing will be:

- Mrs Nicola Anderson, Durham County Council's Licensing Enforcement Team (Applicant)
- Mr James Maizels, FB Taverns FH Limited (Premises Licence holder)
- Mr Alexander Embiricos, FB Taverns FH Limited (Premises Licence holder)
- Ms Angela Gardner, Poppleston Allen Solicitors (Premises Licence Holder's Legal Representative)
- PCSO Brian Donnelly, Durham Constabulary (Responsible Authority)

Options

21 The options open to the Sub-Committee are:

- (a) To take no further action;
- (b) To modify or add conditions to the licence;
- (c) Exclude a licensable activity from the licence;
- (d) Remove the Designated Premises Supervisor;
- (e) Suspend the licence for a period (not exceeding three months);
- (f) Revoke the licence.

Main implications

Legal Implications

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

See Appendix 1.

Consultation

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

See Appendix 1

Conclusion

24 The Sub-Committee is asked to determine the application for the review of the premises licence for The Top House, 103 Front Street, Stanley, County Durham. DH9 0TB

Background papers

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended August 2023)

Other useful documents

- None

Contact: Helen Johnson

Tel: 03000 265101

Appendix 1: Implications

Legal Implications

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

In this case it was summed up that:

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

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

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

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

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

Consultation

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

The Responsible Authorities were consulted on the application.

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

Notice of the application was displayed at the Council's Head Office at County Hall, Durham.

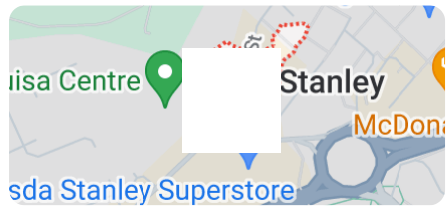
In addition, details of the application were available to view on the Council's website throughout the 28 day consultation period.

Appendix 2: Location Plan



Google Street View
May 2023 See more dates

Image capture: May 2023 © 2023 Google



sda Stanley Superstore

Stanley, England

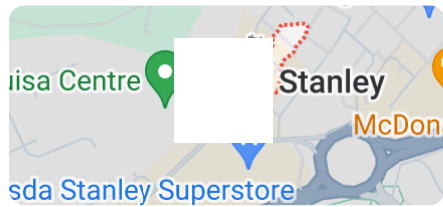
Google Street View

May 2023

See more dates



Image capture: May 2023 © 2023 Google



Appendix 3: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DCCC/PLA0178
16 September 2014
03 July 2023

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
TOP HOUSE 103 FRONT STREET STANLEY DH9 0TB	DURHAM COUNTY COUNCIL NEIGHBOURHOODS AND CLIMATE CHANGE COMMUNITY PROTECTION LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number:	

Where the licence is time limited the dates N/A

Licensable activities authorised by this licence Films Live Music Recorded Music Performance of Dance Other Entertainment Similar to Live or Rec Music or Dance Performance Sale by retail of alcohol
--

Opening Hours of the Premises		
Mon	09:00-02:30	Non-standard/seasonal timings N/A
Tue	09:00-02:30	
Wed	09:00-02:30	
Thu	09:00-02:30	
Fri	09:00-02:30	
Sat	09:00-02:30	
Sun	09:00-02:30	

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

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

<p>Films Indoors</p> <p>Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings N/A</p>
<p>Live Music Indoors</p> <p>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 14:00-00:30</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings Sundays before Bank Holiday (including Easter Sunday) - 14:00 - 02:00 Good Friday - 11:00 - 02:00 Bank Holiday Mondays - 11:00 - 02:00 Christmas Day - 11:00 - 02:00 New Year's Eve - 11:00 - 00:00 New Year's Day - 00:00 - 23:00</p>
<p>Recorded Music Indoors</p> <p>Mon 09:00-02:00 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</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings N/A</p>
<p>Performance of Dance Indoors</p> <p>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 14:00-00:30</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings Sundays before Bank Holiday (including Easter Sunday) - 14:00 - 02:00 Good Friday - 11:00 - 02:00 Bank Holiday Mondays - 11:00 - 02:00 Christmas Day - 11:00 - 02:00 New Year's Eve - 11:00 - 00:00 New Year's Day - 00:00 - 23:00</p>
<p>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors</p> <p>Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings N/A</p>

Sale by retail of alcohol	Further details
Mon 09:00-02:00	N/A
Tue 09:00-02:00	Non-standard/seasonal timings
Wed 09:00-02:00	N/A
Thu 09:00-02:00	
Fri 09:00-02:00	
Sat 09:00-02:00	
Sun 09:00-02:00	

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
FB TAVERNS FH LIMITED 85 GREAT PORTLAND STREET LONDON W1W 7LT	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	
Charity no:	N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol
MRS TANYA LEA-ANN HARDY

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.

Mandatory condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing in subsection (1) requires such a condition to be imposed-
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to-
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section-
 - (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Mandatory condition: exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where-
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section-
"children" means persons aged under 18; and
"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 – Conditions consistent with the premises Operating Schedule

General

All staff shall be fully trained to perform their role.

They will also be trained in the contents of the premises licences including times of operation, licensable activities and all conditions.

Refresher training will be carried out every 6 months and all training will be recorded in a register.

The register will be made available to the Police or an authorised officer of the local authority upon request.

Prevention of Crime & Disorder

The premises shall maintain an incident book, which shall be made available to the Police and authorised officers of the local authority upon request.

A CCTV system will be installed and in operation at all times. The CCTV system shall consist of 16 IP cameras capable of backing up footage on an SD card for a minimum of 4 days on each camera, in addition to a minimum of 28 days storage on the NVR.

A weekly log will be maintained to check that the CCTV is in full working order, any faults to be recorded at the earliest opportunity and rectified within 14 days.

The CCTV cameras will cover but not limited to the bar serving area where sales of alcohol are made including the till, all public areas including all entrances & exits to the building.

The CCTV system must be stored securely in a lockable box and operated by properly trained staff.

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

Areas that are not in use to be inspected on an annual basis by a maintenance manager to ensure unauthorised access is controlled.

A minimum of 3 SIA registered door staff will be employed between the hours of 21:30 and closing on a Friday, Saturday, and Sunday preceding bank holidays.

2 members of door staff to be positioned at the front door and 1 member to monitor internally including the toilets to deter drug use.

Where a person is employed or engaged as a registered door supervisor the licensee shall maintain a register showing in respect of each period of duty of that person - the name and registration number of the person; the date and time when the person commenced duty, countersigned by the person; details of any incident which occurs during the period of duty recorded in the incident book.

The register shall be kept at the licensed premises readily available for inspection during licensed hours by any authorised Officer and the said register shall be retained for period of six months.

Public Safety

Total capacity not to exceed 500 persons

Lower floor - 400 persons

Upper floor - 100 persons

Prevention of Public Nuisance

None

Protection of Children from Harm

All members of staff at the premises shall seek credible photographic proof from any person who appears to be under the age of 25 and is seeking to purchase alcohol. Such credible evidence shall include a photograph of the customer which will either be a passport, photographic driving licence or proof of age card carrying the PASS logo.

A refusals register will be maintained at the premises.

The premises shall operate the Challenge 25 scheme.

As part of such a scheme a register of refusals shall be maintained and kept up to date.

The register will be available for immediate inspection by Police or authorised officers of the local authority upon request.

Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older. Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the "PASS" logo and the person's date of birth.

If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

Signs to be displayed relating to ID checks along with a confiscation policy should any person use fake ID or attempt to use another person's ID in order to be served.

Staff training will be carried out and recorded in a training file. It shall include the staff's responsibilities under the Licensing Act 2003 and also highlight the dangers of proxy purchasing. Such training will be refreshed annually.

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

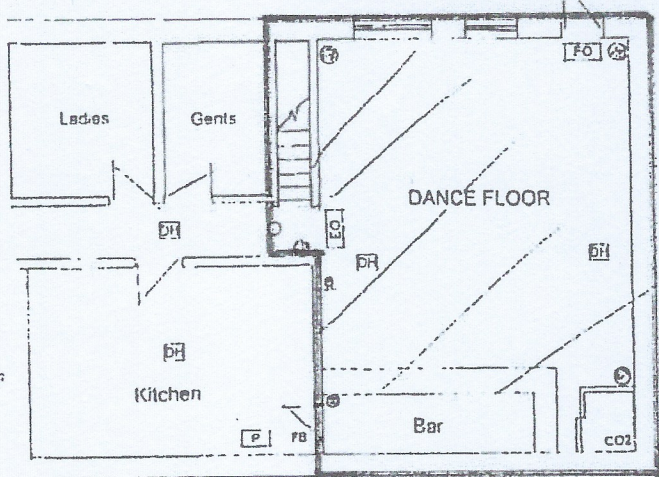
None

Annex 4 – Plans attached

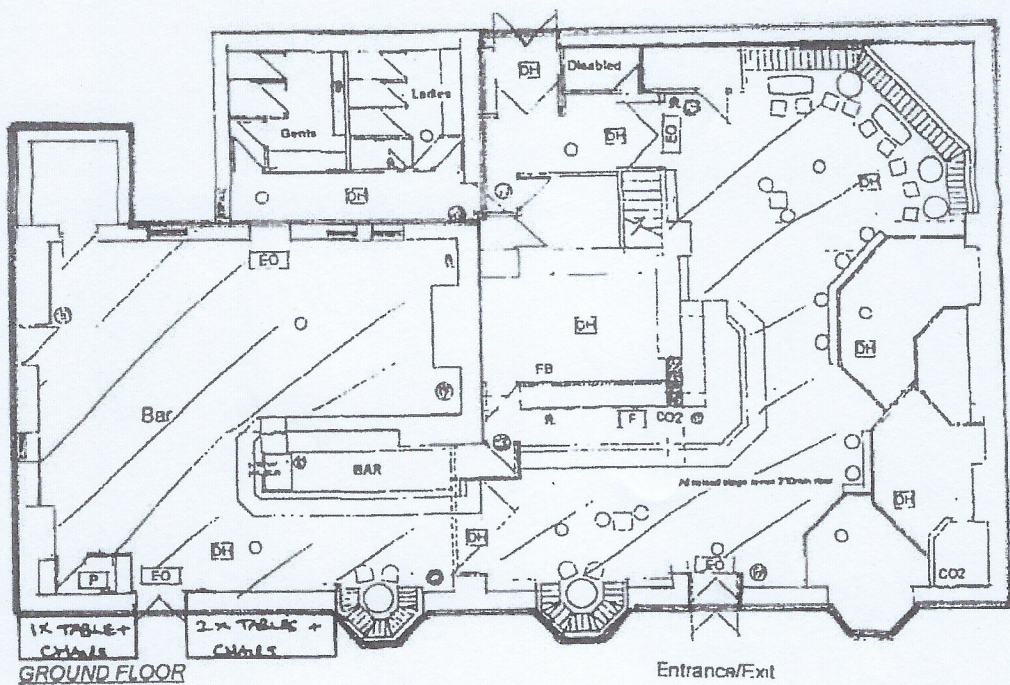
Attached




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



FIRST FLOOR




GROUND FLOOR

 Alcohol consumption
Entertainment Area

LEGEND	
EO	EMERGENCY LIGHT & FIRE EXIT SIGN
E	FIRE EXIT
FB	FIRE BLANKET
O	EMERGENCY LIGHTING
⊙	AUDIBLE WARNING DEVICE
⊕	BREAK GLASS ALARM
DH	HEAT DETECTOR
W	WATER EXTINGUISHER
CO2	CARBON DIOXIDE EXTINGUISHER
P	POWDER EXTINGUISHER
F	FOAM EXTINGUISHER
FB	FIRE BLANKET
CCTV	BLUE CIRCLE

LEGEND LICENSING AREA
 SALE OR SUPPLY OF ALCOHOL AND PROVISION OF REGULATED ENTERTAINMENT TO APPLYS TO THE BAR AREA.

Licensing Application	 MacDonald Martin Ltd Fire and Safety Consultants
PROJECT TITLE Ground Floor Plan of Montgomerys Front Street, Stanley, Co Durham	
Licensing Purpose. Application for the conversion of an existing licence to a new licence under the Licensing Act 2003 and to vary simultaneously	
Scale 1:100 (1cm=1m)	Date 29 th June 2006
Drawn by AT	Drawing No. AT/JR 20/05

Appendix 4: Review application

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

**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Nicola Anderson

(Insert name of applicant)

**apply for the review of a premises licence under section 51 / apply for the review of a club
premises certificate under section 87 of the Licensing Act 2003 for the premises described in
Part 1 below (delete as applicable)**

Part 1 – Premises or club premises details

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

The Top House
103 Front Street

Post town Stanley

Post code (if known) DH9 0TB

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

**FB Taverns FH Limited
85 Great Portland Street
London
W1W 7LT**

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

DCCC/PLA0178

Part 2 - Applicant details

I am

Please tick ✓ yes

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

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

X

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

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

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

Nicola Anderson
Licensing Enforcement
Annand House
Meadowfield
Durham
DH7 8RS

Telephone number (if any)

E-mail address (optional)

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

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

The Top House in Stanley is a bar that is open during the day but at stays open until 2:30am on a Friday and Saturday night and a Sunday preceding a Bank Holiday. It is the only bar in Stanley staying open that late.

Tanya Hardy was appointed as the Designated Premise Supervisor (DPS) at the premises on 15th September 2022.

There are serious concerns about the following licensing objectives failing to be upheld at the premises:

Prevention of crime and disorder
Public safety
Prevention of public nuisance

Officers both from Licensing Services and Durham Constabulary have attempted to work with the premises over the past year, this has resulted in a variation application being submitted in May 2023, becoming effective in June 2023. However, following this, there have been several incidents at or around the premises reported to the Police, along with identified breaches of the conditions attached to the licence, including:

- Failing to have a sufficient number of door supervisors on duty
- Failing to keep a door supervisor register
- Failing to have a CCTV system with footage that can be downloaded to investigate crimes
- Failing to have CCTV system that is compliant with the licence conditions
- Failure to produce a refusals register
- Staff training had not been completed
- Failing to have an incident book available for inspection

Ms Hardy was written to and invited to attend the Licensing Office for interview regarding the breaches of licence conditions on 2 occasions however, she has not responded to the letters. A file initiating legal proceedings by the Licensing Authority for non-compliance with the Licensing Act 2003 has been produced and is currently under consideration.

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

On 5th December 2022 police were called by the premises following a burglary where the CCTV hard drive had been stolen along with some alcohol.

Incidents of disorder at the premises were reported to the police on 6 occasions between the 10th of December 2022 and the 7th of January 2023 so on 9th January 2023 a joint visit by Licensing Enforcement and Durham Constabulary was carried out. The owner of the door supervisor company LA Security attended along with Tanya and I Hardy.

At the time, the licence had no requirement for CCTV however it was discussed that it would be beneficial if the CCTV that was already installed was brought back into working order. PCSO Donnelly from Durham Constabulary agreed to liaise with Camerons, who were the licence holder at the time, regarding this.

There were further incidents of disorder reported to Police through January and February and Police requested CCTV from the premises for 15th February 2023 following a reported assault at the premises, it was again found that CCTV could not be provided. The licence holder was again notified about the issue by Durham Constabulary.

Further incidents took place at the premises in March 2023.

Police Officers attended the premises on 11th April 2023 at approximately 13:30 to obtain CCTV. Staff at the premises asked if they were there about the burglary. Officers were unaware that a burglary had taken place at the premises. After speaking with the DPS and the person behind the bar officers were told that the CCTV hard drive had been stolen during the night, nothing else in the pub had been touched. Police expressed concerns about whether this was a fraudulent burglary following a visual inspection of the premises. The alleged burglary was reported to the police at 13:28 on 11th April 2023.

A meeting was arranged with the area manager for Camerons, who were the Licence Holders at the time, to highlight concerns at the premises. This took place on 21st April 2023. Licensing Enforcement, the Police and the Licence Holder were in attendance. The Licence Holder was asked to submit a variation of the premises licence to incorporate licence conditions which would assist the premises in attempting to uphold the licensing objectives. This was followed up with a meeting including Tanya Hardy on the 25th of April 2023. A list of conditions was provided to them to consider when submitting their variation.

On 19th May 2023 a burglary took place at the premises where the safe was stolen.

The variation application was submitted on 22nd May 2023.

On 2nd June 2023 a meeting was held at the Top House with representatives of Durham Constabulary, Licensing Enforcement and the then licence holder, Camerons. The DPS and head of the new door security firm were also in attendance. Discussions were held around the new conditions on the licence and how these should be implemented and what records should be held and kept. The new licence came into effect on 14th June 2023.

Incidents continued to be reported from the premises.

On 23rd June a joint visit was done to the premises at 9:40 by Licensing Enforcement and the Durham Constabulary. At the time of the visit there were only 2 door supervisors on duty. The licence, which had come into effect on 14th June 2023 required that there were 3 door supervisors on duty from 9:30. The new licence summary was not on display and

there was no door supervisor log.

On 26th June a warning letter was sent to the DPS giving them 7 days to rectify the non compliance. A copy of this was also sent to the Licence Holder.

On 30th June 2023 the licence holder emailed to confirm that the matters raised had now been rectified.

On 3rd July 2023 a transfer application for the Top House was received and accepted. The new Licence Holders are FB Taverns FH Ltd.

On 21st July 2023 I rang the number we have on the system for Tanya Hardy. I spoke with her husband I and explained that I wanted to go to the premises to collect the door supervisor logs. He told me to go any time. The staff would give them to me as Tanya was away. A visit was carried out to the premises on 24th July 2023. Staff were only able to produce the door supervisor log from the weekend before. There was no other paperwork available. The condition added to the premises licence states:

Where a person is employed or engaged as a registered door supervisor, the licensee shall maintain a register showing, in respect of each period of duty of that person, the name and registration number of that person, the date and time when the person commenced duty, countersigned by the person... the register shall be kept at the licensed premises, readily available for inspection during licensed hours by any authorised officer and the said register shall be kept for 6 months.

A further incident of disorder was reported to the police from the premises and Police attended the premises to obtain CCTV, however the DPS could not access the cabinet to the DVR to download the footage. She advised she had not been given a key when it had been installed. The footage was captured as police recorded directly from the monitor however the licence condition requires that footage can be downloaded. Police spoke to a representative from Camerons who informed them that keys had been left with the DPS for the cabinet.

More incidents were reported to the police on 5th of August and the 21st of August 2023. Durham Constabulary attended the premises to get footage from the CCTV on 22nd August 2023. Staff at the premises did not have a key for the cabinet where the DVR was kept. Footage only went as far back to 9th August 2023 (13 days). The licence requirement is that footage is retained for 28 days. On leaving the premises a check was carried out on other conditions for the licence and it was found that the following conditions were not being complied with:

- Staff training has not been completed, and the member of staff spoken to was unaware of any training records being available for inspection.
- CCTV recording for only 13 days, a weekly check log was not available for inspection. The DVR is stored in a lockable box, however the keys have gone missing preventing access to the hard drive. The member of staff said that she would not know how to access the CCTV.
- There was no incident book available for inspection
- Door supervisor logs were not available for inspection

A letter was sent to FB Taverns on 21st August 2023 detailing the DPS's failure to comply with licence conditions.

On 23rd August 2023 Licensing Enforcement, Durham Constabulary met with the representative from Camerons and the new representative for FB Taverns. The issues were discussed. Assurances were given that the CCTV would be sorted out and conditions would be complied with.

Licensing Enforcement and Durham Constabulary called at the premises on 1st September 2023. Staff could not produce the refusals book and no training records were available; this visit was prior to the time that door-staff were due to commence duty.

Incidents have continued to be reported to the Police regarding these premises.

Licensing, as a Responsible Authority, along with Durham Constabulary have given the Licence holders and DPS several warnings regarding our concerns about non-compliance and the failure of the premises to promote the licensing objectives, to the detriment of the community and those who visit the premises. The need for significant improvements at the premises has been ignored.

It was anticipated that the variation of the licence would help to promote the licensing objectives however, because of a repeated failure to comply with several licence conditions, the Licensing Authority, as a Responsible Authority, is now seeking the revocation of the premises licence.

Please tick ✓ yes

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

If yes please state the date of that application

Day Month Year

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

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

N/A

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date **14th November 2023**

.....

Capacity **Responsible Authority**

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

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

Appendix 5: Representation from Durham Constabulary

From: Brian Donnelly <
Sent: 06 December 2023 20:16
To: AHS Licensing <
Cc: Caroline Dickenson
Subject: [EXTERNAL]:Licensing Act 2003 - Review application - The Top House, 103 Front Street, Stanley

Good morning

Please see attached supporting document of your review of The Top House, Stanley, if there is anything further, please let me know,

Kind regards,

PCSO 7095 Brian Donnelly

Licensing Officer
Annand House
John Street North
Meadowfield
Durham
DH7 8RG

Tel

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

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Top House Review 2023

Durham Constabulary support the review application and the request for the revocation of the premises licence made by Durham County Council in relation to the Top House, 103 Front Street, Stanley, Co. Durham. The premises have undermined the licensing objectives, namely crime and disorder and the protection of children from harm.

On **14 September 2022** I was introduced to Tanya & I Hardy by Cameron's area manager, L S at the Top House in Stanley. During this meeting I discussed the Licensing objectives that are the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and Protection of Children from Harm.

The Premises Licence Holder (PLH) at that time was Cameron's Brewery and the Designated Premises Supervisor (DPS) is Mrs. Tanya Hardy.

There have been a number of incidents at this premises that have given rise to concern. These have included numerous reports of disorder from the premises, inadequate CCTV coverage, lack of upholding conditions of their licence including training, maintaining incident logs, maintaining door supervisor logs, and protecting children from harm.

- 1) 18 September 2022** Intoxicated male refused entry to premises, male reports that u/k door staff tried to hit him, causing fear of violence. Crime recorded of Common assault and battery.
- 2) 24 September 2022** intelligence report stating proprietor of the Top House is selling alcohol to underage individuals and it is also reported that drugs are being sold on the premises.
- 3) 24 September 2022** Intelligence report concerning a female telling off a younger female in the toilet. The informant states she heard the older female shouting that the younger female who should not be in the pub as she is only 15 years old. The caller states the female continued to be served alcohol and didn't leave until the early hours.
- 4) 29 September 2022** I have spoken to Tanya & I regarding Challenge 25 and recording refusals, I have suggested that if door staff are doing the challenge, then to record the details in a pocketbook to include those who have been allowed in as well as those turned away, the notebook then can be used as part of their record of checks.
- 5) 22 October 2022**, an intoxicated male had been assaulted by door staff for no apparent reason. Incident crimed as Assault occasioning actual bodily harm.
- 6) 28 October 2022** intelligence report stated that two members of door staff are involved in the supply of drugs. One male claimed he was door staff, dressed in black like a door supervisor, but did not have an SIA Badge.
- 7) 31 October 2022** Visit completed with L S , discussed intel report, discussed quality of CCTV being poor and not very good evidentially.
- 8) 5 November 2022** Reporting 20 people fighting outside the premises. Officers have attended and nothing ongoing.
- 9) 15 November 2022** A snap bag of white powder handed in, found on dance floor.
- 10) 19 November 2022** report of a group of intoxicated males fighting outside of The Top House, crimed as Affray.
- 11) 24 November 2022** Visit completed, spoke to Tanya & I , discussed underage sales, namely in relation to the Top House Football Team where information had been passed that youths as young as

Top House Review 2023

17 were drinking in the bar on a Sunday afternoon. Discussed Fake ID's and how to identify fake driving licence and Citizen Cards using PoA Card Verify.

12) 3 December 2022 Caller reporting fights and drug use outside of premises, officers attended, nothing on-going, door staff unaware of any incidents.

13) 5 December 2022 Unknown suspects force entry into public house by smashing upstairs window. Once inside, suspects conduct untidy search of the premises and forcibly remove alarm and CCTV system before making off via downstairs fire door. The complainant believes that those responsible may have had some knowledge of the layout of the public house, as they also targeted a safe within the building. Incident crimed as Burglary.

14) 8 December 2022 Visit completed, spoke to I & Tanya, discussed recent underage sales/intelligence from 2 December where it was stated that youths are using false ID to get served. I was adamant that he continues to check ID and that no person's underage have been served. Due to the lack of CCTV unable to verify this or otherwise.

15) 10 December 2022 police attended to a report of a group of females involved in a fight. One female had taken the doorman's signing in book, she has assaulted a male outside the pub after he retrieved the signing in book. Incident crimed as Affray.

16) 11 December 2022 an intoxicated male was shouting and swearing at members of the public whilst trying to fight people outside of the Top House. Officers were unable to obtain CCTV, informed that the new system they had installed last week must have been fitted incorrectly as they are totally unable to view the footage. The male was cautioned and arrested for a Section 5 Public Order.

17) 19 December 2022 Officers attended the TOP HOUSE where a doorman had a male detained after he had been seen in possessing cocaine.

18) 22 December 2022 a female reported that she has been assaulted at Top House on Saturday 10th December 2022 where she has sustained a broken arm in three places. The victim has then been further assaulted by a male who pretends to be a member of door staff. Incident crimed as Malicious wounding: wounding or inflicting grievous bodily harm.

19) 6 January 2023 a female suspect, whilst heavily intoxicated, assaults female victim. Suspect was arrested and has admitted to taking crack cocaine and drinking heavily. Crimed as Common assault.

20) 7 January 2023 Intoxicated female reporting she had been assaulted by door staff. The victim contacted Police stating that she could not recall much further due to her level of intoxication crimed as Common assault.

21) 9 January 2023 A joint visit completed with Licensing Enforcement, discussed recent reports, new door staff have been appointed. At the time, the licence had no requirement for CCTV however it was discussed that it would be beneficial if the CCTV that was already installed was brought back into working order.

22) 22 January 2023 a named suspect whilst working as door supervisor tells member of public she can't enter unless she bends over. This comment and subsequent gesture from suspect have upset several customers in the premises has caused a later disturbance leading to linked criminal damage. Crimed Section 5 Public Order, CCTV not working.

23) 22 January 2023, following a verbal altercation with door staff the female victim who claimed she had been sexually assaulted by door staff, has caused damage to windows of the Top House. The

Top House Review 2023

incident was crimed and the female was arrested for Criminal Damage To A Building Other Than A Dwelling.

- 24) 27 January 2023** Joint visit with Licensing Enforcement & PC 1291 Alan Newcombe. Refusals book was seen but had not been completed since 26 December 2022. Drugs wipe completed in ladies and gent's toilets; evidence found in the gents on the vanity unit. ID checks were completed on a number of young people.
- 25) 28 January 2023** unknown male who works as a doorman at Top House, forcefully push female victim out of the door using unnecessary use of force. Crimed as Common assault
- 26) 18 February 2023** 2 separate phone calls made to police by staff at The Top House, the incident has involved a known male who has become abusive and threatening inside the public house. Police were contacted by the management of the premises who were not present themselves at the time of the incident. Officers have spoken with both door staff and bar staff who were not forthcoming with any additional details of the incident. Incident crimed Fear or provocation of violence.
- 27) 15 March 2023** Spoke to I Hardy, requested CCTV footage from 15 February, on checking the DVR, footage is available to download, unfortunately need administrator permissions to download.
- 28) 16 March 2023** police attended the Top House following reports of two females fighting in the premises. This incident has been fuelled through alcohol. A crime of affray was recorded.
- 29) 25 March 2023** Report received to police that a group of 20 males was fighting outside the Top House at 02:50 hrs. Suspect arrested, crimed as Affray
- 30) 9 April 2023** Report of a large fight outside of the Top House, door staff did not intervene. As a result of the assault on one female has suffered a significant loss of hair that had been ripped out. The other female lost a tooth. She also has a cut to the top of her head. CCTV had been viewed and it captures some of the incident that would identify suspects. Two persons arrested for sec 47 assault.
- 31) 11 April 2023** Unknown person/s have entered the premises by smashing a window, once inside have removed the CCTV unit, no other property was taken. A crime of burglary was recorded, however, following discrepancies and suspicions during the investigation, the crime was cancelled.
- 32) 18 April 2023** Discussions held with Licencing Enforcement around conditions on the licence, the DPS, Door Staff and CCTV.
- 33) 25 April 2023**, meeting held at Annand House present: Iain Robertson Police Licencing, Brian Donnelly Licensing Officer, Insp. Laura Blackhouse, L S area manager for Cameron's, I & Tanya Hardy DPS from the Top House. Concerns were raised over the ability of Tanya & I to manage the Top House and how they are accountable to uphold the licensing objectives, in particular around Prevention of Crime & Disorder. The Licence Holder was asked to submit a variation of the premises licence to incorporate licence conditions which would assist the premises in attempting to uphold the licensing objectives. The variation was submitted on 22 May 2023 and came into effect on 14 June 2023.
- 34) 19 May 2023** report of a burglary overnight at the premises, the alarm system had been damaged, the safe had been taken along with several bottles of spirits. Incident crimed.
- 35) 19 May 2023** Spoke to Tanya Hardy and B from Cameron's following the burglary, discussed crime prevention, CCTV, and door staff.

Top House Review 2023

36) 2 June 2023 Meeting held at the Top House with I & Tanya Hardy (DPS) L S (Cameron's) Nicola Anderson (DCC) M A (SDA Security) Discussed underage sales, drug use in the premises, security of the building and CCTV. Discussions were held around the new conditions on the licence and how these should be implemented and what records should be held and kept. Tanya & I has been informed by L that this will be there final warning and chance to improve the premises. Tanya & I are happy with the improvements carried out on the premises, the takings are down compared with previous weeks, due to not allowing younger persons in the premises.

37) 11 June 2023 due to a disagreement whilst intoxicated a male has been assaulted by a female. The female was arrested and was cautioned. Crimed as Common assault and battery.

38) 23 June a joint visit to the premises with Licensing Enforcement. At the time of the visit, DPS was not on duty, there were only 2 door supervisors on duty. The licence, which had come into effect on 14th June 2023 required that there were 3 door supervisors on duty from 21:30. The new licence summary was not on display and there was no door supervisor log.

A drugs wipe was completed in the toilets, indications seen in gents. Given 1 x small sachet of white powder, believed to be cocaine, Supervisor was very defensive around drug use, claiming she can't do nothing about that if customers are going to bring drugs in.

Three driving licences handed over, two of which were genuine, but, used by someone else, other was fake along with a fake citizen card.

39) 29 July 2023 Two males have been assaulted inside the Top House; both were heavily intoxicated. Incident captured on CCTV, however, unable to access the DVR to download footage. Incident crimed as Assault occasioning actual bodily harm.

40) 2 August 2023 Visit completed requested CCTV footage to be downloaded from 29 July onto USB, Tanya stated she did not have a key to access the secure cabinet where the DVR is stored, images captured on mobile device and uploaded to Axon. Tanya was hesitant in providing a name of bar staff who appeared to know what was going to happen prior to the assault.

41) 4 August 2023 SMS sent to I ; request made for CCTV from 29 July 2023, reply from I "We haven't got the key for the safe from Cameron's to access the hard drive to supply this CCTV onto USB, we were not given one when it was installed"

I have spoken to L & B from Cameron's, they told me that you have the keys for the cabinet, they do not have any spare copies of the key.

42) 5 August 2023 Initial call received from female victim that she had been drinking in the TOP HOUSE with two male friends when they have purchased her a drink. The female suspect has not been happy with and has accused the victim of being involved with the two males. The suspect has then punched the victim in the face. Incident crimed Assault occasioning actual bodily harm.

43) 21 August 2023 Report of a female being assaulted in the toilets; the suspects have attacked the victim causing an injury to her face. Officers unable to download the CCTV, unable to access the DVR. Crime recorded of Assault occasioning actual bodily harm.

44) 22 August 2023 Licence check completed, DPS not present, CCTV footage retained for 13 days, requirement of 28 days on licence, staff training records not completed, no incident book available for inspection, refusal register checked, last entry from 30 June 2023, door supervisor logs not available. Key for DVR still missing. CCTV viewed from 19 August; two door staff seen with SIA badges

Top House Review 2023

visible on their arms. A third person was seen, assumed to be door staff but no badge was seen on his person.

45) 23 August 2023 Meeting with the representative from Cameron's and the new representative for FB Taverns. Discussed work that has been completed over the past few months including variation of the licence and police reports associated to the premises. Assurances were given that the CCTV would be sorted out and conditions would be complied with.

46) 1 September 2023 visit completed with Licensing Enforcement, the DPS was not available, asked to see refusals book – could not be found, asked to see training records were not available. Summary Licence was seen in the bar. At time of visiting door staff had not started their shift.

47) 10 September 2023 Male assaulted at the premises, CCTV recorded on mobile device, unable to access the DVR, crime of Assault occasioning actual bodily harm.

48) 13 September 2023 telephone call to Tanya Hardy, discussed incident from 1 September. Tanya stated she is now working full time for DPD delivering parcels Monday to Friday. She has had no contact from J H of FB Taverns, still unable to access the DVR.

49) 19 September 2023 report of a sexual assault on a female, two crimes recorded, one for suspect who was assaulted and one for victim Sexual assault. CCTV recorded by mobile device, unable to access the DVR.

50) 11 November 2023 A female suspect has struck ex-partner to the head with a glass causing injury. There is CCTV which will capture the incident. This could not be provided by bar staff as they do not have access. Officers spoke to Tanya on the phone who stated she would not be at work this evening and suggested I returned the following morning. Officers had to remind her of her obligations regarding her licence for her to finally organise sending a member of staff with a key to the premises. Crime of Assault occasioning actual bodily harm.

In conclusion to my report, I believe that due to the poor management of this premises I have no confidence in the Designated Premises Supervisor (DPS), or her staff.

The premises have repeatedly undermined the licensing objectives and have shown little progress over the last 14 months.

Although it was expected that following the variation of the licence would help the DPS to promote the licensing objectives, having constantly addressed the issues above through regular meetings, I fully support the review application and the request for the revocation of the premises licence made by Durham County Council in relation to the Top House, 103 Front Street, Stanley, Co. Durham.

Appendix 6: Consultation Responses

Tel Number
Email:

Our Ref: PM/The Top House, Stanley/1123

14th November 2023

Nicola Anderson
Senior Licensing Enforcement Officer
Durham County Council
Annand House,
John Street South,
Meadowfield
Durham
DH7 8RG

Dear Nicola,

Re: Application for a Review of Premises License – The Top House, Stanley

I represent the Durham Safeguarding Children Partnership (DSCP) which is a responsible authority under the Licensing Act.

I can confirm that based on the information you have provided, the Durham Safeguarding Children Partnership has no representations to make.

Regards

PAULA MATHER
Business Manager
Durham Safeguarding Children Partnership

From: ISD Alcohol Licensing <
Sent: 28 November 2023 09:22
To: Yvonne Raine

; DSCP Secure <

Good morning,

Thank you for providing your submission on the above premises. Having searched our databases, we can find no recent record of any Immigration offences in relation to the above premises, therefore Immigration Enforcement will not be making any representations at this time.

Regards

Paul Wynter
Alcohol and LNR Team
Interventions & Sanctions Directorate
Immigration Enforcement

Appendix 7: Correspondence between the parties

From: Nicola Anderson <
Sent: 14 December 2023 15:48
To: Angie Gardner < >; Brian Donnelly
Cc: Caroline Dickenson < >; Laura Cloney
< >; Alan Newcombe < >; Yvonne
Raine < >
Subject: RE: [EXTERNAL]:RE: The Top House PCX:000005000001610

Good afternoon Angie

I can confirm that we had a meeting this morning with the police following your email.

We are happy with what has been proposed and therefore at the review hearing we can advise as to what has been mediated by the parties involved.

Kind regards

Nicola

From: Angie Gardner
Sent: 14 December 2023 15:43
To: Brian Donnelly < >; Nicola Anderson
< >
Cc: Caroline Dickenson < >; Laura Cloney
< >; Alan Newcombe < >; Yvonne
Raine
Subject: [EXTERNAL]:RE: The Top House PCX:000005000001610

Hi all

I just wondered if you had an opportunity to look at the below and if so, could you provide me with your update / comments on my proposal by return?

Many thanks

Angie Gardner | Paralegal

Poppleston Allen

E: < > | T: < > | M: < > | W: www.popall.co.uk

Nottingham Office: 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS

From: Angie Gardner

Sent: Tuesday, December 12, 2023 2:29 PM

To: Brian Donnelly

>; Nicola Anderson

Cc: Caroline Dickenson <

>; Laura Cloney

>; Alan Newcombe <

>; Yvonne

Raine

Subject: RE: The Top House PCX:000005000001610

Hi all

I have now caught up with the client regarding the below incidents and Nicola's previous emails regarding the following proposal discussed on 5th December 2023 between yourselves:-

1. Keep the premises closed until after New Year (I believe your clients wish to refurbish the premises during this time)
2. Appoint a new DPS
3. Pull the hours back to 11:30 Sun – Thu and 12:30am Fri-Sat (your clients at the meeting discussed having a more Wetherspoons type bar)
4. Vary the licence to include a condition whereby the DPS and Operations Manager have quarterly meetings to discuss issues at the premises and these should be documented. (This seems to have been an underlying problem with the previous DPS not telling anyone of issues at the premises).

Firstly, in terms of the incidents below we unfortunately cannot provide any mitigating circumstances for these since recording of incidents was not taking place by the tenant and DPS, as we all know, and also no information provided by either of them prior to vacating this property.

I note there are three incidents that took place after Midnight (Saturday 29th July, Monday 21st August and Sunday 10th September 2023), all other incidents were earlier in the evening (between 1928 and 2006 in the evening).

I have therefore discussed the four points above provided by yourselves and can confirm the following.

Point 1 – agreed and the premises is currently closed, the client is obviously not going to start refurbishment works until we know the situation with the Premises Licence after this Review, but the premises will remain closed until the Review is determined in January 2024.

Point 2 – as you know we have removed the current tenant and DPS so have complied with this request.

Point 4 – agreed and if this matter is resolved and the Premises Licence remains in the terms agreed I would submit a Minor Variation to add the condition regarding quarterly meetings between yourselves and the DPS / Area Manager moving forward to discuss issues, if any.

Point 3 – reduction in hours. As you know we are reluctant to reduce the hours to those suggested, but based on the incidents provided since our client took over the premises (as below in your email) and our agreement to the other points above, could we agree to reduce the hours during the week as requested (Sunday to Thursday) but continue with the Friday and Saturday hours.

As we will be having quarterly meetings (and these can be more frequent for the first three months of trade if necessary) to discuss things with you, we would hope with the refurbishment, period of

closure and a more robust tenant in situ (whom you know from previous experience I believe) we could alleviate the number of incidents but still have a viable Premises Licence to trade.

Let me have your thoughts on the above at your earliest convenience and hopefully we can provide an Action Plan workable for all.

Many thanks

From: Brian Donnelly

Sent: Friday, December 8, 2023 12:46 PM

To: Angie Gardner

>; Nicola Anderson

>

Cc: Caroline Dickenson <

>; Laura Cloney

>; Alan Newcombe <

>

Subject: RE: The Top House PCX:000005000001592

Angie,

I have looked at the police reports from 01 July 2023, there have been 6 incidents recorded: -

- **29 July 2023 at 01:26** Two males have been assaulted inside the Top House; both were heavily intoxicated. Incident captured on CCTV, however, unable to access the DVR to download footage. **Incident crimed as Assault occasioning actual bodily harm.**
- **5 August 2023 at 19:28** Initial call received from female victim that she had been drinking in the TOP HOUSE with two male friends when they have purchased her a drink. The female suspect has not been happy with and has accused the victim of being involved with the two males. The suspect has then punched the victim in the face. **Incident crimed Assault occasioning actual bodily harm.**
- **21 August 2023 at 00:51** Report of a female being assaulted in the toilets; the suspects have attacked the victim causing an injury to her face. Officers unable to download the CCTV, unable to access the DVR. **Crime recorded of Assault occasioning actual bodily harm.**
- **10 September 2023 at 01:57** Male assaulted at the premises, CCTV recorded on mobile device, unable to access the DVR, **crime of Assault occasioning actual bodily harm.**
- **19 September 2023 at 19:40** report of a sexual assault on a female, two crimes recorded, one for suspect: **Assault occasioning actual bodily harm** and one for victim **Sexual assault on a female**. CCTV recorded by mobile device, unable to access the DVR.
- **11 November 2023 at 20:06** A female suspect has struck ex-partner to the head with a glass causing injury. There is CCTV which will capture the incident. This could not be provided by bar staff as they do not have access. Officers spoke to Tanya on the phone who stated she would not be at work this evening and suggested I returned the following morning. Officers had to remind her of her obligations regarding her licence for her to finally organise sending a member of staff with a key to the premises. **Crime of Assault occasioning actual bodily harm.**

I am back on duty on Wednesday 13 December from 12:00 should you wish to contact me to discuss further.

Kind regards,

PCSO 7095 Brian Donnelly

Licensing Officer
Annand House
John Street North
Meadowfield
Durham
DH7 8RG

Tel

From: Angie Gardner < >
Sent: Thursday, December 7, 2023 4:28 PM
To: Nicola Anderson >
Cc: Caroline Dickenson >; Alan Newcombe >; Laura Cloney >; Brian Donnelly >
Subject: RE: The Top House PCX:000005000001592

Thanks for the below Nicola which gives a clearer picture and shows those serious incidents mentioned in both your Review application and the Police representation, but I would be interested to know if the Police are able to provide a list of incidents since our clients took this site over towards the end of July 2023. Is this possible?

I have also emailed Brian requesting contact with him now that the Police have officially become a party to this Review. However, I have not had a response, and I understand Brian may not be on shift now. I am on holiday tomorrow and Monday but I am happy for Brian to contact me on my mobile if he gets the opportunity, or one of his colleagues in his absence.

Thanks

Angie Gardner | Paralegal

Poppleston Allen

E: | T: | M: | W
| | | |

Nottingham Office: 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS

From: Nicola Anderson
Sent: Thursday, December 7, 2023 4:08 PM

To: Angie Gardner <

Cc: Caroline Dickenson

>; Laura Cloney

>; Alan Newcombe <

>; Brian

Donnelly

>

Subject: The Top House

Good afternoon Angie

Thank you for your email yesterday.

I have now had chance to liaise with the police in regard to the point you raised. I have received the following breakdown of the incidents / times:-

- Between 12:00 – 16:00 1 report made; this was for Affray.
- Between 16:00 – 20:00 5 reports made to police, this included misuse of drugs x1, common assault x1, provocation of violence x1 Assault occasioning actual bodily harm x 2.
- Between 20:00 – 00:00 4 calls made to police, this included common assault x1, affray x1, Sec. 47 assault x 1 (at 23:53) Assault occasioning actual bodily harm x 1.
- Between 00:00 – 04:00 17 calls for the police, this included Affray x3, Assaults x 8 Burglary x3 Sec. 5 public order x 2 and criminal damage x 1.
- The calls above broken down between 00:00 – 01:00 x 4, between 01:00 – 02:00 x 7 and after 02:00 x 6.

At the meeting, your clients were keen to impress that they wanted to change the way the premises was run and also to change the clientele. They indicated that they may not require the extended opening hours and if they did could utilise TENS to do that. In addition the breakdown of the incidents would indicate that mostly they have been occurring after the 12:30 closing that has been requested.

I look forward to hearing from you once you have had chance to discuss this with your clients.

Nicola Anderson
Licensing Enforcement Officer

Neighbourhoods and Climate Change

T:

E: .

**Appendix 8: Information and Action Plan from Licence Holder's
Legal Representative**

From: Angie Gardner
Sent: 18 December 2023 13:05
To: Yvonne Raine
Subject: [EXTERNAL]:Top House, 103 Front Street, Stanley - Review of Premises Licence
PCX:000005000001642

Hi Yvonne

Further to our discussions last week please now find attached our client submission in respect of the above, together with the signed Action Plan, which has been signed by the client, Licensing Enforcement Officer and Durham Constabulary, all to be included with our submissions to the Licensing Committee.

Could you acknowledge safe receipt of this email and attachments by return?

I look forward to receiving confirmation of the date for hearing (I believe 12th January 2024) and the relevant papers in due course.

Thanks

Angie Gardner | Paralegal

Poppleston Allen

| W: www.popall.co.uk

Nottingham Office: 37 Stoney Street, The Lace Market, Nottingham, NG1 1LS

THE TOP HOUSE, 103 FRONT STREET, STANLEY

Background

FB Taverns FH Limited acquired 26 pubs from Camerons Brewery Limited in late June 2023, including fixtures, fittings and current sitting tenants, who all held lease agreements with Camerons Brewery Limited which were transferred over to FB Taverns FH Limited upon completion of the purchase of the pubs.

The two Directors of FB Taverns FH Limited, James Maizels and Alexander Embiricos, have long term intentions for all the pubs purchased to date (the company portfolio now has 40 pubs), mostly premises within the North-East of England. The aim of the company is to find appropriate long-term tenants to operate those businesses with investment, such as refurbishments internally and externally together with upgraded CCTV systems if required.

FB Taverns FH Limited employed the services of LT Management Services Limited to manage the sites on their behalf, including Area Managers making regular visits to the pubs to check on the operation, licensing compliance, discuss any potential issues or areas for improvement with the tenants and ensure repairs are logged and carried out as soon as possible. LT Management Services Limited have been “managing” pubs for other such companies for over 20 years.

Current situation with Top House

LT Management Services Limited received the Review of the Premises Licence on 14th November 2023, and the then Area Manager, J H , had a meeting with County Durham Council’s Licensing Enforcement Officer, Nicola Anderson and Durham Constabulary to gain full awareness of the issues. J H had previously been informed by Cameron Brewery that there had been some issues at the premises, but had been told that these had been resolved by way of a variation application submitted to add doorstaff, incident book and CCTV conditions to the Premises Licence.

Having received the Review of the Premises Licence it became apparent that visits to the site and discussions between the tenant and the Council, Police and Designated Premises Supervisor were not being passed on to the Directors of FB Taverns FH Limited and therefore FB Taverns FH Limited and LT Management Services Limited took immediate action by forfeiting the lease with the current tenant and Designated Premises Supervisor (husband and wife team). During this period the current Area Manager, J H , left the company to start a new role elsewhere. The premises were closed immediately. A proposed refurbishment of the premises is currently being planned, should the Premises Licence be retained. The client has agreed to keep the premises closed until January 2024 whilst carrying out this refurbishment work.

Since the above Review application was received and the premises closed, James Maizels, who is one of the Company Directors of FB Taverns FH Limited, together with the Area Manager for LT Management Services Limited, A B , attended a meeting at the site with Nicola Anderson (Enforcement Officer and applicant for the Review), and officers from Durham Constabulary to get to the bottom of all the issues and find a suitable resolution for all parties.

FB Taverns FH Limited have agreed to ensure access to the CCTV system (currently in a locked room due to a previous robbery at the premises) for any authorities requiring access to obtain CCTV images, and to find a robust and suitable tenant / DPS to operate the premises once approval has been given to any new tenant by the Licensing and Police Authorities.

Poppleston Allen Licensing Solicitors have been instructed to assist FB Taverns FH Limited with this Review of Premises Licence application and have been in further discussions with both the Licensing and Police Authorities to approve an "Action Plan" which has now been agreed and signed by all parties. This Action Plan has been provided to the Committee as an attachment to this submission.

We would hope the "Action Plan", as attached and agreed would provide confidence to the Committee that FB Taverns FH Limited are intending to turn around the management of the premises by the previous tenants and make a success of this premises in working partnership with all the authorities to further the Licensing Objectives.

THE TOP HOUSE, 103 FRONT STREET, STANLEY, DH9 0TB

ACTION PLAN

Further to a meeting held at the above premises between James Maizels (Company Director of FB Taverns FH Limited), A B (Area Manager for LT Management Services Limited), Nicola Anderson (Licensing Enforcement Officer @ County Durham Licensing Department), Brian Donnelly (Durham Constabulary) and other members of Durham Constabulary; AND then further discussions between the Licensing Agents for FB Taverns FH Limited (Poppleston Allen Licensing Solicitors) and all authorities, the following actions have been agreed:-

1. The closure of the premises until at least 1st January 2024 and a refurbishment to take place prior to the premises re-opening in due course.
2. The appointment of a new robust Designated Premises Supervisor to ensure proper management of the premises.
3. The reduction to the hours for licensable activities currently listed on Premises Licence Number DCCC/PLA0178 Sunday to Thursday so the hours for all licensable activities finish at 2300, with the premises to close at 2330. Friday and Saturday hours for licensable activities and opening hours to remain as currently listed on Premises Licence Number DCCC/PLA0178.
4. The addition of a condition to the Premises Licence Number DCCC/PLA0178 as follows:-

The Designated Premises Supervisor and Operations Manager will hold quarterly meetings to discuss any relevant issues or concerns. These meetings should be minuted and minutes produced to Durham Constabulary and Licensing Officers on request.

.....
James Maizels

15 December 2023

.....
Date of signature

.....
Nicola Anderson

18th December 2023

.....
Date of signature

.....
A B

15th December 2023

.....
Date of signature

.....
Brian Donnelly

18-12-2023

.....
Date of signature

Appendix 9: Statement of Licensing Policy

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.2 Public Safety - The Act covers a wide range of premises that require licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants and people in the immediate vicinity who may be affected by the premises and activities taking place therein.

Applicants are advised to seek advice on such matters from the council's occupational health and safety team, Health and Safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service. They should incorporate any recommendations from these responsible authorities in their Operating Schedule before submitting their applications. Matters for consideration include:

- First Aid
- Public security
- Event control
- Polycarbonate Glass
- Fire Safety
- Electrical safety
- Building safety
- Transport
- Drink driving issues
- Occupancy levels

In addition to the information provided above, **Table 2 in Appendix VI** provides recommendations, suggestions and examples of how to prevent the specific dangers outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Appendix 10: Section 182 Guidance

11. Reviews

The review process

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

achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as relevant unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, consideration may be given as whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the licensing authority may be asked to consider whether it would be appropriate to publish a cumulative impact assessment. Further guidance on cumulative impact assessments can be found in Chapter 14 of this Guidance.
- 11.9 Responsible authorities and other persons may make representations in respect of an application to review a premises licence or club premises certificate. They must be relevant (i.e., relate to one or more of the licensing objectives) and, in the case of other persons, must not be frivolous or vexatious. Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order or illegal working compliance order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account

when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough

¹⁰ See chapter 16 in relation to the licensing of live and recorded music.

action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;

- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

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

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

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

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing

the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

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.

Public safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.
- 2.10 Counter terrorism and public safety
- 2.11 Licensing committees may wish to give due consideration to appropriate counter-terrorism measures and advice when considering licence applications, for example at high profile or large premises or events or where there are factors which may increase attractiveness to attacks, and in particular when in receipt of relevant advice from police counter terrorist staff.
- 2.12 It is particularly relevant to consider conditions around health care provision in this regard. Any additional licensing conditions should be appropriate and proportionate to the venue as noted in para 1.16. We recommend that all licensing authorities pay

particular attention to terrorist threats when making specific licence conditions in relation to security or health care provision at appropriate premises and events applying for a licence.

- 2.13 As noted in para 2.8 licensing authorities can recommend conditions where appropriate to do so, such as ensuring appropriate access for emergency services and vehicles such as ambulances; good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4); and ensuring the presence of sufficient trained first aiders on the premises and appropriate first aid kits.
- 2.14 However, in some instances, licensing authorities may wish to tailor their approach, depending on the particular nature of the application, and go further when addressing concerns around possible terrorist or other such risks. We have provided an Annex to help inform and support licensing authorities in their decision making with regards to additional licence conditions for premises and events, that may benefit from further security planning and health care provision in the aftermath of a particular type of incident.

Ensuring safe departure of those using the premises

- 2.15 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
 - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

- 2.16 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

- 2.17 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict

with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

- 2.18 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.19 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public nuisance

- 2.20 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.21 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.
- Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.22 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.23 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.24 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise

emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

- 2.25 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.26 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.