

Statutory Licensing Sub-Committee

18th July 2024

Application for the Review of a Premises Licence following a Closure Order



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:

Pelton

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine a review of the premises licence in respect of A La Spicery, Station Road, Beamish, Stanley, County Durham. DH9 6RN
- 2 A plan and google images showing the location of the premises are attached at Appendix 2.

Executive summary

- 3 On 4th July 2024, the Licensing Authority received notification that a Closure Order had been issued by Newton Aycliffe Magistrates Court.
- 4 The Closure Order had been applied for by Durham Constabulary pursuant to Section 80 of the Anti-Social Behaviour, Crime and Policing Act 2014 following evidence that the premises have been used in connection with the unlawful use, production or supply of a Class A drug and the use of the premises has been associated with the occurrence of disorder or serious nuisance to members of the public.

Section 167(1) of the Licensing Act 2003 applies where:

- (a) A magistrates' court has made a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014, or the Crown Court has made a closure order on appeal under section 84 of that

- Act, in relation to premises in respect of which a premises licence has effect, and
- (b) The relevant licensing authority has accordingly received a notice under section 80(9) or 84(7) of that Act.

The relevant Licensing Authority must then review the premises licence.

Recommendation(s)

- 5 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 6 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 5;
 - (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 6.

Background

- 7 The premises licence in respect of A La Spicery, Station Road, Beamish, Stanley currently permits the following licensable activities:

Licensable Activity	Days & Hours
Live Music (indoors only)	Monday to Saturday: 12:00 – 23:00 hrs Sunday: 12:00 – 22:30 hrs
Sale of Alcohol (on and off sales)	Monday to Saturday: 11:00 – 23:00 hrs Sunday: 12:00 – 22:30 hrs Good Friday: 12:00 – 22:30 hrs Christmas Day: 12:00 – 15:00 hrs and 19:00 – 22:30 hrs From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day

Opening Hours	Monday to Saturday: 11:00 – 23:20 hrs Sunday: 12:00 – 22:50 hrs Good Friday: 12:00 – 22:50 hrs Christmas Day: 12:00 – 15:20 hrs and 19:00 – 22:50 hrs From the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day
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8 A copy of the premises licence is attached at Appendix 3.

Details

9 On 4th July 2024, the Licensing Authority received a copy of a closure order from Newton Aycliffe Magistrates' Court in respect of A La Spicery, Station Road, Beamish, Stanley. This means the premises must remain closed until the expiry of the order which is 27th September 2024. A copy of the closure order is attached at Appendix 4.

10 When a closure order is made, the Licensing Authority must review the premises licence.

11 The hearing must be held within 10 working days, starting with the day after the closure order is received.

12 The Licensing Authority must make a determination of the review of the premises licence within 28 days from the day after the closure order is received.

The Representations

13 At the time of writing this report, the seven-day consultation date for any relevant representations to be received is still active. The consultation ends 11th July 2024. Any representations received will be sent as additional information.

14 It is expected that Durham Constabulary will be submitting a representation which will include details on what led to the closure order. This will be sent to all parties including Members as additional information.

The Parties

15 The Parties to the hearing will be:

- Mr Arjoo Miah and Mr Monju Miah of AAM Beamish Limited (Premises Licence Holders)
- Sergeant Caroline Dickenson, Durham Constabulary (Responsible Authority)

Options

16 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

17 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

18 This type of review following receipt of a closure order is subject to a seven-day consultation.

See Appendix 1

Conclusion

19 The Sub-Committee is asked to determine the review of the premises licence for A La Spicery, Station Road, Beamish, Stanley, County Durham DH9 6RN

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 review was subject to a seven-day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted.

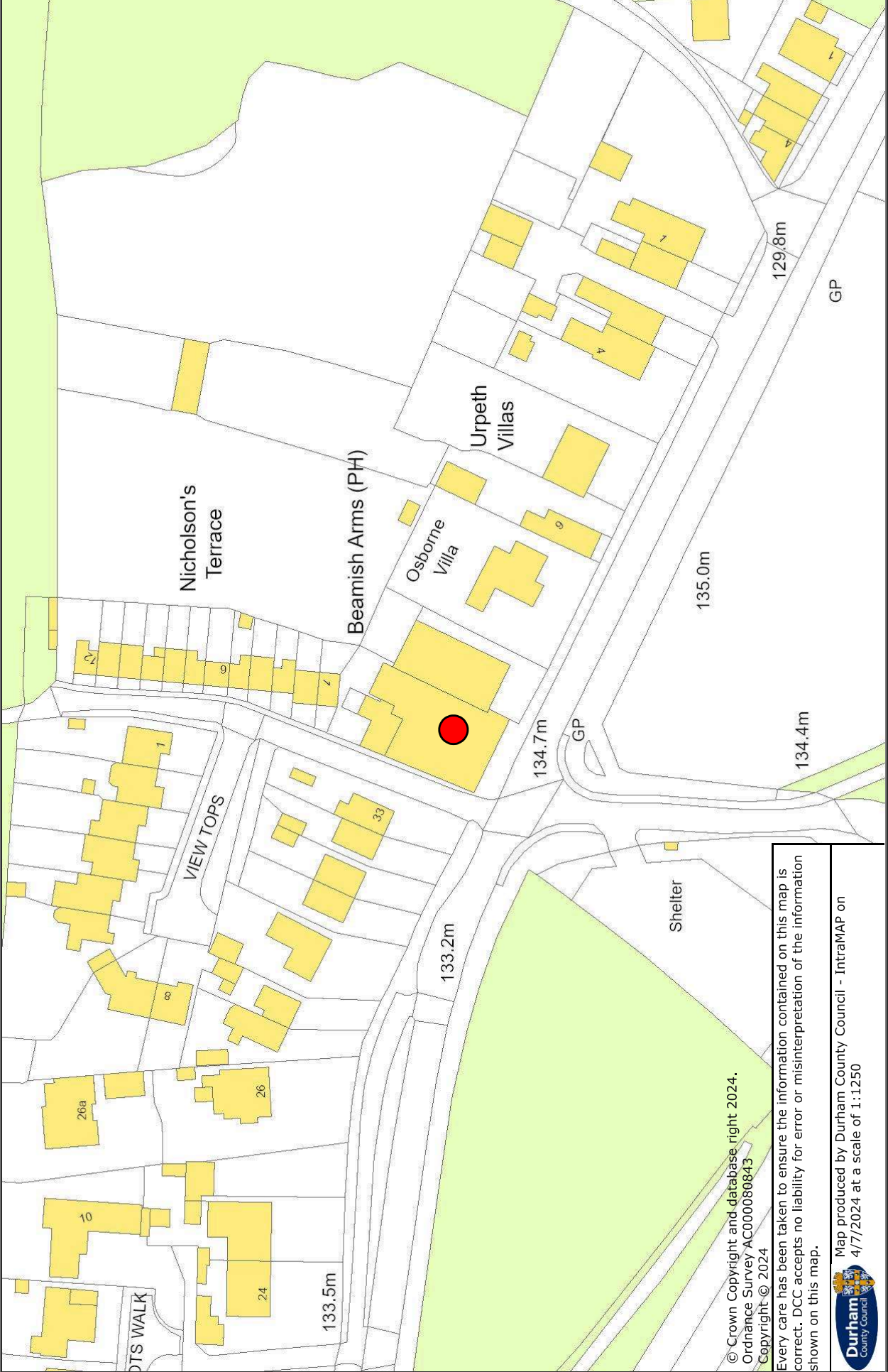
The notice was displayed on the premises for a period of seven days.

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

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

Appendix 2: Location Plan and Google Map Images

Durham County Council - IntraMAP



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Ordnance Survey AC000080843
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

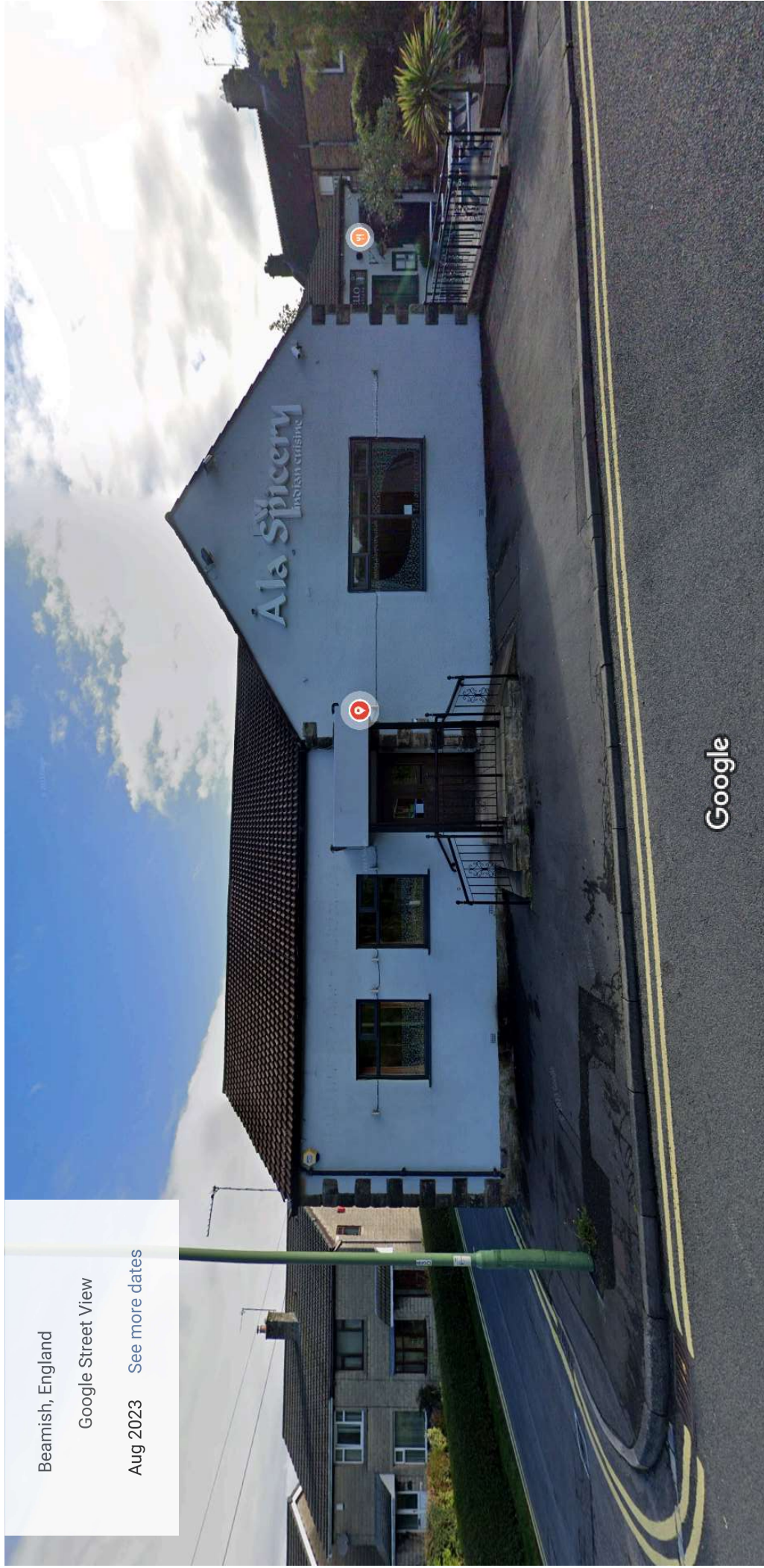


Map produced by Durham County Council - IntraMAP on 4/7/2024 at a scale of 1:1250

Beamish, England

Google Street View

Aug 2023 See more dates



Google

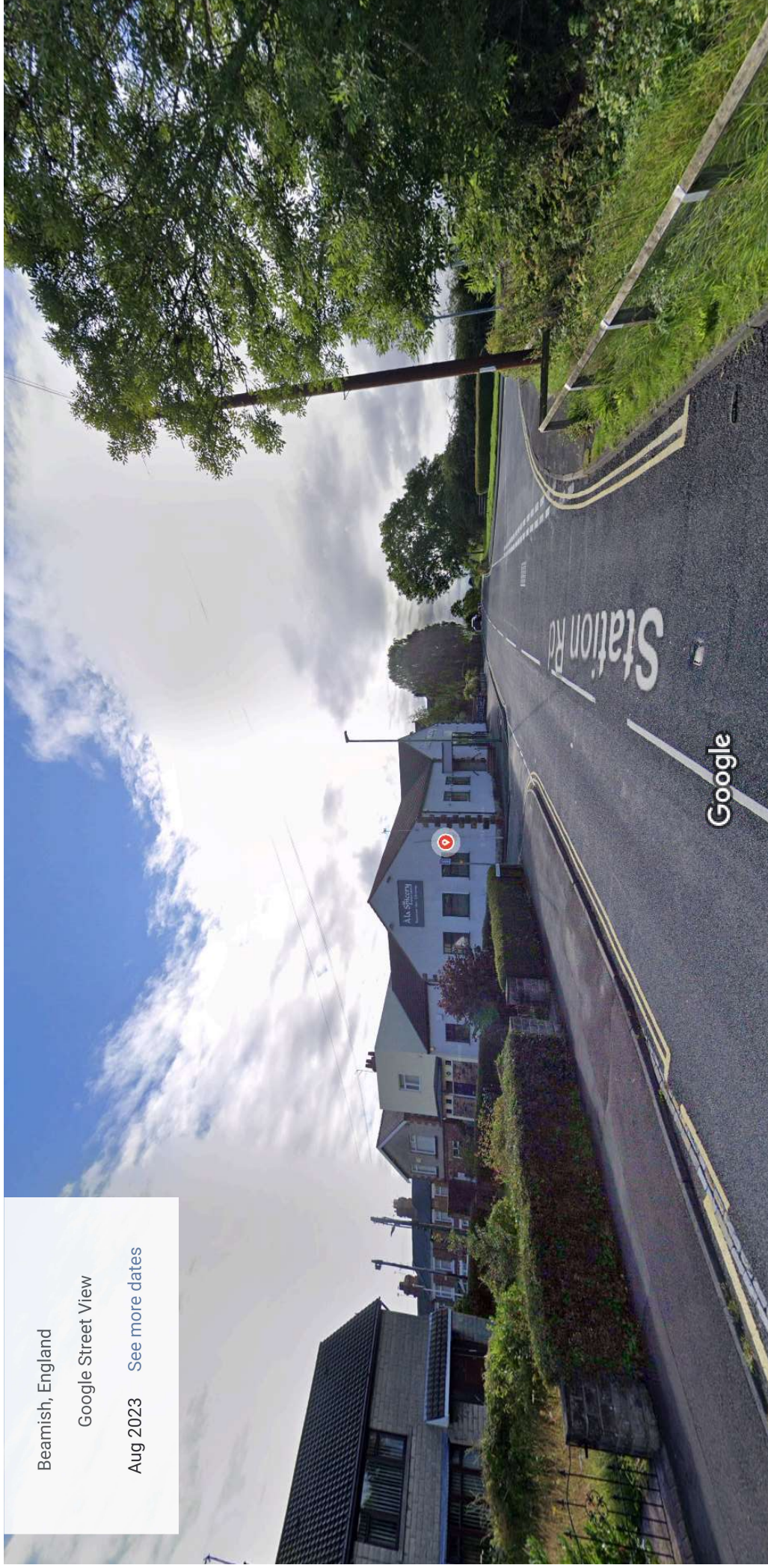


Image capture: Aug 2023 © 2024 Google

Beamish, England

Google Street View

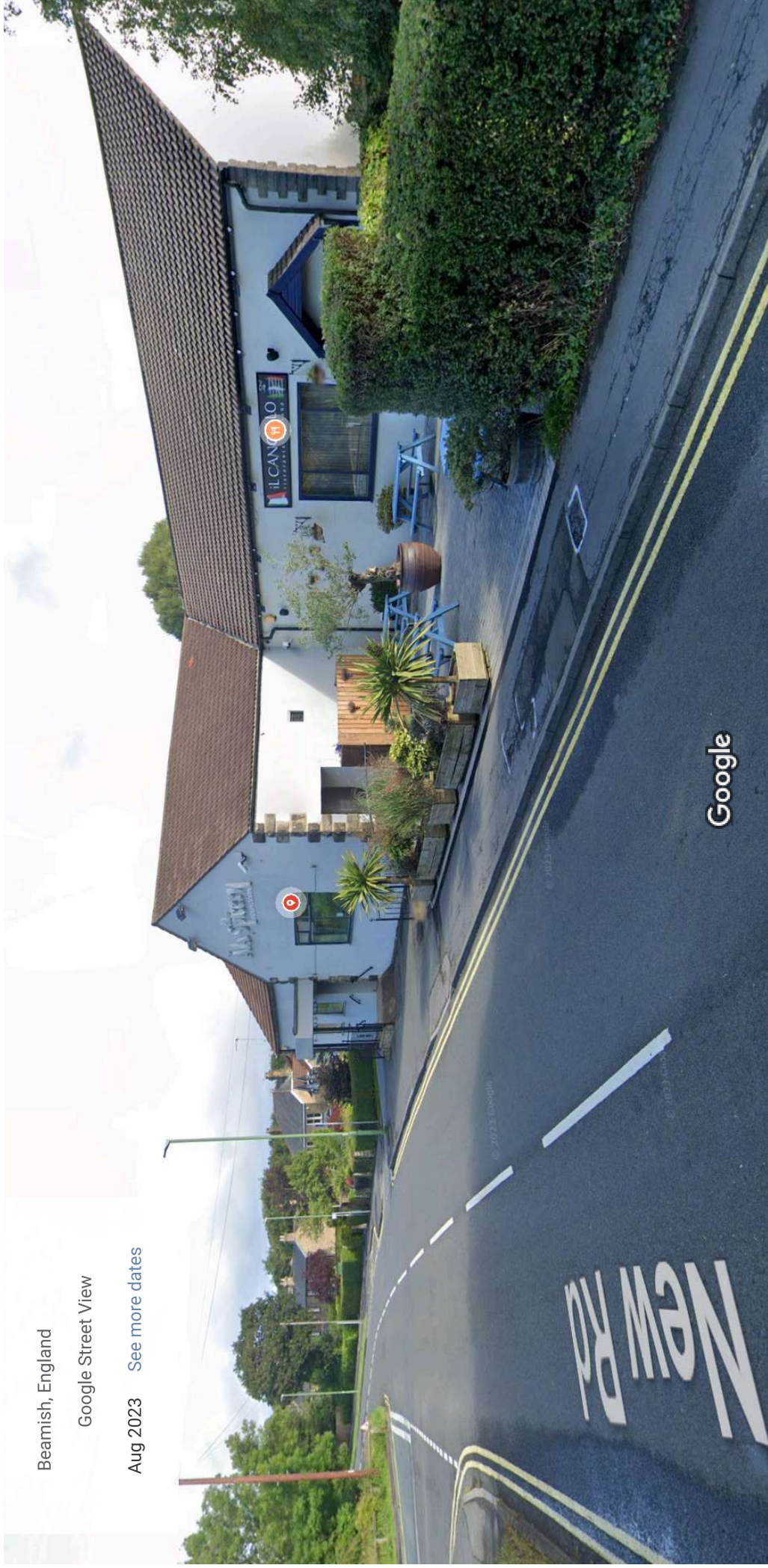
Aug 2023 See more dates



Beamish, England

Google Street View

Aug 2023 See more dates



Google



Appendix 3: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

PLA0079
24 November 2005
22 December 2016

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p>ALA SPICERY STATION ROAD BEAMISH STANLEY DH9 6RN</p>	<p>DURHAM COUNTY COUNCIL ADULT AND HEALTH SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ</p>
<p>Telephone number: 0191 3702355</p>	

<p>Where the licence is time limited the dates N/A</p>
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<p>Licensable activities authorised by this licence Live Music Sale by retail of alcohol</p>

Opening Hours of the Premises		
		Non-standard/seasonal timings
Mon	11:00-23:20	Good Friday 12:00 - 22:50 Christmas Day 12:00 - 15:20 & 19:00 - 22:50
Tue	11:00-23:20	
Wed	11:00-23:20	New Years Eve from the end of permitted hours on New Year's Eve to the start of permitted hour on New Year's Day.
Thu	11:00-23:20	
Fri	11:00-23:20	
Sat	11:00-23:20	
Sun	12:00-22:50	

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

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

<p>Live Music Indoors</p> <p>Mon 12:00-23:00 Tue 12:00-23:00 Wed 12:00-23:00 Thu 12:00-23:00 Fri 12:00-23:00 Sat 12:00-23:00 Sun 12:00-22:30</p>	<p>Further details Non-standard/seasonal timings</p>
<p>Sale by retail of alcohol</p> <p>Mon 11:00-23:00 Tue 11:00-23:00 Wed 11:00-23:00 Thu 11:00-23:00 Fri 11:00-23:00 Sat 11:00-23:00 Sun 12:00-22:30</p>	<p>Further details Non-standard/seasonal timings</p> <p>Good Friday 12:00 - 22:30 Christmas Day 12:00 - 15:00 & 19:00 - 22:30 New Years Eve from the end of permitted hours on New Year's Eve to the start of permitted hour on New Year's Day.</p>

Part 2

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

<p>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</p>
<p>MR ALA MIAH</p>

<p>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</p>
<p>DURHAM</p>

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.

This Premises Licence has been granted upon conversion under schedule 8 of the Licensing Act 2003 of the previous Justices' On Licence, and such rights and restrictions that applied to such Licence are hereby incorporated into this Premises Licence, subject to any express terms to the contrary hereinafter specified, and/or any restriction applying to a Premises Licence and/or any licensable activity.

Annex 2 – Conditions consistent with the premises Operating Schedule

General

None

Prevention of Crime & Disorder

CCTV surveillance monitors internally and externally. The staffs training will include instructions of the Licensing Act 2003 objectives and statutory requirement to comply with all relevant provisions of the Act. Persons who are or appear to be drunk are refused admission or removed from the premises. Staff are instructed not to admit or serve any person who behaves in a drunk and disorderly fashion.

Public Safety

There is a risk assessment taking place and all preventative and control measures will be in place to ensure the safety of employees and customers. Advised capacity limits will be complied with. Fire action notes are posted. Emergency escape routes are signposted and fire equipment in place.

Prevention of Public Nuisance

Signage is displayed near exits requesting customers to respect the needs of local residents. The property is double glazed

Protection of Children from Harm

Children under the age of 18 must be accompanied by an adult at all times. Children are restricted from the bar area. The premises will operate at no ID no sale policy and anyone who appears to be under the age of 18 years old will be asked for proof in the form of a driving licence or passport.

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

None

Annex 4 – Plans attached

Attached

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



LICENSING ACT 2003 PREMISES LICENCE SUMMARY

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Granted
Issued

PLA0079
24 November 2005
22 December 2016

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Telephone number: 0191 3702355	

Where the licence is time limited the dates N/A

Licensable activities authorised by this licence Live Music Sale by retail of alcohol
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Opening Hours of the Premises	
	Non-standard/seasonal timings
Mon 11:00-23:20	Good Friday 12:00 - 22:50 Christmas Day 12:00 - 15:20 & 19:00 - 22:50 New Years Eve from the end of permitted hours on New Year's Eve to the start of permitted hour on New Year's Day.
Tue 11:00-23:20	
Wed 11:00-23:20	
Thu 11:00-23:20	
Fri 11:00-23:20	
Sat 11:00-23:20	
Sun 12:00-22:50	

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)

Live Music Indoors	Further details
Mon 12:00-23:00	Non-standard/seasonal timings
Tue 12:00-23:00	
Wed 12:00-23:00	
Thu 12:00-23:00	
Fri 12:00-23:00	
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Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
AAM Beamish Ltd	

Registered number of holder, for example company number, charity number (where applicable)
Company no:
Charity no: N/A

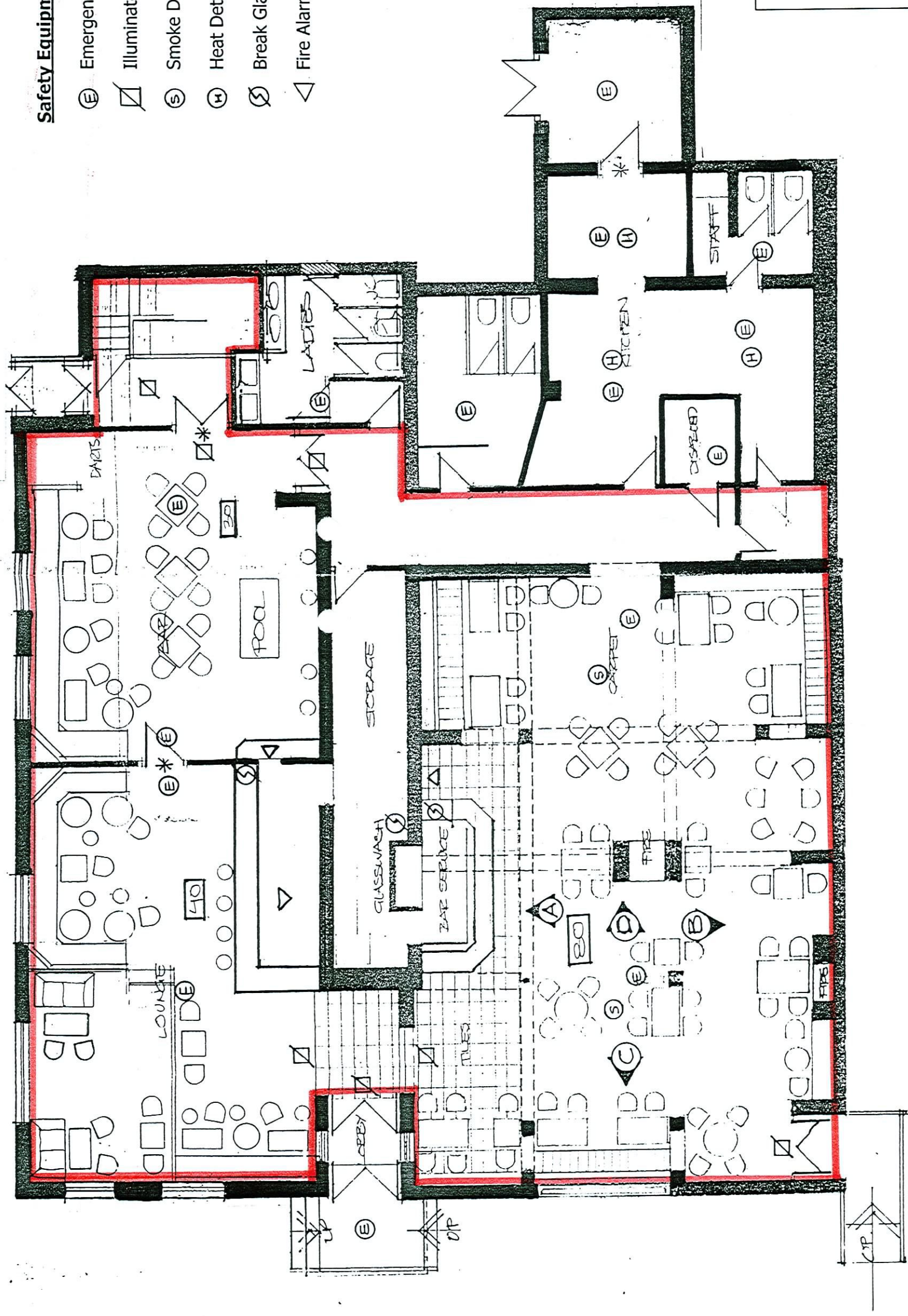
Name of designated premises supervisor where the premises licence authorises the sale by retail of alcohol
MR ALA MIAH

State whether access to the premises by children is restricted or prohibited
CHILDREN UNDER THE AGE OF 18 MUST BE ACCOMPANIED BY AN ADULT AT ALL TIMES. CHILDREN ARE RESTRICTED FROM THE BAR AREA.

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

Safety Equipment

- ⓔ Emergency Lighting
- ⚡ Illuminated Emergency Exit Sign
- Ⓢ Smoke Detector
- Ⓜ Heat Detector
- ⊗ Break Glass Point
- ◁ Fire Alarm Sounder



Plans For Licensing Application
July, 2005
Scale 1:100

Appendix 4: Closure Order



Premises:

A La Spicery
Station Road, Beamish, Stanley, Co Durham DH9 6RN

Case number:

Respondents: A LA SPICERY

Closure order

The court has considered a closure notice issued by a constable on the 27 June 2024 on the grounds that the premises have been used in connection with the unlawful use, production or supply of a Class A drug and the use of the premises has been associated with the occurrence of disorder or serious nuisance to members of the public.

Order

The premises are to be **closed immediately** to all persons and **remain closed** for **3 months** from the date of this order.

Mr Miah may enter the premises once accompanied by the Police may be admitted onto the premises for the purpose of to recover business paperwork.

Warning

A person who, remains on or enters the premises in contravention of this order is liable to a fine or imprisonment or both.

**Benjamin Wood, Head of Legal Operations
(North East)**

Date: 27 June 2024

Justices' Clerk

Offences

112400059460/1

Application for a closure order following service of a notice on 26/06/2024 in respect of A LA Spicery, Station Road, Beamish, Stanley DH9 6RN.

Pursuant to section 80 of the Anti-social Behaviour, Crime and Policing Act 2014.

Appendix 5: 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.

Appendix 6: 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.