

# Statutory Licensing Sub-Committee

29th October 2024

## Consideration of a Temporary Event Notice

### Ordinary Decision



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

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

**Electoral division(s) affected: Delves Lane**

### Purpose of the Report

- 1 The Sub-Committee is asked to consider two objection notices served by Durham Constabulary and Durham County Council Environmental Health Department, in response to a Temporary Event Notice (TEN) given under Part 5 of the Licensing Act 2003 by Mr James McDonald for K2 Nightclub 7-9 Front Street, Consett, Co Durham DH8 5AF.
- 2 A plan and google images showing the location of the premises is attached at Appendix 2.

### Executive summary

- 3 The Temporary Event Notice is for a DJ event to allow the sale of alcohol on the premises, the provision of regulated entertainment and late night refreshment on Sunday 3<sup>rd</sup> November 2024 from 02:00 hrs until 03:00 hrs.
- 4 Objections were received from PC Iain Robertson of Durham Constabulary and Mr Richard Wormald of Durham County Council Environmental Health Department on the basis that the event will undermine the licensing objectives, namely the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance.

### Recommendation(s)

- 5 Members of the Sub-Committee are requested to consider whether to allow the event to proceed or to prohibit the event.
- 6 The Sub-Committee is recommended to give appropriate weight to:

- (a) The licensing objectives;
- (b) The representations (including supporting information) presented by all parties;
- (c) The Durham County Council Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 7.
- (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended August 2023). The relevant parts of the guidance are attached at Appendix 8.

## Background

### 7 Background information

Premises User - Applicant	<b>Mr James McDonald</b>	
Type of Application: <b>Temporary Event Notice</b>	Nature of premises: <b>Bar/Nightclub</b>	Nature of event: <b>DJ Event</b>
Location of event: <b>K2 Nightclub</b>	Date of event: <b>Sunday 3<sup>rd</sup> November 2024</b>	Time of event: <b>02:00 hrs until 03:00 hrs</b>

### Details of the notice

- 8 On 15<sup>th</sup> October 2024, the premises user, Mr James McDonald, served a Temporary Event Notice for K2 Nightclub, 7-9 Front Street, Consett, Co Durham. A copy of this notice is attached as Appendix 3.
- 9 The premises currently holds a premises licence numbered DCCC/PLA0703. A copy of the premises licence is attached as Appendix 4.
- 10 The licensable activities the premises user intends to carry out under the TEN are:
  - The Sale by Retail of Alcohol (on the premises)
  - The Provision of Regulated Entertainment
  - Late Night Refreshment

Licensable Activities	Day and Times
Sale by Retail of Alcohol (on the premises), Regulated Entertainment and Late Night Refreshment	Sunday 3rd November 2024 02:00 hrs until 03:00 hrs

## The Objections

- 11 On 18<sup>th</sup> October 2024, the Licensing Authority received an objection notice from Durham Constabulary on the grounds of the Prevention of Crime and Disorder and Public Safety. This is attached as Appendix 5.
- 12 On 18<sup>th</sup> October 2024, the Licensing Authority received an objection notice from the Environmental Health Department on the grounds of the Prevention of Public Nuisance. This is attached as Appendix 6.

## The Parties

- 13 The Parties to the hearing will be:
  - Mr James McDonald (Premises user)
  - Sgt Caroline Dickenson, Durham Constabulary (Responsible Authority)
  - PC Iain Robertson, Durham Constabulary (Responsible Authority)
  - Mr Richard Wormald, Environmental Health Department (Responsible Authority)

## Options

- 14 Members are requested to consider whether:
  - (a) to allow the event to proceed and subsequently issue a notice of decision to the premises user, Durham Constabulary and Environmental Health or;
  - (b) to allow the event to proceed and attach any conditions from the existing premises licence Members consider appropriate or;
  - (c) to prohibit the event and subsequently issue a counter notice / prescribed form of notice and give reasons to all parties

## **Main implications**

### *Consultation*

- 15 Durham Constabulary and Environmental Health were consulted on the Temporary Event Notice and had three working days to respond with any objections.

See Appendix 1

## **Conclusion**

- 16 The Sub-Committee is asked to consider the objection notices served by Durham Constabulary and Environmental Health in response to the Temporary Event Notice and determine whether to allow the event to proceed or to prohibit the event.

## **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

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**Contact:** Helen Johnson

Tel: 03000 265101

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## **Appendix 1: Implications**

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### **Consultation**

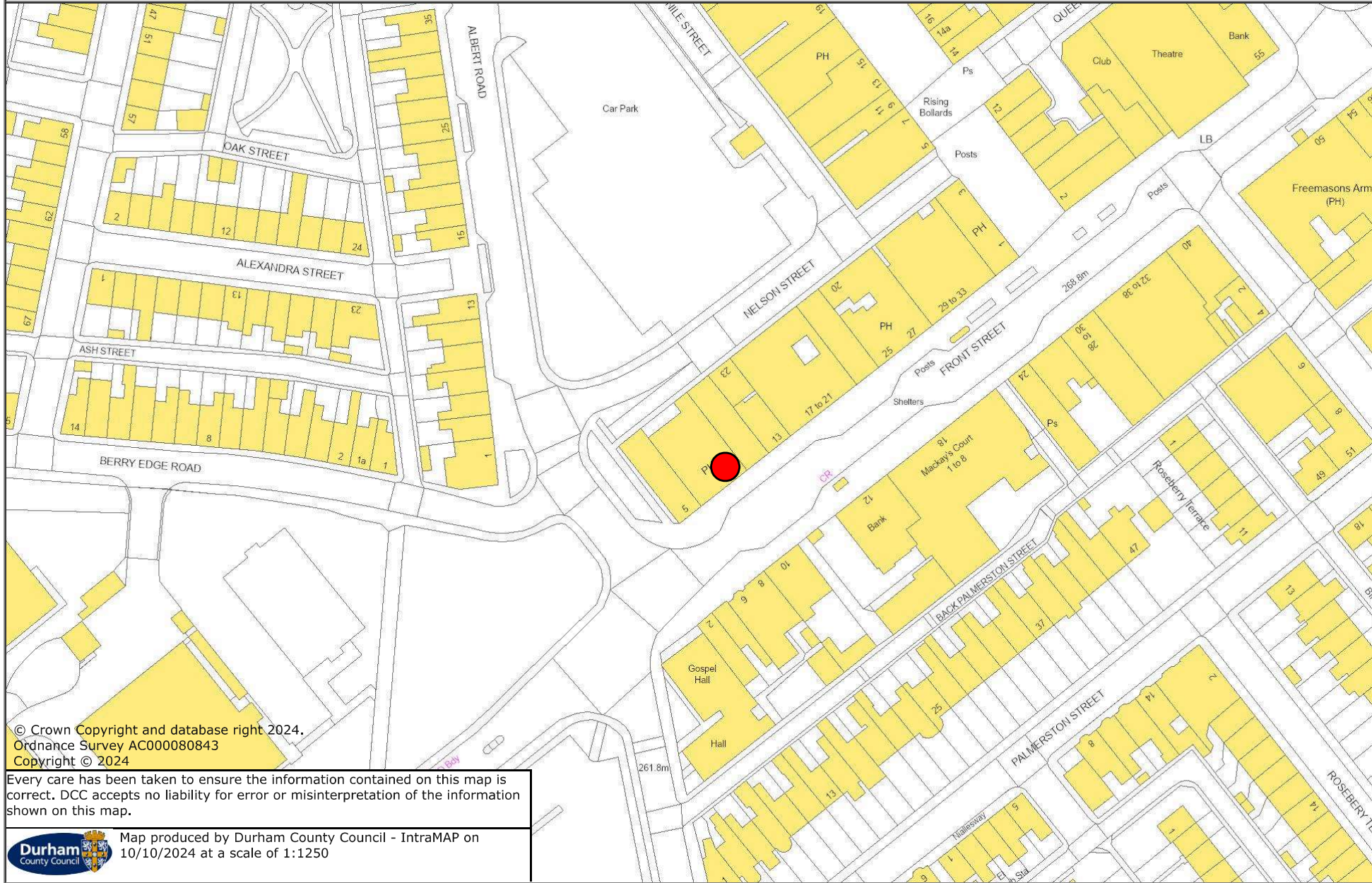
The Temporary Event Notice was served on the Licensing Authority and copied to Durham Constabulary and Environmental Health where they had three working days to consider the notice and raise any objection.

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## **Appendix 2: Location Plan**

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# 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 10/10/2024 at a scale of 1:1250

9 Front St

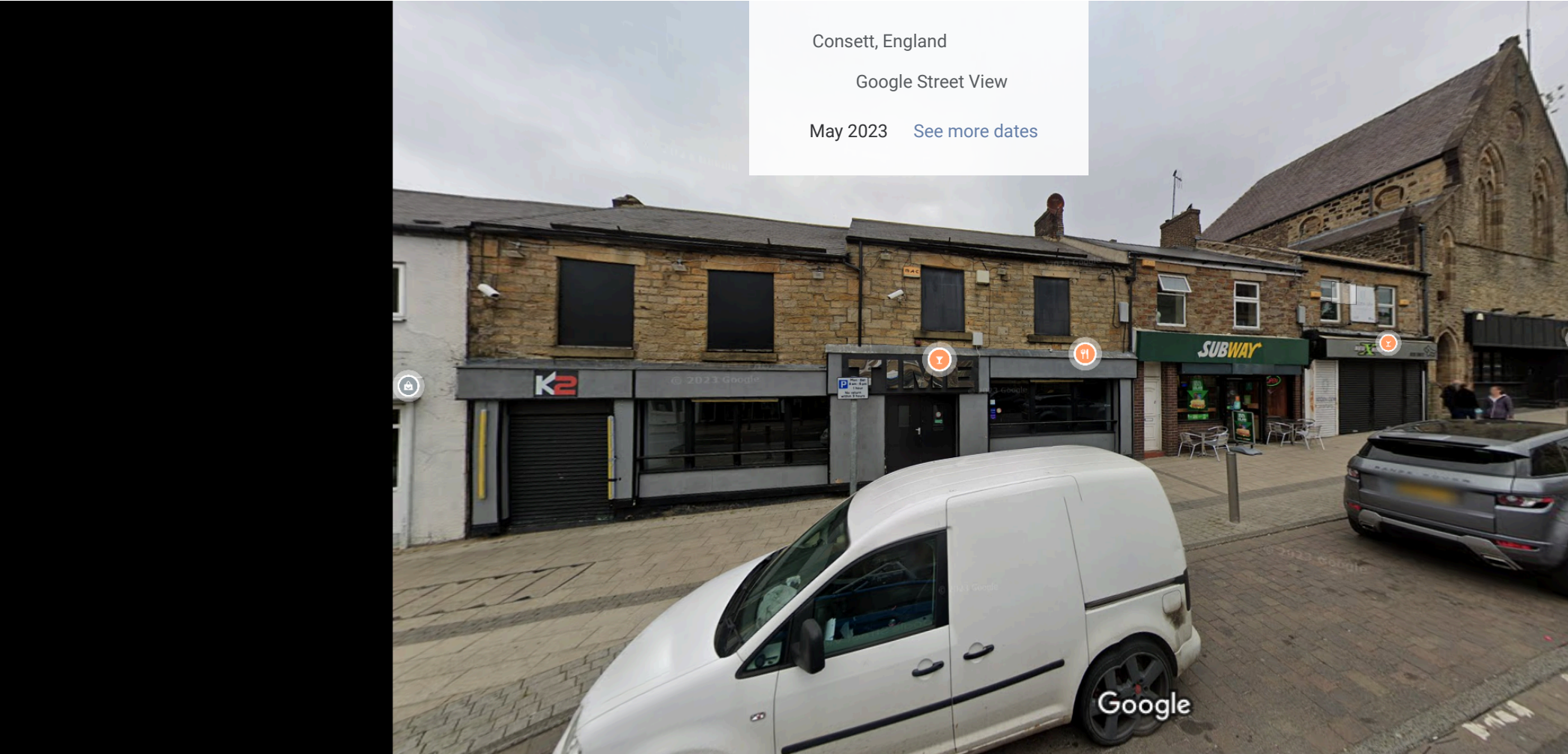


Image capture: May 2023 © 2024 Google





Consett, England

Google Street View

May 2023 [See more dates](#)



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## **Appendix 3: Temporary Event Notice**

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\* required information

## Section 1 of 9

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

System reference

Not Currently In Use

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

Your reference

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

Are you an agent acting on behalf of the applicant?

- Yes  No

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

### Applicant Details

\* First name

James

\* Family name

McDonald

\* E-mail

Main telephone number

Include country code.

Other telephone number

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

Are you:

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

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

Continued from previous page...

**Your Address**

Address official correspondence should be sent to.

\* Building number or name

\* Street

District

\* City or town

County or administrative area

\* Postcode

\* Country

**Section 2 of 9**

**APPLICATION DETAILS** [\(See also guidance on completing the form, general notes and note 1\)](#)

Have you had any previous or maiden names?

- Yes  No

\* Your date of birth  /  /   
dd mm yyyy

Applicant must be 18 years of age or older

National Insurance number  This box need not be completed if you are an individual not liable to pay UK national insurance.

Place of birth

**Correspondence Address**

Is the address the same as (or similar to) the address given in section one?

- Yes  No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Continued from previous page...

### Additional Contact Details

Are the contact details the same as (or similar to) those given in section one?

Yes  No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

E-mail

Telephone number

Other telephone number

### Section 3 of 9

#### THE PREMISES

I, the proposed user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry out a temporary activity at the premises described below.

Give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references). [\(See also guidance on completing the form, note 2\)](#)

\* Does the premises have an address?

Yes  No

#### Address

Is the address the same as (or similar to) the address given in section one?

Yes  No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

\* Building number or name

\* Street

District

\* City or town

County or administrative area

\* Postcode

\* Country

\* Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)?

Neither  Premises licence  Club premises certificate

\* Premises licence number

#### Location Details

\* Provide further details about the location of the event

Event will be taking place within the premises at the above address. k2 nightclub at 7-9 Front street



**Continued from previous page...**

State the times during the event period that you propose to carry on licensable activities (give times in 24 hour clock)

[\(see also guidance on completing the form, note 10\)](#)

State the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers

Note that the maximum number of people cannot exceed 499.

[\(see also guidance on completing the form, note 11\)](#)

If the licensable activities will include the supply of alcohol, state whether the supplies will be for consumption on or off the premises, or both

[\(see also guidance on completing the form, note 12\):](#)

- On the premises only
- Off the premises only
- Both

**Section 5 of 9**

**RELEVANT ENTERTAINMENT** [\(See also guidance on completing the form, note 13\)](#)

State if the licensable activities will include the provision of relevant entertainment. If so, state the times during the event period that you propose to provide relevant entertainment

**Section 6 of 9**

**PERSONAL LICENCE HOLDERS** [\(See also guidance on completing the form, note 14\)](#)

Do you currently hold a valid personal licence?  Yes  No

Provide the details of your personal licence below.

Issuing licensing authority

Licence number

Date of issue  ]  
dd mm yyyy

Any further relevant details



**Section 7 of 9**

**PREVIOUS TEMPORARY EVENT NOTICES** [\(See also guidance on completing the form, note 15\)](#)

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?

Yes  No

State the number of temporary event notices (including the number of late temporary event notices, if any) you have given for events in that same calendar year

Have you already given a temporary event notice for the same premises in which the event period:

a) Ends 24 hours or less before; or  Yes  No

b) Begins 24 hours or less after the event period proposed in this notice?

**Section 8 of 9**

**ASSOCIATES AND BUSINESS COLLEAGUES** [\(See also guidance on completing the form, note 16\)](#)

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

Yes  No

Has any associate of yours already given a temporary event notice for the same premises in which the event period:

a) Ends 24 hours or less before; or  Yes  No

b) Begins 24 hours or less after the event period proposed in this notice?

**Continued from previous page...**

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?  Yes  No

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period:  
a) Ends 24 hours or less before; or  
b) Begins 24 hours or less after the event period proposed in this notice?  Yes  No

**Section 9 of 9**

**CONDITION** [\(See also guidance on completing the form, note 18\)](#)

It is a condition of this temporary event notice that where the relevant licensable activities described in Sections 4 and 5 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

**PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.  
This formality requires a fixed fee of £21

**ATTACHMENTS**

**AUTHORITY POSTAL ADDRESS**

**Address**

Building number or name	<input type="text"/>
Street	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text"/>
Country	<input type="text" value="United Kingdom"/>

**DECLARATION** [\(See also guidance on completing the form, note 19\)](#)

\* The information contained in this form is correct to the best of my knowledge and belief

**Continued from previous page...**

\* I understand that it is an offence:

- \* (i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on summary conviction for such an offence to a fine of any amount; and
- \* (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on summary conviction for any such offence to a fine of any amount, or to imprisonment for a term not exceeding six (6) months, or to both.

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

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

\* Full name

\* Capacity

Date (dd/mm/yyyy)

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/temporary-event-notice/county-durham/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

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## **Appendix 4: Premises Licence**

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## LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number  
Granted  
Issued

DCCC/PLA0703
23 May 2022
18 December 2023

### Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p><b>K2/TIME</b> 7-9 FRONT STREET CONSETT DH8 5AF</p>	<p>DURHAM COUNTY COUNCIL NEIGHBOURHOODS AND CLIMATE CHANGE COMMUNITY PROTECTION LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ</p>
<p><b>Telephone number:</b></p>	

<p><b>Where the licence is time limited the dates</b> N/A</p>
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<p><b>Licensable activities authorised by this licence</b></p> <ul style="list-style-type: none"> <li>Plays</li> <li>Films</li> <li>Indoor Sporting Events</li> <li>Live Music</li> <li>Recorded Music</li> <li>Performance of Dance</li> <li>Other Entertainment Similar to Live or Rec Music or Dance Performance</li> <li>Late Night Refreshment</li> <li>Sale by retail of alcohol</li> </ul>
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<b>Opening Hours of the Premises</b>																	
<table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 33%;">Mon 10:00</td><td style="width: 33%;">02:00</td><td rowspan="7" style="width: 34%; vertical-align: top;"> <p><b>Non-standard/seasonal timings</b> Boxing Day and all Bank Holidays in England 10am until 02:30am</p> </td> </tr> <tr><td>Tue 10:00</td><td>02:00</td></tr> <tr><td>Wed 10:00</td><td>02:00</td></tr> <tr><td>Thu 10:00</td><td>02:00</td></tr> <tr><td>Fri 10:00</td><td>02:00</td></tr> <tr><td>Sat 10:00</td><td>02:00</td></tr> <tr><td>Sun 10:00</td><td>02:00</td></tr> </table>	Mon 10:00	02:00	<p><b>Non-standard/seasonal timings</b> Boxing Day and all Bank Holidays in England 10am until 02:30am</p>	Tue 10:00	02:00	Wed 10:00	02:00	Thu 10:00	02:00	Fri 10:00	02:00	Sat 10:00	02:00	Sun 10:00	02:00		
Mon 10:00	02:00	<p><b>Non-standard/seasonal timings</b> Boxing Day and all Bank Holidays in England 10am until 02:30am</p>															
Tue 10:00	02:00																
Wed 10:00	02:00																
Thu 10:00	02:00																
Fri 10:00	02:00																
Sat 10:00	02:00																
Sun 10:00	02:00																

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

<p><b>Plays Indoors</b>          Mon 10:00 02:00          Tue 10:00 02:00          Wed 10:00 02:00          Thu 10:00 02:00          Fri 10:00 02:00          Sat 10:00 02:00          Sun 10:00 02:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          Boxing Day and all Bank Holidays in England 10am until 02.30am</p>
<p><b>Films Indoors</b>          Mon 10:00 02:00          Tue 10:00 02:00          Wed 10:00 02:00          Thu 10:00 02:00          Fri 10:00 02:00          Sat 10:00 02:00          Sun 10:00 02:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          Boxing Day and all Bank Holidays in England 10am until 02:30am</p>
<p><b>Indoor Sporting Events</b>          Mon 23:00 02:00          Tue 23:00 02:00          Wed 23:00 02:00          Thu 23:00 02:00          Fri 23:00 02:00          Sat 23:00 02:00          Sun 23:00 02:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          Boxing Day and all Bank Holidays in England 10am until 02:30am</p>
<p><b>Live Music Indoors</b>          Mon 10:00 02:00          Tue 10:00 02:00          Wed 10:00 02:00          Thu 10:00 02:00          Fri 10:00 02:00          Sat 10:00 02:00          Sun 10:00 02:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          Boxing Day and all Bank Holidays in England 10am until 02:30am</p>
<p><b>Recorded Music Indoors</b>          Mon 10:00 02:00          Tue 10:00 02:00          Wed 10:00 02:00          Thu 10:00 02:00          Fri 10:00 02:00          Sat 10:00 02:00          Sun 10:00 02:00</p>	<p><b>Further details</b>  <b>Non-standard/seasonal timings</b>          Boxing Day and all Bank Holidays in England 10am until 02:30am</p>

<b>Performance of Dance Indoors</b> Mon 10:00 02:00 Tue 10:00 02:00 Wed 10:00 02:00 Thu 10:00 02:00 Fri 10:00 02:00 Sat 10:00 02:00 Sun 10:00 02:00	<b>Further details</b> <b>Non-standard/seasonal timings</b> Boxing Day and all Bank Holidays in England 10am until 02:30am
<b>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors</b> Mon 10:00 02:00 Tue 10:00 02:00 Wed 10:00 02:00 Thu 10:00 02:00 Fri 10:00 02:00 Sat 10:00 02:00 Sun 10:00 02:00	<b>Further details</b> <b>Non-standard/seasonal timings</b> Boxing Day and all Bank Holidays in England 10am until 02:30am
<b>Late Night Refreshment Indoors</b> Mon 23:00 02:00 Tue 23:00 02:00 Wed 23:00 02:00 Thu 23:00 02:00 Fri 23:00 02:00 Sat 23:00 02:00 Sun 23:00 02:00	<b>Further details</b> <b>Non-standard/seasonal timings</b> Boxing Day and all Bank Holidays in England 23:00 until 02:30am
<b>Sale by retail of alcohol</b> Mon 10:00 02:00 Tue 10:00 02:00 Wed 10:00 02:00 Thu 10:00 02:00 Fri 10:00 02:00 Sat 10:00 02:00 Sun 10:00 02:00	<b>Further details</b> <b>Non-standard/seasonal timings</b> Boxing Day and all Bank Holidays in England 10am until 02:30am

Part 2

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
MR JAMES EDWARD MCDONALD	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	N/A
Charity no:	N/A

**Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol**

MR JAMES EDWARD MCDONALD

**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 responsible for selling age restricted goods to be trained to implement the age verification policy. Staff training to include the risk from proxy sales. Training records for staff to be maintained and refresher training to be provided annually.

Drug awareness training will be provided for all staff. A record will be kept of the date and name of person trained. Records will be made available for inspection by the police or licensing authority.

## **Prevention of Crime & Disorder**

The use of disposable plastic drinking glasses for outside consumption of drinks will be used where there are national sporting events which are televised, i.e. world cup, euro's, Olympics etc. Security operatives will be licensed by the SIA. Security staff will be required to sign in and a record of their licence will be recorded including license number and expiry date. Disorderly or quarrelsome persons will be asked to leave the premises (or refused entry) and bar staff will ensure that alcohol is not served to persons who appear to be drunk.

As a minimum there will be two SIA door staff present between the hours of 10pm and close for the downstairs bar (The Union) and main door.

As a minimum there will be two SIA door staff between the hours of opening and close for the upstairs bar (K2) with a further 1 SIA door staff member from 12am. All identification will be checked for anyone appearing to be under the age of 21 and anyone under 18 will be refused entry.

The Premises will operate a Zero Tolerance Policy. Notices will be displayed within the entrance to the premises. All staff will be trained and made aware of the requirement to call the Police if a customer is suspected of being in possession of drugs or weapons.

A policy for seizing, retaining and documenting any drugs or weapons found with a clear audit trail and a process for surrendering them to the Police will be in place. This will be recorded on an accident or incident report form. Any weapons or drugs seized will be kept in a sealed envelope for surrendering to the Police. Regular, recorded toilet checks will be carried while the premises are open. Drug awareness training will be provided for all staff. A record will be kept of the date and name of person trained. Records will be made available for inspection by the police or licensing authority.

CCTV will be installed inside and outside the premises. The cameras will cover all internal areas accessible to the public and areas immediately outside the premises. The date and time settings on the system will be correct. The recordings will be in real time and on hard drive with the availability to copy disks for other agencies such as the police. These copies will be held along with the completed Accident and Incident Report Forms and Witness Statements. Recordings will be kept for a minimum period of 28 days.

Management and Supervisors will be trained in the maintenance and operation of the CCTV system with a record kept of the date and name of person trained. Records will be kept at the premises and can be available for inspection by the police or licensing authority. A trained Duty Manager will be on duty to operate the system whenever the premises are open.

Regular, recorded checks of toilets and outside areas will be carried out. Any anti-social or suspicious behaviour will be reported to the Duty Manager.

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

## **Public Safety**

All staff will receive training on Fire Safety and Evacuation Policy at induction and annual refresher training (6 monthly for night staff) Training Records are held on the Company Intranet.

External designated smoking areas will be provided and will be checked and maintained at regular intervals.

## **Prevention of Public Nuisance**

Customers will be encouraged to leave the premises quietly and respect local residents. Signage will be displayed inside and outside the premises.

The applicant and DPS will be receptive to resident concern and observations from the Police and will work in a positive manner to prevent unnecessary noise and nuisance. Regular recorded checks will be made of the outside areas, for e.g. glass collection and litter collection and emptying of ash trays. Bottle bins will not be emptied after 22:30 hrs.

The premises will provide information on licensed local taxi providers.

## **Protection of Children from Harm**

A 'Challenge 25' age verification policy shall be operated which requires anyone looking under the age of 25 to produce photographic evidence of proof of age from a passport, driving licence or PASS accredited scheme before any alcohol is supplied. The actions of staff operating the policy to be regularly monitored. Children will not be permitted on the premises. All identification will be checked for anyone appearing to be under the age of 25 and anyone under 18 will be refused entry. There will be no under 18's or mixed age

events on the premises. Managers, Duty Managers and staff will be trained in the premises admission of children policy and signed records will be available for inspection.  
The licence holder will work with the police to minimise the risk of proxy provision / proxy sales. (This is alcohol purchased or obtained for young people by relatives or older friends).

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

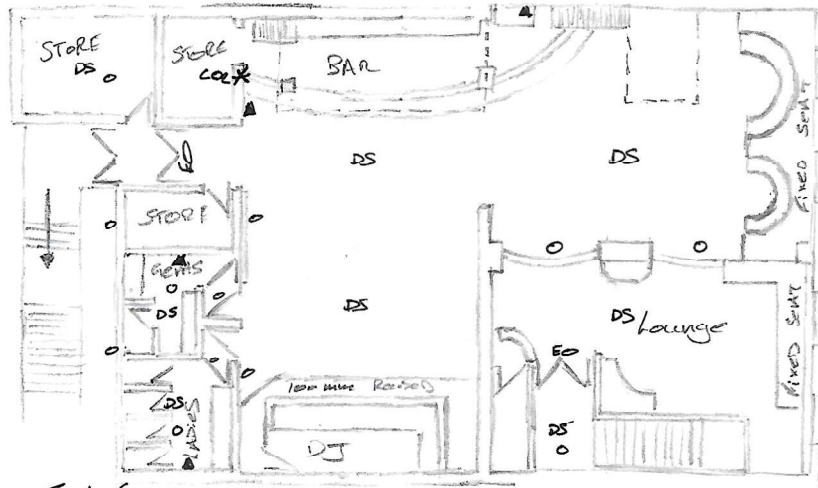
None

**Annex 4 – Plans attached**

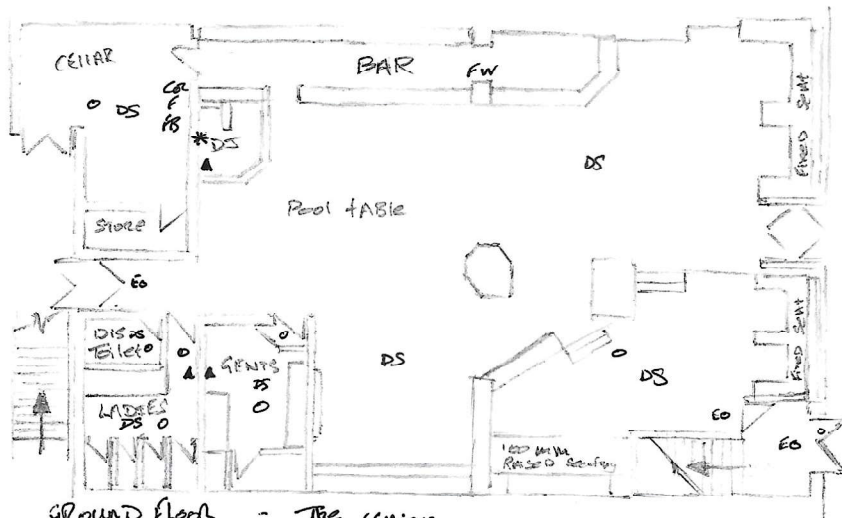
Attached



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



FIRST FLOOR - K2 Night Club



GROUND FLOOR - The Union

SCALE 1:100 (1cm = 1m)

## Legend

EO	Emergency light + fire Exit
▲	Audible WARNING
*	BREAK GLASS ALARM
DS	Smoke Detector
w	water EXTINGUISHER
CO <sub>2</sub>	CARBON Dioxide EXTINGUISHER
P	POWDER EXTINGUISHER
F	Foam EXTINGUISHER
o	Emergency lighting
FB	FIRE BLANKET

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## **Appendix 5: Durham Constabulary Objection Notice**

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**From:** Licensed Economy Team

**Sent:** 18 October 2024 09:53

**To:** <[redacted]>; EHCP <[redacted]>; AHS Licensing <[redacted]>

**Cc:** Licensed Economy Team <[redacted]>; Brian Donnelly <[redacted]>

>; Caroline Dickenson <[redacted]>

**Subject:** [EXTERNAL]:Durham Constabulary objection - TEN - K2 Nightclub, 7-9 Front Street, Consett, County Durham DH8 5AF

To whom it may concern,

On 15<sup>th</sup> October 2024 Durham Constabulary, a responsible authority under the Licensing Act 2003 received notice from Mr James McDonald of a temporary event at K2/Union, Front Street, Consett scheduled to take place on 3<sup>rd</sup> November 2024. Durham Constabulary wish to object to the application under the prevention of Crime and Disorder and Public Safety licensing objectives.

I am a serving police officer with Durham Constabulary and have delegated authority on behalf of the chief officer.

The current premises licence covers licensable activities from 10am until 2am daily, including the sale of alcohol. The application requests an extension of licensable activities from 2am until 3am on 3<sup>rd</sup> November 2024.

The applicant has recently applied to vary of the premises licence at K2/Union, to extend the licensable activities to 3am daily. This has subsequently been objected to by Durham Constabulary.

Front Street, Consett has numerous licensed premises including two venues that are already open until 3am, namely Singers bar and Chaplains, where the applicant is PLH and DPS. Chaplains is situated near to K2/Union and both are vertical drinking establishments.

Durham County Councils statement of licensing policy 2019-2024 states that the framework hours for an establishment such as K2/Union is;

***7am until midnight weekdays and 7am until 1am weekends.***

The premises has 16 hours of licensable activity (including alcohol sales) per day and as such already have **2 hours beyond** the framework hours weekdays and **one hour beyond** on weekends. Durham Constabulary cannot support notice of a further hour to an already 'stretched' premises licence.

Durham Constabulary also note that Section 7.1 of Durham County Council Statement of Licensing Policy 2019-2024, relating to the Promotion of the Licensing Objectives states; ***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.***

As stated, the applicant is DPS at both Chaplains and K2/Union and Durham Constabulary are concerned that his role as premises supervisor is also ‘stretched’. If this notice was to go ahead, how would Mr McDonald cover both venues? The DJ event has likely been advertised and the premises is likely to see an increase in footfall that evening.

Historically, K2/Union has suffered incidents of crime and disorder that resulted in closure of the premises in late 2021. In April 2022 the premises reopened, however to my knowledge over the past year it seems the premises has not been operating on a regular basis. The last TEN was in April 2024 and an incident occurred that required police attendance and an arrest being made. The incident in question involved a member of door staff being punched by a heavily intoxicated male who was subsequently arrested and found in possession of 5 bags of cocaine.

By means of comparison, the applicant’s other late-night venue, Chaplains has had an opening time until 3am since December 2023. Chaplains operates on a regular basis and there a number of incidents police and ambulance have had to attend from 2am and beyond. Since January this year, 40% of the incidents at Chaplains are post 2am of which almost all relate to alcohol fuelled violence. Durham Constabulary feel that the granting of this extension at K2/Union could lead to further incidents of alcohol fuelled crime and disorder.

The impact of extended alcohol sales on patrons, local residents and the community is rarely positive and by extending licensing hours to already late-night venues, risk cannot be measured, and we will never know a true picture of the impact this causes on people’s health and wellbeing.

Due to the issues/concerns outlined in this report, Durham Constabulary feel there is sufficient to object to this notice.

Many thanks

PC 1426 Iain Robertson  
Durham Police Licensing  
Durham Constabulary

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## **Appendix 6: Environmental Health Objection Notice**

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**From:** Richard Wormald  
**Sent:** Friday, October 18, 2024 10:39 AM  
**To:**  
**Cc:** Karen Baker < >; Yvonne Raine  
Helen Johnson - Licensing Team Leader (N'hoods)  
**Subject:** TENs K2 Representation

*Dear Mr Mc Donald*

**Environmental Health – Community Protection Team.**  
**Officer – Mr R. Wormald, Senior Environmental Health Officer**  
**Date – 17<sup>th</sup> October 2024**  
**Premises – K2/Time, 7-9 Front Street, Consett, DH8 5AF**  
**Application – Temporary Events Notice, dated 15<sup>th</sup> October 2024**

I am writing to inform you Durham County Council's Environmental Protection Team are making a representation on grounds of prevention of public nuisance concerning the proposed extension of licensing hours of 0200 to 0300 hrs on 3<sup>rd</sup> November 2024 and the proposed event 'to hold a live music event with DJ acts.'

It is noted the application states that all conditions relating to the premise license will be upheld throughout the duration of this TEN. In terms of noise control from regulated entertainment the current conditions (see below) provide no specific conditions relating to the control, an awareness or need to manage noise from particularly amplified music/sound.

***K2 Premise License Conditions - Prevention of Public Nuisance***

*Customers will be encouraged to leave the premises quietly and respect local residents. Signage will be displayed inside and outside the premises.*

*The applicant and DPS will be receptive to resident concern and observations from the Police and will work in a positive manner to prevent unnecessary noise and nuisance. Regular recorded checks will be made of the outside areas, for e.g. glass collection and litter collection and emptying of ash trays. Bottle bins will not be emptied after 22:30 hrs.*

*The premises will provide information on licensed local taxi providers.*

We would also have concerns relating to persons leaving the premises at what is effectively early morning hours when background noise levels are at their lowest.

Raised human voices can be particularly audible to the human ear, not only in the close environment but also to the wider environment. The World Health Organisation – Guideline Values for Community Noise guidance suggests people may sleep with their windows open. Therefore, this additional hour and encroachment of the noise climate could become particularly problematic during warmer summer months

In our view the addition of an extra hour on the overall opening times to 0300hrs will impact on local and wider communities. Not only due to the audibility of the human voice due to inebriated people being face to face with other drunken people but to the wider environment are arriving home be it by taxi or other means. This in turn can generate levels of noise and disorder generated by them. This erodes away into hours associated with Consett's night-time economy and to the wider area. This in turn impacts on takeaways being open or wishing to open longer into what is a reasonably mixed residential area.

It also should be noted Durham County Councils – Framework Hours recommends terminal hours for Premises licensed for the sale or supply of alcohol for consumption on or off the premise e.g. pubs, social clubs, and night clubs. Weekdays 0700 to 0000 hrs and Weekends 0700 to 0100 hrs.

In summary we do not agree with the additional extra hour extension of the permitted time for all currently licensed activities until 0300 hrs and would consider very difficult to mitigate against additional early morning noise.

**Mr R. Wormald**  
**Senior Environmental Health Officer**

Environmental Protection Team  
Community Protection Service  
Neighbourhoods and Climate Change  
Durham County Council  
Annand House  
Meadowfield  
Durham  
DH7 8RS

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

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**3.15 Temporary Event Notices** – The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”). The Licensing Act 2003 enables certain organised events for less than 500 people to take place following notification to the Licensing Authority, the Police and Environmental Health

An event organiser who wishes to arrange a one-off event or extend the hours for licensable activities at a premises, may notify the council of the proposed event. The application (or notice) needs to be submitted to the Licensing Authority with the appropriate fee. The application must be submitted electronically via the gov.uk portal or via hardcopy. If submitted via hardcopy then it must also be sent to the Police and the council’s Environmental Health section for consideration.

A temporary event notice must be submitted to the authority at least ten clear working days before any event. This does not include the day of the application, the date the application is submitted, weekends or bank holidays. Failure to adhere to these timescales may invalidate the application.

An applicant who also holds a Personal Licence may apply to hold 50 events per year. An applicant who does not hold a Personal licence may only apply for 5 events.

Each Temporary Event may last for up to 168 hours and an individual premises may hold up to 15 events totaling 21 days. There must be a gap of 24 hours between the end of one temporary event and the start of another one.

If the Police or the Environmental Health team, make a representation regarding a temporary event notice then the Licensing Authority will arrange a hearing before the licensing sub-committee in the required timescales.

Applicants are encouraged to submit temporary event notices as far in advance as possible to allow issues to be worked out and for any required hearing to be held in good time before any proposed event. Although the statutory legal minimum time required for the notification of a temporary event to the Licensing Authority, Police and Environmental Health is 10 working days, or 5 working days for a late temporary event, it is essential that proper consideration of the proposed event is given.

Statutory guidance allows the Licensing Authority to publicise its preferred timescale for notification. Applicants are encouraged to submit notifications at least 4 weeks but not more than 12 weeks before an event where an existing premises licence is in operation. For applications where there is not a current premises licence, for example community events, 15 working days in advance of the event would be encouraged to allow for proper consideration of the event.

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

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

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

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

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## Crime and disorder

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

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

## **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 Act<sup>1</sup>, 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.

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<sup>1</sup> S 177 of the 2003 Act now only applies to performances of dance.

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.

# Temporary Event Notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

## General

- 7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing). Under the 2003 Act ‘premises’ can mean any place. Events authorised under a TEN will therefore not always be in a building with a formal address and can take place, for example, in public parks and plots within larger areas of land. In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises are, for example, an open field or a beer tent. Local authorities and “relevant persons” (see below) may wish to make enquiries where appropriate to satisfy themselves of the exact location for where a TEN is being given.
- 7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.
- 7.5 If a TEN is sent electronically via GOV.UK or the licensing authority’s own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.
- 7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may

result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).

- 7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

## **Standard and late temporary event notices**

- 7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

### **Standard temporary event notices**

- 7.9 “Ten working days” (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.
- 7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
- 7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

### **Late temporary event notices**

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five clear working days but no earlier than nine clear working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing licence conditions.

## **Limitations**

- 7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:
- the number of times a premises user may give a TEN is 50 times in a calendar year

for a personal licence holder and five times in a calendar year for other people;

- the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.
- the number of times a TEN may be given for any particular premises is 15 times in a calendar year (for the 2022 to 2023 calendar years this will increase from 15 to 20);
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year (for the 2022 to 2023 calendar years this will increase from 21 to 26 days);
- the maximum number of people attending at any one time is 499 (including any staff and any other persons); and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:

- the spouse or civil partner of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person; or
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given may be subsequently withdrawn by the TEN user by giving the licensing authority a notice to that effect no later than 24 hours before the beginning of the event period specified in the TEN. Otherwise, the TEN will be included within the limits of TENs allowed in a given calendar year, even if the event does not go ahead.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.20 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.21 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 (26) days, an event beginning before midnight and continuing into the next day would count as two days towards the 21 (26) -day limitation.

7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

## **Who can give a temporary event notice?**

### **Personal licence holders**

7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs (subject to a maximum of 10) given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 15 (20) TENs in respect of each premises in a calendar year.

### **Non-personal licence holders**

7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs – subject to a maximum of 2 - in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

## **Role of the licensing authority**

7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.

7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.

7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received

on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).

- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence or certificate conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.
- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. Under Schedule 3 of the 2003 Act, the licensing authority must also keep a record of such matters including any notice of withdrawal of a TEN, any counter notice to a TEN given following an objection by a relevant person and any TEN received following modification. If requested to do so, a licensing authority must supply a person with a copy of the information contained in any entry in its register. Each licensing authority must also provide facilities for making the information contained in the entries in its register available for inspection by any person during office hours and without payment. Licensing authorities may wish to consider bringing TENs to the attention of local councillors and residents by making their register available online or including relevant details of a TEN when it is received, along with notice of licence applications on the authority's website. There is no requirement to record all the personal information given on a TEN.

## **Police and environmental health intervention**

- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and

the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.

- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings (or appeals) in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.
- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance – even where the statutory limits on numbers are being observed. The premises user who signs the form is legally responsible for ensuring that the numbers present do not exceed the permitted limit at any one time. In cases where there is reason to doubt that the numbers will remain within the permitted limit the premises user should make clear what the nature of the event(s) is and how they will ensure that the permitted persons limit will not be exceeded. For example, where notices are being given for TENs simultaneously on adjacent plots of land it may be appropriate for door staff to be employed with counters. In each case it is important that licensing authorities and relevant persons can consider whether they believe that the premises user intends to exceed the 499 person limit, or will be unable to control or know whether the limit will be exceeded. Where the planned activities are likely to breach the statutory limits or undermine the licensing objectives, it is likely to be appropriate for the police or EHA to raise objections.
- 7.36 However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

## Modification

- 7.37 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

## Applying conditions to a TEN

- 7.38 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA have objected to the TEN;
  - if that objection has not been withdrawn;
  - if there is a licence or certificate in relation to at least a part of the premises in respect



of which the TEN is given;

- and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.

7.39 This decision is one for the licensing authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

## **Duty of premises users to keep and produce TENs**

7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014<sup>3</sup>.

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<sup>3</sup> For further guidance on the closure power under the 2014 Act, please refer to:

[www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/352562/ASB\\_Guidance\\_v8\\_July2014\\_final\\_\\_2\\_.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final__2_.pdf)