

## Statutory Licensing Sub-Committee

Monday 7<sup>th</sup> January 2013, 2pm

### Application for the Review of a Premises Licence



---

### Report of Terry Collins, Corporate Director, Neighbourhood Services

---

**Name and Address of Premises:** The Prince of Wales, 22 Front Street, West Auckland, Bishop Auckland, DL14 9HW

#### 1. Summary

The Sub-Committee is asked to consider and determine an application by Durham Constabulary to review the premises licence in respect of the above premises currently licensed to supply alcohol for consumption both on and off the premises and for the provision of regulated entertainment.

A copy of the licence is attached at Appendix 1.

A plan showing the location of the premises is attached at Appendix 2.

#### 2. Details of the Application

The application is for a review of the premises licence (WV/PRE0111/05) held by Danbury Associates Limited in respect of The Prince of Wales, 22 Front Street, West Auckland.

On 10<sup>th</sup> December 2012, the Licensing Authority received an application and supporting Certificate under Section 53A of the Licensing Act 2003 from Durham Constabulary where it was required to consider the matter within 48 hours of receipt of this application. A copy of the application is attached as Appendix 3.

Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premise where it is authorised for the sale of alcohol and where it is considered the premises are associated with serious crime or serious disorder.

On 11<sup>th</sup> December 2012, the Licensing Statutory Sub Committee met to consider the application where it was decided to suspend the premises licence with immediate effect. A copy of the notice of determination is attached as Appendix 4.

As part of the decision, the Licence Holder is entitled to make representations to the Licensing Authority and the Authority is then required to hold a further hearing within 48 hours of receiving the representation.

The Licence Holder has not submitted a representation against the Licensing Sub Committee's decision to suspend the licence with immediate effect.

The application for review received on 10<sup>th</sup> December 2012, is deemed by the Licensing Authority to be relevant. The application relates to the following licensing objective:

- The prevention of crime and disorder

The application for review was advertised in accordance with the regulations.

### **3. Representations**

Within the statutory ten working day consultation period which was between 11<sup>th</sup> December 2012 and 24<sup>th</sup> December 2012, no representations have been forthcoming from the Responsible Authorities or any other persons.

### **4. The Parties**

The Parties to the hearing will be:

- Sgt Tim Robson, Durham Constabulary - Applicant
- Mr Shane McGonigle, Danbury Associates Limited – Premises Licence Holder

### **5. Durham County Council Statement of Licensing Policy**

The Sub-Committee's attention is drawn to the following relevant parts of the Policy:

- 5.0 The Prevention of Crime and Disorder

Relevant information is attached at Appendix 5.

### **6. Section 182 Guidance**

The Sub-Committee's attention is drawn to the relevant parts of the Guidance issued under section 182 of the Licensing Act 2003 as follows:

- 2.0 - Crime and Disorder
- Part 11 – Reviews

Relevant information is attached at Appendix 6.

## 7. For Decision

The Sub-Committee is asked to determine the application for the review of the premises licence and to take any of the following steps that it considers necessary for the promotion of the licensing objectives:

- No further action
- Modify or add conditions to the licence
- Exclude a licensable activity from the licence
- Remove the designated premises supervisor
- Suspend the licence for a period (not exceeding three months)
- Revoke the licence

### Background Papers:

- Durham County Council's Statement of Licensing Policy
- Guidance issued under section 182 of the Licensing Act 2003.

---

**Contact: Helen Johnson Tel: 03000 265101**  
**Email: [helen.johnson2@durham.gov.uk](mailto:helen.johnson2@durham.gov.uk)**

---

**Appendix 1**  
**Premises Licence**



## LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number  
 Granted  
 Issued

WV/PRE0111/05
20 MAY 2011
21 JULY 2011

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<b>THE PRINCE OF WALES</b> 22 FRONT STREET WEST AUCKLAND	<b>DURHAM COUNTY COUNCIL</b> GREEN LANE SPENNYMOOR DL16 6JQ TEL: 01388 816166
<b>Post town: BISHOP AUCKLAND</b>	<b>Postcode: DL14 9HW</b>
<b>Telephone number:</b>	

<b>Where the licence is time limited the dates</b> N/A
---

<b>Licensable activities authorised by this licence</b> Live music Recorded music Provision of facilities for making music Provision of facilities for dancing Late Night Refreshment Sale by Retail of alcohol
---

<b>The opening hours of the premises (all times in 24hr format)</b>		
Monday	10:00 – 00:30	<b>Non standard/seasonal timings:</b> New Years Eve: 10:00 - 00:00 New Years Day: 00:00 - 01:30 the following day. In the event of the transmission of any International sporting event which falls outside the standard hours, timing to commence 1 hour before the start of the event and ending 1 hour after the end of the event.
Tuesday	10:00 – 00:30	
Wednesday	10:00 – 00:30	
Thursday	10:00 – 00:30	
Friday	10:00 – 01:30	
Saturday	10:00 – 01:30	
Sunday	10:00 – 00:30	

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

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

**Live music**

Indoors only

Monday	10:00 – 23:00	Further details:
Tuesday	10:00 – 23:00	
Wednesday	10:00 – 23:00	Non standard/seasonal timings: New Years Eve: 10:00 - 00:00 New Years Day: 00:00 - 24:00
Thursday	10:00 – 23:00	
Friday	10:00 – 00:00	
Saturday	10:00 – 00:00	
Sunday	10:00 – 23:00	

**Recorded Music**

Indoors only

Monday	10:00 – 00:00	Further details:
Tuesday	10:00 – 00:00	
Wednesday	10:00 – 00:00	Non standard/seasonal timings: New Years Eve: 10:00 - 00:00 New Years Day: 00:00 - 01:00 the following day. In the event of the transmission of any International sporting event which falls outside the standard hours, timing to commence 1 hour before the start of the event and ending 1 hour after the end of the event.
Thursday	10:00 – 00:00	
Friday	10:00 – 01:00	
Saturday	10:00 – 01:00	
Sunday	10:00 – 00:00	

**Provision of Facilities for Making Music**

Indoors only

Monday	10:00 – 00:00	Further details:
Tuesday	10:00 – 00:00	
Wednesday	10:00 – 00:00	Non standard/seasonal timings: New Years Eve: 10:00 - 00:00 New Years Day: 00:00 - 01:00 the following day. In the event of the transmission of any International sporting event which falls outside the standard hours, timing to commence 1 hour before the start of the event and ending 1 hour after the end of the event.
Thursday	10:00 – 00:00	
Friday	10:00 – 01:00	
Saturday	10:00 – 01:00	
Sunday	10:00 – 00:00	

**Provision of Facilities for Dancing**

Indoors only

Monday	10:00 – 00:00	Further details:
Tuesday	10:00 – 00:00	
Wednesday	10:00 – 00:00	Non standard/seasonal timings:
Thursday	10:00 – 00:00	New Years Eve: 10:00 - 00:00
Friday	10:00 – 01:00	New Years Day: 00:00 - 01:00 the following day.
Saturday	10:00 – 01:00	In the event of the transmission of any International sporting event
Sunday	10:00 – 00:00	which falls outside the standard hours, timing to commence 1 hour
		before the start of the event and ending 1 hour after the end of the
		event.

**Late Night Refreshment**

Indoors only

Monday	23:00 – 00:00	Further details:
Tuesday	23:00 – 00:00	
Wednesday	23:00 – 00:00	Non standard/seasonal timings:
Thursday	23:00 – 00:00	New Years Eve: 23:00 – 00:00.
Friday	23:00 – 01:00	New Years Day: 00:00 – 05:00 and 23:00 – 01:00 the following day.
Saturday	23:00 – 01:00	In the event of the transmission of any International sporting event
Sunday	23:00 – 00:00	which falls outside the standard hours, timing to commence 1 hour
		before the start of the event and ending 1 hour after the end of the
		event.

**Sale by retail of alcohol**

On and off sales

Monday	10:00 – 00:00	Further details:
Tuesday	10:00 – 00:00	
Wednesday	10:00 – 00:00	Non standard/seasonal timings:
Thursday	10:00 – 00:00	New Years Eve: 10:00 - 00:00
Friday	10:00 – 01:00	New Years Day: 00:00 - 01:00 the following day.
Saturday	10:00 – 01:00	In the event of the transmission of any International sporting event
Sunday	10:00 – 00:00	which falls outside the standard hours, timing to commence 1 hour
		before the start of the event and ending 1 hour after the end of the
		event.

**Part 2**

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

DANBURY ASSOCIATES LTD

NORTHERN BANK HOUSE, MAIN STREET, KESH,  
CO FERMANAGH, NORTHER IRELAND. BT93  
1TF

**Registered number of holder, for example company number, charity number (where applicable)**

Company no: NI069543

Charity no:

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

COLIN DENNIS LEE  
[REDACTED]

**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**

DCCPER70665 – ISSUED BY DURHAM COUNTY COUNCIL

### **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 shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

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

The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol: -

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 a holographic mark.

The responsible person shall ensure that:-

(a) Where any of the following alcoholic drinks is sold or supplied for sale or 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:-

1. Beer or cider - ½ pint;
2. Gin, rum, vodka or whisky - 25ml or 35ml; and
3. Still wine in a glass - 125ml; and

(b) Customers are made aware of the availability of these measures.



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 premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol: -

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 a holographic mark.

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

### **A. General**

1. The Council's proper officer accompanied by any such other person as he deems necessary, or a police officer, shall at all times have access to the licensed premises for the purposes of ensuring compliance with the conditions of the licence.

### **B. The Prevention of Crime and Disorder**

1. The Licensee, that is the person in whose name the Premises Licence is issued, must ensure that at all times when the premises are open for any licensable activity, there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.
2. The premises will promote the crime and disorder objective in accordance with the Section 182 Guidance.
3. The premises shall operate in accordance with all relevant legislation which promotes the crime and disorder objective.
4. The premises will liaise and co-operate with the responsible authorities.
5. A 'proof of age policy' will operate in relation to the relevant licensable activities.
6. A 'zero tolerance' towards illegal drugs will operate at all times.
7. Any drinks promotions will not adversely affect the promotion of responsible drinking.
8. Customers will be encouraged to leave the premises in a quiet and orderly manner.
9. Staff will be trained to observe the measures necessary to promote the crime and disorder objective.

### **C. Public Safety**

1. The premises will promote the public safety objective in accordance with the Section 182 Guidance.
2. The premises will operate in accordance with all relevant legislation which promotes the public safety objective including, but not limited to, the Health & Safety At Work etc. Act 1974 and associated regulations, the Food Safety Act 1990, the Regulatory Reform (Fire Safety) Order 2005 and the Disability Discrimination Act 1975.

3. The premises will liaise and co-operate with the responsible authorities.
4. Staff will be trained to observe the measures necessary to promote the public safety objective.
5. Existing fire safety precautions shall be retained and maintained.

**D. The Prevention of Public Nuisance**

1. All doors and windows at the premises shall be kept closed after 20.00 hrs. to prevent noise breakout, except for access, egress and in cases of emergency.
2. Noise generated by amplified music shall be controlled by a noise limiting device set at a level determined by the Local Authority Environmental Health Officer. The level shall be confirmed in writing and may only be adjusted after consultation with the Environmental Health Officer.
3. Prominent, clear and legible notices shall be displayed on all exits requesting that customers respect the needs of local residents and leave the premises and area quietly.
4. Secondary glazing units shall be provided on the ground floor of the premises to control noise breakout.
5. The premises will promote the public nuisance objective in accordance with the Section 182 Guidance.
6. The premises shall operate in accordance with all relevant legislation which promotes the public nuisance objective including but not limited to the Environmental Protection Act 1990 and the Noise Act 1996.
7. The premises will liaise and co-operate with the responsible authorities.
8. Staff will be trained to observe the measures necessary to promote the public nuisance objective.
9. The premises shall be adequately ventilated to prevent nuisance.
10. Arrangements will be made for the storage and disposal of refuse in a manner which does not cause nuisance.
11. Any noise from the licensable activities provided will be monitored in order to prevent nuisance.

**E. The Protection of Children from Harm**

1. All members of staff at the premises must seek evidence of a customer's age from any person who appears to be under the age of 18 years and who is seeking access of the premises or is seeking to purchase or consume alcohol on the premises.
2. The premises will promote the protection of children objective in accordance with the Section 182 Guidance.
3. The premises shall operate in accordance with all relevant legislation which promotes the protection of children objective.

4. The premises will liaise and co-operate with the responsible authorities.
5. Staff will be trained to observe the measures necessary to promote the protection of children objective.
6. Non-alcoholic drinks shall be made available whenever the premises are open.

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

**Annex 4 – Plans**

Attached

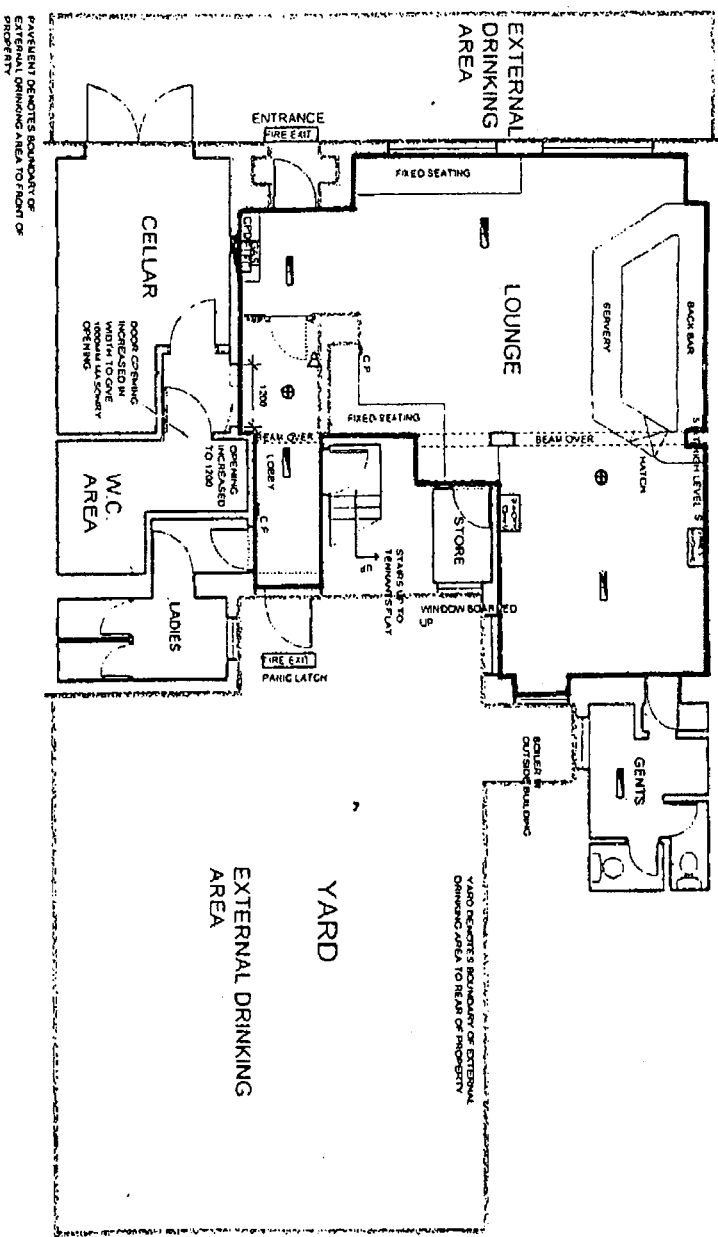


**Signature of Authorised Officer  
Head of Environment, Health and Consumer Protection**

### LEGEND

	SWITCHED SOCKET OUTLET
	EMERGENCY LIGHTING
	CALL POINT
	INTERLINKED MAINS OPERATED SMOKE DETECTOR
	FIRE EXTINGUISHER
	FIRE BLANKET
	GAS METER
	INCOMING ELECTRICITY
	JUKE BOX
	GAME'S MACHINE, (FRUIT MACHINE ETC)
	CIGARETTE DISPENSER
	FIRE ALARM

AREA USED FOR THE SUPPLY OF ALCOHOL, PROVISION OF REGULATED ENTERTAINMENT AND LATE NIGHT REFRESHMENT



**AL** PRINCE OF WALES, WEST AUKLAND  
 LAYOUT SCALE 1:100  
 22 FRONT ST, WEST AUKLAND, DURHAM DL14 9HW

LICENSING DRAWINGS

007 23 01 07

The location of the fire safety and other safety equipment is subject to change in accordance with requirements of Responsible Authorities.

**horsley townsend consulting architects**  
 horsleytownsend.com

ADDRESS	
PRINCE OF WALES	
LICENSING PLAN	
DATE	1 1 00
NO	0701
REV	002

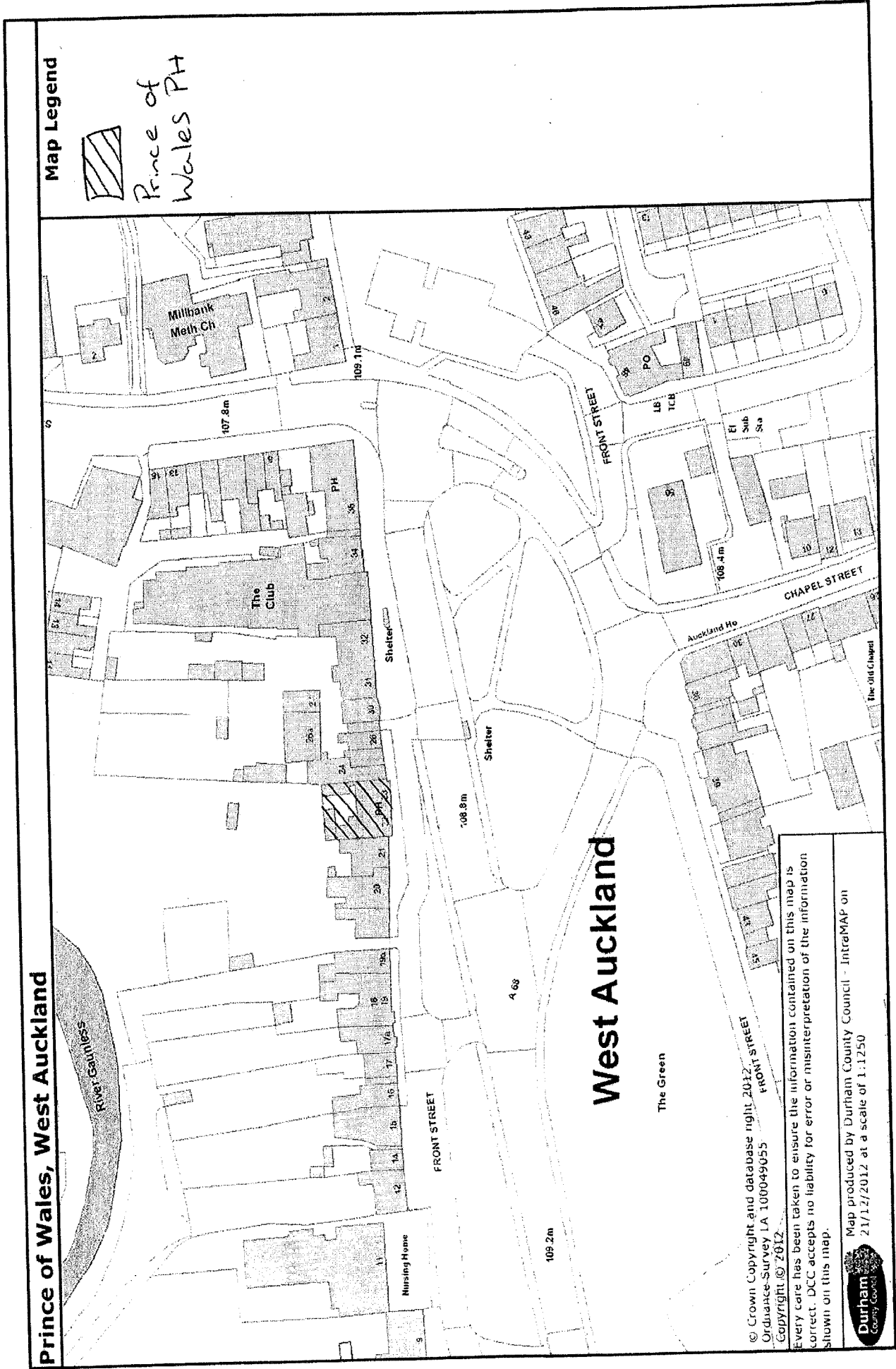
22 FRONT ST, WEST AUKLAND, DURHAM DL14 9HW

**Appendix 2**  
**Location Plan of the Premises**



**PRINCE OF WALES PH, 22 FRONT STREET, WEST AUCKLAND.**

Plan for identification purposes only; not to be used for scaling or formal documentation



**Appendix 3**  
**Supporting Certificate and Review Application under**  
**section 53A of the Licensing Act 2003**



ANNEX B

Durham Constabulary  
Force HQ  
Aykley Heads  
Durham  
DH1 5TT

**CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003**

I hereby certify that in my opinion the premises described below are associated with serious crime / serious disorder / both serious crime and serious disorder<sup>1</sup>.

*Premises<sup>2</sup>:*

The Prince of Wales Public House  
22 Front Street,  
West Auckland  
County Durham  
DL14 9HW

Premises licence number (if known): WV/PRE0111/05

Name of premises supervisor (if known): Colin Dennis LEE DCC/PER70665

I am a Chief Constable <sup>3</sup> in the Durham  
police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because<sup>4</sup>:

On Friday 07th December 2012 Officers from Bishop Auckland Serious Crime commenced a proactive operation on the Prince of Wales public house, Front Street, West Auckland. This operation was instigated as a result of intelligence indicating that the pub was being used by [REDACTED] as a place to supply cocaine. [REDACTED] is part of a large OCG group in the Bishop Auckland area. The DPS is Colin Denis Lee b [REDACTED] [REDACTED]

<sup>1</sup> Delete as applicable.

<sup>2</sup> Include business name and address and any other relevant identifying details.

<sup>3</sup> Insert rank of officer giving the certificate, which must be superintendent or above.

<sup>4</sup> Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

██████████ is also part of the same OCG group.

At 2145 hours the same day ██████████ left the Prince of Wales Public House approached his ██████████ which parked approximately 15 meters away from the pub, he approached the front drivers side door, reached into the side compartment and appeared to remove something from it, he went to walk towards and a police strike was called. ██████████ tried to run away and in the process it appears that he dropped 3 packets of drugs, one packet had 6 grams of white powder in it. ██████████ was detained and a mobile phone and his car key were recovered. At the time of the operation there were about 20 -30 people inside the public house.

A further search of his car was undertaken and in the door where ██████████ had been seen to approach there was a sweet bag containing a further 12 individual packaged white powder. The car was recovered and ██████████ was searched at Bishop Auckland Police Office, a quantity of cash was recovered (approximately £250.00)

The 6 grams of white powder have not been field tested and are waiting further forensic testing, although the packaging and appearance are all the same as the 12 small wraps. The 12 small packages recovered from his car were field tested, 3 were chosen at random and these have all tested positive for cocaine. These are averaging out at approximately 1.5 grams per packet. Cocaine has an estimated street value of £40 / gram, so essence we have recovered drugs to the street value of £960.00. ██████████ claimed that he valeted cars but declined to provide any details during his interview.

The hard drive from the Prince of Wales public house has been seized as part of the investigation and further enquiries are ongoing. It would appear that from this operation, intelligence and the evidence gained to date that ██████████ is supplying controlled drugs from this public house. The DPS was not present on Saturday 08th December 2012 and was not available for contact.

It is apparent that the Prince of Wales PH is being used for serious crime namely the sale and supply of Cocaine. At the time of the arrest and seizure of the drugs the public house had a number of patrons within. This criminal activity is deemed as serious criminal acts and is being investigated as such. It is believed that should this premise be allowed to remain open then it will continue to be used as an operating point for further criminal activity. Furthermore known organised crime group members are frequenting the premise and associating with the DPS.

It is apparent that the Prince of Wales PH is being used for serious crime namely the sale and supply of Cocaine.

The police seek an immediate suspension of the licence WV/PRE0111/05



(Signed)

cc

(Date)

## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

(Insert name and address of relevant licensing authority and its reference number (optional))

Durham County Council

Annand House,

John Street North.

Meadowfield.

Co Durham

DH78RS

**Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use **additional sheets if necessary.**

I Mr M. Barton (on behalf of) the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**The Prince of Wales Public House  
22 Front Street,  
West Auckland  
County Durham**

Post town: Bishop Auckland

Post code (if known): **DL14 9HW**

**2. Premises licence details:**

Name of premises licence holder (if known): **DANBURY ASSOCIATES LTD**

Number of premises licence holder (if known): WV/PRE0111/05

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003** [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

On Friday 07th December 2012 Officers from Bishop Auckland Serious Crime commenced a proactive operation on the Prince of Wales public house, Front Street, West Auckland. This operation was instigated as a result of intelligence indicating that the pub was been used by [REDACTED] as a place to supply cocaine. [REDACTED] is part of a large OCG group in the Bishop Auckland area. The DPS is Colin Denis Lee b [REDACTED], he is the [REDACTED] [REDACTED] is also part of the same OCG group.

At 2145 hours the same day [REDACTED] left the Prince of Wales Public House approached his [REDACTED] which parked approximately 15 meters away from the pub, he approached the front drivers side door, reached into the side compartment and appeared to remove something from it, he went to walk towards and a police strike was called. [REDACTED] tried to run away and in the process it appears that he dropped 3 packets of drugs, one packet had 6 grams of white powder in it. [REDACTED] was detained and a mobile phone and his car key were recovered. At the time of the operation there were about 20 -30 people inside the public house.

A further search of his car was undertaken and in the door where [REDACTED] had been seen to approach there was a sweet bag containing a further 12 individual packaged white powder. The car was recovered and [REDACTED] was searched at Bishop Auckland Police Office, a quantity of cash was recovered (approximately £250.00)

[REDACTED] was interviewed and denied dropping the packages outside the pub when officers went to search him, he stated the cash was from a win at the local bookmakers on a gambling machine and the drugs from his car were Lucese. (a non controlled drug).

The 6 grams of white powder have not been field tested and are waiting further forensic testing, although the packaging and appearance are all the same as the 12 small wraps. The 12 small packages recovered from his car were field tested, 3 were chosen at random and these have all tested positive for cocaine. These are averaging out at approximately 1.5 grams per packet. Cocaine has an estimated street value of £40 / gram, so essence we have recovered drugs to the street value of £960.00. [REDACTED] claimed that he valeted cars but declined to provide any details during his interview.

The hard drive from the Prince of Wales public house has been seized as part of the investigation and further enquiries are ongoing. It would appear that

from this operation, intelligence and the evidence gained to date that [REDACTED] is supplying controlled drugs from this public house. The DPS was not present on Saturday 08th December 2012 and was not available for contact.

It is apparent that the Prince of Wales PH is being used for serious crime namely the sale and supply of Cocaine.

The police seek an immediate suspension of the licence WV/PRE0111/05

Signature of applicant:  
Date: 10/12/12  
Capacity: Chief Constable



**Contact details for matters concerning this application:**

Address:  
**Sgt 1590 T.J.Robson**  
**AHRU.**  
**Annand House**  
**John Street North,**  
**Meadowfield,**  
**Co Durham**  
**DH78RS**

Telephone number(s): 0191 3752308

Email: tim.robson@durham.pnn.police.uk

**Notes for guidance:**

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or

- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.  
Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

**Appendix 4**  
**Notice of Determination – 11<sup>th</sup> December 2012**



**THE COUNTY COUNCIL OF DURHAM**

**Licensing Committee**

**NOTICE OF DETERMINATION**

**Licensing Act 2003 (the Act)**

Date of Hearing : 11 December 2012  
Date of Determination : 11 December 2012  
Committee Members : 1. Councillor B Arthur (Chair)  
2. Councillors E Bell and K Holroyd

**1. Type of application or hearing**

Summary Licence Review

**2. Applicant**

Durham Constabulary

**3. Premises**

The Prince of Wales Public House, 22 Front Street, West Auckland, County Durham,  
DL14 9HW

**4. The Application**

For the summary review of a Premises Licence under Section 53A of the  
Licensing Act 2003

**5. Witnesses**

The Committee heard from the following:-

- Sgt Tim Robson, Durham Constabulary

**6. Licensing Act 2003**

The Committee has taken into account the relevant provisions of the Act.

**7. S182 Guidance**

The Committee has considered and taken account of the most recent edition of the  
Secretary of State Section 182 Guidance. The Committee has also considered the  
Section 53A Summary Review Guidance in particular paragraphs 3.1 to 3.7.

**8. Licensing Policy**

The Committee has considered and taken account of the Council's licensing policy.

**Appendix 5**  
**Statement of Licensing Policy – 5.0 Prevention of**  
**Crime and Disorder**

## **5.0 The Prevention of Crime and Disorder**

5.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

5.2 As a matter of Policy the Licensing Authority will require every holder of a Licence, Certificate or Permission to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter. The Licensing Authority suggests that applicants 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. 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 must be considered by applicants and licencees when addressing this issue. The Licensing Authority will also expect that Personal Licence holders will actively participate in established "Pubwatch" schemes where issues relating to crime and disorder can be addressed. The Licensing Authority support involvement in "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures.

5.3 The Licensing Authority considers the effective and responsible management of the premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25', to be among the most important control measures for the achievement of all Licensing Objectives. The Licensing Authority will take a positive view of anyone who invests in appropriate training, and in particular nationally accredited qualifications tailored to the Licensing sector. Training records should be kept available for inspection by all enforcement agencies.

5.4 The application for premises selling alcohol must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years, and so that the Licensing Authority and Police can discuss any problems or issues arising from the licensable activities offered on the premises. The Licensing Authority 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 is 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.

5.5 The Licensing Authority will only impose a maximum number of people that can attend a premises or an event where there is a clear and justifiable need in respect of that particular premises or event, any such decision will be based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body, in particular 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.

5.6 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.

5.7 The numbers of licensed door supervisors, both male and female, required at any premises will be dependant upon the nature of the activities licensed and the characteristics and capacity of the establishment and hours of trading.

5.8 In addition to the requirement of the Licensing Authority to promote the Licensing Objectives, the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

#### ***Cumulative impact of Licences on the amenity of particular areas***

5.9 The Licensing Authority recognises that the cumulative effect of the number, type and density of premises selling alcohol for consumption on the premises in a given area may cause serious problems of nuisance and disorder outside or some distance from licensed premises.

5.10 Where there is evidence that such a problem exists, the Licensing Authority may decide it is no longer appropriate for any further Licensed premises to be established or variations to existing licences to be made in the area and that a Policy relating to cumulative impact should be adopted.

5.11 The effect of a Cumulative Impact Policy would be that applications for new Premises Licences or Club Premises Certificates would normally be refused if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved would not add to the cumulative impact already being experienced.

5.12 Applicants would need to address the Cumulative Impact Policy issues in their Operating Schedules.

5.13 If such a policy is to be considered the following process is followed:

- Concerns relating to crime and disorder or public nuisance must be identified
- Consideration must be given as to whether it can be evidenced that incidents of crime and disorder and nuisance are arising from and caused by the customers of licensed premises. If so, identify the area from which problems are arising or whether risk factors are such that the area is reaching a point when a cumulative impact is imminent
- Consultation must take place with the prescribed statutory consultees on the content of the policy.
- Any special policy will be published as part of the statement of licensing policy
- Any policy must stress that the presumption against grant does not relieve responsible authorities or interested parties of the need to make a relevant representation before the Licensing Authority may lawfully consider giving effect to its special policy. Therefore: if no relevant representation is received, the application must be granted.
- The Licensing Authority must regularly review any special saturation policies to see whether they are still needed or should be expanded

5.14 The absence of a Cumulative Impact Policy does not prevent any responsible authority or interested party making representations on a new application for the grant or variation of a Licence on the grounds that the premises will give rise to a negative or adverse cumulative impact on one or more of the Licensing Objectives.

5.15 The absence of a Cumulative Impact Policy does not prevent any responsible authority or interested party making representations on a new application for the grant or variation of a Licence on the grounds that the premises will give rise to a negative or adverse cumulative impact on one or more of the Licensing Objectives.

5.16 There is a significant difference between commercial need and the cumulative impact of premises within an area and It cannot be taken into account when considering an application.

5.17 A special policy will not impose quotas on either the number of premises or the capacity of those premises nor will it restrict the consideration of any application on its individual merits.

5.18 Applicants are advised to seek advice from the Durham Constabulary and incorporate any recommendations in their Operating Schedule before submitting their applications.

**Appendix 6**  
**Section 182 Guidance**

## 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.** 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 In the context of crime and disorder and public safety, the preservation of order on premises may give rise to genuine concerns about the ability of the management team with responsibility for the maintenance of order. This may occur, for example, on premises where there are very large numbers of people and alcohol is supplied for consumption, or in premises where there are public order problems.



2.6 **Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences.** 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.

2.7 **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.** However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

## **THE REVIEW PROCESS**

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.3 An application for review may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.

11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact

within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.

11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

## **REPETITIOUS GROUNDS OF REVIEW**

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

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended

that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

#### **POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW**

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition),

- for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
  - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - to suspend the licence for a period not exceeding three months;
  - to revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

## REVIEWS ARISING IN CONNECTION WITH CRIME

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

- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

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

#### **REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER**

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

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

#### **REVIEW OF A PREMISES LICENCE FOLLOWING PERSISTENT SALES OF ALCOHOL TO CHILDREN**

11.30 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.

