

## **Statutory Licensing Sub-Committee**

**Tuesday 26<sup>th</sup> March 2013, 10am**

### **Application for the Review of a Premises Licence**



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

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**Name and Address of Premises:** The Flintlock Inn, 48 High Street, West Cornforth, Ferryhill, County Durham, DL17 9HS

#### **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 on 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 (DCCSP/PLA0006) held by Ms Nicola Jane Bush in respect of The Flintlock Inn, 48 High Street, West Cornforth, Ferryhill, Co Durham.

On 26<sup>th</sup> February 2013, 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 to determine any interim steps to be put in place on the premises licence. 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 27<sup>th</sup> February 2013, the Licensing Statutory Sub Committee met to consider the application. It was determined that the premises licence be suspended with immediate effect and to remove Nicola Jane Bush as designated premises supervisor. 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 26<sup>th</sup> February 2013, 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**

As part of the review process there is a statutory ten working day consultation period. In regards to this application the consultation period was between 27<sup>th</sup> February 2013 and 12<sup>th</sup> March 2013.

No representations have been received by responsible authorities or other persons.

### **4. The Parties**

The Parties to the hearing will be:

- Sgt Tim Robson, Durham Constabulary – on behalf of the Applicant
- Ms Nicola Jane Bush - 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 appropriate 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.

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

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**Appendix 1**  
**Premises licence**



## LICENSING ACT 2003 PREMISES LICENCE

**Premises Licence Number**  
**Granted**  
**Issued**

<b>DCCSP/PLA0006</b>
<b>23 July 2011</b>
<b>18 May 2012</b>

**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 FLINTLOCK INN</b> 48 HIGH STREET WEST CORNFORTH	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Post town:</b> FERRYHILL	<b>Postcode:</b> DL17 9HS
<b>Telephone number:</b>	

**Where the licence is time limited the dates**

N/A

**Licensable activities authorised by this licence**

Sale by Retail of Alcohol  
 Provision of Facilities for Dancing  
 Provision of Facilities for Making Music  
 Recorded Music  
 Live Music

**The opening hours of the premises (all times in 24hr format)**

Monday	09:30-00.00	<b>Non standard/seasonal timings:</b> N/A
Tuesday	09:30-00.00	
Wednesday	09:30-00.00	
Thursday	09:30-00.00	
Friday	09:30-00.00	
Saturday	09:30-00.00	
Sunday	09:30-00.00	

**Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales**  
**ON ALCOHOL SUPPLIES ONLY**

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

**Live music**

Indoors only

Monday	19:00-23:00	Further details
Tuesday	19:00-23:00	Live Singing, performances with a guitar/recorded music
Wednesday	19:00-23:00	
Thursday	19:00-23:00	Non standard/seasonal timings:
Friday	19:00-23:00	N/A
Saturday	19:00-23:00	
Sunday	19:00-23:00	

**Recorded music**

Indoors only

Monday	12:00-23:00	Further details
Tuesday	12:00-23:00	N/A
Wednesday	12:00-23:00	
Thursday	12:00-23:00	Non standard/seasonal timings:
Friday	12:00-23:00	N/A
Saturday	12:00-23:00	
Sunday	12:00-23:00	

**Provision of facilities for making music**

Indoors only

Monday	19:00-23:00	Further details
Tuesday	19:00-23:00	N/A
Wednesday	19:00-23:00	
Thursday	19:00-23:00	Non standard/seasonal timings:
Friday	19:00-23:00	N/A
Saturday	19:00-23:00	
Sunday	19:00-23:00	

**Provision of facilities for dancing**

Indoors only

Monday	19:00-23:00	Further details
Tuesday	19:00-23:00	N/A
Wednesday	19:00-23:00	
Thursday	19:00-23:00	Non standard/seasonal timings:
Friday	19:00-23:00	N/A
Saturday	19:00-23:00	
Sunday	19:00-23:00	

**Sale by retail of alcohol**

On sales only

Monday	09:30-23:00	Further details
Tuesday	09:30-23:00	N/A
Wednesday	09:30-23:00	
Thursday	09:30-23:00	Non standard/seasonal timings:
Friday	09:30-23:00	N/A
Saturday	09:30-23:00	
Sunday	09:30-23:00	

**Part 2**

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
NICOLA JANE BUSH [REDACTED] [REDACTED]	

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

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
NICOLA JANE BUSH [REDACTED] [REDACTED]

<b>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</b>
DURHAM134 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.

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

### **General**

The Councils proper officer accompanied by any such person as he deems necessary, or a police officer, shall at times have access to the licenced premises for the purpose of ensuring compliance with the conditions of the licence.

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

Where there is a "Pub Watch" or similar scheme in operation in the area in which the premises are situated, the premises shall operate the scheme at all times.

Age restriction notices shall be displayed in the premises.

There shall be no irresponsible drinks promotions.

CCTV cameras to be fitted to the internal and external areas of the premises.

Customers shall not be permitted to take drinking glasses and open bottles away from the premises.

Staff to be trained in drug detection/misuse

### **Public Safety**

Fire escape and equipment signs will be displayed on the premises.

Adequate and appropriate equipment and materials must be provided for enabling first aid to be rendered to members of the public if they are injured or become ill at the licenced premises.

Appropriate lighting will be maintained on the premises.

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

All windows and doors shall be closed when live and recorded entertainment is being provided, other than when being used for access/egress.

Music shall be kept at an appropriate level so as not to disturb local residents.

A designated smoking area is located in the rear yard.

Notices shall be displayed at the exits of the premises asking patrons to be mindful of the location and not to cause noise when leaving.

A noise limiting device shall be installed, to cover live and recorded music events, under Pollution Control directions, if considered necessary by a Council Officer.

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

The premises will adopt the principles of the 'Challenge 21' scheme, whereby any person attempting to buy alcohol, who appears to be under the age of 21, will be asked to provide proof of age.

Children will not be permitted on the premises unless accompanied by a supervising adult.

Children must leave the premises by 7.30pm.

No under 18s will be allowed to use the gaming machines.

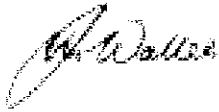
## **Annex 3 – Conditions attached after a hearing by the licensing authority**

None



**Annex 4 – Plans attached**

Attached

A handwritten signature in cursive script, appearing to read "G. Wallace".

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

**Appendix 2**  
**Location Plan**



**Appendix 3**  
**Review Application**

Durham Police  
Force HQ  
Aykley Heads  
Durham

**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 Flintlock Inn  
48 High Street,  
West Cornforth,  
Ferryhill  
Durham  
DL17 9HS

Premises licence number (if known): DCCSP/PLA0006

Name of premises supervisor (if known): Nicola Jane BUSH

I am a Superintendent <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>:

At 7.48pm on Monday 25th February 2013 a call was received from a female stating that there had been a disturbance at the Flintlock PH and that members of the informants family had been threatened with shotguns.

At 8.05pm the same day a call was received from a female named [REDACTED] who along with [REDACTED] were managing, and had control of The

<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.

Flintlock at the time of the incident. [REDACTED] reported that a number of travellers had been in the premise and had been asked to leave. Following this information has come to light that they would return with knives and machetes. It is apparent that this information given by [REDACTED] is inaccurate and the full picture has not been given to the police at the time of reporting.

An argument has occurred in the Flintlock involving a number of persons who are linked to serious violent crime and disorder. The individuals have left and returned wearing ski masks and brandishing at least one sawn off shotgun. It is a serious criminal offence to possess a shotgun and use it in such a manner.

The shotgun and knives and baseball bats have been used to threaten and inflict injuries to parties inside of the Flintlock. These actions are serious criminal offences. The injuries sustained by individuals include stab and slash wounds, double fracture of wrist, wound to crown of head and numerous cuts and bruises. Extreme violence has been threatened with the shotgun on an individual in the premise.

The suspects in relation to this violent incident are linked to the control and operation of the Flintlock. One male who has been arrested in relation to this matter was on the night in question operating in a managerial role at the pub and is closely associated with other suspects yet to be arrested. The manageress [REDACTED] had access to the CCTV within the premise. The monitor and recording device is located upstairs in the domestic dwelling area of the public house and could only be accessed by management. The CCTV was intentionally switched off for 40 minutes during the whole violent incident.

The Designated Premise Supervisor Nicola Bush has shown little commitment to attending the premise and providing day to day control and accountability. She has left the running of the premise in the hands of [REDACTED]. Following this incident the police have been unable to contact Nicola Bush and her mobile has been disconnected. The police have had concerns as to the viability of Nicola Bush being a DPS as she rarely attends the premise or is associated with its operation.

The Flintlock Public House is associated with serious crime and disorder. The offences committed meet the definition of serious offences as defined by reference to Sec 81 of the Regulation of Investigatory Powers Act 2000.

Such are my concerns in relation to this premise that I have directed that a closure order be issued under the provisions of section 161 of the Licensing Act 2003.

It is my firm belief that should The Flintlock Public House remain open, then there will be further incidents of violence, serious crime and disorder. There is an ongoing feud between a number of violent individuals of which The Flintlock is a key location for disorder and future disorder.

It is the request of Durham Police that the Licensing Authority take interim steps to remove Nicola Bush as the Designated Premise Supervisor and suspend the licence number DCCSP/PLA0006 with immediate effect.



Spt 1123

26.2.2013

(Signed)

(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 Licensing Authority

Annand House

John Street North

Meadowfield

Durham

DH7 8RS

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

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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 Supt. Colin Williamson officer of police for the Durham review of a premises licence under section 53A of the Licensing Act 2003.	[on behalf of] the chief police area apply for the review
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**1. Premises details:**

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

**The Flintlock Inn  
48 High Street,  
West Cornforth,**

Post town: Ferryhill

Post code (if known): **DL17 9HS**



**2. Premises licence details:**

Name of premises licence holder (if known): Nicola BUSH

Number of premises licence holder (if known): Durham 134

**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]

At 7.48pm on Monday 25<sup>th</sup> February 2013 a call was received from a female stating that there had been a disturbance at the Flintlock PH and that members of the informants family had been threatened with shotguns.

At 8.05pm the same day a call was received from a female named [REDACTED] who along with [REDACTED] were managing, and had control of The Flintlock at the time of the incident. [REDACTED] reported that a number of travellers had been in the premise and had been asked to leave. Following this information has come to light that they would return with knives and machetes. It is apparent that this information given by [REDACTED] is inaccurate and the full picture has not been given to the police at the time of reporting.

An argument has occurred in the Flintlock involving a number of persons who are linked to serious violent crime and disorder. The individuals have left and returned wearing ski masks and brandishing at least one sawn off shotgun. It is a serious criminal offence to possess a shotgun and use it in such a manner.

The shotgun and knives and baseball bats have been used to threaten and inflict injuries to parties inside of the Flintlock. These actions are serious criminal offences. The injuries sustained by individuals include stab and slash wounds, double fracture of wrist, wound to crown of head and numerous cuts and bruises. Extreme violence has been threatened with the shotgun on an individual in the premise.

The suspects in relation to this violent incident are linked to the control and operation of the Flintlock. One male who has been arrested in relation to this matter was on the night in question operating a managerial role at the pub and is closely associated with other suspects yet to be arrested. The manageress [REDACTED] had access to the CCTV within the premise. The monitor and recording device is located upstairs in the domestic dwelling area of the public house and could only be accessed by management. The CCTV was intentionally switched off for 40 minutes during the whole violent incident.

The Designated Premise Supervisor Nicola Bush has shown little commitment to attending the premise and providing day to day control and accountability. She has left the running of the premise in the hands of [REDACTED]. Following this incident the police have been unable to contact Nicola Bush and

her mobile has been disconnected. The police have had concerns as to the viability of Nicola Bush being a DPS as she rarely attend the premise or is associated with its operation.

The Flintlock Public House is associated with serious crime and disorder. The offences committed meet the definition of serious offences as defined by reference to Sec 81 of the Regulation of Investigatory powers Act 2000.

Such are my concerns in relation to this premise that i have directed that a closure order be issued under the provisions of section 161 of the Licensing Act 2003.

It is my firm belief that should The Flintlock Public House remain open, then there will be further incidents of violence, serious crime and disorder. There is an ongoing fued between a number of violent individuals of which The Flintloch is a key location for disorder and future disorder.

It is the request of Durham Police that the Licensing Authority take interim steps to remove Nicola Bush as the Designated Premise Supervisor and suspend the licence number DCCSP/PLA0006 with immediate effect.

[REDACTED]

Signature of applicant:  
Date: 26/02/2013  
Capacity: Superintendent

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

Address:  
Sgt 1590 T.J.Robson  
Annand House  
John Street North  
Meadowfield  
Durham  
DH7 8RS

Telephone number(s): [REDACTED]

Email: [REDACTED]

**Appendix 4**  
**Notice of Determination – 27<sup>th</sup> February 2013**

**THE COUNTY COUNCIL OF DURHAM**

**Licensing Committee**

**NOTICE OF DETERMINATION**

**Licensing Act 2003 (the Act)**

Date of Hearing : 27 February 2013  
Date of Determination : 27 February 2013  
Committee Members : 1. Councillor C Carr (Chair)  
2. Councillors B Arthur and A Hopgood

**1. Type of application or hearing**

Summary Licence Review

**2. Applicant**

Durham Constabulary

**3. Premises**

The Flintlock Inn, 48 High Street, West Cornforth, DL17 9HS

**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
- Sgt tim Kelly, 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.

## 9. Licensing Objectives

The Committee took account of the information provided by the Applicant for the purposes of the review and with respect to the licensing objectives:

### 9.1 Prevention of crime and disorder

Evidence: The evidence provided was such that this objective could be breached and that some action was needed to prevent crime and disorder.

### 9.2 Public Safety

Evidence: The evidence provided was such that this objective could be breached and that some action was needed to protect public safety.

### 9.3 Prevention of Nuisance

Evidence: It is not necessary to consider this objective for the purposes of this decision.

### 9.4 Protection of Children from Harm

Evidence: It is not necessary to consider this objective for the purposes of this decision.

## 10. Evidence and Reasons


- 10.1 Section 21 of The Violent Crime Reduction Act 2006 made amendments to the Licensing Act 2003 ("the Act") by introducing the provision for a summary review. This added to the Act section 53A with supplementary sections 53B and 53C to deal with the subject.
- 10.2 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises licence where the same covers the sale of alcohol and where it is considered the premises are associated with serious crime or disorder.
- 10.3 An application and the supporting certificate required under and by s53 of the Act was received by the Licensing Authority on the afternoon of Tuesday 26 February 2013.
- 10.4 The Licensing Authority is required to consider the matter within 48 hours of receipt of the application excluding days that are not working days. The application was considered on the morning of 27 February 2013 and therefore within the timescales stipulated in the Act.
- 10.5 The Licensing Committee has power under section 53B to consider a number of interim steps namely:
  - 10.5.1 Modification of the conditions of the premises licence.
  - 10.5.2 Exclusion of the sale of alcohol by retail from the scope of the licence.
  - 10.5.3 Removal of the Designated Premises Supervisor from the licence.
  - 10.5.4 Suspension of the Licence.
- 10.6 The evidence submitted by Durham Constabulary is that a serious incident occurred at the Flintlock Inn Public House on the evening of Monday 25 February 2013. At 7.48pm Police received a call from a female stating that

there had been a disturbance at the premises and that members of the informant's family had been threatened with shotguns.

- 10.7 At 8.05 pm a further call was received from the manageress of the premises reporting that a number of travellers had been in the premises and had been asked to leave. Following this, information came to light that they would return with knives and machetes. Police believe that the report given to them at the time of reporting was inaccurate.
- 10.8 An argument occurred in the premises involving a number of persons linked to serious violent crime and disorder. It was alleged that the individuals left and returned wearing ski masks and brandishing a sawn off shotgun and a knife. A fight ensued and it is alleged that the manager of the premises placed a sawn-off shotgun into the mouth of one of the travellers. The weapons were used to inflict injuries on those within the premises and resulted in stab and slash wounds, a double fracture of the wrist, wound to the crown of the head and numerous cuts and bruises.
- 10.9 Although the premises are covered by CCTV, it was intentionally switched off for 40 minutes during the whole violent incident. The CCTV monitor and recording device are situated in the domestic dwelling area of the premises upstairs and can only be accessed by management.
- 10.10 The suspects in relation to the violent incident are linked to the control and operation of the Flintock Public House. The manager and manageress have now been arrested and the stepson of the manager remains at large. Very little information is being presented to the Police for fear of retribution.
- 10.11 The Designated Premises Supervisor Nicola Bush has shown little commitment to attending the premise and providing day to day control and accountability. She has left the running of the premise in the hands of the manager and manageress who are subject to arrest and police investigation. The Police have had difficulty in contacting her and since the incident her mobile phone has been disconnected.
- 10.12 The Police indicated that they have serious concerns that there will be further incidents of violence, serious crime and disorder if the Flintock Public House remains open. There is an on-going feud between a number of violent individuals and the Police believe that there is a likelihood of retribution from the travelling community and from the family of the manager and manageress.
- 10.13 The Police attended Newton Aycliffe Magistrates Court this morning and were granted a Closure Order in respect of the Flintock Public House in order to prevent violence, disorder or serious crime being associated with the premises. This is to remain in place until the decision of the Licensing Authority.
- 10.14 It is accepted by the Committee that this does amount to a serious criminal act and the application made in this case is in order and falls to be dealt with under sections 53A, 53B and 53C of the Act.
- 10.15 Section 53B (2) of the Act empowers the Licensing Committee to consider this application without the premises licence holder having been given the opportunity to make representations.
- 10.16 Having considered the information provided and taken account of the serious nature of it and the clear implications that the premises are associated with serious crime the Committee considers that it has no alternative than to make the decision that it does.

## 11. Decision

The Committee has considered the evidence given by the Police today and has decided to remove Nicola Bush as Designated Premises Supervisor and to suspend the premises licence with immediate effect.

Signed  (Chair)

Dated the 27<sup>th</sup> day of February 2013

### PLEASE NOTE:

- Under section 53B of the Licensing Act 2003 this decision has immediate effect.
- The Licensing Authority is required to serve this decision on the holder of the premises licence and the Chief Officer of Police.
- The holder of the premises licence is entitled to make representations to the Licensing Authority with respect to this decision and the Authority is required to hold a further hearing to consider such within 48 hours of receiving the same.
- Whether or not representations with respect to this decision are made the Licensing Authority will continue to process and deal with the review of the premises licence occasioned by the application in accordance with the procedure for reviews set out or referred to in the Licensing Act 2003.

**Appendix 5**  
**Statement of Licensing Policy**



## 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.