

Statutory Licensing Sub-Committee

19th December 2017

Application for the Review of a Premises Licence



Report of Jane Robinson, Corporate Director, Adult & Health Services

Name & Address of Premises: Vine Stores, 42 Middle Street, Blackhall, Hartlepool, Co Durham TS27 4EA

1. Summary

The Sub-Committee is asked to consider and determine an application by Durham County Council – Licensing Authority to review the premises licence in respect of Vine Stores currently licensed for the sale of alcohol as follows:

Licensable Activity	Timings
The Sale of Alcohol (Off sales only)	Monday – Saturday: 08.45 – 20.30 hrs Sunday 10.00 – 20.30 hrs
Opening Hours	Monday – Saturday: 08.45 – 20.30 hrs Sunday 10.00 – 20.30 hrs

A copy of the current premises licence is attached at Appendix 1.

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

2. Details of the Application

On 31st October 2017 the Licensing Authority received an application from Durham County Council – Licensing Authority (Responsible Authority) for a review of the premises licence (Licence Number DCCC/PLA0249).

The premises licence holder is Mr Balraj Singh and the Designated Premises Supervisor is Mr Balraj Singh Takhar. (For reference Mr Balraj Singh and Mr Balraj Singh Takhar are the same person).

The application is deemed by the Licensing Authority to be relevant.

This application for a review relates to the following licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety

A copy of the application for the review of the premises licence and supporting documents are attached at Appendix 3.

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

3. Representations

The licensing authority received two representations in support of the review application, from Durham County Council Trading Standards and Durham County Council Local Safeguarding Children Board, during the statutory consultation period. See attached Appendix 4.

4. The Parties

The Parties to the hearing will be:

- Durham County Council – Licensing Authority (applicant)
- Mr Balraj Singh (premises licence holder)
- Mr Andrew Cook – Durham County Council Trading Standards
- Mr Sean Barry – Durham County Council Local Safeguarding Children Board

5. Durham County Council Statement of Licensing Policy

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

- 7.0 The Prevention of Crime and Disorder
- 8.0 Public Safety
- 22.0 Reviews

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:

- 2.1 – 2.6 Crime and Disorder
- 2.7 – 2.14 Public Safety
- 11.1 – 11.30 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:

- Take 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 (As amended April 2017)

Contact: Karen Robson

Tel: 03000 265104

E-mail: karen.robson2@durham.gov.uk

APPENDIX 1 – CURRENT PREMISES LICENCE

LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DCCC/PLA0249
08 August 2015
31 August 2017

Part 1 – Premises details

Postal address of premises, or if none, Ordnance Survey map reference or description	Issuing Authority
VINE STORES 42 MIDDLE STREET BLACKHALL HARTLEPOOL TS27 4EA	DURHAM COUNTY COUNCIL ADULT AND HEALTH SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number:	

Where the licence is time limited the dates
N/A

Licensable activities authorised by this licence
Sale by retail of alcohol

Opening Hours of the Premises

		Non-standard/seasonal timings
Mon	08:45-20:30	N/A
Tue	08:45-20:30	
Wed	08:45-20:30	
Thu	08:45-20:30	
Fri	08:45-20:30	
Sat	08:45-20:30	
Sun	10:00-20:30	

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

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

Sale by retail of alcohol		Further details
		Non-standard/seasonal timings
Mon	08:45-20:30	N/A
Tue	08:45-20:30	
Wed	08:45-20:30	
Thu	08:45-20:30	
Fri	08:45-20:30	
Sat	08:45-20:30	
Sun	10:00-20:30	

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
MR BALRAJ SINGH 42 MIDDLE STREET BLACKHALL HARTLEPOOL TS27 4EA	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	N/A
Charity no:	N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol
MR BALRAJ SINGH TAKHAR

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol

Annex 1 – Mandatory conditions

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol -

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-

- (a) a holographic mark, or
- (b) an ultraviolet feature.

Minimum Price of Alcohol:

1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition:

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula –

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the premises Operating Schedule

General

Written protocols will be in place detailing Policies, Procedures, Roles and Responsibilities in the effective implementation and management of the licensing objectives. This documentation will be held 'on-site' and made available to Responsible Authorities on request.

Authorised staff employed by Durham Police shall have free access to all parts of the licensed premises, at all reasonable times, for the purpose of inspection to ensure compliance with the terms and conditions of the premises licence and to ensure the promotion of the licensing objectives.

All staff training records will be signed, held 'on-site' and made available to Responsible Authorities on request.

All staff should undertake an accredited age related sales training course, including 'Proxy Sales', before they start employment.

Alcohol will not be merchandised within close proximity to confectionary or any other products that are attractive to children.

The premise will keep all receipts concerning the purchase of alcohol, for sale within the store, and make them available for inspection by Responsible Authorities on request.

Prevention of Crime & Disorder

Challenge 25 will ensure only persons of lawful age will be able to purchase alcohol from the premise. Photo ID only (PASS logo card / photo driving licence / passport).

Visual inspection, and personal interaction with customers, will enable staff to determine if a customer is fit to be sold alcohol. If staff believe a person to be intoxicated with drink or drugs they will be refused.

CCTV will be installed and maintained to Home Office standards and recordings stored for a minimum of 28 days. The premise will ensure that at least one trained member of staff is available to operate the system at all times the premise is open and download any images requested by an authorised officer at reasonable request.

Notices will be clearly displayed at the entrance and around the premise stating CCTV is in operation. Notices will be displayed giving name of licence holder in charge of premises who will be on duty during opening hours.

Persons known to be, or suspected of buying on behalf of children will be refused and reported to the Police.

External lighting will be installed to cover the front and rear of the premise and will be in full working order at all times. This lighting will be used in conjunction with external CCTV to deter persons from congregating outside of the premise.

Public Safety

The premise will ensure that all external pathways that give access to the premise are kept clean and free from rubbish.

Where a Shop-watch exists, the premise will be an active member of Shop-watch, and will attend meetings, and join activities.

The premise will maintain an incident book, and record and report all instances of disorder both inside and directly outside the premise.

Health & Safety and risk assessments will be carried out in regard to the premises on a regular basis to safeguard customers visiting the premises.

CCTV will cover the retail sales, store and yard areas.

Prevention of Public Nuisance

The Designated Premise Supervisor (DPS) will be responsible for ensuring that groups of young people are discouraged from congregating outside the premise. The DPS will actively work with local Beat Officers/PCSO's in the reporting of any ASB connected to the premise.

The premise will be required to have proper arrangements for the collection of their trade waste, including disposal of food waste. It will provide and maintain suitable refuse containers. All refuse containers must be fitted with close fitting lockable lids to prevent access by pests and reduce unwanted smells. Collection can only be carried out by a person legally authorised to do so and all relevant documentation will be held at the premise and made available to Responsible Authorities on request.

Protection of Children from Harm

Challenge 25 will be enforced. The actions of staff operating the Challenge 25 policy to be regularly monitored.

A 'Refusals Register' will be held within the premise and all refusals will be logged along with any behaviour associated with the refusal. All staff will be trained in its use.

All staff responsible for selling age restricted goods to be trained to implement the age verification policy. Training records for staff to be maintained and refreshed.

Persons known to be, or suspected of buying on behalf of children will be refused and reported to the Police. The premise will display posters regarding Challenge 25, Proxy Sales.

All staff will be trained in respect to the sale of alcohol to a person under the age of 18 years (Challenge 25), proxy sales and the serving of alcohol to a drunk.

Safeguards to be in place to try to ensure that alcohol is not purchased or obtained for young people by relatives or older friends (proxy provision). The applicant will work actively with the police and Operation ARIES to minimise this risk.

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

None

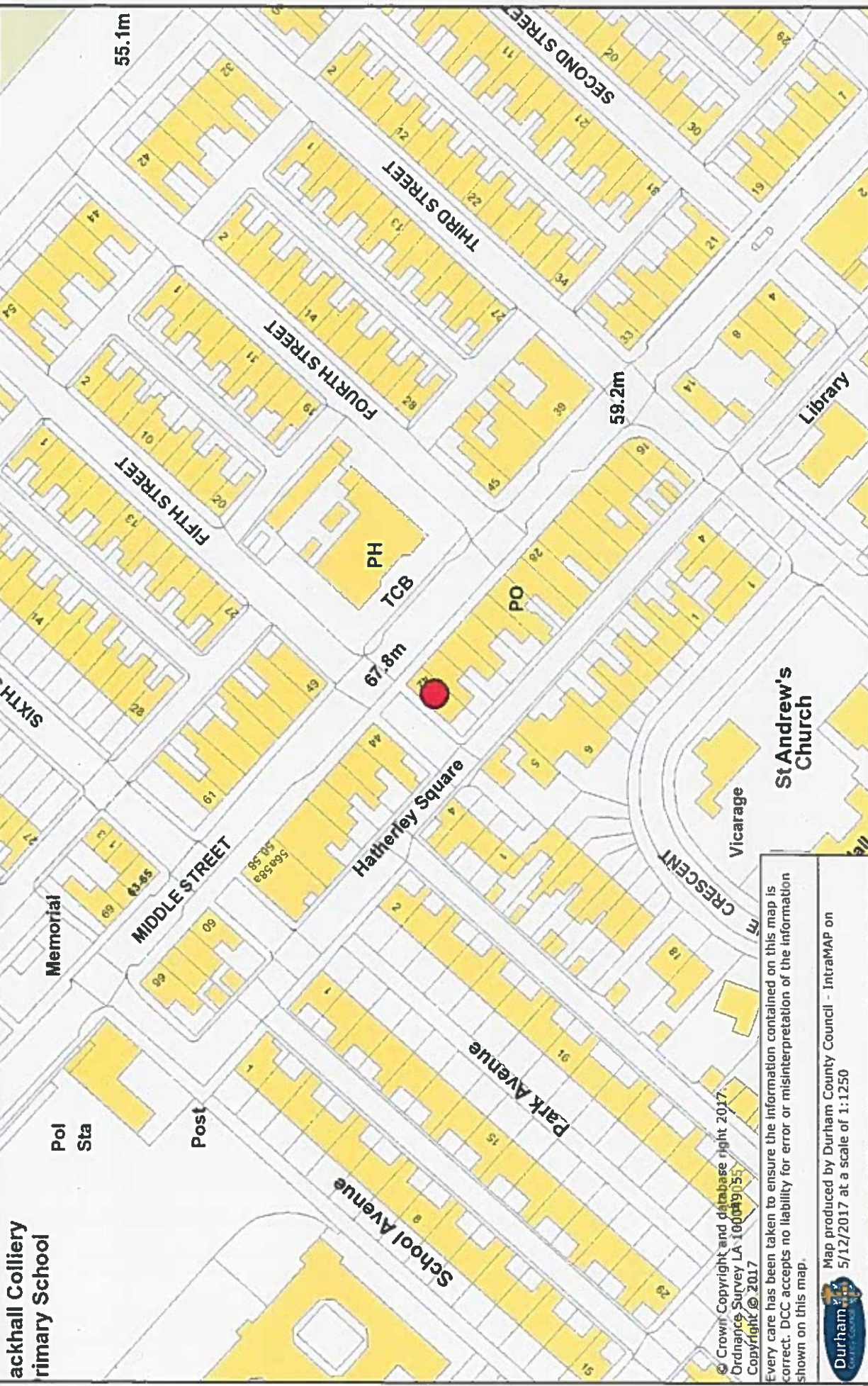
Annex 4 – Plans attached

Attached

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

APPENDIX 2 – LOCATION PLAN

Durham County Council - IntraMAP



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

Map produced by Durham County Council - IntraMAP on
 5/12/2017 at a scale of 1:1250



APPENDIX 3 – REVIEW APPLICATION

Durham County Council PO Box 617 Durham DH1 9HZ

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Nicola Anderson, Licencing Team Leader on behalf of the Licensing Authority
(Insert name of applicant)

Apply for the review of a premises licence under section 51 of the Licencing Act 2003 for the
premises described in Part 1 below

Part 1 - Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description 42 Middle Street Blackhall	
Post town Hartlepool	Post code (if known) TS27 4EA

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

Number of premises licence or club premises certificate (if known) DCCC/PLA0249
--

Part 2 - Applicant details

I am Nicola Anderson

Please tick ✓ yes

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

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

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

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

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes
✓

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Nicola Anderson, Licensing Enforcement Team Leader Environment, Health and Consumer Protection Licensing Services (Enforcement) Annand House Meadowfield Durham DH7 8RS
Telephone number (if any) 03000 260084
E-mail address (optional) Nicola.anderson@durham.gov.uk

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

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

Please tick one or more boxes ✓

✓

✓

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

The premises licence for Vine Stores was applied for by John Ives Associates, on behalf of Balraj Singh on 6th July 2015. The application also included a consent of individual being specified as premises supervisor (DPS) which was also in the name of Balraj Singh. At the time of the application, Mr Balraj Singh did not hold a Personal Licence which is a requirement under the Licensing Act 2003 to be named as the DPS.

The premises licence was granted on 8th August 2015 to the applicants John Ives Associates with a letter explaining that as there was no designated supervisor in place, alcohol could not be sold from the premises. It is a statutory requirement and a mandatory condition on the premises licence that the sale of alcohol may only take place when a DPS is in place.

Mr Singh's application for a personal licence was granted on 23rd September 2015 but no application was received to name him as DPS on the licence for 42 Middle Street, Blackhall.

On 29th August 2017 a joint operation involving officers from partner enforcement organisations was carried out. This included a licensing inspection carried out by Licensing Enforcement Officers at the premises. Mr Singh was able to produce the premises licence for inspection. This was produced in full from an envelope together with the letter explaining that alcohol could not be sold until a DPS was in place. The licence summary was not on display which is a legal requirement but was present with the licence in the envelope. A number of other matters were also identified at the time of the inspection. These included the following:

- Alcohol was found to be openly displayed for sale at the premises. No authorisation was in place to allow for the sale of alcohol at the time of the inspection. No Temporary Event Notice was in place and no DPS was named on the premises licence. At the time of the visit after Mr Singh had been cautioned he told the inspecting officer that his wife was the DPS.
- A number of conditions attached to the premises licence were identified as not being adhered to as follows:
 1. No staff training records were kept
 2. Alcohol was placed in close proximity to confectionary and other products that were attractive to children.
 3. CCTV was not installed. There were 4 cameras at the premise but they were not connected.
 4. No notices naming the licence holder in charge of the premises were present.
 5. No external lighting was installed to the front or the rear of the premises which was to be used in conjunction with the CCTV.
 6. There was no incident book.

Following the inspection a letter was sent to Mr Singh on 30th August 2017 advising him of the results of the inspection and giving him 14 days to rectify the issues.

Subsequently Mr Singh applied to be the DPS for Vine Stores and the licence was issued on 31st August 2017.

On 3rd October 2017 a further inspection was carried out on the premises in order to assess the level of compliance with the conditions associated with the premises licence. At the time of this follow-up inspection it was discovered that Mr Singh had failed to address and rectify any of the issues raised in the letter of 30th August 2017. The officer observed Mr Singh selling alcohol during time of the inspection.

The sale of alcohol was clearly still taking place (a licensable activity) whilst various conditions attached to the premises licence were not being complied with.

Mr Singh told the investigating officers that he had no intention of installing CCTV in the premises or doing any other work to ensure he met the conditions of the licence as he was moving premises in 4 weeks.

The licencing authority have significant concerns about Mr Singh's suitability to hold a premises licence and to continue as DPS for Vine Stores, 42 Middle Street Blackhall in line with the licensing objectives. We have little confidence in his willingness to comply with statutory requirements of the Licensing Act 2003 in relation to the application of the conditions of his premises licence and we consider that his actions to date have undermined at least two of the four licensing objectives.

Mr Singh was visited on 30th October 2017 as some applications are in the name of Balraj Singh and some in Balraj Singh Takar. Mr Singh confirmed that he goes by both names. Mr Singh signed a copy of the officers pocket notebook confirming this. Copy attached.

Please provide as much information as possible to support the application (please read guidance note 3)

Mr Singh has been interviewed under caution in the presence of his solicitor. A prosecution file is being prepared and Mr Singh is expected to face charges of:-

1. Carrying out licensable activity from a premise otherwise than under and in accordance with an authorisation
2. Knowingly allowing licensable activity to be carried on from premises otherwise than under and in accordance with an authorisation.
3. Exposing for sale by retail alcohol in circumstances where the sale by retail of alcohol on those premises is otherwise than under and in accordance with an authorisation.
4. Having in his possession or under his control alcohol which he intended to sell by retail or supply otherwise than under and in accordance with an authorisation.

A copy of the letter sent to Mr Singh's representatives who applied for the licence is attached.

A copy of the letter sent to Mr Singh following the inspection is attached.

Mr Singh's solicitor offered a prepared statement in the interview indicating that he was vacating the premises in the next 4 to 6 weeks, however this was told to the licencing enforcement officer during the inspection of 3rd October 2017 and not progress appears to have been made with this.

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

Please tick ✓ yes

If yes please state the date of that application

Day Month Year

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

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

Please tick ✓ yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date 31/11/2017

.....

Capacity Responsible Authority

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

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

John Elves Associates

12 August 2015

Dear Sir/Madam

**LICENSING ACT 2003
VINE STORES 42 MIDDLE STREET BLACKHALL HARTLEPOOL TS27 4EA**

I am pleased to inform you that the premises licence reference number DCCC/PLA0249 granted 08 August 2015 is enclosed.

As there is still not a designated premises supervisor in place, please note that alcohol cannot be sold under this licence until a variation application nominating a person has been received and processed. Please submit this application as soon as possible (enclosed).

There is a summary sheet, which is to be displayed in a prominent place within the premises.

I would advise you to read the full licence and summary sheet in great detail. If you have any queries with the licence you have 21 days to contact the Licensing Authority in order to address the query.

The full licence should be kept in a safe and secure place on the premises and should be fully accessible to any officer at any time for perusal.

If you require any further information or assistance please do not hesitate to contact me.

Yours sincerely

Ms Carol Graham
Licensing Assistant

Environment, Health and Consumer Protection
Durham County Council, PO Box 617, Durham, DH1 9HZ
Main Telephone (03000) 265107

Mr Balraj Singh
42 Middle Street
Blackhall
Hartlepool
TS27 4EA

30 August 2017

Dear Mr Singh

Licensing Act 2003

Premises Licence Vine Stores 38a Middle Street, Blackhall, Hartlepool, TS27 4EA

On the 30th August I visited the above premises during a multi-agency operation.

At the time of the inspection you were not complying with the conditions of your licence which state

- All staff records will be signed, held on site and made available to Responsible Authorities on request
- Alcohol will not be merchandised within close proximity to confectionary or any other products that are attractive to children
- CCTV will be installed and maintained to Home Office standards and recordings stored for a minimum of 28 days. The premises will ensure that at least one trained member of staff is available to operate the system at all times the premises is open and download any images requested by an authorised officer at reasonable request.
- Notices will be displayed giving name of the licence holder in charge of the premises who will be on duty during open hours

Adult and Health Services

Durham County Council, Licensing Services, PO Box 617, Durham, DH1 9HZ
Main Telephone 03000 261016

- **External lighting will be installed to cover the front and rear of the premises and will be in full working order at all times. This lighting will be used in conjunction with external CCTV to deter persons from congregating outside of the premises**
- **The premises will maintain an incident book, and record and report all instances of disorder both inside and directly outside the premises**
- **CCTV will cover the retail sales, store and yard areas**
- **A refusals register will be held within the premises and all refusals will be logged along with any behaviour associated with refusal. All staff to be trained in its use.**

Please note that by virtue of Section 136 (1) of the Licensing Act 2003 a person commits an offence if he/she carries on or attempts to carry on a licensable activity otherwise than in accordance with the licence conditions. This offence, upon conviction, can carry a fine of up to £20,000 and/or 6 months imprisonment.

I would be grateful if you would contact me within the next 14 days to confirm that these matters have now been rectified. Failure to rectify these matters will leave me no alternative other than to consider issuing legal proceedings against you.

Should you have any queries regarding this matter please do not hesitate to contact me.

Yours faithfully

Mr Ian Dargue
Licensing Enforcement Officer

Direct Tel: 03000 261016
email: carol.graham2@durham.gov.uk
Your ref:
Our ref: MAU035891



Mr Balraj Singh
42 Middle Street
Blackhall
Hartlepool
TS27 4EA

12 September 2017

Dear Sir/Madam

**LICENSING ACT 2003 – APPLICATION TO SPECIFY A DPS
VINE STORES 42 MIDDLE STREET BLACKHALL HARTLEPOOL TS27 4EA**

I refer to correspondence received 31 August 2017.

The licence and summary reference DCCC/PLA0249 has been amended as requested and is enclosed. Please ensure that the summary sheets are displayed on the premises.

If you require any further information or assistance please do not hesitate to contact me.

Yours sincerely

Ms Carol Graham
Licensing Assistant

Adult and Health Services
Durham County Council, Licensing Services, PO Box 617, Durham, DH1 9HZ
Main Telephone 03000 261016

www.durham.gov.uk

14:45. Sawant Kaur, wife
in the presence of the
Time of the inspection.

54

Time and Reference	Duties, visits, occurrences, general notes, enquiries and comments
	<p>asked Sawant regarding the different Durnames. She advised that Kaur is the family name and that Singh is Balraj's Durnama and Tatar is also a family name. Mr. Balraj Singh Tatar came to the shop and explained that Singh is his middle name and Tatar is his Durnama. Mr. Balraj Singh Tatar confirmed that both names on his licence and personal licence are his.</p>

**APPENDIX 4 – REPRESENTATIONS FROM
TRADING STANDARDS
&
LOCAL SAFEGUARDING CHILDREN BOARD**

Contact: Andrew Cook
Direct Tel: [REDACTED]
email: [REDACTED]
Your ref: DCCC/PLA0249
Our ref: [REDACTED]



Licensing Section
Environment, Health and Consumer Protection
Durham County Council

DELIVERED BY HAND

Date: Friday, 3rd November 2017

Dear Sir or Madam,

REPRESENTATIONS – REVIEW OF PREMISES LICENCE

I write in response to your invitation for representations into the review of a premises licence at: Vine Stores, 42 Middle Street, Blackhall, County Durham, TS27 4EA.

In response to this, I will state the following: -

On Wednesday 30th August 2017 the premises was inspected by Trading Standards officers in response to information that they were being used in the supply of illicit tobacco products.

A male known to be Balraj Singh TAKHAR was present on the premises.

During a search of the premises, it was discovered that a number of carrier bags had been concealed under floor boards in a rear storage area. These carrier bags contained tobacco products, namely: -

- 6 sleeves, each containing 200 'Jim' cigarettes;
- 76 packets, each containing 20 'Jim' cigarettes;
- 3 sleeves, each containing 200 'Regal King Size' cigarettes;
- 27 pouches, each containing 50g of 'Turner' hand rolling tobacco;
- 5 sleeves, each containing 200 'Brass' cigarettes;
- 5 packets, each containing 20 'Brass' cigarettes;
- 1 packet, containing 20 'Gold Classic' cigarettes;
- 1 packet, containing 20 'Mayfair' cigarettes

A photograph of the concealment and tobacco products at the rear of the shop is contained within Appendix A.

Environment, Health & Consumer Protection
Durham County Council, PO Box 617, Durham, DH1 9HZ
Main Telephone 03000 261016

Mr TAKHAR's attention was drawn to this discovery, and upon it being indicated that a further search would be made of the premises for similar products, he pointed to a carrier bag behind the counter in the main part of the shop. Within this carrier bag were further tobacco products, namely: -

- 4 packets, each containing 20 'Jim' cigarettes;
- 2 pouches, each containing 50g 'Turner' hand rolling tobacco.

Photographs are contained within Appendix B.

In total, recovered from the premises were 4,540 cigarettes, and 1.45kg of hand rolling tobacco.

Subsequent examination of the 'Regal King Size' and 'Mayfair' cigarettes have shown them to be counterfeit. The sale and possession for sale of cigarettes bearing unauthorised trademarks is a serious offence, punishable by up to 10 years' imprisonment and unlimited fines.

The tobacco products do not comply with the requirements of legislation relating to health warnings. This is also a criminal offence.

It is also an offence to keep smuggled goods on licensed premises.

A mobile telephone seized during the search on 30th August 2017 contains sent messages indicating involvement in the supply of similar tobacco products.

Mr TAKHAR was interviewed under caution by officers of Trading Standards on 24th October 2017. By way of prepared statements, he attributed the cigarettes and tobacco as being for his personal use. He denied any intention to supply the cigarettes and tobacco to anybody else, and also ever having done so.

In his statement, Mr TAKHAR advised officers that he had invoices for the last two to three months for cigarettes that he had purchased for the business. He clarified that the invoices were for MA Stores, 44 Middle Street, which was in the process of refurbishment; and that the tobacco products were being sold at 42 Middle Street instead. He expressed his intention to return to 44 Middle Street when the refurbishment was complete. He explained that the invoices showed his level of purchasing as being roughly between 700 to 1,200 per week, depending on demand.

He declined to answer any questions put by officers.

While Mr TAKHAR accepts possession of the illicit tobacco products, it is my experience (and based on all of the circumstances) that the cigarettes and tobacco were not for his personal use, but were on the premises to be supplied.

The supply of illegal tobacco undermines the licensing objective to prevent crime and disorder.

The supply and possession of illicit tobacco products are criminal offences. The activity also evades tobacco duty, and attracts criminality to local neighbourhoods.


Illicit tobacco is linked to crime regionally and nationally. It generates considerable profits, which are frequently used to fund other forms of criminality.

The supply of illegal tobacco undermines the licensing objective to protect children from harm.

Research has ascertained that 55% of children aged 14 and 15 who smoke say they buy illegal tobacco from sources such as 'tab houses' and shops. Easily and cheaply available tobacco undermines maintaining price as one of the key drivers to bring down smoking rates. Sellers operating outside of the regulatory regime naturally attract young people.

These representations are respectfully submitted for your consideration.

Yours faithfully,



Andrew Cook
Team Leader (Special Investigations)
Trading Standards

Enc.

Appendix A – photographs of concealment and tobacco products

Appendix B – photographs of tobacco products

APPENDIX A

Photograph of concealment and tobacco products – rear of premises, Vine Stores, 42 Middle Street, Blackhall



APPENDIX B

Photographs of tobacco products situated behind the counter in the main shop at Vine Stores, 42 Middle Street, Blackhall



Sean Barry
Strategy and Development Officer
Local Safeguarding Children Board
Transformation and Partnerships
Durham County Council
County Hall
Durham
DH1 5UL

Ref SB/2017/108

Date: 03 November 2017

Durham County Council
Licensing Services
PO Box 617
Durham
DH1 9HZ

To whom it may concern

Re:

**Vine Stores, 42 Middle Street, Blackhall, Hartlepool, TS27 4EA
Premises Licence DCCC/PLA0249**

By way of background, as a responsible authority under the Licensing Act, Durham Local Safeguarding Children Board (LSCB) examines all licensing applications to ensure that safeguards are in place to protect children and young people from harm.

Durham LSCB recognises that children and young people's access to alcohol can make them vulnerable to exploitation; become victims of crime as well as the possibility of becoming an offender themselves. This is supported by analysis, both locally and nationally.

The use of age verification policies, refusal register and the supervision and training of staff on licensed premises can make a significant contribution in ensuring that licensed premises restrict the availability of alcohol to all children and young people.

Durham LSCB has received an application from Durham County Council for a review of a premises licence under the Licensing Act 2003, in respect of the premises:

- Vine Stores, 42 Middle Street, Blackhall, Hartlepool, TS27 4EA

Evidence presented in the application of review raises concerns about the protection of children from harm. In particular my concerns centre on the following:

- No training of staff in the supply of alcohol is evident and no training records were available for officers to examine
- Alcohol was placed in close proximity to confectionary and other products attractive to children and young people
- No evidence of a refusal register / incident log in operation

In addition the review highlights significant concerns about the suitability of the licence holder to continue to hold a premises licence and to act as designated premises supervisor for the identified premises.

Durham LSCB believe the role of the premises licence holder and designated premises supervisor are positions of responsibility. Based on the evidence provided in this review it is apparent that the conditions of licence are not being adhered to and the premises licence holder and designated premises supervisor are not fulfilling their roles in respect to the premises licence.

Therefore, on behalf of the Durham LSCB, I would support the application by Durham County Council to review the premises licence.

Yours sincerely

Sean Barry
Strategy and Development Officer
Local Safeguarding Children Board

APPENDIX 5 – STATEMENT OF LICENSING POLICY

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

7.0 The Prevention of Crime and Disorder

7.1 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.

7.2 As a matter of policy, the Licensing Authority will require every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter.

7.3 The Licensing Authority recommends that all 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 14 television in certain premises should be considered by applicants, licensees and event organisers when addressing this issue.

7.4 The Licensing Authority encourages Personal Licence holders to 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. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

7.5 The Licensing Authority recognises and promotes effective and responsible management of all licensed and authorised premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25'. These are considered 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.

7.6 The application for premises licence 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.

7.7 Someone should always be present on premises or at an event during times when licensable activities are taking place who can discuss any problems or

issues arising from the licensable activities offered on the premises with officers from Licensing Authority and Police. 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.

7.8 The Licensing Authority will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that 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.

7.9 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.

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

7.11 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 do to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

7.12 Toughened/Safety Glass Policy: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context).

7.13 Drugs/Knives/Weapons: The Licensing Authority will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands within the

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

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

8.0 Public Safety

8.1 The Act covers a wide range of premises that require Licensing. Each of these types of premises presents a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that applications acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants.

8.2 Applicants are advised to seek advice on such matters from the Council's Occupational Safety and Health team, Health and Safety Executive, Durham Constabulary and Durham and Darlington Fire and Rescue Service incorporate any recommendations in their Operating Schedule before submitting their applications.

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

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

22.0 Reviews

22.1 The Licensing Act provides a mechanism for reviewing premises licences and Club Premises Certificates where problems associated with premises undermine the licensing objectives following grant or variation.

22.2 At any stage during the life of a premises licence or a club premises certificate, an application for a review can be made to the Licensing Authority by any responsible authority, elected Member or any other person. However, where an application for a review is considered to be frivolous vexatious or repetitious or where an application for a review is considered not relevant to the licensing objectives the Licensing Authority will reject it.

22.3 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community. Unless an application is withdrawn, deemed to be frivolous, vexatious or repetitious or does not relate to the licensing objectives, the Licensing Authority will hold a hearing and take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

22.4 Local residents can request that their licensing authority review a premises licence where activities at licensed premises are undermining one or more of the licensing objectives.

22.5 It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues,
- Asking the licensing department at your council to talk to those who manage the premises on your behalf, or
- Talking to the relevant "responsible authority" (e.g. local authority exercising environmental health functions in relation to noise nuisance, or the police in relation to crime and disorder) about the problem.

22.6 If a request for a review of the premises licence is made by e.g. a local resident, they are required to notify the holder of the premises licence or club premises certificate and the "responsible authorities", by sending them a copy of the request, together with any accompanying documents, on the same day as the request is given to the licensing authority. The licensing authority will advertise the review to enable others (responsible authorities or other persons) to comment on it. Responsible authorities have the option, if they wish, to comment on any application for a review.

22.7 A licensing authority must act on requests for review unless they consider the request to be irrelevant, repetitive, frivolous or vexatious. Frivolous representations would concern minor issues which the licensing authority could not reasonably be required to take any action to remedy. Representations may be considered vexatious

if they appear to be intended to cause aggravation or annoyance without reasonable cause.

22.8 The licensing authority will advertise the fact that a request for review of the licence has been received, and allow a period of 28 days for other persons to make representations to it (such representations can be for or against the activities at the premises in question).

22.9 After the period for making representations has expired, the licensing authority will hold a hearing to consider the request unless the request for review has been withdrawn. The request will in most cases be considered by the licensing sub-committee who will hear representations from all parties involved.

22.10 The licensing authority will invite you to attend the hearing and give the applicant for the review the opportunity to address the licensing sub-committee in support of the request for review. They must then give the authority at least 5 working days' notice (prior to the start of the hearing), advising:

- If they will attend the hearing in person,
- Whether they will be represented by someone else (e.g. councillor / MP / lawyer / residents' association representative / friend),
- If they think that a hearing is unnecessary (if, for example, the parties have come to an agreement before the formal hearing), or
- They may also request permission for another person to attend the hearing, and must advise the licensing authority how that person may be able to assist the authority in relation to the request for review

22.11 Once the sub-committee has listened to and considered all views and evidence, it must decide what (if any) action is appropriate to promote the licensing objectives. Actions can include:

- No action,
- Modifying the conditions of the licence (change, add or remove conditions – Including operating hours),
- Excluding a licensable activity from the licence,
- Removing the designated premises supervisor,
- Suspend the licence for a period (not exceeding 3 months), and
- Revoke the licence.

22.12 The Licensing Authority will not expect a premises licence to be reviewed more than once within any 12 month period on similar grounds, except in exceptional circumstances or where it arises following a Closure Order.

22.13 Appeals against the decisions of the Licensing Authority - There is a right of appeal for all parties concerned with the request for review (i.e. the applicant for the review, the premises licence holder or any other person who made relevant representations in relation to the application). This means that they can appeal to the magistrates' court if they are not happy with the decision of the licensing authority.

22.14 If there is an appeal against a licensing authority's decision, and you are unsuccessful, the magistrates' court can award costs against the appellant if it sees fit. This would mean that they would have to pay other parties' legal costs as well as your own. However, the Magistrates' Association and the Justices' Clerks Society has advised that awarding costs for a licensing appeal should be an **exception** and

not a rule, and any resident with reasonable grounds for appeal should not be penalised.

22.15 If the licence holder appeals against the licensing authority's decision, the appeal will be heard by the magistrates' court. The licensing authority will be the respondent to the appeal and may call the person who brought the review (and any other person or responsible authority) as a witness in support of its case. The decision of the licensing authority in relation to the review will be suspended until the appeal is determined.

22.16 An application to appeal the decision must be made within 21 days of the notice of decision.

22.17 In hearing an appeal against the Licensing Authority's decision, the court will have regard to this policy and the guidance issued under Section 182 of the Licensing Act 2003. However, the court would be entitled to depart from both of these documents if it considers it justified so to do.

22.18 In respect of personal licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other authorisations must be made to the Magistrates' Court where the premises or event is situated.

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 including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will

usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

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

Public safety

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

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

Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their

recommendation to the fire and rescue authority which will consider it and decide what the "permitted capacity" of those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

¹ S 177 of the 2003 Act now only applies to performances of dance.

11. Reviews

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as 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 14 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 hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

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

Powers of a licensing authority on the determination of a review

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

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated 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 or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

Reviews arising in connection with crime

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

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

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

Review of a premises licence following closure order

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

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

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

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

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