

Statutory Licensing Sub-Committee

19th June 2018

Application to Transfer a Premises Licence



Report of Ian Thompson, Corporate Director, Regeneration and Local Services

Name and Address of Premises: Best Kebab One, 1a Fore Bondgate,
Bishop Auckland, Co Durham, DL14 7PF

1. Summary

The Sub-Committee is asked to consider and determine an application to transfer the premises licence for Best Kebab One, 1a Fore Bondgate, Bishop Auckland, Co Durham.

The application was received from Mr Rafiq Sala.

A plan showing the location of the premises is attached at Appendix 1.

2. Details of the Application

The application to transfer premises licence number WV/PRE0240/05 was received on 10th May 2018.

The Licensing Authority are satisfied that the application was properly made.

A copy of the application is attached as Appendix 2.

For Members information, on 8th March 2018, the Licensing Authority received an application to transfer the premises licence to Mr Rabaz Sirwan Raza. During the consultation period, Durham Constabulary submitted a representation and a committee hearing was scheduled. However, before the application could be determined, on 10th May 2018 the Licensing Authority received another application to transfer the premises licence in respect of Best Kebab One to Mr Rafiq Sala.

3. The Representation

On 16th May 2018, a representation was received from Durham Constabulary's Harm Reduction Unit on behalf of the Chief Officer of Police, objecting to Mr Rafiq Sala being named as the premises licence holder.

A copy of Durham Constabulary's objection is attached at Appendix 3.

On 7th June 2018, additional information was received from Durham Constabulary in support of their representation.

A copy of this additional information is also attached at Appendix 3.

4. The Parties

The Parties to the hearing will be:

- Mr Rafiq Sala (the applicant)
- Durham Constabulary (responsible authority)

5. Durham County Council Statement of Licensing Policy

The Sub-Committee is asked to consider the Council's Statement of Licensing Policy when determining the application.

6. Section 182 Guidance and Licensing Act 2003

The Sub-Committee's attention is drawn to parts 8.99 to 8.102 of the Section 182 Guidance and sections 42 to 45 of the Licensing Act 2003. This is attached at Appendix 4.

7. For Decision

The Sub-Committee is asked to determine the application to transfer the premises licence to Mr Rafiq Sala.

The Sub-Committee's options are to:

- Grant the application, or
- Reject the application, if it considers it necessary to do so for the promotion of the crime prevention objective

Background Papers:

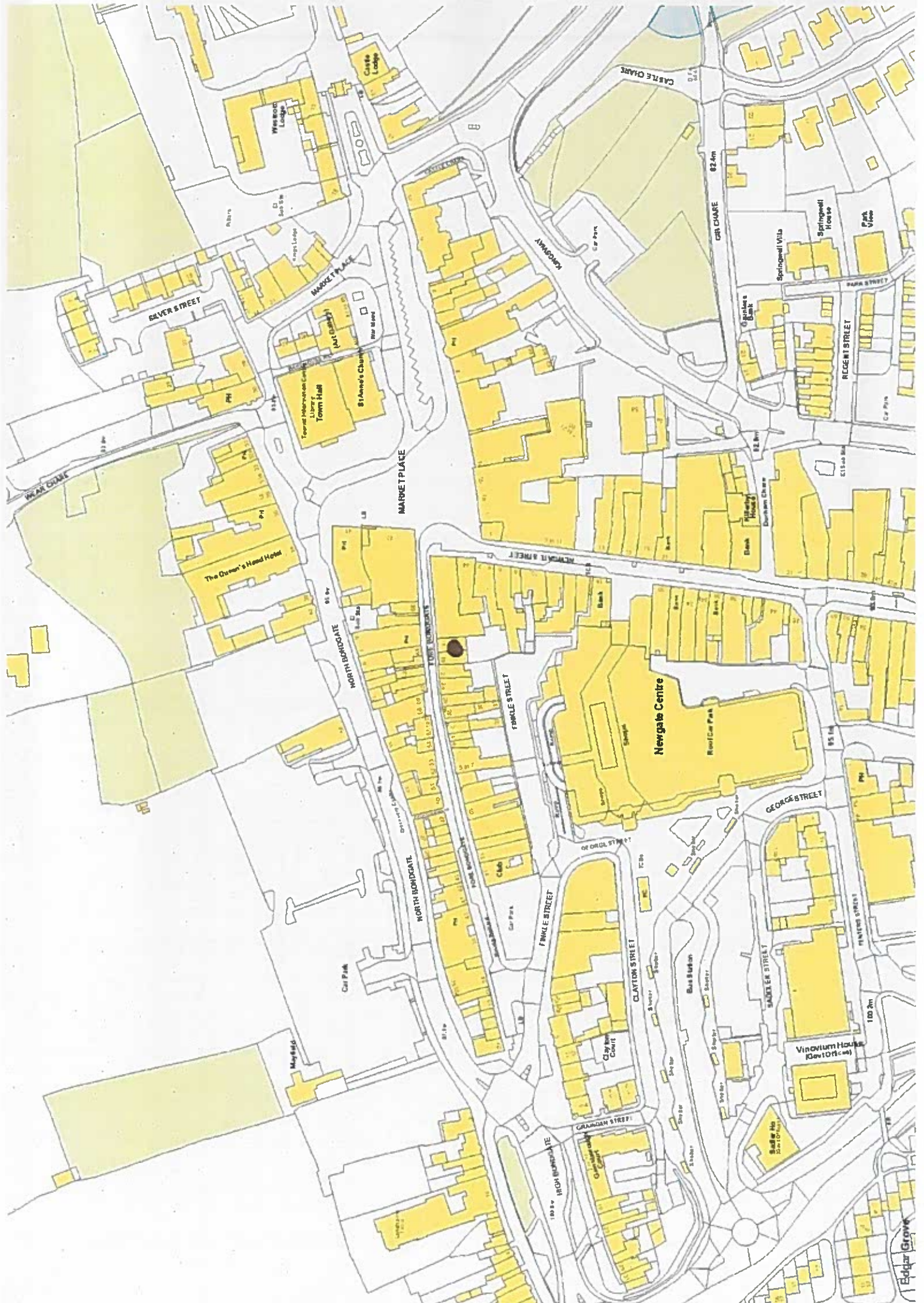
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)
- Licensing Act 2003

Contact: Helen Johnson

Tel: 03000 265101

E-mail: helen.johnson2@durham.gov.uk

APPENDIX 1 – LOCATION PLAN



SILVER STREET

MARKET PLACE

MARKET PLACE

The Queen's Head Hotel

NORTH BRIDGEGATE

NORTH BRIDGEGATE

FINKLE STREET

FINKLE STREET

Newgate Centre

GEORGE STREET

CLAYTON STREET

CLAYTON STREET

SAUNDERS STREET

Vincinum House (Govt Offices)

GRANDEN STREET

100 M

Edgar Grove

100 M

APPENDIX 2 - APPLICATION TO TRANSFER

**DURHAM COUNTY COUNCIL, Licensing Services,
PO Box 617, Durham. DH1 9HZ**

Application to transfer premises licence to be granted 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/We MR RAFIQ SALA

(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

WV/PR0240/05

Part 1 - Premises details

Postal address of premises or, if none, ordnance survey map reference or description

1A FORE BONDGATE BEST KEBAB ONE
BISHOP AUCKLAND
DL14 7PF

Post town

Post code

Telephone number at premises (if any)

Please give a brief description of the premises (see note 1)

TAKE AWAY

Name of current premises licence holder

Mr Rabaz Sirwan Raza

P 5

Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

a) an individual or individuals*

Please tick yes

please complete section (A)

b) a person other than an individual *

i. as a limited company

please complete section (B)

- ii. as a partnership please complete section (B)
- iii. as an unincorporated association or please complete section (B)
- iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname

SALA

First names

RAFIQ

Date of birth
Nationality'

I am 18 years old or over

Please tick yes



Current residential address if different from premises address

1A FORE BONDGATE
BISHOP AUCKLAND
DL14 7PF

Post town

Post code

Daytime contact telephone number

E-mail address (optional)

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr

Mrs

Miss

Ms

Other title

(for example, Rev)

Surname

First names

Date of birth

I am 18 years old or over

Please tick yes

Nationality

Current residential address if different from premises address

Post town

Post code

Daytime contact telephone number

E-mail address (optional)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick yes

Are you the holder of the premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect?

If not when would you like the transfer to take effect?

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please tick yes

I have enclosed the consent form signed by the existing premises licence holder

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

Please tick yes

If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

Please tick yes

I have enclosed the premises licence

If you have not enclosed premises licence referred to above please give the reasons why not.

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I have sent a copy of this form to Home Office Immigration Enforcement today

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.

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

Part 4 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

10/05/2018

.....

Capacity

.....

For joint applicants signature of second applicant, second applicant's solicitor or other authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

.....

Capacity

.....

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 by e-mail your e-mail address (optional)

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. Right to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships.

A licence may not be held by an individual or an individual in a partnership which is not a limited liability partnership who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the

Consent of premises licence holder to transfer

I/we RABAZ RAZA
[full name of premises licence holder(s)]

the premises licence holder of premises licence number WV1PRE0240105
[insert premises licence number]

relating to

BEST KEBAB ONE 1A FOLE BONDGATE
[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

WV1PRE0240105.
[insert premises licence number]

to

RAFIA SALA
[full name of transferee].

signed
name
(please print)

dated

.....
.....
.....

**APPENDIX 3 – REPRESENTATION FROM
DURHAM CONSTABULARY**

From: Caroline Dickenson
Sent: 16 May 2018 12:20
To: Carol Graham - Licensing Assistant (N'hoods)

Cc: Alcohol Harm Reduction Unit

Subject: FW: Licensing - transfer application received

Hi Carol

Durham Constabulary are wanting to object to the transfer of licence to Rafiq SALA in relation to the Premises – Best Kebab One, 1A Fore Bondgate, Bishop Auckland. DL14 7PF

The police are objecting under the crime and disorder objective.

The current PLH is Rabaz Sirwan RAZA who submitted the application on 08/03/2018. Durham Constabulary did object to this change on 19/03/2018 and there was a hearing listed for 5th June 2018. When Rabaz Sirwan RAZA applied he ticked with immediate effect, so in essence he was the PLH although Durham Constabulary had lodged an objection.

On 11th May the licensing authority have received a further application to transfer Best Kebab One Bishop Auckland to Rafiq Sala.

When Durham police first attended the premises on the 16th December 2017 it was around numerous complaints of anti-social behaviour at the premises caused by local youths who were being allowed to use the pizza shop as a youth club. The male in charge of the premises who stated he was the owner we now know to be current PLH Rabaz Sirwan RAZA, he identified himself to police officers as Rafiq SALA. In relation to this Rabaz Sirwan RAZA is currently under investigation for the offence of obstruct police.

The applicant Rafiq SALA also attended the premises on that evening and when asked to identify himself stated he was Rabaz Sirwan RAZA, he also stated that he was the owner of the pizza shop.

Rafiq SALA is also currently under investigation for the offence of obstruct police.

Throughout the course of the evening of the 16th December 2017 Rafiq SALA had identified himself as the owner of the business, he also stated he had been to Durham County Council two weeks prior to our visit to change the licence into this name. As the owner of the business and employer Rafiq SALA has an obligation to check any employees have the right to work in the uk, however on 16th December a male by the name of [redacted] was working at the shop and following investigation he is an illegal immigrant who has no right to work in the uk.

Durham Constabulary are of the opinion Rafiq SALA was involved with this premises throughout the period when there were ongoing issues with anti-social behaviour, he purposely misled police officers as to his identity for which he is being investigated and he has allowed an illegal worker to work at his premises.

This conduct shows that he is not supporting nor promoting the crime and disorder objective and Durham Constabulary feel by allowing the premise licence to be transferred to SALA he will continue to run the business in a way which undermines the licencing objectives.

Thankyou

Caroline Dickenson

Caroline Dickenson
PS 484
Harm Reduction Unit
Darlington
Durham Constabulary
Airwave
Email:

**APPENDIX 3 – ADDITIONAL INFORMATION
FROM DURHAM CONSTABULARY**

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: **Claire McNaney**Age if under 18: **0'18** (If over 18 insert 'over 18')Occupation: **Police Constable 93**

This statement (consisting of **eight** pages(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully states in it, anything which I know to be false, or do not believe to be true.

Signature: _____ Date: **07/06/2018**Tick if victim wishes to personally read their Victim Personal Statement aloud in Court: Tick if witness evidence is visually recorded: (supply witness details on rear)

1. I am Police Constable 93 of Durham Constabulary currently stationed within the Harm Reduction Unit. Part of my role is that of Licensing Officer, ensuring licensed premises are adhering to their licensing conditions and the premises are ran and managed in such a way so as not to undermine those conditions.
2. This is an objection by the Police to the application to vary the premises licence for Best Kebab One to specify Mr Rafiq SALA as the Premises Licence Holder.
3. To object, the Police need to be satisfied that there are exceptional circumstances that the granting of the variation sought would undermine the crime prevention objective.
4. It is the submission of the Police that there are exceptional circumstances which I will outline.
5. Best Kebab One is situated at 1a Forebondgate, Bishop Auckland and operates under Premises Licence number WV/PRE0240/05. The premises is a late night refreshment venue, described by the owner as takeaway primarily concerned in the sale of pizzas and kebabs.
6. The Food Business Operator as of 20th December 2017 is Rabaz RAZA. Prior to this date the Food Business Operator was Rafiq SALA dating from 13th December 2016. I can exhibit a copy of the Food Business Operator Application Form bearing Rafiq SALA's details as exhibit CLM/1.
7. The Premises Licence Holder is O Q as of October 2014.
8. For reasons I will outline below, both Police and UKBA believe that "O Q" is an identity falsely employed by two males, namely J H b. (Iraq) and N F b. (Iraq) both of whom have connections to Best Kebab One and the applicant Rafiq SALA.
9. UK Border Agency (UKBA) confirm there is only one O Q b. (Iran) recorded on Home Office systems. This male left the UK in 2011 and has not since returned. If C has returned to the UK then he would have entered the UK illegally as there is no trace of a visa application or an application for leave to remain in the UK. UKBA have provided an image of Q.
10. UKBA first encountered J H in 2008 and obtained a photograph of

Signature: _____ Signature witnessed by: _____

11. Durham Police first encountered H/ in May 2010. An image of him was obtained
12. You will note that these two images clearly show the same male.
13. On 22nd December 2017, UKBA received a copy of a driving licence in the name of O Q as part of an application for a Replacement Biometric Residence Permit Card. The driving licence bears the photograph of J H/
14. On 16th January 2018 a travel document application was submitted to UKBA in the name of C Q t with a photograph of J H attached
The application is still awaiting a decision based on the intelligence regarding false identity.
15. J H IN currently has an outstanding application for Leave to Remain in the UK dated the 03/01/2018. He has no right to work in the UK.
16. H. has been witnessed by Police working in another takeaway premises owned by SALA on 16th July 2017. SALA was present at the time of this Police visit and confirmed that he was the owner of the premises.
17. Owing to the above facts regarding the false identity of the current PLH C C It is the belief of the Police that SALA has been in control of Best Kebab One premises since December 2016.
18. This is supported by various calls from SALA and interactions with Police in which he confirms it is his shop. I will now go on to demonstrate that in the time SALA has been in control of the premises it has been ran very poorly, with little consideration for the upholding of the licensing objectives, particularly the prevention of crime and disorder.
19. Around 18:00 hours on Saturday 16th December 2017 Officers from the Police Licensing Unit including myself attended Best Kebab One in company with several other partners including Council Licensing, Fire and Rescue Service, Food Safety and Occupational Safety & Animal Welfare.
20. This was as a result of several calls and complaints from local residents raising concerns regarding youths congregating at the takeaway particularly young girls using the premises as a 'youth club'; being allowed to play music through the premises speakers; obtaining food at cheap rates or for free and being provided with cigarettes and alcohol which they could consume in the rear staff area. I will detail a number of these incidents later.
21. Upon initial attendance at Best Kebab One on 16th December 2017, SALA was not present however later arrived confirming that he was the owner of the business.
22. N A F. b. an illegal immigrant, was found working at the premises, preparing food. F initially provided officers with false details and when asked for identification he stated that his 'boss' had his passport.
23. F was taken to Police custody where UKBA confirmed his identity and that he has no leave to remain in the UK, is an undocumented, non-removable national with no permission to work.

Signature: _____

Signature witnessed by: _____

24. Following advice from UKBA, Officers returned F to the area outside Best Kebab One, at which time SALA arrived. SALA stated to Officers that F was legal to work and produced a photocopy of a Residence Permit bearing the details of O Q b.
25. The Residence Permit document was forwarded to UKBA via email who report the following:
26. "The National Document Fraud Unit were unable to state conclusively that the Residence Permit is genuine as it may well have a substituted image however, the unit who issued the original residence permit confirmed is a valid residence permit however, the dates on the vignette should show valid from 11112005 until 09112010 and NOT 11112015 to 09112019.
27. The image on the Residence Permit is a match for N A F, Iraq (IRQ) male, born .
28. A copy of this email is available and can be produced a
29. As the business owner and manager of Best Kebab One, SALA has a responsibility to ensure all employees have the right to work in the UK.
30. Home Office Guidance (para 11.27) refers to the employment of an individual who has no permission to work due to their immigration status as something which should be 'treated particularly seriously'.
31. Throughout the remainder of the visit on 16th December 2017 SALA was obstructive to Police and Licensing Officers. When asked by Licensing Sgt Dickenson for his name, he provided a false name of Rabaz Sarwen RAZA. At the time there was no reason to doubt SALA and this was taken as fact.
32. Whilst I was conducting checks on a vehicle parked in the rear yard of the premises, SALA began shouting at me. I asked SALA who owned the vehicle, he told me on several occasions that he had stolen it.
33. SALA refused to hand over the vehicle keys to me resulting in me having to physically remove the keys from him.
34. SALA is being prosecuted for the offence of Obstruct Police Officer in relation to these matters. I can produce Body Cam footage of this encounter
35. The premises was closed with immediate effect by DCC Occupational Safety and Animal Health due to issues with the gas supply to the premises.
36. Subsequently, Durham County Council Food Safety issued a written warning letter and Occupational Safety & Animal Health issued two formal notices in respect of the premises.
37. During the visit several breaches of the licence were identified namely fixed seating within the customer area which was not annotated on the Premises Plan; the Premises Licence was not on display and there were no staff training records.
38. Police seized the CCTV hard drive from the premises and downloaded footage dated Friday 8th December 2017. The footage shows approximately 30 youths aged around 14-17 in the customer

Signature: _____

Signature witnessed by: _____

area from 20:00hrs to 21:10hrs. During this time, the youths engage in 'play' fighting, sitting and swinging on the fixed chairs whilst only one or two appear to purchase food. They are seen to wander in and out of the premises.

39. On 26th January 2018 a further visit took place at Best Kebab One. SALA was instructed to remove the fixed seating in the hope that it would deter youths from gathering and subsequent anti-social behaviour as a result. He was also instructed to erect a sign on the door stating no more than two person under 18 years were to be present at any one time. These were both an attempt to promote the crime and disorder objective.

40. The fixed seating was not removed until some months later following several enforcement visits by officers at Durham County Council. Officers are yet to witness a sign as requested.

41.

42.

43. Between October 2016 and December 2017 Police received several calls regarding the premises complaining about youths gathering and causing anti-social behaviour. I will outline some of these below.

44. On Friday 7th October 2016 at 19:34 hours a local resident called reporting a large group of youths aged 11-17 outside Best Kebab One. The youths were moved on by officers however returned at 22:00 hours 50 youths returned to the premises and were again moved on. I can exhibit

45. On Saturday 15th April 2017 at 21:46 hours a call was received from a local resident reporting 12 youths aged 14-16 smoking, drinking and urinating. This is occurring on a nightly basis between 17:30-21:00 and in the school holidays up to 01:00 hours. The caller reports staff from Best Kebab One shouting, playing loud music and tooting their horns in the early hours of the morning. I can exhibit this log

46. On Monday 17th April 2017 at 20:38 hours a call was received from a local resident reporting 20 youths aged 13-16 throwing items at a property. The caller explains that these youths are allowed to congregate in Best Kebab One. I can exhibit this log

47. A further call was received that day at 20:40 hours from another local resident reporting a group of youths throwing food and drink at his premises. I can exhibit this log :

48. On Tuesday 18th April 2017 at 21:52 hours a local resident called reporting 12 youths aged 16-17 outside the premises throwing bottles and food around in the street. The caller explained that youths regularly visit the premises for several hours resulting in disorderly behaviour. I can exhibit this log

Signature: _____

Signature witnessed by: _____

49. On Thursday 20th April 2017 at 20:30 hours a call was received from a member of the public reporting 6-7 youths aged 13-17 throwing food items around in the street. The caller describes that the youths congregate in Best Kebab One until the early hours of the morning.
50. At 20:36 hours a further call was received from this person reporting the youths had now caused damage to his window and were inside Best Kebab One. The caller goes on to explain that there are ongoing issues with youths attending the premises and describes the owner as having an 'unhealthy relationship' with the youths that attend the premises. I can exhibit this log
51. On Friday 14th July 2017 at 20:34 hours a call is received from a member of the public reporting 20 youths aged 13-15 outside of the premises causing ASB, the caller believed they were drunk due to their manner. I can exhibit this log
52. On Friday 28th July 2017 at 21:35 hours a call was received from a local resident reporting ongoing problems with youths from Best Kebab One. The caller explains youths aged 12-16 congregate at the premises every night between 5pm-11pm, drinking lager and causing ASB. The premises is described as a youth club and young girls go in and chat to the staff. I can exhibit this log
53. In August 2017, concerns are raised about Best Kebab One by local residents at a PACT meeting. Numerous residents reported groups of youths attending the premises every night between 18:30 - 23:00 onwards. The youths often drink alcohol in the premises and it is believed that the alcohol is either being supplied by staff or the youths are bringing their own alcohol. Although there are four other takeaway premises within 30 yards, all of the youths, predominantly female are drawn to Best Kebab One.
54. On the 17th August 2017, PCSO Quinn attended Best Kebab One to enquire about CCTV. He was informed by staff that there was no CCTV and there has been none for the past two years.
55. On Sunday 3rd September 2017 at 18:32 hours a call was received from a local resident reporting 10 youths aged 14-16 throwing stones at the window. The youths are going in and out of the pizza shop and are there every night. I can exhibit this log
56. On 15th September 2017 a local resident was contacted by PCSO Quinn. They reported things had vastly improved with regards to the number of youths gathering however there has been excessive noise coming from the premises between 01:00-03:00 hours which is being played via phones and speakers as well as staff shouting in the street.
57. On Sunday 22nd October 2017 at 19:17 hours a call was received from a local resident reporting that approximately 30 youths both male and female aged between 14-17 were congregating outside the premises causing a nuisance. I can exhibit this incident log
58. On Monday 23rd October 2017 at 19:23 hours a call was received from a local resident reporting a large group of youths gathered outside the premises shouting and causing a nuisance leaving litter in the street. The caller explained that there were previous problems of this nature which had improved for a short period of time but had worsened. I can exhibit this incident log
59. At 19:40 hours that day a further call was received from a local resident reporting the same.

Signature: _____

Signature witnessed by: _____

60. On Saturday 28th October 2017 at 20:29 from a Street Warden reporting a 14 year old girl unconscious outside of the premises having consumed a large quantity of alcohol. Upon officer arrival there were at least 20 youths inside and immediately outside of Best Kebab One. One youth can be seen smoking inside the doorway of the premises. I can exhibit the Body cam footage of Police
61. On Thursday 2nd November 2017 at 19:52 hours a call was received by a local resident reporting 20 youths outside the pizza shop kicking at his door. I can exhibit this
62. On 5th November 2017, Sgt Hancock attended the premises and spoke to staff about the ongoing issues. He reports that the staff were largely unconcerned by the issues.
63. On 10th November 2017, Licensing PCSO Robinson attended the premises and spoke to SALA and E . He reports that they appeared dismissive of the issues of anti-social behaviour.
64. On Friday 24th November 2017 at 19:24 hours a call was received from a local resident reporting they are too scared to leave the house due to 35 youths outside, causing a nuisance and throwing items at their premises. The caller explained that this is a regular occurrence and they are now terrified to leave the house. 10 youths aged 12-18 were stopped by Police inside and around Best Kebab One. I can exhibit this log
65. On Friday 24th November 2017 at 21:50 hours SALA contacted called Police reporting a large group of youths 'smashing the shop up'. Upon Police arrival SALA stated that he had only contacted Police as youths were refusing to leave and had thrown food around the premises, they had not in fact caused any damage. In a later call to SALA to clarify the events, he stated that the youths had been simply talking loudly and he was frustrated that they were using the premises as a 'youth club'. I can exhibit this incident log
66. On 1st December 2017 at 18:30 hours, officers moved on a large number of youths from Best Kebab One. Staff were advised about their responsibilities around the licensing conditions.
67. On Sunday 3rd December 2017 at 20:30 hours, member of staff A B contacted Police reporting 8 youths who had earlier been throwing stones at cars were now in the premises and refusing to leave. Officers attended and spoke to the 'manager' who stated that there was not a problem. He was informed that Police Licensing Unit would be made aware of the incident. I can exhibit this incident log
68. On Monday 4th December 2017 at 19:50 hours SALA contacted Police stating that a group of 10-15 youths aged 15-16 were refusing to leave the location however were not causing any issues. He told the caller "I don't want them in my shop". I can exhibit this incident log
69. On Friday 8th December 2017 at 20:46 hours, member of staff A: B contacted Police reporting 20 youths aged 15 messing around in the pizza shop refusing to leave having been asked several times. She reports they are being abusive to staff and banging on the counter I can exhibit this incident log
70. CLM/10 refers to CCTV footage obtained from the premises showing events that evening between 20:00 hours and 22:00 hours on Friday 8th December 2017. I have produced a precis of the CCTV which I exhibit as CLM/30. The footage appears to show up to 30 youths in the premises at one point averaging 15 over the course of the 2 hours. In that time staff do not appear to interact with

Signature: _____

Signature witnessed by: _____

the youths other than to hand over food orders of which there are only 13, and the three occasions youths are ushered from the store without apparent incident. Youths cannot be seen banging on the counter nor being abusive to staff. A male working in the premises is believed to be F. , who has no right to work in the UK and is an illegal immigrant.

71. On Thursday 14th December 2017, SALA contacted Police reporting issues with a 15 year old male. The male had purchased a portion of chips however SALA recognised that he was barred due to previous bad behaviour. SALA demanded he leave, the male then threw chips at him. Officers requested CCTV however it was not working. Working CCTV is a condition on the licence. I can exhibit this log

72. Despite the 17 calls from members of the public, staff contacted Police on only 5 occasions reporting issues with youth. These calls began after several visits from Police and the Licensing Unit reminding staff of their roles and responsibilities.

73. Taking all of this evidence in to account, the Police would submit that there are exceptional circumstances here that show that granting this application to vary the Premises License to SALA would undermine the Prevention of Crime and Disorder objective.

Signature: _____

Signature witnessed by: _____

am/1

**APPLICATION FOR THE REGISTRATION OF A
FOOD BUSINESS ESTABLISHMENT**
(Regulation (EC) No. 852/2004 on the Hygiene of Foodstuffs, Article 6(2))



This form should be completed by food business operators in respect of new food business establishments. The form must be received by Durham County Council 28 days before commencing food operations. On the basis of the activities carried out, certain food business establishments are required to be approved rather than registered. If you are unsure whether any aspect of your food operations would require your establishment to be approved, please contact Durham County Council, at the address given below, for guidance.

1. Address of establishment: 1A FOR BONDGATE
(or address at which moveable establishment is kept)

BISHOP AUCKLAND DL16 7PF Post Code: _____

01388

2. Trading Name of food business: BEST KEBAB ONE Telephone No: 606699

3. Full Name of food business operator(s): RAFIQ SALHA
(or limited company where relevant)

4. Address of Food Business Operator: _____
(where different from address of establishment)

Post Code: _____

Telephone No: _____ E-Mail: _____

5. Type of food business (Please tick ALL the boxes that apply):

- | | | |
|--|--|--------------------------|
| <input type="checkbox"/> Staff restaurant/canteen/kitchen | <input type="checkbox"/> Hospital/residential home/school | <input type="checkbox"/> |
| <input type="checkbox"/> Retailer (including farm shop) | <input type="checkbox"/> Distribution/ Warehousing | <input type="checkbox"/> |
| <input type="checkbox"/> Restaurant/café/snack bar | <input type="checkbox"/> Food Manufacturer/ Processor | <input type="checkbox"/> |
| <input type="checkbox"/> Market/ Market Stall | <input type="checkbox"/> Importer | <input type="checkbox"/> |
| <input type="checkbox"/> Takeaway | <input checked="" type="checkbox"/> Catering | <input type="checkbox"/> |
| <input type="checkbox"/> Hotel/pub/guest house | <input type="checkbox"/> Packer | <input type="checkbox"/> |
| <input type="checkbox"/> Private house used as food business | <input type="checkbox"/> Moveable establishment e.g. ice cream van | <input type="checkbox"/> |
| <input type="checkbox"/> Wholesale/ Cash and Carry | <input type="checkbox"/> Primary Producer - Livestock | <input type="checkbox"/> |
| <input type="checkbox"/> Food Broker | <input type="checkbox"/> Primary Producer - Arable | <input type="checkbox"/> |

6. If this is a new business, the date you intend to open: Open

Signature of Food Business Operator: _____ Date: 13.12.16

Name (BLOCK CAPITALS): RAFIQ SALHA

**AFTER THIS FORM HAS BEEN SUBMITTED, FOOD BUSINESS OPERATORS MUST
NOTIFY ANY SIGNIFICANT CHANGE TO THE ACTIVITIES STATED ABOVE
(INCLUDING CLOSURE) TO DURHAM COUNTY COUNCIL AND SHOULD DO SO
WITHIN 28 DAYS OF THE CHANGE(S) HAPPENING.**

Please return to: EHCP (Food Safety), PO Box 617, Durham, DH1 9HZ

Telephone: 03000 261016

email: ns_foodsafety@durham.gov.uk

www.durham.gov.uk

For Office Use Only (please tick):	Officer: Sue Blenkinsop	Date: <u>13/12/16</u>
New Application	Notification of Change	Update of Records Only <input checked="" type="checkbox"/>

Best Kebab One CCTV PRECIS 08th December 2017**20:00 hours**

2 x male youths in the premises. 1 is handed food, another sits on the static seating.

20:04 hours

3 x male youths enter premises. 1 appears to place and order. 2nd youth from earlier is handed food. All 5 youths sit on static seating.

20:07 hours

2 further male youths enter premises, 1 appears to order food. 2 begin 'play fighting'.

20:12 hours

4 youths leave the premises, 3 remain.

20:14 hours

3 female youths and 1 male youth enter premises. 1 female appears to place an order.

20:15 hours

6 youths enter, totalling 12 in the premises. Seconds later 2 female youths enter, one appears early teens.

20:16 hours

3 female youths enter followed by 2 male youths totalling 19 youths.

20:17 hours

10 youths enter totalling 29 youths. Over the next 30 minutes, several youths come and go from the premises averaging 20 youths in the premises whilst the remaining congregate outside on the pavement and in the road. The majority congregate on the fixed seating and at the mirrors. No staff appear to have interacted with them other than to hand over food orders.

20:41 hours

Two male youths engage in rough play, male member of staff possibly F gesticulates from behind the counter for them to leave.

20:44 hours

Two male youths engage in 'rough play' for a moment before one leaves.

20:47 hours

All but two youths leave the store on their own accord.

20:49 hours

Approximately 10 youths enter the premises over the following 5 minutes.

20:58 hours

26 youths in the premises in total.

21:01 hours

Rabaz RAZA appears on screen and ushers youths out of the premises who leave without apparent issue.

21:05 hours

Over the next few minutes handfuls of youths enter and leave the premises. A group of girls leave once receiving their food order.

21:09 hours

9 youths remain in the premises using the fixed seating.

21:10 hours

2 male youths engage in play fighting and appear to be spoken to by a member of staff (F) over the counter. RAZA appears and ushers them from the premises without apparent issue. One youth in orange appears to be causing some issue by returning to the premises continually.

21:18 hours

All youths leave the premises.

**APPENDIX 4 – SECTION 182 GUIDANCE &
LICENSING ACT 2003**

Section 182 Guidance – Transfer of Premises Licence

8.99 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police in all cases, and the Home Office (Immigration Enforcement) if this licence authorises the sale of alcohol or provision of late night refreshment. Where it is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police and the Home Office (Immigration Enforcement) no later than the first working day after the application is given. However, the responsibility to notify the DPS remains the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.21 to 8.28 applies.

8.100 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police or the Home Office (Immigration Enforcement) raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.

8.101 In exceptional circumstances where the chief of police believes the transfer may under the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.

8.102 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicant's backgrounds, it is expected that it would raise the matter immediately with the chief office of police or the Home Office (Immigration Enforcement).

LICENSING ACT 2003 - Transfer of premises licence

42 Application for transfer of premises licence

- (1) Subject to this section, any person mentioned in section 16 (1) (applicant for premises licence) may apply to the relevant licensing authority for the transfer of premises licence to him.
- (2) Where the applicant is an individual he must be aged 18 or over.
- (3) Subsection (1) is subject to regulations under –
 - (a) Section 54 (form etc. of applications etc.);
 - (b) Section 55 (fees to accompany applications etc.).
- (4) An application under this section must be accompanied by the premises licence or, if that is not practicable, a statement of the reasons for the failure to provide a licence.
- (5) The [F1 relevant person must give notice of the] application to the chief officer of police for the police area (or each police area) in which the premises are situated.[F2 (5A) in subsection (5), "relevant person" means –
 - (a) the relevant licensing authority, in a case where the applicant submitted the application to the relevant licensing authority by means of a relevant electronic facility;
 - (b) the applicant, in any other case]
- (6) Where a chief officer of the police is notified under subsection (5) is satisfied that he would exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
- (7) The chief officer of the police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (5)

43 Circumstances in which transfer application given interim effect

- (1) Where—
 - (a) An application made in accordance with section 42 includes a request that the transfer have immediate effect, and
 - (b) the requirements of this section are met,then, by virtue of this section, the premises licence has effect during the application period as if the applicant were the holder of the licence.
- (2) For the purpose "the application period" means the period which –
 - (a) Begins when the application is received by the relevant licensing authority, and
 - (b) Ends—
 - (i) When the licence is transferred following the grant of the application, or
 - (ii) If the application is rejected, when the applicant is notified of the rejection, or
 - (iii) When the application is withdrawn

- (3) Subject to subsections (4) and (5), an applicant within subsection (1)(a) may be made only with the consent of the holder of the premises licence .
- (4) Where a person is the holder of the premises licence by virtue of an intern authority notice under section 47, such an application may also be made by that person.
- (5) The relevant licensing authority must exempt the applicant from the requirements to obtain the holders consent if the application shows to the authorities satisfaction –
 - (a) That he has taken all responsible steps to obtain that consent, and
 - (b) That, if the application were one to which subsection (1) applied, he would be in a position to use every premises during the application period for the licensable or activities authorised by the premises licence.
- (6) Where the relevant licensing authority refuses to exempt an application under subsection (5) it must notify the applicant of its reason for that decision.

44 Determination of transfer application

- (1) This section applies where an application for the transfer of a licence is made in accordance with section 42
- (2) Subject to subsections (3) and (5), authority must transfer the licence in accordance with the application.
- (3) the authority must reject the application if none of the conditions in subsection (4) applies .
- (4) the conditions are—
 - (a) the section 43(1)(applications given interim effect) applies to the application,
 - (b) that the holder of the premises licence consents to the transfer,
 - (c) that the applicant is exempt under subsection (6) from the requirement to obtain the holder's consent to the transfer.
- (5) where a notice is given under section 42(6)(are not withdrawn), and subsection (3) above does not apply, the authority must –
 - (a) hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
 - (b) having regard to the notice, reject the application if it considers it [F¹ appropriate] for the promotion of the crime prevention objective to do so.
- (6) the relevant licensing authority must exempt the applicant from the requirement to obtain the holder's consent if the applicant shows the authority's satisfaction –
 - (a) that he has taken all responsible steps to obtain that consent, and
 - (b) that, if the application were granted, he would be in a position to use the premises for the licensable activity or activities authorised by the premises for the licensable activity or activities authorised by the premises licence.
- (7) Where the relevant licensing authority refuses to exempt an application under subsection (6), it must notify the applicant of its reasons for that decision.

45 Notification of determination under Section 44

Where an application under section 42 is granted or rejected the relevant licensing authority must give a notice to that effect to –

(a) the applicant, and

The chief officer of police for the police area (or each police area) in which the premises are situated

(1) Where a chief officer gave a notice under subsection (6) of that section (or the Secretary of State gave a notice under subsection (8) of that section (which, in either case, was not withdrawn) the notice under subsection (10) of this section must state the licensing authority's reasons for granting or rejecting the application.

(2a) Where the Secretary of State gave a notice under subsection (8) of section 42 (which was not withdrawn, the notice under subsection (10) of this section must also be given to the Secretary of State.

(2) Where the application is granted, the notice under subsection (1) must specify the time when the transfer takes effect.

That time is the time specified on the application or, if that time is before the applicant is given that notice, such later time as the relevant licensing authority specifies in the notice.

(3) The relevant licensing authority must also give a copy of the notice under subsection (1) –

(a) Where the application is granted –

(i) To the holder of licence immediately before the application was granted or

(ii) If the application was one to which section 43(1) applied, the holder of the licence immediately before the application was made (if any

(b) Where the application is rejected, to the holder of the premises licence (if any)