

## **Statutory Licensing Sub-Committee**

**Tuesday 20<sup>th</sup> November 2018, 10am**

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



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

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**Premises name and address:** The Oddfellows Arms, 52 Church Street, Seaham SR7 7HF

#### **1. Summary**

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

A copy of the licence is attached at Appendix 1.

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

#### **2. Details of the Application**

The application is for a review of the premises licence (DOEP212) held by Red Oak Taverns Limited in respect of The Oddfellows Arms, 52 Church Street, Seaham.

On 23<sup>rd</sup> October 2018, the Licensing Authority received an application and supporting certificate under Section 53A of the Licensing Act 2003 from Durham Constabulary where it was required to consider whether it is necessary to take interim steps pending determination of the full review of the premises licence within 48 hours of receipt of this application.

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

On 25<sup>th</sup> October 2018, the Licensing Statutory Sub-Committee met to consider the application and any necessary interim steps. The premises licence holder also confirmed they removed Ms Elizabeth Ann Porritt as the designated premises supervisor. Members decided to suspend the premises licence with immediate effect pending the full review hearing. A copy of the notice of determination is attached as Appendix 3.

As part of the decision, the premises licence holder is entitled to make representations to the Licensing Authority and the Authority is then required to hold a further hearing within 48 hours of receiving the representation. At the time of writing this report (8<sup>th</sup> November 2018) no representations have been received by the licence holder against the interim steps.

The application for review received on 23<sup>rd</sup> October 2018 is deemed by the Licensing Authority to be relevant.

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

- The prevention of crime and disorder

A copy of the application for the review of the premises licence is attached at Appendix 4.

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

### **3. Representations**

As part of the application process there is a ten-day consultation with the responsible authorities and other persons. The end date of the consultation was 6<sup>th</sup> November 2018.

One relevant representation was received from the Licensing Authority. A copy is attached as Appendix 5.

Responses were received from the Planning Authority, Environmental Health and the Local Safeguarding and Children's Board stating they had no comments to make in respect of the application.

Mr Jonathan Smith from Poppelston Allen who are representing the premises licence holder confirmed they would like to make a representation at the hearing regarding the review application and the future of the pub. A copy of the email is attached as Appendix 6.

For Members information, three letters and a petition containing 1,299 supporters were received, however, these are not relevant representations as they do not address any of the licensing objectives. The petition references 'help keep lizzy and all her staff in employment', one letter is from the previous DPS 'Lizzy Porritt', another from a person who was involved in an incident at the premises in August 2018 and a letter from the local florist providing a character reference on behalf of the previous DPS. A copy is attached as Appendix 7.

### **4. The Parties**

The Parties to the hearing will be:



## **Appendix 1**

### **Premises licence**



## LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number  
Granted  
Issued

<b>DOEP212</b>
<b>24 November 2005</b>
<b>02 March 2018</b>

### Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<b>ODDFELLOWS ARMS</b> 52 CHURCH STREET SEAHAM SR7 7HF	DURHAM COUNTY COUNCIL ADULT AND HEALTH SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number: 0191 5813389	

Where the licence is time limited the dates  
N/A

### Licensable activities authorised by this licence

Recorded Music  
Other Entertainment Similar to Live or Rec Music or Dance Performance  
Sale by retail of alcohol

### Opening Hours of the Premises

Opening Hours of the Premises		Non-standard/seasonal timings
Mon	09:00-02:30	Christmas Day 11:00 - 03:30 New Years Day 11:00 - 03:30
Tue	09:00-02:30	
Wed	09:00-02:30	
Thu	09:00-02:30	
Fri	09:00-02:30	
Sat	09:00-02:30	
Sun	09:00-02:30	

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

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

<b>Recorded Music Indoors</b> Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00	<b>Further details</b> N/A <b>Non-standard/seasonal timings</b> Christmas Day 11:00 - 03:00 New Years Day 11:00 - 03:00
<b>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors</b> Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00	<b>Further details</b> N/A <b>Non-standard/seasonal timings</b> Christmas Day 11:00 - 03:00 New Years Day 11:00 - 03:00
<b>Sale by retail of alcohol</b> Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00	<b>Further details</b> N/A <b>Non-standard/seasonal timings</b> Christmas Day 11:00 - 03:00 New Years Day 11:00 - 03:00

**Part 2**

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
RED OAK TAVERNS LIMITED MOUNT CLIFF HOUSE 154 BRENT STREET LONDON NW4 2DR	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b> MS ELIZABETH ANN PORRITT
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**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**

DOEI1437  
EASINGTON

**Annex 1 – Mandatory conditions**

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

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

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

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

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

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

(a) a holographic mark, or

(b) an ultraviolet feature.

The responsible person must ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

### **Minimum Price of Alcohol:**

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

2 For the purposes of the condition:

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

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

Where -

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

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

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

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

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

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

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

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

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

#### **General**

None



### **The Prevention of Crime & Disorder**

The premises is a member of Pubwatch and Apex Radio System. Subscribes to the passive drug dog scheme.

### **Public Safety**

None

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

The Management of the Oddfellows Arms should ensure that the rear yard gate of the pub should not be used for customer exit/entrance to the premises after 11:00pm.

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

None

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

#### **Statutory Licensing Committee - 23rd April 2013**

The Premise Licence Holder shall ensure a digital CCTV system is installed in the premises to the satisfaction of Durham Constabulary and in respect of which the following conditions shall apply:

- a) It must be of such a quality that individuals are readily identifiable from recordings made.
- b) It must cover all public entrances, points of sale and display and other areas to which the public, paying members and guests have admission with particular regard to those areas which may not be visible from the bar or serving area.
- c) It must be operated by properly trained staff.
- d) It must be in operation at all times that the premises are being used for licensable activities.
- e) Recordings must be kept secure where they cannot be tampered with and retained for a period of no less than thirty (30) days or such other period as shall be specified by Durham Constabulary.
- f) Recordings must be available on request to the Licensing Authority and/or Durham Constabulary or other responsible authority as defined in the Licensing Act 2003 and be provided within 14 days of any such request.

The Challenge 25 Scheme must be operated at the premises with a policy in place in accordance with the statutory mandatory conditions providing for such.

A written or electronic record must be maintained to record all forms of training and the same must be available upon request to the Licensing Authority, Durham Constabulary or other responsible authority as defined in the Licensing Act 2003.

Any record must bear the signatures of the person trained to confirm the training occurred and the date thereof and the signature of the person who carried out the training and where the detailed record is maintained electronically a printed record or diary shall be kept signed by the relevant parties as confirmatory evidence.

A refusals challenges and incident book must be maintained and kept up to date. It must:

- a) Record all refusals and challenges and/or requests for the production or identification;
- b) record the result of such challenge or request;
- c) Record similar information with respect to any purchases considered to be attempted by an adult on behalf of a person under 18 or an adult who is known to, or the licence holder has been advised of being known to, buy on behalf of persons under 18 years of age;
- d) Be available upon request to either the Licensing Authority, Durham Constabulary or other responsible authority as defined in the Licensing Act 2003.

Sales must be refused to any person appearing to be under the influence of alcohol or drugs.

**Annex 4 – Plans attached**

Attached

A handwritten signature in black ink, appearing to read 'J. Waller', written in a cursive style.

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



## LICENSING ACT 2003 PREMISES LICENCE SUMMARY

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

<b>DOEP212</b>
<b>24 November 2005</b>
<b>02 March 2018</b>

### Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<b>ODDFELLOWS ARMS</b> 52 CHURCH STREET SEAHAM SR7 7HF	DURHAM COUNTY COUNCIL ADULT AND HEALTH SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</b> 0191 5813389	

**Where the licence is time limited the dates**  
 N/A

### Licensable activities authorised by this licence

Recorded Music  
 Other Entertainment Similar to Live or Rec Music or Dance Performance  
 Sale by retail of alcohol

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

Mon	09:00-02:30	<b>Non-standard/seasonal timings</b>
Tue	09:00-02:30	Christmas Day 11:00 - 03:30 New Years Day 11:00 - 03:30
Wed	09:00-02:30	
Thu	09:00-02:30	
Fri	09:00-02:30	
Sat	09:00-02:30	
Sun	09:00-02:30	

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

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

Recorded Music Indoors	Further details
Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00	N/A <b>Non-standard/seasonal timings</b> Christmas Day 11:00 - 03:00 New Years Day 11:00 - 03:00

<b>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors</b> Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00	<b>Further details</b> N/A <b>Non-standard/seasonal timings</b> Christmas Day 11:00 - 03:00 New Years Day 11:00 - 03:00
<b>Sale by retail of alcohol</b> Mon 09:00-02:00 Tue 09:00-02:00 Wed 09:00-02:00 Thu 09:00-02:00 Fri 09:00-02:00 Sat 09:00-02:00 Sun 09:00-02:00	<b>Further details</b> N/A <b>Non-standard/seasonal timings</b> Christmas Day 11:00 - 03:00 New Years Day 11:00 - 03:00

Part 2

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
Red Oak Taverns Limited Mount Cliff House 154 Brent Street London NW4 2DR	

<b>Registered number of holder, for example company number, charity number (where applicable)</b> Company no: Charity no: N/A
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<b>Name of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b> MS ELIZABETH ANN PORRITT
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<b>State whether access to the premises by children is restricted or prohibited</b> NO RESTRICTIONS APPLY
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**Signature of Authorised Officer**  
**Head of Environment, Health and Consumer Protection**



## Appendix 2

### Location plan



## **Appendix 3**

### **Notice of Determination – 25<sup>th</sup> October 2018**



**THE COUNTY COUNCIL OF DURHAM**

**Licensing Committee**

**NOTICE OF DETERMINATION**

**Licensing Act 2003 (the Act)**

Date of Hearing: 25<sup>th</sup> October 2018  
Date of Determination: 25<sup>th</sup> October 2018  
Committee Members: Councillor J. Blakey (Chair)  
Councillor L. Brown  
Councillor M. Wilson

**1) Type of application or hearing**

Summary Licence Review

**2) Applicant**

Durham Constabulary

**3) Premises**

Oddfellows Arms, 52 Church Street, Seaham, SR7 7HF

**4) Application**

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

**5) Witnesses**

The Sub-Committee heard from the following:

- Helen Johnson, Licensing Team Leader
- Sergeant Caroline Dickinson, Durham Constabulary
- Nathan Audas, Operations Manager, Red Oak Taverns Limited
- Martyn Webster, Bus Dev Manager, Red Oak Taverns Limited

**6) Licensing Act 2003**

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

**7) Section 182 Guidance**

The Sub-Committee has considered and taken account of the most recent edition of the Secretary of State Section 182 Guidance. The Sub-Committee has also considered the Section 53A Summary Review Guidance.

**8) Licensing Policy**

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

**9) Licensing Objectives**

The Sub-Committee took account of the information provided by the Applicant for the purposes of the review and with respect to the licensing objective regarding the prevention of crime and disorder.

**10) Evidence and Reasons**

**Representations of Helen Johnson, Licensing Team Leader**

- 10.1 An application and the supporting certificate, required by Section 53A of the Act, was received by the Licensing Authority on the afternoon of Tuesday 23<sup>rd</sup> October 2018.
- 10.2 The Licensing Authority is required to consider the matter within 48 hours of receipt of the application.
- 10.3 The Licensing Committee has power under section 53B to consider a number of interim steps namely:
- Modification of the conditions of the premises licence.
  - Exclusion of the sale of alcohol by retail from the scope of the licence.
  - Removal of the Designated Premises Supervisor from the licence.
  - Suspension of the Licence.
- 10.4 It had been confirmed that the Designated Premises Supervisor had been removed from that role. There was currently no DPS in place.
- 10.5 It was confirmed that the Premises Licence Holder was Red Oak Taverns Limited and their opening hours were from 9.00am through to 2.30am.

### Representations of Durham Constabulary

- 10.6 The evidence submitted by Durham Constabulary is that, on 20<sup>th</sup> October 2018, at approximately 1.00am, an incident occurred as outlined in their review application. The injured party has not yet been interviewed due to his injuries and the Designated Premises Supervisor was unable to clarify when the incident occurred.
- 10.7 The injured party was attacked in the bar area by a number of people resulting in two fractured eye sockets, a broken nose and two fractured ribs. He will require surgery when metal plates will be inserted into his face. The injuries were significant and fall within the legislation as 'serious crime and disorder'.
- 10.8 The DPS had not made any contact with the police. They were only aware as a result of the injured party's wife contacting Durham Constabulary.
- 10.9 The incident has been captured on CCTV and showed bar staff attempting to intervene. They had been pushed back and potentially assaulted during the melee.
- 10.10 This incident occurred on the back of another serious incident which took place on 5<sup>th</sup> August 2018. At approximately 1.00am in the morning a fight had taken place outside the pub following an altercation inside the pub. The CCTV had not recorded the incident, as required. Outside the pub a male had kicked his victim in the face, causing him to fall to the ground where he suffered bruising to the brain and a fractured skull.
- 10.11 As a result of that incident a meeting had taken place, between the police, the licence holder and the DPS. Temporary conditions had been put in place regarding CCTV and doorstaff but, of note, licensing hours had been pulled back to close at 1.00am, the time of the second incident.
- 10.12 Due to the proximity of these two serious incidents, in August and October, the police felt they could not risk another incident and were compelled to make this request under Section 53A of the Licensing Act 2003. Whilst it was appreciated that the licence holder had now removed the DPS they could feasibly install a new, inappropriate DPS today with immediate effect. The police felt a suspension, pending full review, was appropriate in these circumstances.
- 10.13 Sergeant Dickenson confirmed that the suspect in the August incident had been released pending further investigation. Two suspects had been identified in the latest incident but they had not yet been arrested. It was anticipated that further progress would have been made in time for the full review hearing. The two incidents were not related.

### **Representations of the Premises Licence Holder**

- 10.14 Nathan Audas, Operations Manager, spoke on behalf of Red Oak Taverns Limited, the Premises Licence Holder.
- 10.15 He confirmed that the company owned up to 160 licensed premises up and down the country. They didn't object to the police making this application; it was understandable.
- 10.16 They inherited the current DPS when they took over these premises in 2015; she holds a secure tenancy at the pub. They have taken swift action to remove her as the DPS and they have tried to be co-operative, with her and the police to ensure measures are put in place.
- 10.17 There have been significant shortfalls on the part of the DPS and she had been removed yesterday morning. They had engaged with licensing officers and taken clear and decisive action.
- 10.18 The company wish to avoid a suspension of the licence at all costs. The pub has been closed as they don't believe they can have the pub running with the former DPS in place. They need to recruit a new operator and will look to do so in November. They will seek a strong DPS who can deal with any difficulties robustly.
- 10.19 They are happy to give a written undertaking that they will not operate until the police are happy with their chosen DPS.
- 10.20 This would leave them with the effects of a suspension in removing the DPS and undertaking not to trade until a new, satisfactory DPS is in place.

### **Reasons**

- 10.21 Section 21 of The Violent Crime Reduction Act 2006 made amendments to the Licensing Act 2003 ("the Act") by introducing the provision for a summary review. This added to the Act section 53A with supplementary sections 53B and 53C to deal with the subject.
- 10.22 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises licence where the same covers serious crime or serious disorder associated with premises.
- 10.23 It is accepted by the Committee that this does amount to serious crime and serious disorder and the application made in this case is in order and falls to be dealt with under sections 53A, 53B and 53C of the Act.

- 10.24 In this instance the licence holder had chosen to attend to make representations.
- 10.25 The Committee had been informed of the latest incident, which had taken place in the bar area of the licensed premises. This had resulted in significant injuries to one person, involving fractured eye sockets, broken nose and fractured ribs. The incident had been captured on CCTV and showed those parties also pushing bar staff. No door staff had been involved nor had the DPS intervened.
- 10.26 At no point did the DPS contact the police to make them aware of the incident. This is deeply concerning, especially following another incident which had occurred in August 2018, leaving a victim with a fractured skull, outside the premises. Similarly that incident had not been reported to the police.
- 10.27 The Committee note the actions of the licence holder in removing the DPS so swiftly. This is to be commended. However, having considered the information provided and taken account of the serious nature of it, and the clear implications that the premises are associated with serious crime and disorder, the Committee considers that it has no alternative than to suspend the licence.
- 10.28 There is a significant risk that the licensing objectives, primarily that of the prevention of crime and disorder, would be undermined should a suspension not be imposed. Whilst an undertaking from the licence holder was offered, the Committee feel it is correct and proportionate for the licence to be suspended. This would give the licence holder an opportunity to take a step back and fully review the licence conditions, to investigate the incidents that had occurred and to offer significant improvements that could and should be made.

## **11) Decision**

The Committee has considered the evidence and has decided to suspend the premises licence with immediate effect.

Signed:

(Chair)

Dated:

26<sup>th</sup> October 2018

**PLEASE NOTE:**

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

## **Appendix 4**

### **Review Application**

## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

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

Durham County Council, Licensing Services  
St Johns Road North, Meadowfield,  
DH7 8RS

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

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**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

I A/Supt Graham Milne [on behalf of] the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

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

**Oddfellows Arms  
52 Church Street**

Post town: Seaham

Post code (if known): **SR7 7HF**

**2. Premises licence details:**

Name of premises licence holder (if known): Red Oak Taverns Limited

Number of premises licence holder (if known): DOEP212

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



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

(Please tick the box to confirm) ☒

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

[Please read guidance note 2]

On 20<sup>th</sup> October 2018 at around 1am a male (IP) has been assaulted within the bar area of the public house by a number of people. The IP has suffered significant injuries consisting of two fractured eye sockets, a broken nose and two fractured ribs. The IP requires surgery to to his face whereby metal plates will be put into his face to assist in the healing of his eye sockets.

The incident has been captured on CCTV and shows the IP being assaulted by at least three males within the pub and when the IP is on the floor his head is stamped on. Due to the level of injuries this incident is being initially investigated as a section 20 grievous bodily harm assault, however if intent is proved this will be reclassified as a section 18 grievous bodily harm assault.

The designated premises supervisor (DPS) is seen on CCTV witnessing the assault however she did not ring the police nor did she request the the SIA doorstaff who were on duty to intervene. The DPS has at no point during or after the incident made contact with the police and we are only aware of it due to the IP's wife contacting us.

Members of barstaff are seen to try and pull the suspects off the IP however they themselves are assaulted by the suspects by being forcefully pushed back.

Prior to this incident on 22<sup>nd</sup> August 2018 a meeting had been held with the premises licence holder whereby the police concerns around the premises were discussed namely around the lack of CCTV coverage internally and the CCTV not recording for 28 days as per the licence conditions. The unacceptable behaviour of the door staff who have no apparent duty of care for victims of crime and the management of the premises and recording of incidents which were non-existent.

This meeting was as a result of an incident on 5<sup>th</sup> August at 0100hrs where there has been a verbal argument between two males inside the premises, which wasn't captured on CCTV as the system had not recorded for the required 28 days. The males have then gone outside of the front of the premises and become involved in a fight. The suspect uses a lamppost for leverage to kick the victim in the face, causing him to fall back and knocking him unconscious. This incident is still under investigation and is being investigated as a section 18 assault.

The victim attends hospital days later after feeling unwell to find he has suffered bruising to the brain and a fracture to the skull.

The CCTV of this footage clearly shows very little interaction with the female door staff, who stands over the unconscious male for a short period before returning to the door. At no point does the door staff ring for an ambulance/police for assistance. The door staff shows no duty of care to the victim. She does not display a badge.

**Eventually the male resumes consciousness and leaves the area. The CCTV of this incident shows a number of persons stood out on the street with bottles/glasses throughout this incident. This incident was not reported to the police.**

**From the incident at the weekend it is apparent despite a recent meeting with the PLH and DPS nothing has changed within the premises and the police feel the application for the review of a premises licence under section 53A of the Licensing Act 2003 is justified and we will be asking an immediate suspension and removal of the DPS for premises licence number DEOP212.**

**At the full review hearing the police will seek to have the premises licence revoked.**

**Signature of applicant:**  
**Date: 23<sup>rd</sup> October 2018**  
**Capacity: A/Superintendent**

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

**Telephone number(s):**

**Email:**

**Notes for guidance:**

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

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

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or**
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of**

persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

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

Durham Constabulary  
Force HQ  
Aykley Heads  
DH1 5TT

**CERTIFICATE UNDER SECTION 53(a)(B) OF THE LICENSING ACT 2003**

I hereby certify that in my opinion of the premise described below are associated with serious crime/serious disorder/both serious crime and serious disorder.

**Premises:**  
Oddfellows Arms  
52 Church Street  
Seaham  
SR7 7HF

**Premise licence no:** DOEP212

**Name of Premises licence holder:** Red Oak Taverns limited

I am a chief superintendent in Durham Constabulary

I am giving this certificate because I am of the opinion that the other procedures under the licensing Act are inappropriate in this case, and that it is proportionate in the circumstance because

There has been two recent serious assaults at the premises whereby the designated premises supervisor has failed to notify the police during or after the incident and we are relying on the IP's in each case to report the incidents to the police.

The police have recently had a meeting with the premise licence holders Red Oak Taverns Limited to address concerns around the management and running of the premises however it is apparent following the incident on 19<sup>th</sup> October 2018 these concerns had not been addressed and we now have another member of the public who has suffered significant injuries.

The circumstances around the most two recent assaults bring into serious question the management and running of this premises. This requires immediate action via an expedited review to prevent any further serious incidents taking place at the premises. The expedited process would enable the police and licensing authority to seek the removal of the designated premises supervisor and the suspension of the premises licence whilst the criminal investigations are ongoing and to fully determine the suitability of persons involved in the ongoing running of this premise.

This is the only proportionate action available at the time to prevent any further crime and disorder at the premises.

**Sign**

**Dated 23<sup>rd</sup> October 2018**

**Print Name** Graham Milne

**Title** A/Superintendent

## **Appendix 5**

### **Representation from the Licensing Authority**

## **Helen Johnson - Licensing Team Leader (N'hoods)**

---

**From:** Laura Cloney  
**Sent:** 06 November 2018 16:53  
**To:** Helen Johnson - Licensing Team Leader (N'hoods)  
**Subject:** RE: Licensing Act 2003 - Summary Review Application - The Oddfellows Arms, 52 Church Street, Seaham SR7 7HF

Durham County Council's Licensing Enforcement (representing Licensing as a responsible Authority under the Licensing Act 2003) wish to make representations in relation to this application in connection with the following licensing objective: The prevention of crime and disorder.

We support Durham Constabulary's concerns regarding serious assaults taking place within and in the immediate vicinity of the premises and the failure by the DPS and the Premises Licence holder to contact the Police in relation to the incidents.

Officers from Licensing Enforcement joined the Police at a meeting with Martyn Webster from the Licence Holder, Red Oak Taverns Limited on the 22nd of August to discuss concerns regarding the running of the premises following a serious assault. They were party to the agreement of a number of voluntary conditions put forward by the Premises Licence Holders in order to try and address these concerns. These conditions included the requirement that the Premises licence holder be made aware by the DPS of any serious incidents that occur and to comply with the licence condition that CCTV images are stored for a period of 30 days. It appears that both of these conditions have not been complied with.

A complaint was received by Licensing Enforcement regarding unaccompanied 11 and 12 year old children spending time in the premises on the 14th of October. CCTV was requested in order to investigate the complaint and this was provided to Licensing Enforcement on the 25th of October. It is of extreme concern that despite the meeting with Martyn Webster representing the Licence Holder, Red Oak Taverns Limited, on the 22nd of August to discuss concerns regarding the running of the premises following a serious assault, the CCTV was still only being retained for a period of 4 days and was displaying the wrong date, the date on the display was the 26th of October on the 25th of October.

**Laura Cloney**  
**Licensing Enforcement Team Leader**  
Environment, Health and Consumer Protection  
Regeneration and Local Services  
Durham County Council

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### **Privacy Notices and Data Protection**

We have recently updated our privacy information.

## **Appendix 6**

### **Email from Poppleston Allen**

## **Helen Johnson - Licensing Team Leader (N'hoods)**

---

**From:** Jonathan Smith  
**Sent:** 05 November 2018 12:08  
**To:** Helen Johnson - Licensing Team Leader (N'hoods)  
**Subject:** Oddfellows Arms, 52 Church Street, Seaham

Helen,

I write to confirm that we act on behalf of Red Oaks Taverns Limited, who are the Premises Licence Holder of the Oddfellows Arm, 52 Church Street, Seaham.

We do wish to make representations at the hearing on 20<sup>th</sup> November 2018 regarding the S53C review of the premises and the future of the pub.

Our client has taken immediate steps to terminate the lease of the tenant who was operating the pub as her own business, and I am hoping to discuss this week with Northumbria Police the way forward with the S53C review on 20<sup>th</sup> November.

We would like to address the Committee on all 4 of the licensing objectives, and on the reasonable and appropriate steps that should be taken under S53C (3) of the Licensing Act 2003.

Yours sincerely

**Jonathan**

Jonathan Smith | Partner  
Poppleston Allen



**We want your opinion....warts and all!**

So keep a lookout for a short survey that you'll soon be receiving



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## **Appendix 7**

### **Additional Information**



Edit Your Petition



Update Your Signers



Manage Your Signers

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FROM SHARING!



SHARE THIS

SEND A TWEET

EMAIL FRIENDS & FAMILY

ODDFELLOWS

by

1,299 SUPPORTERS

2,000 GOAL

✓ You signed on October 26, 2018

Help keep Lizzy and all her staff in employment



SHARE

14



TWEET



EMAIL



EMBED

Share with friends.  
Get More Signatures!

1,299 SUPPORTERS

1,299 SUPPORTERS

2,000 GOAL

United Kingdom

on hour ago



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By signing, you accept Core2's terms of service.  
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Having problems signing this? Let us know.

United Kingdom

2 hours ago

Because Seaham is my place of birth and I would like to support and help  
people on my home ground best of luck

SEND ★

United Kingdom

2 hours ago

SEND ★

United Kingdom

3 hours ago

SEND ★



REF  
ODDFELLOWS PUB

Invoice No:

5-11-2018.

TO WHOM IT MAY CONCERN

I HAVE BEEN IN BUSINESS AT CHURCH ST SEAHAM FOR THE PAST 32 YEARS AND HAVE KNOWN LIZZY PORRITT FOR THE LAST 11 YEARS AND HAVE ALWAYS FOUND HER TO BE THE MOST KINDEST GENEROUS PERSON WHO WHEN ANYBODY NEEDS HELP OR THERE IS FUNDRAISING TO DO OR ANYTHING TO DO WITH THE STREET SHE IS FIRST TO HELP. TO QUOTE JUST A FEW EXAMPLES - SHE HELPED RAISE MONEY FOR A LADY AND GENTLEMAN WHO HAD NO FAMILY TO BURY THEM AND ERECT A HEADSTONE. ALSO TAKING IN DOWN AND OUTS FEEDING AND CLOTHING THEM AND MAKING SURE THEY KEPT WARM DURING COLD SPELLS.

I AM PLEADING TO YOU TO REVISE YOUR DECISION ON THE LICENCE HELD BY THE ODDFELLOWS PUB.

LIZZY WILL BE A MAMMOTH LOSS TO THE COMMUNITY AND CHURCH ST AND LOCAL COMMERCE.

PLEASE I EMPLOYE YOU TO RECONSIDER  
YOUR DECISION

YOURS SINCERELY

To Whom it may Concern,

I Lizzy Porritt of the Oddfellow arms Seaham would like to appeal to you on behalf of the premises license of the above property.

The first incident that occurred in August I was away on holiday.

The person that was knocked out in church street outside of the Oddfellows was my nephew who was with his sister. My doorperson and a nurse attended him, he came round but said he didnt require police or ambulance. The nurse stayed with him while the doorperson went back on the door because the lad who <sup>involved in</sup> ~~started~~ the trouble tried to get back into pub.

P.T.O

The Second Situation you say I didn't get involved. You can see on the CCTV I'm in the middle of the situation.

My doorperson managed to calm the fight by moving <sup>into the</sup> yard but why the doorperson was removing <sup>went</sup> behind them and hit the victim who was lying on the floor, the fight was separated and the victim was lifted onto the chair, the victim and his wife both said they didn't want police involved they'd sort it themselves.

The barmaid who was on runners the police hung up when the customer said no police. The incident was then logged into the pub's incident book.

My only crime was listening to my customer and not phoning the police.

I have ran the Odd Fellows

PTO

for over 10 yrs and I have helped the police on various occasions letting them check the CCTV footage on front and back of property, the cameras were set on a 30 day recording but got more cameras installed and a few went off had to put smaller hard drive in till the bigger hard drive arrived.

I would like you to re-consider your decision I've got dedicated staff what's been put out of a job as well as myself, at no fault of our own.

ENCLOSED IS A Signed PETITION WHICH A LADY SET UP ON FACE BOOK WITH OVER 1300 people Signed.

To whom it may concern,

I WAS INVOLVED IN A INCIDENT IN THE VERY EARLY HOURS OF AUGUST 5<sup>TH</sup> 2018. MY INJURIES LATER REQUIRED HOSPITAL TREATMENT. THE INCIDENT TOOK PLACE OUTSIDE OF THE ODDFELLOWS ARMS (7A CHURCH STREET, SEAHAM). AT THIS INCIDENT STAFF FROM THE ODDFELLOWS ARMS OFFERED ME THE ASSISTANCE OF THE EMERGENCY SERVICES (IE POLICE + AMBULANCE). AT THE TIME I DECLINED THIS

OFFER AS I WAS BEING AIDED  
BY MY SISTER, OFF DUTY NURSE  
+ A MEMBER OF STAFF.  
I THEREFORE DONT FEEL I  
REQUIRED ANY MORE HELP.  
PLEASE DONT HESITATE TO  
CONTACT ME IF YOU REQUIRE ANY  
MORE INFORMATION OR ASSISTANCE.

KIND REGARDS



## **Appendix 8**

### **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 television in certain premises should be considered by applicants, licencees 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 dependant 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 16 on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

## **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 9**

### **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.

## **Section 182 Guidance - 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](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

## **Powers of a licensing authority on the determination of a review**

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to 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)<sup>10</sup>;
  - 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.

## **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 or illegal working compliance 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 an illegal working compliance order under 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**

**11.29** 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.