

APPLICATION TO VARY PREMISES LICENCE

Licence holder	BBF 468 LTD	Ref No: DL12/01179/PREVAR
Premises:	3 and 6 to 8 WELLINGTON COURT MEWS DARLINGTON, DL1 5PD	
Current Licensable Activities:	<ol style="list-style-type: none"> 1. Sale of Alcohol for consumption ON the Premises 2. Regulated Entertainment (live & recorded music) 3. Late Night Refreshment 	
Current Hours:	Sale of Alcohol:	07.00 to 01.30 Every Day
	Regulated entertainment:	
	Live Music:	12.00 to 24.00 Every Day
	Recorded Music:	09.00 to 02.00 Every Day
	Late Night Refreshment	23.00 to 02.00 Every Day
Requested hours:	Sale of Alcohol :	
	consumption ON the Premises:	07.00 to 03.00 Every Day
	consumption OFF the Premises:	07.00 to 01.00 Every Day
	Regulated entertainment:	
	(live & recorded music, Performances of dance & dancing)	07.00 to 03.30 Every Day
	Late Night Refreshment:	23.00 to 03.30 Every Day
Application	<p>To vary the premises licence to:</p> <ul style="list-style-type: none"> • extend the daily hours for sale of alcohol to 03.00 hrs • extend the daily hours for live and recorded music to 07.00 - 03.30 • extend the daily hours for late night refreshment to 03.30 hrs • include sale of alcohol for consumption OFF premises between 07.00 – 01.00 every day • to permit sale of alcohol for consumption on and off premises to be offered both indoors and outdoors • to permit unamplified live music to be offered both indoors and outdoors • to permit amplified live music to be offered until 12 midnight outdoors • to permit amplified live music until 01.00 am on New Year's Eve (i.e. going into New Year's day) • to offer performances of dance and facilities for dancing from 07.00 to 03.30 am every day • to permit performances of dance and facilities for dancing to be offered both indoors and outdoors every day 	

Notification to Responsible Authorities/Interested Parties:

The Applicant Company has served notice of this application to the following:

The Chief Constable:	Local Health Board/PCT
Chief Fire Officer	Trading Standards Manager
Planning Manager	Local Safeguarding Children Board
The Licensing Authority	
Environmental Health Manager	(Public Safety and Public Nuisance)

Advertisement in Darlington & Stockton Times: 03 August 2012

Information on Council's web site: 30 July 2012

LEGISLATION:

The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four Licensing Objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State. The Licensing Authority may depart from its own Policy or the Secretary of State's Guidance if it has good cause but must be able to give full reasons for such a departure.

DESCRIPTION OF PREMISES

When the most recent application for a Premises licence was made in 2009 the premises were described as follows:

"The Premises is to be operated as a Bar/Restaurant during the hours of 07.00 – 01.30. David Storer is the current DPS (SBC 111035) controlling staff for the sale of alcohol. The site has a single access point to members of the public which is monitored by one of the seven on – site CCTV cameras with images being stored for 30 days. Two door staff will be on station Friday and Saturday evening in conjunction with Pub Watch radio contact. Recorded and live music will also be performed on site."

BACKGROUND

On 04 August 2005 an application was properly made for the **conversion** of Harvey's Wine Bar, 4-5 Wellington Court Mews, Darlington, in accordance with Schedule 8 of the Licensing Act 2003. The Police who were the only statutory consultee for a conversion application did not make any representations in respect of the conversion and it was subsequently granted to take effect on 24 November 2005 subject to the same terms and conditions as the earlier Justices licence.

On 29 May 2007 an **application** for a Premises Licence was properly made by a Mr Gary Gibson in respect of the premises, extending to 3 and 6-8 Wellington Mews in the name of "Red Tomato Restaurant, Bars & Café." As a result of this application representations were received from two Responsible Authorities, namely the Police and Environmental Health and also two Interested Parties, namely businesses operating in the vicinity of the Premises. The Representations were in respect of the Prevention of Crime and Disorder, Prevention of Public Nuisance and of Public Safety.

On 31 July 2007 the Licensing Sub Committee considered the application in the light of the representations and granted the licence, in part only, with restricted hours and stringent conditions. This decision was initially appealed but the appeal was subsequently withdrawn & the Appellant was ordered to pay the Council's costs

On 19 December 2007 an **application** was properly made by Ms Siobhan Kane in respect of the premises, which were to be known as The Courtyard. No representations were received and the licence was duly granted from 16 January 2008.

On 07 November 2008 an application to transfer the premises licence was made by BBF 468 Ltd. The application also detailed the name David Storer. The Police, who are the only statutory consultee to a transfer of licence, did not make any representations and the licence was duly transferred. The name of the premises was also changed to The Grange.

On 12 December 2008 an application was received to **vary** the Designated Premises Supervisor (DPS) to David Storer. Once again the Police who are the only statutory consultee in respect of such an application, did not make any representations and the variation was duly granted.

On 15 January 2009 a fresh **application** for a premises licence was properly made by BBF 468 Ltd. This initially resulted in a representation from an Interested Party, namely a business in the vicinity of the premises. This was later withdrawn and the licence was granted with effect from 13 February 2009. Members should note that the managing director of BBF468 was stated as David Storer and he was also shown to be the DPS of the premises

On 09 September 2011 Licensing Enforcement Officers visited the premises as part of their routine enforcement duties. The Premises were found to be compliant with the requirements of their licence.

On 23 April 2012 an application was made by Durham Constabulary for a **review** of the Premises Licence on the grounds of the prevention of crime and disorder and the protection of children from harm. In addition the Darlington Safeguarding Children Board and Cllr Hughes became parties to this review both in respect of the protection of children from harm. This followed an incident on 15th February 2012 when a 16+ event had resulted in disorder both inside and outside of the premises.

On 20 June 2012 the application for review was heard by a sub committee of the Licensing Act 2003 Committee. As a result a set of conditions, which had been agreed by the Police and the licence holder prior to the Committee hearing, and which were supported by all parties to the hearing were imposed, along with additional conditions.

Members expressed their grave concerns about the incident on 15 February 2012 but accepted that this had been one isolated incident and that stated that their concern had been to some extent alleviated by the conditions offered in the document submitted to them at the hearing.

THE CURRENT CONDITIONS ON THE PREMISES LICENCE

In accordance with the operating schedule and following the review of the Premises Licence, the following conditions (which are in addition to the mandatory conditions) are currently part of the Premises Licence:

1. The current CCTV system shall be fully operational at all times when the premises are open to the public.
2. Music played outdoors shall be unamplified and shall cease at 01.00 a.m.
3. 2 door supervisors shall be employed from 20.00 hours until closing on Friday and Saturday. Door supervision provision shall be risk assessed by management on all other nights
4. The Challenge 21 Proof of Age Scheme shall be implemented, requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 21 years of age. A refusals register shall be maintained and made available upon request by a Police Constable or Authorised officer of the Council.
5. Children under the age of 5 years will only be permitted entry to the restaurant area after 19.00 hours if supervised by a responsible adult.
6. The Police Licensing Officer, Licensing Authority and Local Safeguarding Children's Board to be notified of any under 18 event at least 28 days in advance of the event. Such notification should be from the Premise Licence Holders or Designated Premise Supervisor.
7. The premise to be covered by colour, digital CCTV which meets the requirements and expectations of the Licensing Authority and Police. The equipment to record whilst the event is being held on the premise. All recordings to be retained for a minimum of 28 days and to be made available upon request to the Police or Licensing Authority within a period of 7 days.
8. The operator to ensure that the premises have sufficient numbers of SIA registered staff, and that they are employed in the following minimum ratio: two for the first 100 customers, one of which to be female, two for the second 100 customers and one for every 100 customers thereafter. At least one such member of staff being employed as a floorwalker to constantly monitor patrons under the age of 18 for evidence of drink or drugs, and also to protect patrons from unwanted attention or harassment.
9. The premise Licence Holder or Designated Premises Supervisor will ensure that efficient entry and dispersal procedures are in place so that young people are not left in a vulnerable position outside the premises.
10. Searches will be carried out upon entry, to include all bags, to prevent alcohol and other illegal substances from being brought into the premises.

11. Where alcohol is seized from a person aged under 18, the details of the seizure will be recorded in a register which will be available for inspection by the Police or Licensing Authority upon request.
12. Any prior marketing of the event (internet, flyers, posters etc) will make it clear that no alcohol will be sold to under 18's, nobody who appears to be drunk will be allowed admission to the event and searches will take place to ensure that no alcohol is brought into the venue. Permissible ages for attendance at the event are to be printed in prominent writing upon any tickets issued.
13. Toilet checks will be carried out at regular intervals (a minimum of half hourly) and records of such checks retained and be available for inspection by the Police or Licensing Authority upon request.
14. First aid provision must be available at the premises.
15. There will be no readmission to the premises of any person under the age of 18 who has left the event.
16. Any under 18 events to have a terminal hour of no later than 11pm.
17. An area should be designated as a safe space, whereby ill or intoxicated persons, including minors, can be taken to a place of safety for medical treatment or in the case of minors until reunited with a parent, guardian or responsible adult.
18. Events which persons under the age of 18 are permitted to attend may be promoted only by the holder of the premises licence. For the avoidance of doubt "promotion" includes the marketing of the event and the sales of tickets.
19. A written record shall be kept of all training provided to staff showing the date of training and the content covered. This record shall be produced on request to the Police or Licensing Authority.
20. All patrons for mixed age events where alcohol is available for sale or supply will be given a secure coloured wristband, to differentiate those aged 18 and above and those under 18. The colours of the wristbands to be chosen on the date of the event in question.
21. Only one alcoholic drink will be able to be purchased at any one time by an individual aged 18 years or above.
22. Children under 16 years of age should not be permitted to attend the event unless accompanied by a responsible adult. Each responsible adult should not be responsible for more than 4 such children.
23. A minimum of 2 SIA registered security staff acting as floorwalkers to constantly monitor patrons aged under 18 for evidence of alcohol or drugs and also to protect patrons from unwanted attention or harassment.
24. All drinks to be served in plastic or polycarbonate glasses.

A copy of the licence is attached at **Appendix 1A**

THE APPLICATION TO VARY THE HOURS OF LICENSABLE ACTIVITIES

On 27 July 2012 an application was properly made to extend the daily hours for sale of alcohol; extend the daily hours for live and recorded music; extend the daily hours for late night refreshment; include sale of alcohol for consumption off the premises ; permit the sale of alcohol for consumption on and off premises to be offered both indoors and outdoors; to permit unamplified live music to be offered both indoors and outdoors; to permit amplified live music to be offered until 12 midnight outdoors; to permit amplified live music until 01.00 am on New Year's eve (i.e. going into New Year's day;) to offer performances of dance and facilities for dancing and to permit performances of dance and facilities for dancing to be offered both indoors and outdoors every day.

In the section for Live Music the Applicant Company has indicated that this is for both indoors and outdoors and has stated that *"outdoor will be limited to 12 midnight for occasional live amplified music – New Year's Eve until 01.00 for live music"*

In the section for Recorded Music the Applicant Company has indicated that this is to be restricted to indoors and is for amplified music with all speakers remaining indoors.

In the section for Performance of Dance the Applicant Company has indicated that this is for both indoors and outdoors and has stated *"Dance to take place on upstairs dance floor and outside courtyard"*.

In the section for Provision of Facilities for Dancing the Applicant Company has indicated that this is for both indoors and outdoors and has stated *"upstairs dance floor and outside courtyard. Customer dancing to indoor amplified/outdoor ambient music"*.

In the section for Late Night Refreshment the Applicant Company has indicated that this is to be restricted to indoors and has stated *"Ranging from pre-packed bar snacks to heated light food"*.

In the section for Supply of Alcohol the Applicant Company has indicated that this is for both indoors and outdoors and has stated *"Off premises sales to be limited to 01.00 am for customers primarily on their way home"*

The Applicant Company has advised that the opening hours of the premises shall be from 07.00 am to 03.30 am every day.

The proposed Operating Schedule stated that:

"All objectives are currently achieved as can be seen by the Premises track record, however the situation is continuously assessed to maintain all licensing objectives in the future"

In each of the boxes relating to the 4 licensing objectives the Applicant Company has stated: *"None beyond current levels of compliance"*

Although the Applicant Company has stated that none of the conditions currently imposed would be removed as a consequence of the proposed variation being sought, it is clear that the condition *"Music played outdoors shall be unamplified and shall cease at 01.00 a.m."* would need to be removed if the application was granted.

The application was properly circulated to all Responsible Authorities. The Police have indicated that they would not make a representation subject to the following conditions (which have been agreed with the applicant Company) being added to the Premises licence:

- All members of staff shall be provided with training in respect of the Premises drugs policy. Such training shall be documented and produced on request to the Police and Licensing Authority
- There shall be clear and legible signage at every entrance point advising that random drugs searches may be conducted and that any person refusing to be searched shall be refused entry to the premises.
- The premises shall be fitted with a police approved drugs box for the deposit of any suspected illegal substances pending police collection and a drugs register to record any items seized and placed in the drugs box. Both shall be located in the reception area of the premises and monitored by CCTV. The register shall be produced on request to the Police or Licensing Authority
- All incidents relating to the premises shall be recorded in a consecutively page numbered, hard back incident book, which shall be stored in the reception area of the premises. A log detailing which members of the door supervisor team are on duty shall also be kept in a separate part of the incident book. The book shall be produced to the police and Licensing Authority on request

A representation has however been received from the Environmental Health Manager in respect of the prevention of public nuisance and public safety. The Officer has expressed concern at the lack of information provided in respect of the provision of entertainment and late night refreshment and the potential noise nuisance that will result should this application be granted.

The representation has been reproduced in full at **Appendix 1B**

The representation was sent to the Applicant Company and their comments invited. The Applicant Company's response has been reproduced in full at **Appendix 1C**. In addition the Applicant Company has provided an article from an American noise study to support his response. This has not been reproduced as it is not directly relevant to this application however the Applicant Company may wish to address Members on this article at the actual hearing.

THE LICENSING POLICY

Members are referred to the following relevant sections of the Council's Licensing Policy which are reproduced at **Appendix 1D**

Sections

6.0 – 6.3	Impact of Licensable Activities
8.0 – 8.5 & 8.72 – 8.8	Prevention of Public Nuisance
9.0 – 9.3	Public Safety

THE GUIDANCE

Members are referred to the Secretary of State's Guidance in relation to the prevention of public nuisance and public safety and the placing of conditions on licences. This has been reproduced at **Appendix 1E**

ADDITIONAL INFORMATION

A map of the premises will be produced at Committee for the benefit of Members.

POINTS FOR CLARIFICATION

Members are referred to the notice of hearing **points for clarification** (See **Appendix 2**). The **Applicant Company** have been asked to provide

- Full details of the types of entertainment to be offered outdoors
- The frequency of outdoor events
- How the noise from outside events will be managed to ensure it is not detrimental to local residents
- The exact location of areas for dancing
- Further information about the provision of late night refreshment & in particular the types of refreshment to be offered and how it will be served

The **Environmental Health Manager** has been asked to provide:

- Detailed information about the proximity of residential properties to the licensed premises and any business premises which are likely to be affected by this application
- Details of any noise complaints relating to the premises.

MEMBERS' OPTIONS

Members may consider the following options:

1. Grant the application subject to the following conditions, which have been derived from the Applicant's Operating Schedule and are in addition to the mandatory conditions for sale of alcohol: (NB these have been re-ordered from the original licence to group similar conditions together and slightly reworded to ensure conditions are not duplicated)
 - (a) The premises must be covered by colour, digital CCTV which meets the requirements and expectations of the Licensing Authority and Police. The equipment is to be operational at all times when the premises are open to the public. All recordings to be retained for a minimum of 28 days and to be made available upon request to the Police or Licensing Authority within a period of 7 days.
 - (b) 2 door supervisors shall be employed from 20.00 hours until closing on Friday and Saturday. Door supervision provision shall be risk assessed by management on all other nights.
 - (c) A written record shall be kept of all training provided to staff showing the date of training and the content covered. This record shall be produced on request to the Police or Licensing Authority.

- (d) The premises shall be fitted with a police approved drugs box for the deposit of any suspected illegal substances pending police collection and a drugs register to record any items seized and placed in the drugs box. Both shall be located in the reception area of the premises and monitored by CCTV. The register shall be produced on request to the Police or Licensing Authority.
- (e) All members of staff shall be provided with training in respect of the Premises drugs policy. Such training shall be documented and produced on request to the Police and Licensing Authority
- (f) There shall be clear and legible signage at every entrance point advising that random drugs searches may be conducted and that any person refusing to be searched shall be refused entry to the premises.
- (g) Searches will be carried out upon entry, to include all bags, to prevent alcohol and other illegal substances from being brought into the premises.
- (h) All incidents relating to the premises shall be recorded in a consecutively page numbered, hard back incident book, which shall be stored in the reception area of the premises. A log detailing which members of the door supervisor team are on duty shall also be kept in a separate part of the incident book. The book shall be produced to the police and Licensing Authority on request
- (i) The Challenge 21 Proof of Age Scheme shall be implemented, requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 21 years of age. A refusals register shall be maintained and made available upon request by a Police Constable or Authorised officer of the Council.
- (j) Children under the age of 5 years will only be permitted entry to the restaurant area after 19.00 hours if supervised by a responsible adult.
- (k) The Police Licensing Officer, Licensing Authority and Local Safeguarding Children's Board to be notified of any under 18 event at least 28 days in advance of the event. Such notification should be from the Premise Licence Holders or Designated Premise Supervisor.
- (l) Events which persons under the age of 18 are permitted to attend may be promoted **only** by the holder of the premises licence. For the avoidance of doubt "promotion" includes the marketing of the event and the sales of tickets.
- (m) Any prior marketing of mixed age or under 18s events (internet, flyers, posters etc) will make it clear that no alcohol will be sold to under 18's, nobody who appears to be drunk will be allowed admission to the event and searches will take place to ensure that no alcohol is brought into the venue. Permissible ages for attendance at the event are to be printed in prominent writing upon any tickets issued.
- (n) All patrons for mixed age or under 18s events where alcohol is available for sale or supply will be given a secure coloured wristband, to differentiate those aged 18 and above and those under 18. The colours of the wristbands to be chosen on the date of the event in question.

THE GRANGE

- (o) Children under 16 years of age shall not be permitted to attend mixed age or under 18s events unless accompanied by a responsible adult. Each responsible adult shall not be responsible for more than 4 such children.
- (p) Any under 18 events will have a terminal hour of no later than 11pm.
- (q) The Premises Licence Holder or Designated Premises Supervisor will ensure that efficient entry and dispersal procedures are in place at mixed age or under 18s events so that young people are not left in a vulnerable position outside the premises.
- (r) The Premises Licence Holder shall ensure that the premises have sufficient numbers of SIA registered staff for mixed age or under 18s events, and that they are employed in the following minimum ratio: two for the first 100 customers, one of which to be female, two for the second 100 customers and one for every 100 customers thereafter. At least one such member of staff being employed as a floorwalker to constantly monitor patrons under the age of 18 for evidence of drink or drugs, and also to protect patrons from unwanted attention or harassment.
- (s) There will be no readmission to the premises of any person under the age of 18 who has left a mixed age or under 18s event.
- (t) A minimum of 2 SIA registered security staff shall act as floorwalkers at mixed age or under 18s events to constantly monitor patrons aged under 18 for evidence of alcohol or drugs and also to protect patrons from unwanted attention or harassment.
- (u) Only one alcoholic drink will be able to be purchased at any one time by an individual aged 18 years or above at mixed age events.
- (v) All drinks at mixed age or under 18s events to be served in plastic or polycarbonate glasses.
- (w) Where alcohol is seized from a person aged under 18, the details of the seizure will be recorded in a register which will be available for inspection by the Police or Licensing Authority upon request.
- (x) Toilet checks will be carried out at regular intervals (a minimum of half hourly) at mixed age and under 18s events and records of such checks retained and be available for inspection by the Police or Licensing Authority upon request.
- (y) First aid provision must be available at the premises.
- (z) An area shall be designated as a safe space, whereby ill or intoxicated persons, including minors, can be taken to a place of safety for medical treatment or in the case of minors until reunited with a parent, guardian or responsible adult.

Members should note that condition 2 of Annexe 2 on the current licence (Music played outdoors shall be unamplified and shall cease at 01.00 a.m) has been removed from the list of conditions.

This is based on Members granting this application in full and including permission for amplified music until 12 midnight outdoors and until 01.00am on the night of New Year's Eve. **If Members choose not to grant the application for outside amplified music then this condition must be added to the list of conditions above.**

2. Place any additional conditions on the licence that Members consider are necessary to address any concerns relating to crime and disorder, public nuisance, public safety and protection of children from harm.
3. Reject all or part of the application

Members are reminded that any aggrieved party (i.e. Applicant Company or Responsible Authority) may appeal any decision of the Licensing Sub Committee to the Magistrates' Courts.

Contact Officer: Pam Ross
Ext 2647

Richard Alty
Director of Services for Place

For admin use only: Date of Sub Committee: 21 September 2012
Sub Committee Decision:

**REVIEW: MODIFY CONDITIONS/EXCLUDE LICENSABLE ACTIVITY/REMOVE
DPS/SUSPEND/REVOKE/NO ACTION**
Reasons:



Licensing

Town Hall, Feethams, Darlington. DL1 5QT
 Tel: (01325) 388562 Fax: (01325) 388555
<http://www.darlington.gov.uk>

PART A

Licensing Act 2003 Premise Licence The Grange

Premises Licence Number	DL09/00077/PREMIS
--------------------------------	--------------------------

PART 1 – PREMISES DETAILS

Premises Details:	THE GRANGE 3 to 6 & 8 Wellington Court Mews, Darlington, DL1 5PD
--------------------------	----------------------------------------------------------------------------

Licence effective from:	13 February 2009	Duration of Licence:	Indefinite
--------------------------------	-------------------------	-----------------------------	-------------------

Authorised Licensable Activities:	Authorised Hours	
Retail sale of alcohol (consumption ON premises)	07:00 - 01:30	Every Day
Regulated Entertainment:	12:00 - 24:00	Every Day
Live Music	09:00 - 02:00	Every Day
Recorded Music		
Late Night Refreshment:	23:00 - 02:00	Every Day

Premises Opening Hours:	07:00 - 02:00	Every Day
--------------------------------	---------------	-----------

Non-standard/seasonal timings: New Year's Eve. Live Music may be provided until 01:00

PART 2

Premises Licence Holder:	BBF 468 Ltd, 9 Pennypot Lane, Eaglescliffe, Stockton-On-Tees
Telephone Number:	0781 2589012
Email address:	david.bbf@hotmail.com
Registered Company No:	6574420

Designated Premises Supervisor:	Mr David William Storer, 9 Pennypot Lane, Eaglescliffe, Stockton-On-Tees
Telephone Number:	0781 2589012
Personal Licence No:	SBC 111035
Issuing Authority:	Stockton Borough Council

Annex 1 Mandatory Conditions:

1. Every Supply of alcohol under the premises licence must be made by or authorised by a person who holds a personal licence.
2. No supply of alcohol may be made under the premises licence:-
 - (a) at a time when there is no Designated Premises Supervisor in respect of the premises licence or
 - (b) at a time when the designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
3. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

- 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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- 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;
- d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
 - i) the outcome of a race, competition or other event or process, or
 - ii) the likelihood of anything occurring or not occurring;
- e) 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.

THE GRANGE

4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
6. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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

7. The responsible person shall 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; and
 - (b) customers are made aware of the availability of these measures
8. Any person acting in the capacity of a Door Supervisor must be registered in accordance with the requirements of the Security Industry Authority.

Annex 2 Conditions consistent with the Operating Schedule and/or converted from the Original Licence(s):

1. The current CCTV system shall be fully operational at all times when the premises are open to the public.
2. Music played outdoors shall be unamplified and shall cease at 01:00
3. 2 Door Supervisors shall be employed from 20:00 hours until closing on Friday and Saturday Door supervision provision shall be risk assessed by management on all other nights.
4. The Challenge 21 Proof of Age Scheme shall be implemented requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 21 years of age. A refusals register shall be maintained and made available upon request by a Police Constable or Authorised Officer of the Council.
5. Children under the age of 5 years will be only be permitted entry to the restaurant area after 19:00 hours if supervised by a responsible adult.

Annex 3 Conditions attached after Licensing Authority Hearing:

1. The Police Licensing Officer, Licensing Authority and Local Safeguarding Children's Board to be notified of any under 18 event at least 28 days in advance of the event. Such notification should be from the Premise Licence Holders or Designated Premise Supervisor.

THE GRANGE

2. The premise to be covered by colour, digital CCTV which meets the requirements and expectations of the Licensing Authority and Police. The equipment to record whilst the event is being held on the premise. All recordings to be retained for a minimum of 28 days and to be made available upon request to the Police or Licensing Authority within a period of 7 days.
3. The operator to ensure that the premises have sufficient numbers of SIA registered staff, and that they are employed in the following minimum ratio: two for the first 100 customers, one of which to be female, two for the second 100 customers and one for every 100 customers thereafter. At least one such member of staff being employed as a floorwalker to constantly monitor patrons under the age of 18 for evidence of drink or drugs, and also to protect patrons from unwanted attention or harassment.
4. The premise Licence Holder or Designated Premises Supervisor will ensure that efficient entry and dispersal procedures are in place so that young people are not left in a vulnerable position outside the premises.
5. Searches will be carried out upon entry, to include all bags, to prevent alcohol and other illegal substances from being brought into the premises.
6. Where alcohol is seized from a person aged under 18, the details of the seizure will be recorded in a register which will be available for inspection by the Police or Licensing Authority upon request.
7. Any prior marketing of the event (internet, flyers, posters etc) will make it clear that no alcohol will be sold to under 18's, nobody who appears to be drunk will be allowed admission to the event and searches will take place to ensure that no alcohol is brought into the venue.

Permissible ages for attendance at the event are to be printed in prominent writing upon any tickets issued.
8. Toilet checks will be carried out at regular intervals (a minimum of half hourly) and records of such checks retained and be available for inspection by the Police or Licensing Authority upon request.
9. First aid provision must be available at the premises.
10. There will be no readmission to the premises of any person under the age of 18 who has left the event.
11. Any under 18 events to have a terminal hour of no later than 23.00 hours
12. An area should be designated as a safe space, whereby ill or intoxicated persons, including minors, can be taken to a place of safety for medical treatment or in the case of minors until reunited with a parent, guardian or responsible adult.
13. Events which persons under the age of 18 are permitted to attend may be promoted only by the holder of the premises licence. For the avoidance of doubt "promotion" includes the marketing of the event and the sales of tickets.
14. A written record shall be kept of all training provided to staff showing the date of training and the content covered. This record shall be produced on request to the Police or Licensing Authority.
15. All patrons for mixed age events where alcohol is available for sale or supply will be given a secure coloured wristband, to differentiate those aged 18 and above and those under 18. The colours of the wristbands to be chosen on the date of the event in question.

THE GRANGE

16. Only one alcoholic drink will be able to be purchased at any one time by an individual aged 18 years or above.
17. Children under 16 years of age should not be permitted to attend the event unless accompanied by a responsible adult. Each responsible adult should not be responsible for more than 4 such children.
18. A minimum of 2 SIA registered security staff acting as floorwalkers to constantly monitor patrons aged under 18 for evidence of alcohol or drugs and also to protect patrons from unwanted attention or harassment.
19. All drinks to be served in plastic or polycarbonate glasses.

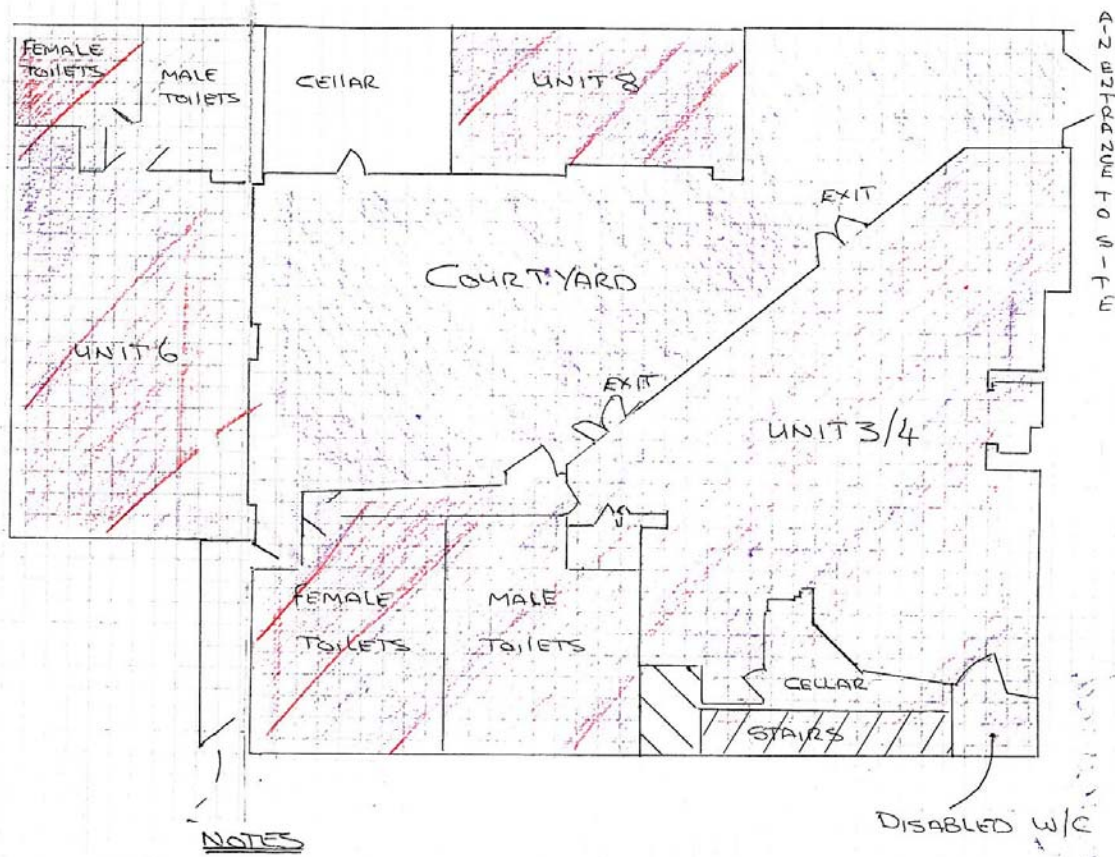
.....
Authorised Officer

Date of Issue: 20 June 2012

In accordance with the application to review the Premise Licence

THE GRANGE

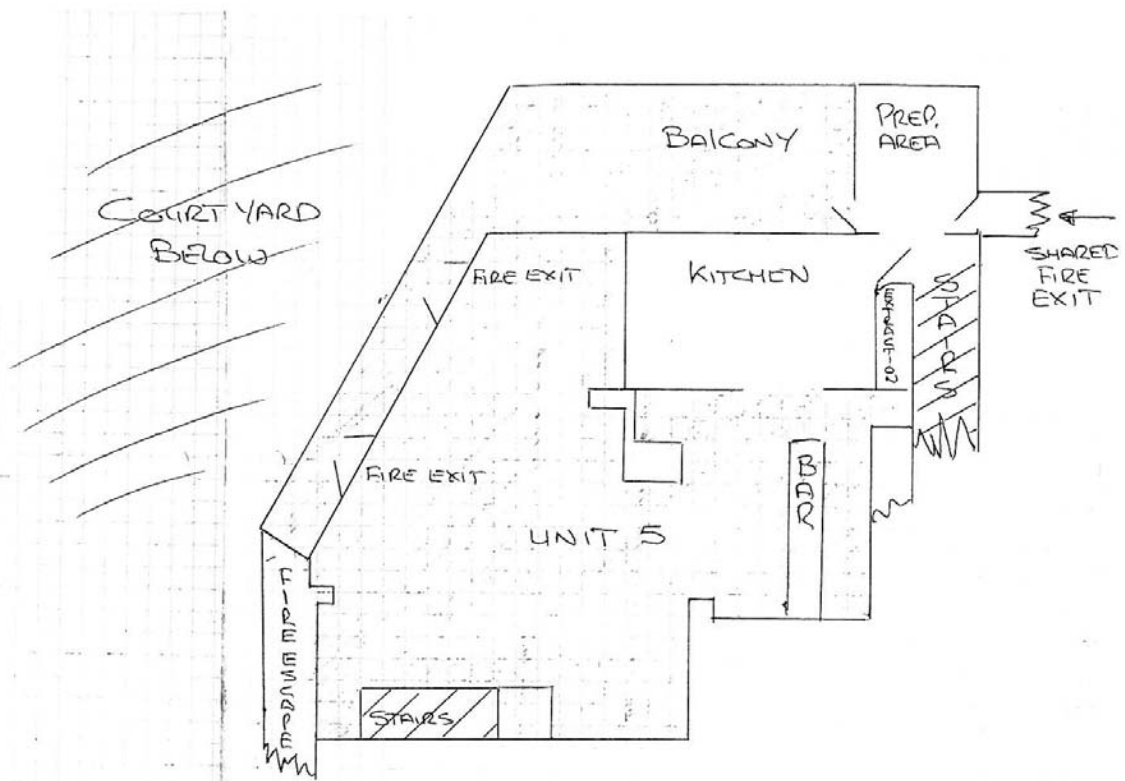
Annex 4 Premise Plan – Ground Floor



~~UNIT 3, 4, 6, 8~~ LICENCED FOR THE SALE OF ALCOHOL

~~UNIT 3, 4, 6, 8~~ AND COURTYARD FOR THE CONSUMPTION OF FOOD AND RECORDED / LIVE AMPLIFIED MUSIC

Annex 4 Premise Plan – First Floor



NOTES

~~UNIT 5~~ FOR THE SALE OF LICENCED ALCOHOL, CONSUMPTION OF FOOD, RECORDED AND AMPLIFIED LIVE MUSIC

THE REPRESENTATION

Representor: Stephen Todd on behalf of Environmental Health Manager

Comments: Based on the Prevention of Public Nuisance and Public safety

With respect to the application for a variation to the licence for the above premises I would like to object on behalf of the Environmental Health Manager. The grounds for the objection are:

A. Prevention of Public Nuisance

1. Insufficient information is provided in the operating schedule to demonstrate how the applicant is going to prevent public nuisance from the external playing of amplified music.
2. Section E refers to "occasional live amplified music" with no information provided on levels of noise, frequency of events, management controls etc
3. The provision of external music at any time until midnight is likely to lead to noise complaints due to the proximity of residences.
4. Section F refers to amplified music with all speakers remaining indoors but this conflicts with Section J which states that there would be ambient outdoor music. The source of this music is unclear.
5. Section J refers to ambient music externally but it is my opinion that should a licence be granted for external music then "ambient " music would become "significant" as it would otherwise not be heard above the level of patrons talking/dancing /singing etc and other extraneous noise sources from Victoria Road and Grange Road
6. Section J refers to the provision of facilities for dancing but no information is provided with regard to levels of noise emanating from customers singing/dancing and what controls are to be in place.

B. Public Safety

1. Section J refers to facilities for dancing and the plans associated with the application show no demarcation between areas where patrons will be standing drinking/sitting/dancing eating. No information is provided in the operating schedule as to how the situation is to be managed.
2. The plans show the kitchen is on the first floor with food being supplied to all areas until 03.30. No information is supplied to show how food is to be delivered safely through busy areas of potentially intoxicated and dancing customers.
3. The plans associated with the application show dancing is to be allowed on the balcony and stairs leading to the first floor with no indication given as to how the risks associated with this activity is to be controlled

Steve Todd
Principal Environmental Health Officer (Commercial).

THE APPLICANT COMPANY'S RESPONSE TO THE REPRESENTATION

Answers/clarification to your objections dated 15/08/12

A PREVENTION OF PUBLIC NUISANCE

- 1) The levels of sound will be monitored by members of staff and management in order to limited nuisance in the form of noise created by amplified music externally until Midnight. To put Dd levels and measuring in place is ineffective as the geography of the actual building, surrounding buildings and levels of bass and treble greatly effect sound travel but we would also be mindful of any issues brought to our attention by local residents. As customers exit the venue at closing time door staff will ask that patrons leave quietly so as not to disturb residents on their journey home.
- 2) Occasional is specified as live music is generally confined to private parties but we would be happy to specify no more than an average of once a month outside and once a week inside. Again noise levels would be controlled by staff and management.
- 3) Please see notes one and two. What are the current levels of noise complaints for other venues having this kind of entertainment?
- 4) The ambient music will be from the buildings adjacent to the courtyard, two of which are open, from the existing sound system installed in 2008.
- 5) The main area of dance is still to be confined to the upstairs and dancing in the courtyard would be of a more spontaneous nature as can currently occur to the back ground level music.
- 6) Customer singing is already restricted by door staff where ever possible to prevent potential "flash points" between customers. The noise created by people dancing is negligible.

B PUBLIC SAFETY

- B1) There is no specific dance floor for general dancing of clients but for performance dance the area would be segregated using tables and chairs to form a boundary / barrier to the dance area.
- B2) Food will only be served from the kitchen hatch area directly to customers. No hot liquids will be served to prevent potential scald injuries.
- B3) There is no dancing on the stairs (The shaded area is not too clear on the photocopied plans). The balcony has railings at 1375mm high and an additional shelf / ledge 500 mm wide which would make it impossible to accidentally fall over the balcony and almost impossible to jump directly from the balcony. Door men also always patrol the upper floor area.

EXTRACTS FROM LICENSING POLICY

6.0 THE IMPACT OF LICENSABLE ACTIVITIES

6.1 **Policy:** When considering whether a licensable activity should be approved the Licensing Authority will, if relevant representations are received, assess the likelihood of it contributing to unacceptable, adverse impact in terms of crime and disorder and public nuisance, in particular to local residents and businesses. Applicants should therefore consider the following when making an application:

- a. The proposed hours and days of operation and how often an activity occurs.
- b. The location of the premises, particularly in relation to residential properties and such places as hospitals, hospices and places of worship.
- c. The number and type of current and future customers.
- d. The means of access and egress to the premises, which ideally should have public access on principal pedestrian routes.
- e. The availability of public transport for patrons arriving at and leaving the premises compared to the anticipated level of private transport usage.
- f. The likely effect of car parking demand on both principal roads and residential streets and the impact this may have on local residents and emergency access.
- g. The need, if any, for provision of portable toilet facilities outside of the premises.
- h. The cumulative impact of licensed premises within the area and the scope for mitigating such impact.
- i. Waste disposal arrangements including bin storage and the collection and containment of litter from the vicinity of the premises.
- j. Public nuisance caused by unauthorised advertising and fly-posting

and, in considering any application from premises which are currently licensed, the Licensing Authority will, if relevant representations are received, take into account any evidence of:

- a. Past demonstrable adverse impact from the activity, particularly on local residents and businesses; or
- b. If adverse impact has been caused, that appropriate measures have been agreed and put into place to address any future adverse impact. If measures are to be put into effect or alternatively if there has been insufficient time to assess their usefulness a licence may be granted for a limited period only.

6.2 **Reason:** To achieve the licensing objective of preventing public nuisance. To promote this objective the Licensing Authority, in considering the likelihood of adverse impact, will, along with other matters, take into account:

- a. The precise nature of the activity, particularly in terms of entertainment, as this may impact in terms of the age of patrons and their behaviour.
- b. Noise levels and type of noise, which may be acceptable during daytime hours but may have greater impact at times when ambient noise levels are much lower.

- c. The impact of patrons arriving, queuing and exiting which should take place on main pedestrian routes rather than through residential areas.
- d. The impact of other sources of nuisance from smells, smoke, refuse storage, vermin and other similar causes of nuisance.

NB Where steps can be taken to mitigate adverse impact and such steps are reliable, practical and robust then an activity may be licensed.

6.3 ADDITIONAL INFORMATION

The Licensing Authority will focus on matters within the control of the individual licensee and the steps they can take to achieve the licensing objectives. In making its decisions the Licensing Authority accepts the difficulties that licence holders face in preventing anti social behaviour once patrons are beyond the direct control of the licensee. However, the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly behave in an anti social way which impacts on local residents and/or businesses. The Licensing Authority recognises the Council's responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder. The aim of this Policy therefore is to achieve a balanced approach to these difficult issues.

8.0 PREVENTION OF NUISANCE

Many parts of this section are directly relevant to the Licensing Objective on the prevention of Crime and Disorder and should be cross-referenced accordingly.

8.1 Location of Premises, Licensing Hours and the Prevention of Nuisance

Policy: The Licensing Authority must strike a fair balance between the benefits to a community of a licensed venue and the risk of disturbance, nuisance and loss of amenity to local residents. Consequently, in certain sensitive areas or appropriate cases, the Licensing Authority may, on the receipt of relevant representations, limit the number of licensed premises and/or restrict the hours of operation. Each application will be considered on its merits, having regard to all available evidence including information within the application itself.

Reason: This Policy is aimed at the fulfilment of the licensing objective of preventing public nuisance.

8.2 ADDITIONAL INFORMATION

When the 2003 Act was first enacted the Government's view was that longer licensing hours should be encouraged in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. The Government also believed that shops and public houses should generally be permitted to sell alcohol during the hours they intend to open. The Government also wished that entertainment providers should be encouraged to provide a range of entertainment during their operating hours, to promote live music, dancing and theatre for the wider cultural benefit the community.

The Licensing Authority acknowledges this view but also considers that it is self evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example the risk of residents' sleep being disturbed by patrons leaving licensed premises is obviously greater at 2am than at 11pm

8.3 LOCATION AND IMPACT OF ACTIVITY

Policy: The Licensing Authority will normally, on the receipt of relevant representations, encourage a closing time of 11pm for licensed premises in predominantly residential areas. Hours of 12 am and beyond will normally be more appropriate for premises located:

- a. In predominantly commercial areas, such as the Town Centre.
- b. Where there is a high level of accessibility to public transport services.
- c. Where there is an appropriate amount of car parking, readily accessible to the premises.
- d. The operating schedule indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance.

Later closing times i.e. beyond 2 am will normally be more appropriate where it can be demonstrated that, in addition to the above:

- a. The licensed activities would not be likely to cause adverse impact especially on local occupiers, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it.
- b. There will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area.
- c. The activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets or on roads.

8.4 **Reason:** This part of the Policy dealing with opening hours is based on a broad distinction between the approach to be taken in certain predominantly commercial areas such as parts of the Town Centre and the rest of the Borough.

8.4.1 Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the highway. It may be exacerbated by patrons being noisy when leaving, leaving litter or taking up on-street car parking space needed by residents. The impact of noise generated by these activities, especially patrons departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

8.4.2 Parts of this Borough are very sensitive to the impact of licensed activities because they are either residential in character or close to residential areas. Many shopping areas are close to residential areas, including housing above commercial premises. The impact of traffic and parking related to licensed premises can be considerable.

Even where a majority of patrons arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents being prevented from parking close to their homes and by increasing the danger from traffic in residential streets.

- 8.4.3 Some commercial areas in the Borough, however, particularly the Town Centre may be more suitable locations for licensed activities, especially those with late opening hours or which attract significant numbers of people. In the Town Centre, more patrons are likely to travel by public transport and licensable activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening particularly when compared with residential areas so that additional noise may be less of a problem.

Nevertheless, late at night, the impact of licensed activities is more likely to be objectionable to residents living within or close to a licensed activity. The ambient noise level is lower so that noise disturbance from activities becomes more probable.

- 8.4.4 Persons who visit entertainment venues, which open beyond the provision of the main public transport services, are more likely to use taxis or private cars or they seek to park in residential streets close to the activity. This Policy allows for later closing times where it can be shown that there will not be an adverse impact.

8.5 ADDITIONAL INFORMATION

This part of the Policy is concerned with whether a proposal is appropriate in a location with particular regard to the impact on any residential areas. In those parts of the Borough, which are predominantly residential, it is anticipated that, in the event of receipt of relevant representations, the normal hours of opening of new licensed activities would be encouraged to be a maximum of 11 pm.

Opening hours of midnight and beyond are more likely to be considered to be acceptable, in principle, for premises in commercial areas with high levels of public transport accessibility. However, in all cases, following the receipt of relevant representations, the granting of a licence will still depend on the impact of an activity, particularly on local residents. It is necessary to consider, amongst other things, the level of impact that could arise from noise and vibration, litter, parking, movement of patrons, crowds and queuing; and whether any impact is particularly unacceptable late at night.

- 8.7.2 **Policy: The Licensing Authority will expect the operating schedule to effectively address the assessments made to minimise noise disturbance, both inside the premises and as patrons are leaving the premises. Operating schedules must also outline the measures identified as being required to prevent nuisance to patrons, local residents and local businesses.**

Reason: One of the greatest causes of annoyance to residents trying to sleep is the noise including music emanating from licensed premises. Such noise might preclude the grant of a licence or, if one has already been granted, for it to be reviewed with a view to possible revocation. It might also lead to a Noise

Abatement Notice being issued under the Environmental Protection Act 1990 and related environmental legislation subject to evidence and circumstances. Responsible Applicants and licensees will wish to avoid the need for such action, as they will wish to comply with the licensing objective of preventing public nuisance.

8.7.3 In addition, residents are frequently disturbed when patrons leave entertainment venues in the early hours of the morning. While licence holders cannot be held solely responsible for the behaviour of their patrons after they have left the premises, they have a duty to put in place such measures that will assist in the quieter exiting and dispersal of such patrons. This is because people leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem. Patrons may be less inhibited about their behaviour and may be unaware of the noise they are creating. This is particularly the case when patrons have been exposed to high levels of sound within the premises, causing them to shout to be heard. Upon leaving the premises there may be then a tendency to continue to shout and this may cause more disturbance, in particular, to local residents.

8.7.4 **ADDITIONAL INFORMATION**

The Licensing Authority will expect the Applicant to propose practical steps to prevent nuisance or disturbance to local residents. In relation to noise from within the building the Licensing Authority will expect the applicant to have carried out a thorough acoustic assessment to ascertain the impact of any sound escaping from the licensed premises. This noise could relate not only to music but also from fixed plant equipment or from patrons themselves. If there is sound escape the Licensing Authority will expect this to have been addressed in practical ways such as:

- a. Working with the Council's Environmental Protection team to establish a suitable noise management scheme.
- b. Keeping doors and windows closed and providing adequate alternative ventilation.
- c. Reducing sound levels and installing a sound-limiting device to prevent sound exceeding the appropriate level.
- d. Installing and maintaining soundproofing measures to contain sound and vibration.
- e. Providing quieter areas for patrons.
- f. In the event of beer gardens or similar outdoor areas, ensuring that amplified music is not relayed to such areas and that these areas are properly screened.

The Licensing Authority will expect popular venues, which attract queues, to formulate a system to avoid disturbance to residents. This can sometimes be achieved by simply ensuring that the direction of the queue is away from any residential accommodation.

8.7.5 Excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. This action can also help stop drug dealers from passing on drugs during the queuing process but the prime purpose is to prevent noise and disturbance.

Door Supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities – where necessary they should be adequately supervised.

- 8.7.6 In terms of patrons leaving the premises particularly late at night or early in the morning the Licensing Authority will expect the applicant to have considered including in the operating schedule such practical steps as:
- a. Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors.
 - b. At appropriate times making loudspeaker announcements to the same effect.
 - c. Instructing door staff to ask customers leaving the premises to leave the area quietly.
 - d. Reducing the volume of music towards the end of the evening and having in place arrangements for playing quieter, more soothing music as the evening winds down.
 - e. Availability of licensed taxis, private hire vehicles or public transport to take patrons from the premises.
 - f. In appropriate cases, requiring Door Supervisors or a Manager to patrol nearby streets to assess for themselves whether there is a problem and how best to deal with it.
 - g. Banning from the premises people who often leave in a noisy fashion.
 - h. Increasing outside lighting levels without causing collateral intrusion.
 - i. Installing outside CCTV systems.
 - j. Where there is a private forecourt, preventing patrons from using it for eating and drinking etc after a specified time.

NB this list is not exhaustive

8.8 LITTERING

Policy: Promotional flyers, advertising leaflets etc should be collected at regular intervals by the licensee or his/her representative and deposited in the premises' own waste bins. At the end of each evening staff should patrol the vicinity, collect all discarded flyers within a 20 metre radius of the premises and deposit them in the premises' own waste bins. Where promotional material is distributed away from the premises concerned the same principle applies, however, at the end of the evening staff must return to the distribution site(s), collect all relevant discarded promotional material and return it to their own premises.

Reason: The aim of this Policy is to prevent public nuisance from littering.

9.0 PUBLIC SAFETY

- 9.1 **Policy:** The Licensing Authority will expect the premises to be constructed and maintained to the highest possible standards of safety. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and, where appropriate, the Technical Standards published by the District Surveyors Association. In particular the Licensing Authority will expect compliance with Fire Safety Legislation in relation to upholstery, curtains and other hanging materials.

Reason: The Licensing Authority expects premises to be constructed with safety in mind and that the operating schedule details how the premises will be properly managed and maintained to ensure public safety at all times. The Licensing Authority will further expect the operating plan to reflect the maximum capacity as determined by the Fire Authority or other relevant legislative body.

9.2 When addressing the issue of public safety, an applicant must demonstrate that those factors that impact on the standards of public safety have been considered. These may include:

- a. The occupancy capacity of the premises.
- b. The age, design and layout of the premises, including means of escape in the event of a fire.
- c. The nature of the licensable activities to be provided, in particular the sale/supply of alcohol, and/or the provision of music & dancing including whether those activities are of a temporary or permanent nature.
- d. The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different).
- e. Customer profile (eg age, disability).
- f. The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

9.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- a. Suitable and sufficient risk assessments.
- b. Effective and responsible management of premises.
- c. Provision of a sufficient number of people employed or engaged to secure the safety of the patrons and the premises.
- d. Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons.
- e. Adoption of best practice guidance (Fire Safety Risk Assessment-Open air events and venues or Large Places of assembly (over 300 persons) or Small places of assembly; The Event Safety Guide, Safety in Pubs published by the BBPA).
- f. Provision of effective digital CCTV in and around premises.
- g. Provision of toughened or plastic drinking vessels.
- h. Implementation of crowd management measures.
- i. Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety.

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003
(REVISED APRIL 2012)**

PURPOSE

- 1.7 The Guidance is provided to licensing authorities in relation to the carrying out of their functions. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of operators of licensed premises, their legal advisers and the general public. It is a key mechanism for promoting best practice, ensuring consistent application of licensing powers across the country and for promoting fairness, equal treatment and proportionality.
- 1.8 The police remain key enforcers of licensing law. The Guidance has no binding effect on police officers who, within the terms of their force orders and the law, remain operationally independent. However, the Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.

LEGAL STATUS

- 1.9 Section 4 of the 2003 Act provides that in carrying out its functions a licensing authority must "have regard" to guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, the guidance cannot anticipate every possible scenario or set of circumstances that may arise and as long as licensing authorities have properly understood the Guidance they may depart from it if they have reason to do so as long as they are able to provide full reasons. Departure from the guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

EACH APPLICATION ON ITS OWN MERITS

- 1.16 Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy where, for example, its effect on cumulative impact is relevant. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

AVOIDING DUPLICATION OF OTHER LEGAL REQUIREMENTS

- 1.17 The licensing authority should only impose conditions on a premises licence or club premises certificate which are appropriate and proportionate for the promotion of the licensing objectives. If other existing law already places certain statutory responsibilities on an employer at or operator of a premise, it cannot be appropriate to impose the same or similar duties on the premises licence holder, or club. It is only where additional and supplementary measures are appropriate to promote the licensing objectives that there will be a requirement for appropriate, proportionate conditions to be attached.

- 2.17 As a part of their duties under the 2003 Act, licence holders have a responsibility to ensure the safety of those using their premises. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.18 A number of matters should be considered in relation to public safety. These may include:
- Fire safety (see paragraphs 2.20 – 2.23);
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.8 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.11, 2.28 to 2.30, Chapter 10 and 10.41 and 10.42.
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.6 above, this may also assist with promoting the crime and disorder objective)
- 2.19 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.36 to 8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

FIRE SAFETY – SPECIAL PROVISIONS IN RESPECT OF LICENSED PREMISES

- 2.20 The Regulatory Reform (Fire Safety) Order 2005 (the 2005 Order) came into force on 1 October 2006 and applies to practically all non-domestic premises. Under it, a 'responsible person' (usually the employer, owner or occupier) is required to carry out a fire risk assessment and put in place suitable and sufficient fire precautions to ensure that the risk to life in the event of a fire is minimised.
- 2.21 To help 'responsible persons' comply with the 2005 Order, the Department for Communities and Local Government (DCLG) makes available a range of technical guidance which explains the risk assessment process and offers detailed practical advice on the range of fire safety measures which will need to be considered to deliver compliance. This, along with information on the law, is available on the DCLG website at: www.communities.gov.uk/firesafety.

- 2.22 The 2005 Order contains special provisions for consultation between the enforcing authority and the licensing authority in respect of licensed premises. These require the licensing authority to give the enforcing authority the opportunity to make representations before issuing a licence. Once a licence is issued, the enforcing authority is required to notify the licensing authority of any enforcement action that it takes in relation to premises which have been licensed. These provisions do not apply in the limited circumstances (i.e. designated sports stands) where the licensing authority and the enforcing authority are the same.
- 2.23 A licence issued by the licensing authority cannot impose any term, condition or restriction relating to fire safety. Fire safety needs to be considered by the responsible person as part of the risk assessment process required by the 2005 Order and enforced by local fire and rescue authorities. In the case of licensed premises, and irrespective of the number of employees on it, the responsible person is required by the 2005 Order to keep a record of the significant findings of their fire safety risk assessment.

ENSURING SAFE DEPARTURE OF THOSE USING THE PREMISES

- 2.25 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
 - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

MAINTENANCE AND REPAIR

- .2.27 Particular care should be taken when undertaking building, construction or improvement works on licensed premises to ensure the safety of those using the premises. Licence holders should adequately assess and mitigate risks associated with any building or construction work so that this work does not compromise the safety of those using the premises.

SAFE CAPACITIES

- 2.28 "Safe capacities" should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.29 It should also be noted in this context that it remains an offence under the 2003 Act to sell or supply alcohol to a person who is drunk. This is particularly important because of the nuisance and anti-social behaviour which can be provoked after leaving licensed premises.

- 2.30 The special provisions made for dancing, amplified and unamplified music in section 177 of the 2003 Act apply only to premises with a “permitted capacity” of not more than 200 persons. In this context, the capacity must be where the fire and rescue authority has made a recommendation on the capacity of the premises under the 2005 Order. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.32 Public safety includes the safety of performers appearing at any premises.

PUBLIC NUISANCE

- 2.33 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.34 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises.
- 2.35 Conditions relating to noise nuisance will normally concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.36 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where the provisions of the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities

- should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.37 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.
- 2.38 Measures to control light pollution will also require careful thought. Bright lighting outside premises considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.39 In the context of preventing public nuisance, it is again essential that conditions are focused on measures within the direct control of the licence holder or club. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, club or premises management cannot be justified and will not serve to promote the licensing objectives. However, premises should have adequate dispersal policies (where appropriate) in place to ensure that customers leave the premises promptly and with minimal disruption to those in the surrounding area.
- 2.40 Beyond the immediate area surrounding the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

WHERE REPRESENTATIONS ARE MADE

- 9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below) the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.
- 10.6 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

- 10.7 In order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities when schedules are being prepared. Proper liaison may avoid the need for representations.
- 10.8 Conditions should be appropriate, proportionate and justifiable in meeting the licensing objectives. They should be written in a prescriptive format and be readily understood and enforceable.
- 10.9 It is also not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention. Conditions should be appropriate for the promotion of the licensing objectives and easily enforceable.

CONSISTENCY WITH STEPS DESCRIBED IN OPERATING SCHEDULE

- 10.10 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.11 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

IMPOSED CONDITIONS

- 10.12 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.
- 10.13 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

Proportionality

- 10.14 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.
- 10.15 Licensing authorities and other responsible authorities should be alive to the in direct costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions

they impose are only those which are appropriate for the promotion of the licensing objectives. Consideration should also be given to wider issues such as conditions already in place that address the potential negative impact on the promotion of the licensing objectives and the track record of the business. The physical safety of those attending such events should remain a primary objective.

Duplication with other statutory provisions

- 10.16 If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate to impose the same or similar duties as conditions.
- 10.17 So, licensing authorities should not seek to impose fire safety conditions that may duplicate any requirements or prohibitions that could be imposed under the Regulatory Reform (Fire Safety) Order 2005 (see Chapter 2).
- 10.18 The 2003 Act does not affect the continued use of inspection and enforcement powers conferred by other legislation; for example, the powers of an environmental health officer in relation to statutory nuisance under the Environmental Protection Act 1990.
- 10.19 However, these general duties will not always adequately address specific issues that arise on the premises in connection with, for example, certain types of entertainment. It is only where additional and supplementary measures are appropriate to promote the licensing objectives that conditions will need to be attached to a licence.

Hours of trading

- 10.20 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.21 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.22 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

**LICENSING ACT 2003
NOTIFICATION OF HEARING
(Regulations 6 and 7)**

Date of Notification: 05 September 2012

Type of Hearing: Application to Vary Premises licence

Premises: **The Grange**
3 and 6-8 Wellington Mews
Darlington, DL1 5PD

Hearing Details: 9.30 am Friday 21 September 2012

Location: Darlington Borough Council,
Town Hall, Darlington,
DL1 5QT

Copy of notice sent to: BBF 468 Ltd (Licence holder)
Environmental Health (Representor)

Attendance: All parties may attend this hearing. You may find it useful to be accompanied by your legal representative(s) or any other person who may be able to assist you. Please complete the attached form at **Appendix 2A** and return to the Licensing Section **no later than 12 noon on Friday 14 September 2012**

Non-attendance: If you notify the Licensing Authority that you will not be attending this hearing and that you will not be legally represented in your absence, the hearing may proceed in your absence. If you do not notify your non-attendance and then do not attend this hearing the Licensing Sub Committee will decide whether it is in the public interest to adjourn the hearing to enable you to attend or whether to hold the hearing in your absence. If the hearing does proceed in your absence your representations will still be considered.

Procedure at the Hearing: You will find attached, at **Appendix 2B**, the procedure that will be followed at the Hearing. The Hearing will take place in public unless it is deemed in the public interest to exclude the public or any party to the Hearing from all or part of the Hearing. If a party is excluded from the Hearing (s)he will be able to provide written information to cover any verbal representations (s)he may have made if (s)he had not been so excluded. The Hearing will take the form of a discussion and each party will be permitted an equal period of time to provide information, make comment and express their views.

Withdrawal of Representations: Anyone wishing to withdraw representations should do so as soon as possible. Although this can be done at the Hearing, you are requested, where possible, to give at least 24 hours notice as it may no longer be necessary for the Hearing to proceed.

Outcome of Hearing: A decision will be made at the end of the hearing, although this may take some time.

Points for Clarification: The Licensing Authority considers that the following matters will need to be clarified by the **Applicant Company** at the Hearing

- Full details of the types of entertainment to be offered outdoors
- The frequency of outdoor events
- How the noise from outside events will be managed to ensure it is not detrimental to local residents
- The exact location of areas for dancing
- Further information about the provision of late night refreshment & in particular the types of refreshment to be offered and how it will be served.

The Licensing Authority considers that the following matters will need to be clarified by the **Environmental Health Manager** at the Hearing:

- Detailed information about the proximity of residential properties to the licensed premises
- Details of any noise complaints relating to the premises.

:



Regulatory Services
 The Town Hall, Feethams, Darlington DL1 5QT
 Tel: 01325 388799
 Fax: 01325 388555
 Email: licensing@darlington.gov.uk

NOTICE OF ATTENDANCE

Please complete the following notice in block capitals and return to the address detailed below:

DATE OF HEARING: 09.30 am - Friday, 21st September 2012

NAME OF PREMISES: The Grange, 3 and 6-8 Wellington Mews, DL1 5PD

YOUR NAME: _____

I WILL* I WILL NOT* BE ATTENDING THE HEARING

I WILL* I WILL NOT* LEGALLY REPRESENTED

NAME OF LEGAL REPRESENTATIVE (IF APPROPRIATE):

I DO* I DO NOT CONSIDER A HEARING TO BE NECESSARY

(*delete as appropriate)

If you wish to be accompanied by any other person please provide details of their name and an outline of what they wish to say and how this will assist you:

Name

Details

Please return to: Mrs P Ross
 Licensing and Parking Manager
 Darlington Borough Council
 Town Hall
 Feethams
 DARLINGTON
 DL1 5QT

LICENSING SUB COMMITTEES

FULL HEARING PROCEDURE FOR APPLICATIONS FOR PREMISES LICENCES/CLUB PREMISES CERTIFICATES WHERE RELEVANT REPRESENTATIONS HAVE BEEN RECEIVED

1. The Chair will welcome all parties who are present and introduce the Members. The Chair will explain to the parties at the beginning of a hearing the procedure that it is proposed to follow. The hearing will take the form of a discussion. Cross-examination will not be permitted without the consent of the Chair.

Any Members who know the Applicant or any of the objectors will declare this fact and not take part in the hearing of the application. This is in addition to the declaration of any personal or prejudicial interest.

(NB The Secretariat will endeavour to ensure that Ward Members and Members that are personally known to the Applicant are not included on the Sub Committee).

All hearings will usually be in public. The Sub-Committee may, however, exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

The Licensing Manager will outline the application

2. The Representer's Case

NB: Where representations come from "Other Persons", i.e. local residents or businesses or representatives of such groups, the Sub-Committee will expect that wherever possible a spokesperson be elected to speak on behalf of the group. This person will make the application. At the conclusion of the application the Chair will ask the group if there is any information which is additional to the application made by the spokesperson and if so will permit this information to be given.

- [1] The Representer or his/her representative will give their reasons for objecting to the application.
- [2] The Representer or his/her representative will then call any witnesses and/or give reasons for his/her objection.
- [3] The Applicant or his/her representative may then question the Representer [if he/she has given evidence] and any witnesses.
- [4] The Chair or any member of the Licensing Sub Committee, through the Chair, may ask questions of the Objector and any witnesses.

If several objections have been received and the Representors have not agreed to present their objection jointly, this procedure will normally be repeated for each individual Representer

3. The Applicant's Case

- [1] The Applicant or his/her representative presents his/her application for a licence
- [2] The Applicant or his/her representative will then call any witnesses and/or give evidence in support of his/her application.
- [3] The Representors may then question the Applicant if he/she has given evidence and any witnesses.
- [4] The Chair or any Member of the Licensing Sub-Committee through the Chair will ask questions of the Applicant and any witnesses.
- [5] The Applicant or his/her representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

4. The Applicant will be asked by the Chair of the Sub-Committee whether, in the light of the information heard in relation to the application, (s)he wishes to amend the application, as when they retire, Members will consider only the information before them at that time.

If the Applicant wishes to amend the application or indicates that (s)he is prepared for Members to consider an amended application if they are minded to refuse the original application, the Objectors will be given the opportunity to comment on the amended application.

5. Closing Statement or Summary

- [1] By or on behalf of the Representors - The Representors may summarise any points they wish to make and comment briefly on the Applicant's replies to questions. They cannot introduce new issues.
- [2] By or on behalf of the Applicant - The Applicant will be invited to summarise any points they wish to make and comment briefly on the Representors' replies to questions. They cannot introduce new issues

6. Conclusion

All decisions will be made in private

If Members, when considering the application, are minded to grant on a different basis than that requested, the Applicant, the Responsible Authorities and Interested Parties will be asked for their views, which will be taken into consideration.

The Legal Officer will repeat, in summary form, any legal advice given to Members when the public is re-admitted.

If the Licensing Sub-Committee has excluded the public, once a decision has been reached the press and public will be re-admitted to the meeting together with the Applicant, Responsible Authorities and Other Persons. At this stage, the Chair will announce the Sub-Committee's decision, will give reasons for the decision and advise all parties of rights of appeal. The decision will subsequently be formally notified to the Applicant(s), Responsible Authorities and Other Persons in writing, including their rights of appeal as soon as possible after the Hearing.