

FOR CHAIR AND MEMBERS
OF THE LICENSING SUB COMMITTEE
FOR 20 JUNE 2012

APPENDIX 1

APPLICATION TO REVIEW PREMISES LICENCE

Licence holder	BBF 468 LTD	Ref No: DL09/00077/PREMIS
Premises:	3 and 6 to 8 WELLINGTON COURT MEWS DARLINGTON, DL1 5PD	
Licensable Activities:	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 04.00 Every Day
	Recorded Music:	09.00 to 02.00 Every Day
	Late Night Refreshment	23.00 to 02.00 Every Day
Police Application	Review of Premises Licence on the grounds of crime and disorder and the protection of children from harm	

Notification to Responsible Authorities/Interested Parties:

The Chief Constable's representative has served notice of this application to the following:

Chief Fire Officer	Trading Standards Manager
Planning Manager	Local Safeguarding Children Board
Environmental Health Manager	(Public Safety and Public Nuisance)
The Licence Holder	The Licensing Authority

Information on the Premises	24 April 2012
Information on Council's web site:	26 April 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 GRANGE

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 Tomatoe 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.

THE GRANGE

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.

THE CURRENT CONDITIONS ON THE PREMISES LICENCE

In accordance with the operating schedule 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 am
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.

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

THE APPLICATION FOR REVIEW

On 23 April 2012 an application was received from Durham Constabulary for a review of the premises licence based on the prevention of crime and disorder and the protection of children from harm. In summary the Police grounds for review are as follows:

"The need to protect children from harm and to prevent consequent crime and disorder have been highlighted by a 16+ event held at "The Grange" on 15th February 2012, which was characterised by chaotic organisation, inebriation of children which the event promoters openly encouraged, and resultant disorder both inside and outside the premises".

The application for the review has been reproduced in full at **Appendix 1B** along with the police bundle of evidence.

The application was review was properly circulated to all Responsible Authorities and also to the Licence Holder and was also advertised as required on the Council's website and on the premises. As a result a further 2 representations have been received as follows:

On 17 May 2012 a representation was received from Darlington Safeguarding Children's Board based on the protection of children from harm. In summary the Board expressed concern that despite guidance and involvement from both themselves and the Police to those concerned with managing The Grange, the event that has prompted the Police application for review took place with the results described within the police documentation. The representation has been reproduced in full at **Appendix 1C** along with the Guidance that the Board suggests is adhered to for any such future events.

On 17 May 2012 a representation was received from Councillor Cyndi Hughes based on the Protection of Children from Harm. In summary she has spoken with children who attended the event, their parents, the event organiser and also recounts her own first hand observations of incidents outside the premises on the evening of the event and expresses concern at the lack of duty of care shown by the licence holders.. The representation has been reproduced in full at **Appendix 1D**.

THE LICENCE HOLDER'S RESPONSE TO THE REVIEW APPLICATION

All representations have been sent to the licence holder for comment. At the time of preparing this report no response had been received. Should a response arrive after this report is distributed a verbal update will be given to Members at the hearing.

THE LICENSING POLICY

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

Section 10-10.4.	Prevention of Crime and Disorder	Effect in Vicinity/ presence of Personal licence holder.
Section 11-11.2.3 & 11.5.3	Protection of Children form Harm	Additional controls

THE GUIDANCE

Members are referred to the Secretary of State's Guidance in relation to the prevention of crime, protection of children and the review process. This is reproduced at **Appendix 1F**. Members' attention is particularly drawn to section 2.48 which states:

Licensing authorities should give considerable weight to representations about child protection matters.

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 **Police** have been asked to provide an update on crime and disorder and child protection issues in respect of the premises.

The **Licence holder** has been asked to clarify the Company's position in relation to the following:

- Details of how he will ensure that alcohol is not sold to underage children
- Details of how the premises are generally managed
- Details of how events involving the admission of young people under the age of 18 years will be managed
- Details of the training provided to staff in relation to sales of alcohol and admission of underage persons.

MEMBERS' OPTIONS

Members may consider the following options:

1. To modify the conditions on the licence – i.e. to alter, remove or add additional conditions that they consider appropriate to promote the crime prevention or child protection licensing objectives
2. To remove the Designated Premises Supervisor
3. To suspend the entire licence for a period not exceeding 3 months
4. To revoke the licence
5. To take no action against the licence

If Members are minded to add additional conditions that they believe are appropriate to promote the licensing objectives detailed above, Members may wish to consider the guidance referred to by the Safeguarding Children Board at **Appendix 1C**.

Members are reminded that any party to the review who is aggrieved at the decision of the Licensing Sub Committee (i.e. Premises Licence Holder, Police, Darlington Safeguarding Children's Board or Councillor Hughes) may appeal the decision to the Magistrates Courts. In the event of such appeal any determination by the sub committee will not take effect until the appeal is disposed of

Contact Officer: Pam Ross
Ext 2647

Richard Alty
Director of Place

For admin use only:
Sub Committee Decision:

Date of Sub Committee: 20 June 2012

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