

FOR CHAIR AND MEMBERS  
OF THE LICENSING ACT SUB COMMITTEE  
FOR 10 JUNE 2013

**APPENDIX 1**

**APPLICATION TO VARY A PREMISES LICENCE**

**Applicant:** GRANGE BARS LTD      **Ref No:** DL12/01590/PRETRA  
**Premises:** SLOAN'S  
20-22 GRANGE ROAD  
DARLINGTON, DL1 5NG

**Current Licensable Activities:**

- **Sale of Alcohol for consumption ON & OFF the Premises**
- **Regulated Entertainment (recorded music)**

**Current Hours:**

<b>Sale of alcohol:</b>	10.00 - 24.00	Sunday to Thursday
	10.00 - 01.00	Friday & Saturday

**Regulated Entertainment:**

<b>recorded music:</b>	10.00 - 00.30	Sunday to Thursday
<b>(Background)</b>	10.00 - 01.30	Friday & Saturday

<b>Premises opening hours</b>	10.00 - 00.30	Sunday to Thursday
	10.00 - 01.30	Friday & Saturday

**Requested Additional licensable Activities:**      **Provision of facilities for dancing**

**Requested Hours:**

<b>Sale of alcohol:</b>	10.00 - 24.00	Sunday to Thursday
	10.00 - 02.00	Friday & Saturday

**Recorded music & Dancing:**

	10.00 - 00.30	Sunday to Thursday
	10.00 - 02.30	Friday & Saturday

**Premises opening:**

	10.00 - 00.30	Sunday to Thursday
	10.00 - 02.30	Friday & Saturday

**Nature of Variation:**

- To add dancing to the licensable activities
- To extend the terminal hour for all licensable activities by one hour on Friday & Saturday
- To extend the premises opening hours by one hour on Friday & Saturday
- To remove the stipulation that recorded music should be background music only

**Notification to Responsible Authorities:**

Chief Constable	Environmental Health Manager (Public Safety and Public Nuisance)
Licensing Authority	
Chief Fire Officer	Trading Standards Section
Planning Manager	Safeguarding Children Board
Director of Public Health	

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<b>Information on Council's Website:</b>	<b>18 April 2013</b>
<b>Advertisement in Darlington &amp; Stockton Times:</b>	<b>26 April 2013</b>

## **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 application was originally made the Applicant Company described the premises as follows: "these premises comprise a public bar on the 1st floor"

## **BACKGROUND**

On 25 April 2012 an application was made for a Premises Licence, by Osbourne Leisure Ltd, in respect of Osbourne's 20-22 Grange Road Darlington DL1 5NG, in accordance with Section 17 of the Licensing Act 2003. The application was properly advertised as required by the 2003 Act and, as a result concerns were initially expressed by two Responsible Authorities, namely the Police and Environmental Health and also 8 other persons (formerly known as "Interested Parties"). As a result of this the Applicant Company submitted further plans on 28 May 2012. The original "Other Persons" were advised that their representations would be carried forward to this new application unless they advised that they no longer wished to pursue their representations. The original advertisement placed on the Council's website remained in place throughout both periods of consultation.

The Police subsequently withdrew their representation based on agreement with the Applicant Company that specific conditions would be applied to any grant of licence. These conditions were more detailed than those originally proposed in the operating Schedule. In addition, the representation from Environmental Health was also withdrawn based on agreement with the Applicant Company that an occupancy figure of 110 (which accommodates the limited toilet provision) would become an agreed condition also

The representations from 7 "other persons" were in respect of the prevention of crime and disorder and the prevention of public nuisance. These were considered by the Licensing sub Committee at a hearing on 19 July 2012. Members were advised that an application for live music had been withdrawn by the applicant Company prior to the hearing. Members also considered what weight should be given to each of the representations from interested parties. Members decided to grant the application subject to conditions that had been agreed prior to the hearing and also an additional condition that was imposed by Members in respect of door staff provision. The current licence is appended as **Appendix 1A** for the attention of Members.

On 25 July 2012 the Licensing Section received a letter from the legal representative of the then Applicant Company requesting that the name of the premises be changed from Osbourne's to Sloan's. This was duly processed.

On 17 October 2012 an application was received to transfer the Premises Licence from Osbourne Leisure Ltd to Grange Bars Ltd. The Police, who are the only statutory consultee in respect of such an application, did not object and the transfer was duly granted with effect from 18 October 2012. Officers understand that this was simply a change of company name and that the same people are responsible for the premises.

On 15 November 2012 an application was received from the Applicant Company for a minor variation - to increase the capacity of the premises from 110 to 132. On 29 November 2012 the Applicant Company withdrew this application.

On 16 March 2013 Licensing Officers, accompanied by Durham Licensing Police, attended the premises at the request of Environmental Health and found that there were breaches of the licence conditions in respect of overcrowding, recorded music being played above background level and other breaches. Officers also found a person smoking on the premises. As a result officers issued the Company with a written warning. This was forwarded to Environmental Health reflecting the issue of smoking on the premises, noise and capacity issues. Members will note that a copy of this warning has been attached by the Environmental Health Officer as part of their representation in respect of this new application.

On 16 April 2013 an application was properly made in accordance with Section 34 of the Licensing Act 2003 to vary the premises licence to permit dancing to be included as a licensable activity, to remove the requirement that recorded music should be limited to background music and to extend the terminal hour for sale of alcohol and regulated entertainment by one hour on Fridays and Saturdays. The application was circulated to the Responsible Authorities and duly advertised. As a result one representation was received from a Responsible Authority (Environmental Health) and one from two "Other Persons", namely local businesses (one of a similar nature) located in the vicinity of these premises. The representations have been summarised below and are reproduced in full at **Appendix 1B**.

## THE REPRESENTATIONS

On 08 May 2013 a representation was received from the Environmental Health Manager on the grounds of public safety and the prevention of public nuisance. In summary he advises that complaints have been received from adjacent businesses in respect of noise nuisance and expresses concern at the breaches occurring at the premises including smoking on the premises and over-capacity. This representation is reproduced in full as **Appendix 1B(i)**

On 01 May 2013 a representation was received from Mr Neal Curry, Company Director of Prego Café and Wine Bar on the basis of the prevention of public nuisance. In summary he advises he has made repeated noise complaints to the management team at the premises and to the Council and also expresses concern at the likely effect this application will have on the vicinity. The representation is reproduced in full as **Appendix 1B(ii)**

On 13 May 2013 a representation was received from Matthew & Emma Robertson, Directors of Truffles Restaurant which is immediately below Sloan's on the basis of the prevention of public nuisance. In summary they advise that while they do not object to the extension of hours they have concern at the likely effect this application will have on their business in terms of noise nuisance and also at issues in respect of the increase in occupancy. The representation is reproduced in full as **Appendix 1B(iii)**

## THE OPERATING SCHEDULE

The Operating Schedule details the additional steps that will be taken to promote the four licensing objectives if the application is granted. The Applicant Company has stated in this application in the section relating to the prevention of public nuisance:

“Sound monitoring to take place to ensure music levels are acceptable”

Members are aware that the Operating Schedule can be turned into conditions and placed upon any grant of licence. Members will however note that there is already a condition on this premises licence requiring this check to be undertaken as follows:

*“The Designated Premises supervisor shall undertake sound checks at regular intervals to monitor sound leakage from the building on each occasion when regulated entertainment is taking place. These checks shall be documented and produced to the Police and Authorised Officers of the Council upon request.”*

## THE LICENSING POLICY

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

Section 6.1 – 6.3	Public Nuisance/Crime and Disorder (Impact of Licensable Activities)
Section 8.0 - 8.5	Public Nuisance -Location of Premises/impact of Activity
Section 8.7.2 – 8.7.6	Public Nuisance - Reducing noise disturbance
Section 9.2-9.3	Public Safety
Section 12.4	Additional Conditions

A full copy of the policy will be available at Committee should Members wish to access it.

## THE GUIDANCE

Members are referred to the Secretary of State's Guidance particularly in relation to public safety and the prevention of public nuisance, conditions on licences and dealing with representations. This is reproduced at **Appendix 1D**.

## ADDITIONAL INFORMATION

A map of the area will be produced for Members at this hearing identifying the proximity of any nearby licensed premises.

## POINTS FOR CLARIFICATION

Members are referred to the notice of hearing **points for clarification** (See **Appendix 2**). The **Environmental Health Manager** has been asked to provide:

- Full details of noise complaints in respect of the premises and the outcome of any subsequent investigations

The **Other Persons** have been asked to provide:

- Specific details of noise issues from the premises that have adversely affected their premises

The **Applicant Company** has been asked to provide the following:

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- Details of the management controls in place to ensure compliance with the licence conditions
  - An explanation for the breaches of licence found when Licensing Officers visited in March 2013
  - Details of how noise will be managed to ensure neighbours are not disturbed
  - Details of how the exiting of patrons later at night will be managed to ensure that there is not an adverse impact within the vicinity of the premises.

## **MEMBERS' OPTIONS**

Members may consider the following options

Grant the application subject to the following conditions, which are currently on the licence and are in addition to the mandatory conditions for sale of alcohol:

- (i) A digital CCTV system complying with Durham Constabulary's Minimum Standards for Licensed Premises will be installed and in operation at all times the premises are being used for licensable activities. It must be operated by properly trained staff. The system shall cover the public entrances and also the 2 fire exits for the premise, in addition to any points of sale and other areas to which the public have access, with particular regard to those areas which may not be visible from the bar area. Recordings must be kept secure where they cannot be tampered with and retained for a period of no less than 31 days. Recordings must be available on request to the Local Authority or Durham Constabulary and be provided within 14 days of any such request
- (ii) The Licensee will be responsible for providing regular staff training, to include an understanding of the conditions attached to the premise licence in addition to general licensing law. This training will be provided to all new staff members and refresher training provided on a minimum of a quarterly basis. Such staff training will be recorded in a register to include the signature of the member of staff and the licensee. This register will be available for immediate inspection by the Local Authority or Durham Constabulary upon request
- (iii) Documentation must be displayed advising that a Challenge 21 age verification policy is in operation at the premises and that all individuals who appear to be under the age of 21 will be requested to provide identification before being served alcohol, and that failure to do so will result in the refusal of the sale of alcohol. Identification must bear their photograph, date of birth and a holographic mark that shows they are 18 years of age or over.
- (iv) A register will be maintained of any refusals to serve alcohol. This register will be made available for immediate inspection by the Local Authority or Durham Constabulary upon request.
- (v) The premise will maintain an incident book to record all instances of violence or disorder, or where persons are requested to leave the venue due to their unacceptable behaviour. This incident book will be signed by a staff member upon each entry and made available for immediate inspection by the Local Authority or Durham Constabulary upon request.
- (vi) The capacity of the premises shall not exceed 110. The Licensee shall implement a procedure for monitoring the number of people present in the premises to ensure that the capacity stated in (1) is not exceeded
- (vii) The designated premises supervisor or another designated representative of the Applicant Company shall attend and actively participate in the Darlington Pub Watch scheme.

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- (viii) The Designated Premises supervisor shall undertake sound checks at regular intervals to monitor sound leakage from the building on each occasion when regulated entertainment is taking place. These checks shall be documented and produced to the Police and Authorised Officers of the Council upon request.
  - (ix) Clear and legible signage shall be prominently displayed at each exit advising customers of the need to leave the premises quietly.
  - (x) All deliveries shall take place during the hours of 9.00 am and 4 pm.
  - (xi) The Designated Premises supervisor shall ensure that glassware of any kind is not taken outside of the premises by patrons.
  - (xii) Children under the age of 16 years shall not be permitted in the premises after 19.00 hours.
  - (xiii) Young persons between the ages of 16-18 years who are supervised by a responsible adult shall be permitted at the discretion of the Designated Premises supervisor".
  - (xiv) A minimum of 2 door staff shall be employed from 9 pm until the close of the premises each Friday and Saturday. At bank holiday weekends this shall extend to include Sundays also.
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 (ie Applicant Company, Responsible Authority or Other Person) may appeal any decision of the Licensing Sub Committee to the Magistrates' Courts.

Contact Officer: Pam Ross  
Ext 2647

**Richard Alty**  
**Director of Place**

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**For admin use only:** **Date of Sub Committee: 10 June 2013**  
**Sub Committee Decision:**

**GRANT ALL/PART OF APPLICATION/REJECT ALL/PART OF APPLICATION/ PLACE CONDITIONS**

**Reasons:**

## APPENDIX 1A

**Licensing****PART A**

Town Hall, Feethams, Darlington. DL1 5QT

**Tel: (01325) 388562 Fax: (01325) 388555**<http://www.darlington.gov.uk>

Licensing Act 2003 Premises Licence

**SLOAN'S**

<b>Premises Licence Number</b>	<b>DL13/00597/VARDPS</b>
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**PART 1 – PREMISES DETAILS**

<b>Premises Details:</b>	<b>Sloan's</b> <b>22 Grange Road, Darlington, DL1 5NG</b>	
<b>Licence effective from:</b>	<b>8 April 2013</b>	<b>Duration of Licence: Indefinite</b>
<b>Authorised Licensable Activities:</b>	<b>Authorised Hours</b>	
<b>Retail sale of alcohol</b> <b>(consumption ON AND OFF premises)</b>	<b>10:00 - 24:00</b>	<b>Sunday to Thursday</b> <b>10:00 - 01:00</b> <b>Friday to Saturday</b>
<b>Regulated Entertainment:</b> <b>Recorded Music (Background)</b>	<b>10:00 - 00:30</b> <b>10:00 - 01:30</b>	<b>Sunday to Thursday</b> <b>Friday to Saturday</b>
<b>Premises Opening Hours:</b>	<b>10:00 - 00:30</b> <b>10:00 - 01:30</b>	<b>Sunday to Thursday</b> <b>Friday to Saturday</b>
<b>Non-standard/seasonal timings:</b>	<b>None</b>	

**PART 2**

<b>Premises Licence Holder:</b>	<b>Grange Bars Ltd.</b> <b>20 Blackfriars, Yarm, TS15 9HG</b>
<b>Telephone Number:</b>	<b>07807 039099</b>
<b>Registered Company Number:</b>	<b>08063186</b>
<b>Designated Premises Supervisor:</b>	<b>Mr Joel Lewis Walsh</b>
<b>Personal Licence No:</b>	<b>SBC 124083</b>
<b>Issuing Authority:</b>	<b>Stockton Borough Council</b>

**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.
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



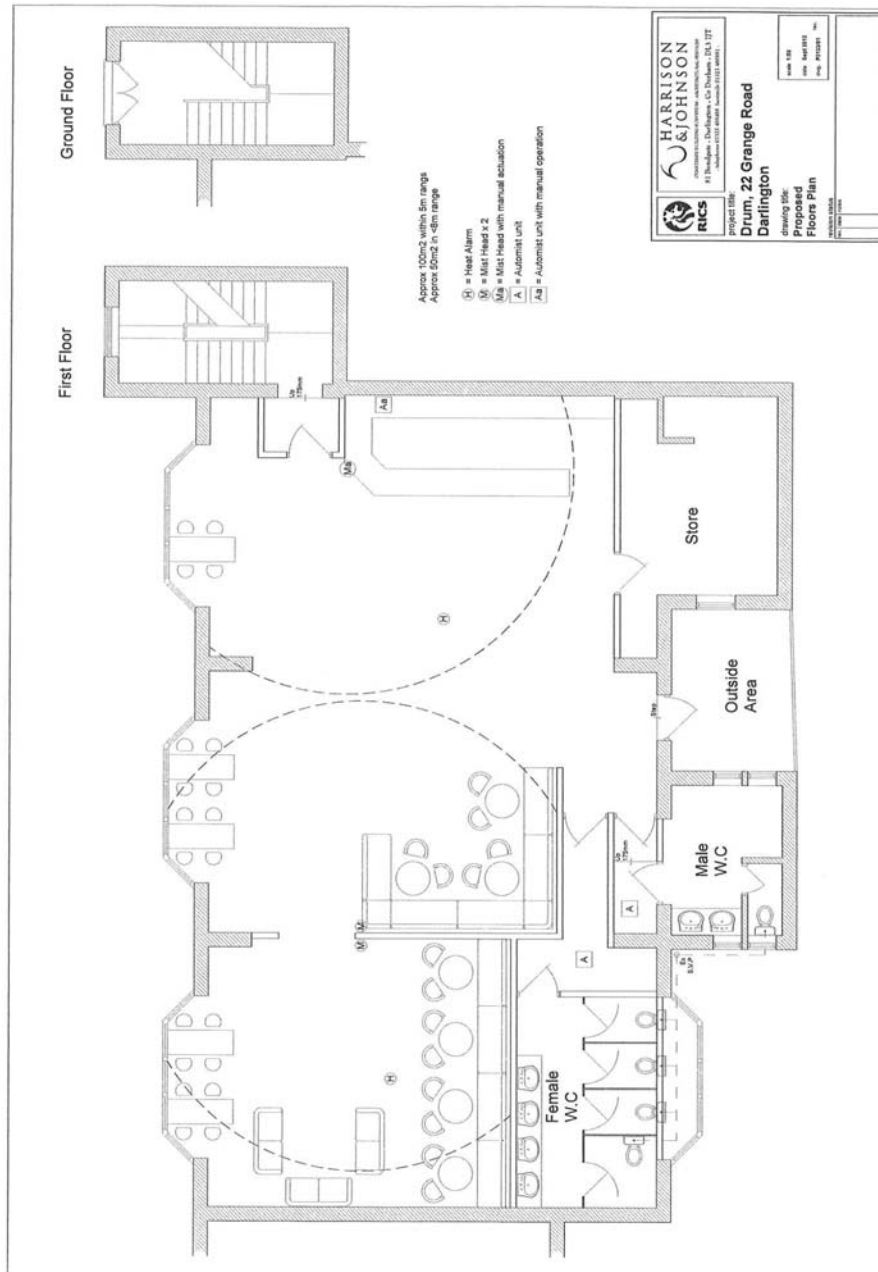
## **Annex 2 Conditions consistent with the Operating Schedule and/or converted from the Original Licence(s):**

- (i) A digital CCTV system complying with Durham Constabulary's Minimum Standards for Licensed Premises will be installed and in operation at all times the premises are being used for licensable activities. It must be operated by properly trained staff. The system shall cover the public entrances and also the fire exits for the premise, in addition to any points of sale and other areas to which the public have access, with particular regard to those areas which may not be visible from the bar area. Recordings must be kept secure where they cannot be tampered with and retained for a period of no less than 31 days. Recordings must be available on request to the Local Authority or Durham Constabulary and be provided within 14 days of any such request.
- (ii) The Licensee will be responsible for providing regular staff training, to include an understanding of the conditions attached to the premise licence in addition to general licensing law. This training will be provided to all new staff members and refresher training provided on a minimum of a quarterly basis. Such staff training will be recorded in a register to include the signature of the member of staff and the licensee. This register will be available for immediate inspection by the Local Authority or Durham Constabulary upon request.
- (iii) Documentation must be displayed advising that a Challenge 21 age verification policy is in operation at the premises and that all individuals who appear to be under the age of 21 will be requested to provide identification before being served alcohol, and that failure to do so will result in the refusal of the sale of alcohol. Identification must bear their photograph, date of birth and a holographic mark that shows they are 18 years of age or over.
- (iv) A register will be maintained of any refusals to serve alcohol. This register will be made available for immediate inspection by the Local Authority or Durham Constabulary upon request.
- (v) The premise will maintain an incident book to record all instances of violence or disorder, or where persons are requested to leave the venue due to their unacceptable behaviour. This incident book will be signed by a staff member upon each entry and made available for immediate inspection by the Local Authority or Durham Constabulary upon request.
- (vi) The capacity of the premises shall not exceed 110. The Licensee shall implement a procedure for monitoring the number of people present in the premises to ensure that the capacity is not exceeded.
- (vii) The designated premises supervisor or another designated representative of the Applicant Company shall attend and actively participate in the Darlington Pub Watch scheme.
- (viii) The Designated Premises supervisor shall undertake sound checks at regular intervals to monitor sound leakage from the building on each occasion when regulated entertainment is taking place. These checks shall be documented and produced to the Police and Authorised Officers of the Council upon request.
- (ix) Clear and legible signage shall be prominently displayed at each exit advising customers of the need to leave the premises quietly.
- (x) All deliveries shall take place during the hours of 9.00 am and 4 pm.
- (xi) The Designated Premises supervisor shall ensure that glassware of any kind is not taken outside of the premises by patrons.
- (xii) Children under the age of 16 years shall not be permitted in the premises after 19.00 hours.
- (xiii) Young persons between the ages of 16-18 years who are supervised by a responsible adult shall be permitted at the discretion of the Designated Premises supervisor"

## **Annex 3 Conditions attached after Licensing Authority Hearing:**

- (i) A minimum of 2 door staff shall be employed from 9 pm until the close of the premises each Friday and Saturday. At bank holiday weekends this shall extend to include Sundays also.

# Annex 4 Premises Plan



In accordance with the application to transfer the Premise Licence.

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Date of Issue: 18 October 2012

**Authorised Officer**

## REPRESENTATIONS IN RESPECT OF APPLICATION

### Appendix 1B(i)

**Representor:** S Todd on behalf of the Environmental Health Manager  
**Comments:** Based on Public Safety and the prevention of Public Nuisance

1. "This department has received complaints from adjacent businesses relating to the high levels of noise generated inside the premises being transmitted to their premises. Inadequate information has been provided to show how the applicant is to limit the amount of noise generated inside the premises in order for the premises below not to be disturbed.
2. During a visit by a Licensing Officer of this Authority it was stated that the noise levels inside the premises were excessive and would not be considered to be "background". This is in contravention of the Premises Licence.
3. During a visit by a Licensing Officer the occupancy level of the premises had been exceeded. This is in contravention of the Licensing condition.
4. During a visit by a Licensing Officer a member of the public was observed smoking inside the premises in contravention of the Health Act 2006 and was not challenged by staff/management.
5. During discussions prior to the grant of planning permission for this premises it was stated that only background music would be played, that there would be no dance floor and there would be no live music. This was repeated again in licence applications and at the original licensing committee hearing.

This department has received a number of complaints relating to noise being generated within the premises and that this noise is transmitted to other premises. In my view this does not constitute "background" music. This department has received repeated complaints relating to patrons dancing and occasions where live music was played. This is in contravention of the premises licence.

As a result of these complaints the Principal EHO requested that a Licensing Officer visit the premises and make an assessment of compliance with licence conditions relating to noise and public safety. During a visit by a Licensing Officer on 16 March 2013 a number of contraventions of Licensing conditions were found, including those relating to noise and occupancy. A copy of the letter sent to the premises, by the Licensing Officer, is attached for information.

During discussions prior to the grant of planning permission for this premises it was stated that only background music would be played, that there would be no dance floor and there would be no live music. This was repeated again in licence applications and at the original licensing committee hearing.

This department has received a number of complaints relating to noise being generated within the premises and that this noise is transmitted to other premises. In my view this does not constitute "background" music. This department has received repeated complaints relating to patrons dancing and occasions where live music was played. This is in contravention of the premises licence.

As a result of these complaints the Principal EHO requested that a Licensing Officer visit the premises and make an assessment of compliance with licence conditions relating to noise and public safety.

During a visit by a Licensing Officer on 16 March 2013 a number of contraventions of Licensing conditions were found, including those relating to noise and occupancy. A copy of the letter sent to the premises, by the Licensing Officer, is attached for information. As a result of the conditions found at the time of this visit it was my intention to apply for a review of the premises licence on the grounds of public safety and prevention of public nuisance. However I was informed that a variation of the premises licence was to be applied for and it was expected that a number of management controls would be included to demonstrate how the failures identified were going to be rectified.

This information has not been provided. I would therefore object to the granting of the variation of the premises licence for the following reasons:

1. As a result of the number of complaints received by this department
2. The apparent disregard for, and failure to comply with, current Licensing Conditions and Public Health legislation.
3. An apparent lack of consideration for neighbours
4. An apparent lack of management control of the premises

If this department is receiving so much negative feedback relating to what should be a relatively low key venue it is worrying what will happen if the use intensifies."



**SERVICES FOR PLACE  
LICENSING**

**Town Hall, Darlington DL1 5QT  
DX 69280 Darlington 6  
web site: <http://www.darlington.gov.uk>**

**Grange Bars Ltd  
20 Blackfriars  
Yarm  
TS15 9HG**

Date : 28 March 2013  
Please ask for : Licensing Team  
Direct Line : 01325 388561/388577  
Email address : [licensing@darlington.gov.uk](mailto:licensing@darlington.gov.uk)  
Your Reference : **DL12/01590/PRETRA**  
Our Reference:  
Document  
Name:

Dear Mr Arrol

**LICENSING ACT 2003  
SLOANS, 22 GRANGE ROAD, DARLINGTON, DL1 5NG**

Following a recent visit to your premises on Saturday 16 March 2013 at 11:50pm by an Officer from Durham Constabulary and myself and your subsequent interview at the above office on Thursday 28 March 2013 where breaches of the premises licence were discussed with you and Mr. Neil Flockett.

As you are aware, when the above officers visited your premises on Saturday 16 March 2013 it was found that the door supervisor did not have any idea of how many patrons were on the premises, and that the manager was called and advised that there were 75 persons on the premises. A count was undertaken by the police officer and myself and it was found that there were in excess of 110 persons present at your premises at the time in question. You will be aware that this is a clear breach of the Fire Safety Order issued by County Durham and Darlington Fire and Rescue Service, which advised that you must not exceed a maximum capacity of 80 persons until a second staircase, is erected.

During the interview, you advised me that despite the Fire Safety Order restricting the occupancy of your premises, the door staff did not make any effort to control the number of persons entering your premises and did not have door clickers on the night of my visit. You also advised me that you have now rectified this situation. You agreed the premise was overcrowded and in clear breach of the Licensing Objectives, namely "Public Safety". Additionally you will re-assess this situation and complete a risk assessment to prevent this happening again which I will look forward in receiving this.

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**Appendix 1B(i)(cont)**

A check of your premises licence shows that you are licensed for Recorded Music (**background only**) and yet at the time of my visit the music was at such level it would not be classed as background music, as I had to shout to my colleague to be heard. The manager of the premises also agreed that the level of music was not background and asked his DJ to turn down the music. It is of my opinion that due to the level of the music this encouraged people to dance and I disagree with your view that this was "spontaneous dancing".

You advised me that the music was at that level so as to "create an atmosphere" within the premises. In accordance with Home Office Guidance issued under Section 182 of the Licensing Act, if music is played and predominates other activities it is licensable as recorded music.

You admitted that you have "no excuses" for the level of the music at the time of my visit and that you will seek to remove the DJ with immediate effect. In addition, you will also submit an application to vary your premises licence to remove "background music" from the licence, thereby permitting recorded music to be a form of entertainment in the premises. Until such time as you have the correct permissions on your licence, you have agreed that the music at the premises will be kept at the level as stated on your licence. I will look forward in receiving your application to vary your premises licence.

I was most concerned to find a person smoking inside the premises near the toilets. You will be aware that in 2006, it became illegal for anyone to smoke in enclosed public places. In order to obviate the need for legal proceedings to be instigated, I would suggest that you and your staff ensure that patrons are not permitted to smoke in any part of your premises. If you require further guidance, please contact the Council's Environmental Health department.

It was also noted that you were in breach of one of the mandatory conditions on your licence in that you are required to make available to customers still wine in 125ml measures. Please ensure that a 125ml measure is available for my next inspection. Additionally customers need to be made aware of the availability of this measure.

You had also failed to comply with Condition 2 of Annex 2 of the premises licence, which states that "The Licensee will be responsible for providing regular staff training, to include an understanding of the conditions attached to the premise licence in addition to general licensing law. This training will be provided to all new staff members and refresher training provided on a minimum of a quarterly basis. Such staff training will be recorded in a register to include the signature of the member of staff and the licensee. This register will be available for immediate inspection by the Local Authority or Durham Constabulary upon request". Please ensure at the time of my next visit the training records are available for my inspection.

Condition 3 of Annex 2 of the premises licence was not being complied with in that documentation must be displayed advising that a Challenge 21 age verification policy is in operation at the premises and that all individuals who appear to be under the age of 21 will be requested to provide identification before being served alcohol, and that failure to do so will result in the refusal of the sale of alcohol. Identification must bear their photograph, date of birth and a holographic mark that shows they are 18 years of age or over. Please ensure at the time of my next visit these notices are displayed.

Condition 4 of Annex 2 of the premises licence was not being complied with in that a register will be maintained of any refusals to serve alcohol. This register will be made available for immediate inspection by the Local Authority or Durham Constabulary upon request. Please ensure the refusals register is available at the time of my next visit.

Condition 9 of Annex 2 of the premises licence was not being complied with in that a clear and legible signage shall be prominently displayed at each exit, advising customers of the need to leave the premises quietly. Please ensure these notices are displayed at the time of my next visit.

On this occasion, it has been decided to issue you with a **written warning** for failure to comply with these requirements. These matters should receive your immediate attention. Officers will revisit the premises again to assess compliance with the Act.

I would remind you that any further non-compliance would result in legal proceedings being instigated under the provisions of the above Act. Upon summary conviction, the maximum sentence is imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.

I would also take this opportunity to remind you that the introduction of the Licensing Act 2003 relaxed and deregulated the way in which premises such as yours are able to operate, allowing greater freedom, longer hours and the ability to offer a wider range of entertainment. However, alongside that greater freedom the Premises Licence Holder and Designated Premises Supervisor bear a greater responsibility to ensure that where premises operated for longer hours or with a wider range of regulated entertainment the effects of these activities would not cause nuisance to other local residents.

The Act also introduced much greater penalties for failure to adequately police your own venues; such penalties include the instigation of legal proceedings against either the Designated Premise Supervisor or Premise Licence Holder, or both, or a review of your premise licence.

The maximum sentence in relation to prosecution is a fine not exceeding £20,000 and/or a prison sentence not exceeding 6 months for each and every breach of the above Act. Where a review of the premise licence is instigated, the Members of the Licensing Committee have the power to take such steps as necessary to promote the licensing objectives. Those steps are

**To modify the conditions of the licence**

**To exclude a licensable activity**

**To remove the Designated Premises Supervisor**

**To suspend the licence for a period not exceeding 3 months**

**To revoke the licence**

**Should it be necessary to seek prosecution or a review of the premise licence then I reserve the right to refer to the contents of this letter.**

If you would like to discuss this matter further, please do not hesitate to contact me at the above address.  
Yours sincerely

**Brian Murray**  
**Licensing Enforcement Officer"**

**Representor:** Neil Curry, Director, Prego Café & Wine Bar  
**Comments:** Based on the prevention of Public Nuisance

I am writing as I would like to object to Sloan's application for a variation of licence.

At meetings to gain planning permission for Sloan's, Sloan's repeatedly stated that only background music would be played, they would have no dance floor, no live music would be played, no irresponsible drinks promotions and they would manage the smokers on the street. These stipulations were repeated again in licence applications and the licensing committee hearing. These conditions reassured the parties involved that the operation of Sloan's would not have an adverse impact on the businesses operating in the premises below. It is my professional opinion that from day one of operation Sloan's disregarded the conditions of the license and operated precisely against the restrictions of the license.

A dance floor area was previously applied for, this was rejected due to the level of noise and negative impact it would create to the ground floor business's. These circumstances have not changed and loud music from Sloan's regularly disturbing the businesses operating below. Allowing this change would legitimise this activity and allow Sloan's to cause as much disruption as they like.

After repeated noise complaints to the management team at Sloan's with no positive response received, I have previously had to take the matter to the council. I believe the council then visited Sloan's and found several serious failings with the premises and management. It is these failings that have prompted this variation of license application.

On opening night Sloan's had live music / a DJ booth and dance area. This was soon followed by cheap drinks being promoted and free shots with every round. Despite Sloan's asking for these allowances on its licence and it being rejected by the council, Sloan's still went ahead and did it anyway.

It is only after the council carried out an inspection, Sloan's is now asking for these provisions again despite refusal of this the first time round. After having repeated issues which have not been addressed appropriately by Sloan's I believe this should not have got to this stage as a variation of license.

Another concern is with regards to the later opening hours. I believe this will add to the public nuisance and crime and disorder, as this will send people out on the street at the same time as the other bars in the area. This will put an unnecessary strain on taxis/food outlets and police managing the public's safety on the street, not to mention the rise in noise of people leaving at this hour this would create. For these reasons I would strongly object to any change to the licence and given Sloan's persistent discrepancies with their licence would like to see more stringent enforcement of the existing terms of the licence.

**Representor:** Matthew & Emma Robertson, Truffles Restaurant  
**Comments:** Based on the prevention of Public Nuisance

"I am formally notifying you of our objection to the variation of licence for the purpose of playing live music and dancing at the Sloans Venue at 22 Grange Road Darlington. As Sloans most direct neighbour, I have made every attempt to support the growth of the new business which resides above our restaurant. There is currently a sound working relationship, when we have had issues with noise or with the smoking area directly outside our main window, the Sloans management have been very accommodating when dealing with the issues raised. The issues still remain and we are still in a dialog with the management to deal with the repeat issues when they arise, our concerns are that any increase in both noise and footfall will not be managed accordingly and generate an inappropriate level of noise and disturbance outside our business.

Sloans floor is our ceiling, and as such it is totally unsuitable for a live music and dancing venue, in effect a Night club. We are already having to look at our opening times to accommodate the current noise level, any increase would be seriously detrimental to our business and invade our concept and prevent us from creating the ambiance we have worked tirelessly to generate, at the very least I would be certain it would prevent us from operating at our current level.

While I have no objection to the extension of the operating hours I do have concerns over what, if any measures are in place to handle the increase in capacity. With large groups smoking and congregating right in front of our window as well the queue being generated in our front door. (Photo evidence available on request) we are having to consider blacking out the window at the front of the Restaurant, clearly one of the buildings finest features and will be a damaging loss to our overall design, as well as lose seating in the window as the intoxicated guests arriving and leaving bang and shout outside and even on the window.

In short we feel the venue is totally unsuitable for the proposed purpose, I cannot believe a Night Club can operate above a business with similar opening times and not invade there environment with noise. As stated before, their floor is our ceiling and I feel Sloans cannot guarantee any level of insulation to prevent it from invading our concept at any level and as such should not be granted as it would seriously damage our business."



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**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 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 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 take into account, among other matters:

- 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.
- 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.
- The impact of patrons arriving, queuing and exiting which should take place on main pedestrian routes rather than through residential areas
- 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.

NB this list is not exhaustive

### 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.

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APPENDIX 1C (cont)

- 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,

### **APPENDIX 1C (cont)**

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.

## APPENDIX 1C (cont)

- 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.
- l. Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with bottles or glasses (on licence sales).
- m. Provision of litterbins and other security measures, such as lighting, outside premises.
- n. Membership of Darlington 'Pubwatch' scheme.

NB this list is not exhaustive

## 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 (e.g. 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.

#### 12.4.4 ADDITIONAL CONDITIONS

**Policy:** Licence conditions will be tailored to the individual style and characteristics of the premises and events and only be imposed to meet the licensing objectives. Licence conditions will not be imposed where the Licensing Authority considers other regulatory regimes provide sufficient protection to the public e.g. health and safety at work, fire safety legislation etc.

**Reason:** The Licensing Authority accepts that a “one size fits all” approach is not appropriate to achieving this outcome and that conditions should be tailored to the premises and activities to achieve the licensing objectives. Officers will seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving a mutually agreeable level of protection to the public and fulfilment of the licensing objectives. Premises Licences and Club Premises Certificates will so far as possible reflect local crime prevention strategies and the input of the Darlington Crime and Disorder Reduction Partnership.

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

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**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.
- 1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

**GENERAL PRINCIPLES**

- 1.15 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that licence applicants contact responsible authorities when preparing their operating schedules.

**LICENCE CONDITIONS – GENERAL PRINCIPLES**

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will", is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives;
  - must be precise and enforceable;
  - must be unambiguous and clear in what they intend to achieve;
  - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;

- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

### Each application on its own merits

- 1.17 Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. 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.
- 1.19 Whilst licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation.

### PUBLIC SAFETY

- 2.8 **Licence holders have a responsibility to ensure the safety of those using their premises**, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.9 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
  - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.13-2.15, and Chapter 10; and
  - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).



- 2.10 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 (8.34-8.42), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

#### Ensuring safe departure of those using the premises

- 2.11 **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

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

#### Safe capacities

- 2.13 **“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.
- 2.14 **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.
- 2.15 **The special provisions made for dancing 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.

2.17 Public safety includes the safety of performers appearing at any premises.

## PUBLIC NUISANCE

- 2.18 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.
- 2.19 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. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.20 **Conditions relating to noise nuisance will usually 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.
- 2.21 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation 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.
- 2.22 **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.
- 2.23 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is 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.
- 2.24 **Beyond the immediate area surrounding the premises, these are matters for the 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

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**APPENDIX 1D (cont)**

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****OTHER PERSONS**

- 8.12 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous, vexatious and repetitious representations.
- 8.13 Whilst any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity.
- 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.

**RELEVANT, VEXATIOUS AND FRIVOLOUS REPRESENTATIONS**

- 9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.
- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness.

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**APPENDIX 1D (cont)**

Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.
- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

**CONDITIONS**

- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by a fine of up to £20,000 or up to six months imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

**PROPOSED CONDITIONS**

- 10.4 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.
- 10.5 It is 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.

**CONSISTENCY WITH STEPS DESCRIBED IN OPERATING SCHEDULE**

- 10.6 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.

- 10.7 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**

- 10.8 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.
- 10.9 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**

- 10.10 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. Licensing authorities and other responsible authorities should be alive to the indirect 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.

### **Hours of trading**

- 10.11 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.
- 10.12 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.

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

Date of Notification: 16 May 2013

Type of Hearing: Application to Vary a Premises Licence

Premises: SLOAN'S  
20-22 Grange Road  
Darlington, DL1 5NG

Hearing Details: 9.30 am Monday 10 June 2013

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

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Copy of notice sent to:	Grange Bars Ltd	(Applicant Company)
	Environmental Health	(Responsible Authority)
	Manager	
	Mr N Curry	(Other person)
	M & E Robertson	(Other person)

**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 31 May 2013**

**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 at the Hearing:

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

- Full details of noise complaints in respect of the premises and the outcome of any subsequent investigations

The **Other Person** has been asked to provide:

- Specific details of noise issues from the premises that have adversely affected his premises

The **Applicant Company** has been asked to provide the following:

- Details of the management controls in place to ensure compliance with the licence conditions
- An explanation for the breaches of licence found when Licensing Officers visited in March 2013
- Details of how noise will be managed to ensure neighbours are not disturbed
- Details of how the exiting of patrons later at night will be managed to ensure that there is not an adverse impact within the vicinity of the premises.



Public Protection Division  
Service of Place  
Block D, Town Hall  
Darlington DL1 5RQT  
Tel: 01325 388799  
Fax: 01325 388555  
Email: [licensing@darlington.gov.uk](mailto: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: 9.30 am Monday 10 June 2013

NAME OF PREMISES: SLOAN'S  
20-22 Grange Road  
Darlington, DL1 5NG

YOUR NAME: .....

I WILL\*/ WILL NOT\* BE ATTENDING THE HEARING

I WILL\*/ WILL NOT\* BE LEGALLY REPRESENTED

NAME OF LEGAL REPRESENTATIVE (IF APPROPRIATE):

.....

I DO\*/ 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, Parking, Trading Standards & CCTV Manager  
Darlington Borough Council  
Block D, Town Hall  
Feethams  
DARLINGTON DL1 5QT



## LICENSING SUB COMMITTEES

### ***FULL HEARING PROCEDURE FOR APPLICATIONS FOR OR VARIATIONS TO 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 REPRESENTOR'S CASE**

NB: Where representations come from Other Persons e.g. local residents or businesses, 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 Representor or his/her representative will give their reasons for objecting to the application.
- [2] The Representor 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 Representor [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 Representor

### 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 Other Persons 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.