

FOR CHAIR AND MEMBERS
OF THE LICENSING SUB COMMITTEE
FOR 05 NOVEMBER 2014

APPENDIX 1

APPLICATION TO VARY A PREMISES LICENCE

Applicant:	THARMARAJAH SRISKANTHARAJAH	Ref No: DL14/00452/PREVAR
Premises:	TRO FOOD AND WINE 34 HIGH NORTHGATE DARLINGTON, DL1` 1UW	
Current Licensable Activities	SALE OF ALCOHOL FOR CONSUMPTION OFF THE PREMISES	
Current Hours:	08.00 to 23.00 MONDAY TO SATURDAY 10.30 to 23.00 SUNDAY	
Current Premises opening hours	07.00 to 23.00 MONDAY TO SATURDAY 08.00 to 23.00 SUNDAY	
APPLICATION:	TO VARY HOURS FOR SALE OF ALCOHOL TO 07.00 to 02.00 MONDAY TO SATURDAY 10.30 to 02.00 SUNDAY	

Notification to Responsible Authorities:

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

Information on Council's Website:	17 September 2014
Advertisement in Darlington & Stockton Times	19 September 2014

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 Applicant first applied for a premises licence he described the premises as:

"Convenience Store."

BACKGROUND INFORMATION

On 29 October 2014 an application was properly made for the **grant** of a premises licence in accordance with Section 17 of the Licensing Act 2003. The application was for the sale of alcohol for consumption off the premises during the hours of 08.00 am to 01.00 am Monday to Saturday and 10.30 am to 11 pm on Sunday. The Police initially had some concerns about the application but these were resolved by the Applicant reducing his terminal hour for sale of alcohol to 11 pm and agreeing to specific conditions being placed upon the premises licence. As a result the licence was granted on 26 November 2013. A copy of the current licence is appended for Members' reference at **Appendix 1A**.

On 16 January 2014 Licensing Enforcement Officers visited the premises and found that the CCTV did not cover the rear of the premises (as required by condition on the licence) and that the incident and accident books were not available for inspection. As a result a written warning was issued on 20 January 2014.

On 11 March 2014 Officers made a further visit to the premises to ensure that the issues raised in January 2014 had been addressed. Officers found that this was the case and a letter was sent to the Applicant on 17 March 2014 confirming that the premises were compliant.

THE APPLICATION TO VARY THE LICENCE

On 16 September 2014 an application was properly made by the Applicant in accordance with Section 34 of the Licensing Act 2003 to **vary** the Premises Licence to extend the hours for the sale of alcohol for consumption off the premises to 07.00 am- 02.00 am Monday to Saturday and 10.30am-02.00 am Sunday. All Responsible Authorities have received a copy of the application and it has been properly advertised in the press and on the premises. As a result of the consultation a representation has been received from one Responsible Authority, namely The Police. In addition representations were also received from an "Other Person" namely Westbrook Residents' Association.

THE REPRESENTATIONS

The Responsible Authority:

On 15 October 2014 a representation was received from Durham Constabulary based on the prevention of crime and disorder, public nuisance and the protection of children from harm. In summary the Police advise that the premises is located in an area that has made significant demands on police time in respect of public nuisance and crime and disorder; that the premises have not been compliant in the past in respect of CCTV provision and that the extended hours may give rise to additional difficulties in respect of intoxicated customers. The representation has been reproduced in full at **Appendix 1B(i)**.

The Other Persons

On 14 October 2014 a representation was received from Westbrook Resident's Association based on the prevention of crime and disorder, public nuisance and the protection of children from harm. In summary they express concern at the impact alcohol related crime has had on the area and the likelihood of this being exacerbated by a later licence. They also express concern at the potential risk to the wellbeing of children. The representation has been reproduced in full at **Appendix 1B (ii)**

In addition on 13 October 2014 a representation was received from Sanctuary Supported Living expressing concern at the impact the late licence would have on vulnerable adults living within Darlington. As the representation did not reflect any of the 4 licensing objectives further information was sought in respect of making the representation in accordance with one or more of the 4 objectives. There has not been a response to this enquiry and the representation has therefore been deemed not to be relevant.

Members are reminded that only those elements of any representation that relate to the four licensing objectives should be considered when determining this application.

THE APPLICANT'S RESPONSE

On the 14 October and the 15 October 2014 the representations were sent to the Applicant to provide an opportunity for the Applicant to respond to the concerns expressed. At the time of writing the report a response had not been received. The report has therefore been prepared without the benefit of comment from the Applicant.

THE OPERATING SCHEDULE

In the section of the application dealing with the operating schedule, i.e. the additional steps that will be taken to promote the four licensing objectives if this application is granted, the Applicant has stated the following:

- a) **General:**
No comment was provided
- b) **Prevention of Crime and Disorder:**
"There is 24 hour CCTV recording with 28 days stored in system to available to view by police or any other relevant authorities. 4 cameras will be covering front road and rear of premises."
- c) **Public Safety:**
No comment was provided
- d) **Prevention of Public Nuisance:**
No comment was provided
- e) **Protection of Children from Harm:**
"All supply of alcohol will be monitored by DPS and anyone look under 25 will be asked to show an ID (e.g. Passport, Driving Licence). All refusals of alcohol and tobacco will be recorded in refusal book. All incidents will be recorded in incidents book."

Members are aware that the information contained within the operating schedule is to be converted into conditions that will be attached to any grant of a licence.

THE CURRENT CONDITIONS ON THE PREMISES LICENCE

Members will note from the premises licence that the conditions attached to the current licence, in addition to the mandatory conditions for sale of alcohol are as follows:

1. Staff training will be carried out by the DPS in relation to the law applicable to the sale of alcohol.
2. Training records will be kept and signed by staff taking part. These will be made available to the police and Council Licensing officers upon request.
3. An incident, accident book and refusals register will be maintained on site, available to police and council licensing upon request.
4. The Challenge 25 Proof of Age scheme shall be implemented at the premises requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 21 years of age. Notices shall be displayed within the premises advertising this scheme.
5. The current CCTV system shall be maintained in working order and recording whilst the premises are open and being used for licensable activity. The system shall also provide coverage to the front and rear of the premise.
6. Recordings will be kept for a minimum of 28 days. The recordings shall be made available to the police and an authorised officer 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 6-6.3	Impact of Licensable Activities
Section 8-8.4	Prevention of Public Nuisance
Section 10-10.4.	Prevention of Crime and Disorder (Effect in Vicinity/Personal Licence holder to be on premises)
Section 11-11.2.2	Protection of Children from Harm
Section 12.7	Off Sales

THE GUIDANCE

Members are referred to the Secretary of State's Guidance in relation to the prevention of crime and disorder, public nuisance, protection of children from harm, placing of conditions, dealing with representations and guidance relating to shops, stores and supermarkets. The Guidance has been reproduced at **Appendix 1D**

ADDITIONAL INFORMATION

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

POINTS FOR CLARIFICATION

Members are referred to the notice of hearing **points for clarification** (See **Appendix 2**).

The **Applicant** has been asked to clarify his position in relation to the following:

- What the issues have been in respect of the use of CCTV at the premises in the past and what has been done to address such issues to ensure there is no repetition.
- The Operating Schedule refers to 4 cameras – does this mean 4 in total or 4 at the front and 4 at the rear of the premises
- How will alcohol be sold after 23.00 hours – i.e. will there be a restricted area.
- What measures will be put in place to ensure that people do not congregate around/cause public nuisance in the vicinity of the premises after 23.00 hours.
- What level of staffing will be present after 23.00 hours
- What training and support will be offered to staff in refusing sale of alcohol to people who are intoxicated.

The **Police** have been asked to provide up to date information about recent issues of crime and disorder and public nuisance within the vicinity of the premises.

Westbrook Residents Association has been asked to provide specific examples of alcohol related crimes that have been experienced by local residents.

MEMBERS' OPTIONS

Members may consider the following options (NB the current conditions have been slightly amended to ensure they are properly enforceable) :

1. **Grant** the application subject to the mandatory conditions for sale of alcohol and the additional conditions drawn from the operating schedule as follows:
 1. Staff training will be carried out by the DPS for all new members of staff prior to being allowed to sell alcohol and once per year for all other staff members in relation to the law applicable to the sale of alcohol.
 2. Training records will be kept and signed and dated by staff taking part. These will be made available to the police and Authorised Officers of the Council upon request.
 3. An incident, accident book and refusals register will be kept on site and shall document all incidents, accidents and each refusal of sale. These shall be made available to Police and Authorised Officers of the Council upon request.
 4. The Challenge 25 Proof of Age scheme shall be implemented at the premises requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 25 years of age. Notices shall be displayed within the premises advertising this scheme.
 5. The current CCTV system shall be maintained in working order and recording whilst the premises are open and being used for licensable activity. The system shall also provide coverage to the front and rear of the premises.
 6. CCTV recordings will be kept for a minimum of 28 days. The recordings shall be made available to the Police and an Authorised Officers of the council upon request.

2. Place any **additional conditions** on the licence that Members consider are necessary to address any concerns relating to, the prevention of crime and disorder, the prevention of public nuisance, public safety and protection of children from harm. **(NB this may include clarifying the number of cameras operating via the CCTV and specifying this within the condition relating to CCTV.)**
3. **Reject** all or part of the application

Members are reminded that any aggrieved party (i.e. Applicant, Police or Residents Association) may appeal any decision of the Licensing Sub Committee to the Magistrates' Courts.

Ian Williams
Director of Economic Growth

Contact Officer: Pam Ross
Ext 2647

Date of Sub Committee: 05 November 2014

For admin use only:

Sub Committee Decision:

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

Reasons:



Licensing

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

APPENDIX 1A PART A

Licensing Act 2003 Premises Licence TRO Food and Wine

Premises Licence Number	DL13/01798/PREMIS
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PART 1 – PREMISES DETAILS

Premises Details:	TRO Food and Wine 34 High Northgate, Darlington, DL1 1UW
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Licence effective from:	26 November 2013	Duration of Licence:	Indefinite
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Authorised Licensable Activities:

Authorised Hours

Retail sale of alcohol (consumption OFF premises)	08:00 – 23:00hrs 10.30 – 23:00hrs	Monday to Saturday Sunday
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Premises Opening Hours:

07:00 – 23:00hrs 08.00 – 23:00hrs	Monday to Saturday Sunday
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Non-standard/seasonal timings:

None

PART 2

Premises Licence Holder:

Mr. Tharmarajah Sriskantharajah 34 High Northgate, Darlington. DL1 1UW

Telephone Number:

01325 245743

Designated Premises Supervisor:

Mr. Tharmarajah Sriskantharajah 34 High Northgate, Darlington. DL1 1UW

Personal Licence No:

DL13/01451/PERSON

Issuing Authority:

Darlington Borough Council

APPENDIX 1A (cont)

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 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.

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

7. Staff training will be carried out by the DPS in relation to the law applicable to the sale of alcohol.
8. Training records will be kept and signed by staff taking part. These will be made available to the police and Council Licensing officers upon request.
9. An incident, accident book and refusals register will be maintained on site, available to police and council licensing upon request.
10. The Challenge 25 Proof of Age scheme shall be implemented at the premises requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 21 years of age. Notices shall be displayed within the premises advertising this scheme.
11. The current CCTV system shall be maintained in working order and recording whilst the premises are open and being used for licensable activity. The system shall also provide coverage to the front and rear of the premise.
12. Recordings will be kept for a minimum of 28 days. The recordings shall be made available to the police and an authorised officer of the council upon request.

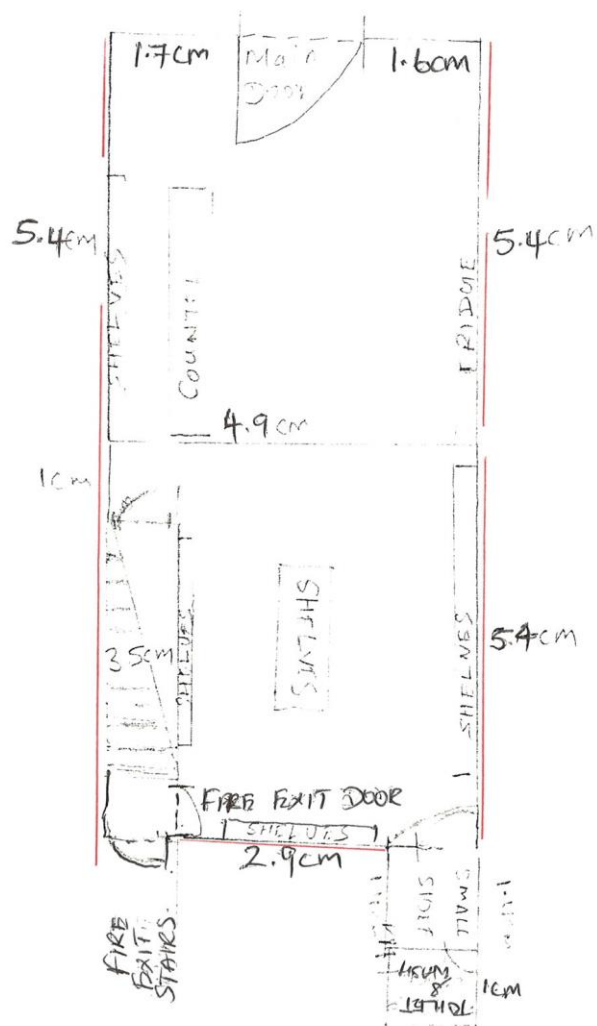
Annex 3 Conditions attached after Licensing Authority Hearing:

None

APPENDIX 1A (cont)

Annex 4 Premises Plan

PLANS OF 34, HIGH NORTH KATZ, DARLINGTON, DC 114W



1:100

J Richings
Authorised Officer

Date of Issue: 26 November 2013

REPRESENTATIONS IN RESPECT OF APPLICATION

Appendix 1B(i)

Representor: Durham Constabulary

Comments: Based on the prevention of crime & disorder, public nuisance and protection of children from harm

"The grounds for this application to assess whether within the proposed Operating Schedule, the applicant have outlined suitable steps to prevent crime and disorder and the prevention of public nuisance and protection of children from harm. The applicant seeks to permit licensable activity to be permitted from 07.00hrs – 02.00hrs Mon – Sun. They currently have on their licence 08:00hrs - 23:00hrs.

Public Nuisance.

Anti-social behaviour around the area where the premises is located has previously been identified as a significant problem for police, with varying problem solving profiles being initiated due to concerns from local residents and an increased number of calls to police. This has resulted in increased police patrols. Alcohol consumption, littering and racist behaviour have been raised as a large part of the public nuisance.

There are also a number of persons classed as vulnerable due to alcohol problems living within the close vicinity of the TRO shop and an existing DPPO (Designated Public Place Order).

Crime and Disorder:

CCTV is proposed under the new application; however it is already an existing condition on the current licence. An inspection was carried out in Jan 2014 it was found not to be in real time, when a follow up visit was carried out in March it was noted to be all in order.

The applicant reported a theft from the shop on 27/04/2014 he was unable to produce a copy and arrangements were made to collect the CCTV on 30/04/2014. The cctv was still not ready and further arrangements made to collect it on 07/05/2014, again it wasn't ready and arranged to pick up on 19/05/2014, still not ready but arranged for 20/5/2014. When officers attended staff stated the CCTV doesn't show the offender and that the original footage had expired.

This premises and persons working within are going to be made vulnerable due to sales not being made within a contained area i.e. hatch service. Staff who will have face to face contact with already intoxicated individuals may be at risk when refusing a sale. Vulnerable persons who are alcohol and drug dependant reside in close proximity to the venue, and will have direct access to alcohol.

Premises within Darlington with a 'late night premise licence' in the main have frontline door staff. Whilst the applicant has outlined his plans to promote the licensing objective there is no evidence that they are aware of the location that they are proposing to sell alcohol or the difficulties that could potentially be faced by the resident street drinkers and those from the local area who are alcohol and or drug dependant.

Children from harm:

The applicant has stated the all supply of alcohol will be monitored by the DPS, the supply of alcohol applied for is between 07.00- 02.00 the shop is therefore open 19hrs per day. The applicant maybe unable to implement an age verification policy with customers returning from a night out intoxicated.

APPENDIX 1B (cont)

Appendix 1B(ii)

Representor: Judith Barratt (Secretary) on behalf of Westbrook Residents Association

Comments: Based on the prevention of crime and disorder, public nuisance and the protection of children from harm

As secretary of the Westbrook Residence Association I am writing on behalf of the residence to make representation against the proposed extension of alcohol license. We are objecting on 4 counts

1. This area has already suffered from alcohol related crimes such as vandalism and antisocial behaviour. With another outlet for the sale of cheap drink the crime and disorder will increase and we as residents will suffer the consequences of this like damage to our properties and theft from our gardens and properties.
2. With the sale of alcohol until 2am in the mornings and the likelihood of drunkenness, this will affect peoples safety who live in this area when out and about with the possibility of being confronted or attacked.
3. With the increased sale of cheap alcohol the possibility of public nuisance will increase due to drunkenness and affect people like ourselves who live in this area.
4. And finally the sale of alcohol can put children's safety at risk from either being given drink by another adult causing direct harm to the child both physically and emotionally or direct harm to children by an adult who is a significant carer and under the influence of drink causing harm to the child.

We hope that the reasons above will be enough to prevent the licensing request from being granted and so making this area, which already has its fair share of social problems, a safer place to live. Judith Barrett (secretary of Westbrook Residents Association)

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, if any, for provision of portable toilet facilities outside of the premises.
- h. The cumulative impact of licensed premises within the area and the scope for mitigating such impact.
- i. Waste disposal arrangements including bin storage and the collection and containment of litter from the vicinity of the premises.
- j. Public nuisance caused by unauthorised advertising and fly-posting

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

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

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

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

APPENDIX 1C (cont)

licensed premises regularly behave in an anti social way which impacts on local residents and/or businesses. The Licensing Authority recognises the Council's responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder. The aim of this Policy therefore is to achieve a balanced approach to these difficult issues.

8.0 PREVENTION OF NUISANCE

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

8.1 LOCATION OF PREMISES, LICENSING HOURS AND THE PREVENTION OF NUISANCE

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

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

8.2 Additional information

The Government's view is 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 believe that shops and public houses should generally be permitted to sell alcohol during the hours they intend to open. The Government wishes that entertainment providers should be encouraged to provide a range of entertainment during their operating hours, to promote live music, dancing and theatre for the wider cultural benefit the community.

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

8.3 LOCATION AND IMPACT OF ACTIVITY

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

- a. In predominantly commercial areas, such as the Town Centre.**
- b. Where there is a high level of accessibility to public transport services.**
- c. Where there is an appropriate amount of car parking, readily accessible to the premises.**

APPENDIX 1C (cont)

- 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.

10.0 CRIME AND DISORDER

This section should be read in conjunction with the section on Prevention of Nuisance with which it is directly cross-referenced.

APPENDIX 1C (cont)

- 10.1 Policy: The Licensing Authority will expect the applicant to indicate in his operating schedule the steps proposed to prevent crime and disorder on and in the vicinity of their premises and/or events.**

Reason: Prevention of crime and disorder is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective in the operating schedule. The factors that impact on crime and disorder may include:

- a. Underage drinking
- b. Drunkenness on premises
- c. Public drunkenness
- d. Drugs
- e. Violent behaviour
- f. Anti-social behaviour

- 10.2** 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. Effective and responsible management of premises.
- b. Training and supervision of staff.
- c. Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other Voluntary Codes of Practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA).
- d. Acceptance of accredited means of age identification e.g. DVLA photo driving licence or "PASS" approved proof of age' cards
- e. Provision of effective digital CCTV in and around premises.
- f. Employment of Security Industry Authority licensed door-staff.
- g. Provision of plastic or shatter resistant glasses.
- h. Provision of secure, deposit boxes for confiscated items.
- i. Procedures for assessing risk associated with promotions and events such as "happy hours" for the potential to cause crime and disorder, and plans for minimising such risks.
- j. Measures to prevent the use or supply of illegal drugs.
- k. Employment of licensed door supervisors and other appropriately trained staff.
- 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.

- 10.3** The Licensing Authority will expect the operating plan to include a risk assessment into the use of door-staff, in terms of the actual need for such a service and also the ratio of such personnel to patrons based on capacity of the premises.

- 10.4 Policy: The Licensing Authority will normally require a Personal Licence holder to be on the premises at all times when alcohol is being sold.**

Reason: It is important that there is an accountable, responsible person present at all

APPENDIX 1C (cont)

times when alcohol is being sold. This is to ensure that alcohol is not sold to persons who have had too much to drink and to ensure that alcohol is only sold to persons over the age of 18 years. In terms of crime and disorder, there is a need for an identified person with whom the Licensing Authority and Police can discuss any problems/issues arising from the licensable activities offered on the premises.

11.0 PROTECTION OF CHILDREN FROM HARM

11.1 Policy: Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from physical, moral or psychological harm, relevant to the individual style and characteristics of their premises and events.

Reason: To allow flexibility for the licensee, to ensure that where appropriate licensed premises are “user friendly” for children but to ensure they are adequately protected. The Licensing Authority has taken account of the view of DCMS that the use of licensed premises by children should be encouraged. However it will, where necessary, impose conditions designed to protect children.

11.2 Additional information

The Protection of Children from Harm is a key licensing objective. Nevertheless, the Licensing Authority will not normally impose conditions requiring or prohibiting the admission of children to any premises believing this should remain a matter of discretion of the licence holder. The Licensing Authority has taken account of the view of DCMS that the use of licensed premises by children should be encouraged. However it will, where necessary, impose conditions designed to protect children.

11.2.1 Examples of premises where the introduction of additional controls are likely to be necessary are:

- a. Where there have been convictions for serving alcohol to minors or with a reputation for under-age drinking.
- b. Where there is a known association with drug taking or dealing.
- c. Where there is a strong element of gambling on the premises.
- d. Where entertainment of an adult or sexual nature is provided.
- e. Where the supply of alcohol for consumption on the premises is the exclusive and primary purpose of the premises.

11.2.2 In such circumstances it may be necessary to impose a complete prohibition but this would be only rarely imposed. The Licensing Authority would normally be more likely to impose requirements such as:

- a. Limitations on the hours when children may be present.
- b. Proof of age arrangements for alcohol sales.
- c. Age limitations below 18 (eg considering requiring all persons under 14 years to leave premises before 9pm and persons between 14 years and under 18 years to leave before 11 pm).
- d. Limitations or exclusions when certain activities are taking place.
- e. Requirements for accompanying adults.

APPENDIX 1C (cont)

- f. Full exclusion of people under 18 from the premises when certain licensable activities are taking place (eg entertainment of a sexual nature, performances of hypnotism etc).
- g. Limitation on the permits of premises to which children might be given access.

12.7 OFF SALES

In accordance with DCMS guidelines the Licensing Authority will not normally seek to limit the hours during which alcohol can be sold for consumption off the premises. The Council does, however, expect that a responsible attitude be adopted in relation to the sale of alcohol to and/or for persons under the age of 18 years. Operating schedules should therefore include the following:

- a. Staff training, particularly in relation to refusal of sales.
- b. Proof of age requirements.
- c. Records of refusal of sales.
- d. Consideration of display of posters advertising the illegality of purchasing alcohol on behalf of persons under 18 years of age.

NB this list is not exclusive

Test purchasing exercises will be undertaken in a partnership arrangement between the Council's Trading Standards Service and South Durham Police. Sales of alcohol to or on behalf of persons under 18 years of age may result in a request to review a licence with a view to revocation.

In addition to the above, the operating schedule should also address issues of anti social behaviour that may give rise to crime and disorder and public nuisance. This is particularly the case in relation to gangs of youths congregating outside of premises. Measures such as CCTV provision, both inside and outside of the premises and additional lighting outside of the premises should be considered to address this problem.

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003
(REVISED OCTOBER 2014)**

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.

CRIME AND DISORDER

- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

APPENDIX 1D (cont)

- 2.6 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.
- 2.7 It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

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.
- 2.23 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 place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

PROTECTION OF CHILDREN FROM HARM

- 2.25 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment.)
- 2.26 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered.

APPLICATIONS FOR PREMISES LICENCES

RESPONSIBLE AUTHORITIES

- 8.6 –“responsible authorities”– are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must still be considered ‘relevant’ by the licensing authority and relate to one or more of the licensing objectives.

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.

VARIATIONS

Licensing Hours

- 8.58 Variations to the following are excluded from the minor variations process and must be treated as full variations in all cases:

APPENDIX 1D (cont)

- To extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- To increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.

DETERMINING APPLICATIONS

Where representations are made

- 9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant, (see paragraphs 9.4 to 9.10 below) the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

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. 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.

APPENDIX 1D (cont)

- 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.

Representations from the police

- 9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

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

APPENDIX 1D (cont)

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

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for

APPENDIX 1D (cont)

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.

- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

APPENDIX 2

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

Date of Notification: 21 October 2014

Type of Hearing: Application to Vary Premises Licence

Premises: 34 High Northgate
Darlington, DL1 1UW

Hearing Details: 1.30 pm Wednesday 05 November 2014

Location: Darlington Borough Council,
Committee Room 2
Town Hall
Darlington
DL1 5QT
(please report to the Customer Services Centre)

Copy of notice sent to: A Amr T Sriskantharajah (Applicant)
Durham Constabulary (Responsible Authority)
Westbrook Residents Association (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 Wednesday 29 October 2014**

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

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

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

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

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

- What the issues have been in respect of the use of CCTV at the premises in the past and what has been done to address such issues to ensure there is no repetition.
- The Operating Schedule refers to 4 cameras – does this mean 4 in total or 4 at the front and 4 at the rear of the premises
- How will alcohol be sold after 23.00 hours – i.e. will there be a restricted area.
- What measures will be put in place to ensure that people do not congregate around/cause public nuisance in the vicinity of the premises after 23.00 hours.
- What level of staffing will be present after 23.00 hours
- What training and support will be offered to staff in refusing sale of alcohol to people who are intoxicated.

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

- To provide up to date information about recent issues of crime and disorder and public nuisance within the vicinity of the premises

The Licensing Authority considers that the following matters will need to be clarified by **The Westbrook Residents Association** at the Hearing:

- To provide specific examples of alcohol related crimes that have been experienced by local residents



Regulatory Services
Licensing, D Block, Town Hall
Darlington DL1 5QT
Tel: 01325 388562
Fax: 01325 388555
Email: licensing@darlington.gov.uk

NOTICE OF ATTENDANCE

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

DATE OF HEARING: 1.30 pm Wednesday 05 November 2014

NAME OF PREMISES: TRO34 High Northgate
Darlington, DL1 1UW

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, TS & CCTV Manager
Darlington Borough Council
D Block, Town Hall
Feethams
DARLINGTON DL1 5QT

LICENSING SUB COMMITTEES

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

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

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

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

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

The Licensing Manager will outline the application.

2. The Representor's Case

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

- [1] The 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.