

**FOR CHAIR AND MEMBERS
OF THE LICENSING SUB COMMITTEE
FOR 5 MAY 2015**
APPLICATION TO REVIEW PREMISES LICENCE

Licence holder	Cameron's Brewery Limited	Ref No: DL14/00203/VARDPS
Premises:	THE GREY HORSE 39 HAUGHTON GREEN DARLINGTON DL1 2DD	
Current Licensable Activities:	SALE OF ALCOHOL FOR CONSUMPTION ON & OFF THE PREMISES FILMS, INDOOR SPORTING EVENTS AND RECORDED MUSIC	
	MONDAY TO SATURDAY	09.00 TO 00.00
	SUNDAY	10.00 TO 00.00
	LIVE MUSIC	EVERY DAY 11.00 TO 23.00
	ENTERTAINMENT SIMILAR TO LIVE OR RECORDED MUSIC, PROVISION OF FACILITIES FOR MAKING MUSIC AND PROVISION OF FACILITIES FOR DANCING	
	EVERY DAY	11.00 TO 00.00
	LATE NIGHT REFRESHMENT	
	EVERY DAY	23.00 TO 01.00
Premise Opening Hours:	MONDAY TO SATURDAY	09.00 TO 01.00
	SUNDAY	10.00 TO 01.00
Current non- standard hours:	Christmas Eve, Boxing Day and New Year's Eve. Extended to 02.00 The premise will close 1 hour after the end of the non- standard/seasonal timings	

Notification to Responsible Authorities/Interested Parties:

The Environmental Health Manager has served notice of this application to the following:

Durham Constabulary	Chief Fire Officer
Trading Standards Manager	Darlington Safeguarding Children Board
Planning Manager	Public Health
The Licence Holder	The Licensing Authority

Information on the Premises	5 March 2015
Information on Council's web site:	5 March 2015

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

In 2005 the premises were described as follows:

“Large public house situated on Haughton Village Green. Refurbished to a high standard in 2001. Operating a large open plan bar on the ground floor with letting bedrooms to the first floor”

BACKGROUND

On 20 July 2005 an application was properly made by Mr John D Wilson on behalf of Hogans Leisure for the **conversion** of licence in respect of the above premises in accordance with schedule 8 of the Licensing Act 2003. At the same time, an application to vary the hours of the licence and remove specific embedded conditions/restrictions attached to the licence in accordance with the Licensing Act 1964 was also received.

The Police, who were the only statutory consultee in respect of an application for conversion did not make any representations in respect and it was subsequently granted on 18 August 2005, on the same terms and conditions as the earlier Justices Licence in accordance with the Licensing Act 1964.

On 22 July 2005 Durham Police made a representation in respect of the proposed variation application. Durham Police stated that as the premises was situated in a residential area, the proposed latest closing time of 03.00 hours was unacceptable and that the operating schedule failed to consider the implications of such a late terminal hour on local residents in terms of the prevention of disorderly conduct and associated noise from patrons leaving the premises.

On the 27 July 2005, the Environmental Health Manager submitted a copy of a letter sent to Hogans which requested further information in relation to the application and cited a history of complaints relating to noise disturbance from the premises by way of loud music and general noise from people waiting outside the premises for taxis. The Environmental Health Manager was also concerned that the operating schedule submitted in relation to the application should set out steps to be taken at the end of the trading session to address these issues.

On 28 July 2005 Mr Wilson acting on behalf of Hogans Leisure responded to the Environmental Health Manager and offered additional noise control measures and a dispersal policy and to limit the finish time in respect of entertainment to 23.00 hours.

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Having agreed licence conditions, the Environmental Health Manager withdrew his representation to the application.

On 1 August 2005 Mr Wilson responded to Durham Police and offered additional measure to prevent crime and disorder from the premises.

On the 2 August 2005 a representation was received from Mr and Mrs Spencer based on the prevention of crime and disorder and public nuisance. In summary the interested parties expressed concerns at current disturbance and anti-social behaviour in the vicinity and the likelihood of increased noise disturbance should the variation in hours be granted.

On 13 August 2005 Durham Police withdrew their representation having reached an agreement with Hogans Leisure.

The application was considered by the Licensing Sub Committee on 15 September 2005 and after due deliberation the application to vary the hours for the sale of alcohol and extend the hours of regulated entertainment, to include films and indoor sporting events in the regulated entertainment, to include late night refreshment and to remove all embedded restrictions and conditions of the Licensing Act 1964 and Children and Young Persons Act 1933 relating to the current Justices Licence was approved subject to conditions attached to the premises licence. The Members resolved to attach conditions to the licence as follows:-

- (a) That conspicuous and legible signage will be prominently displayed within the premises at each exit, requesting that patrons leave the establishment in a quiet and orderly manner and do not slam doors of cars or taxis on departure.
- (b) That children under the age of 18 years will not be admitted to or permitted on the premises after 6.00 p.m.
- (c) The maximum number of persons permitted in the bar/lounge shall not exceed 160.
- (d) For events with between 60 or 120 patrons there must be a minimum of one SIA registered door supervisor on duty.
- (e) For events with between 121 and 160 patrons there must be a minimum of two SIA registered door supervisors on duty.
- (f) Music from the licensed premises must not give rise to levels of 5db(A) or more above the background noise level, measured in accordance with BS4142 at the nearest affected residential premises.
- (g) All windows must remain closed from 9.30 p.m. onwards.
- (h) All doors must remain closed during any live performances except for normal ingress/egress.
- (i) All speakers to amplify sound must be positioned away from entry and exit points
- (j) Amplified sound must not be relayed to outside of the building.
- (k) All artists must be informed of the conditions placed on the premises licence to reduce noise disturbance and will be required to comply with these conditions.
- (l) Slow, quiet music must be played at the end of any musical entertainment as part of a wind down policy.
- (m) Noise monitoring checks must be carried out by the duty manager at regular intervals of one hour whenever entertainment is provided.
- (n) All licensable activities must be confined to the inside of the premises building.
- (o) Emptying of bottle bins, deliveries and removal of waste must not take place between the hours of 9.00 p.m. and 8.00 a.m.
- (p) All waste material must be securely contained in sealed waste bins within the car park and this area shall be cleaned daily.

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- (q) The outside of the premises must be checked and cleaned at regular intervals every day for littering.
- (r) Effective lighting must be installed and maintained in the car park area and the outside of the building.

On 30 July 2007 an application was made to transfer the premise licence from Hogans Leisure to Cameron's Brewery Limited. As there were no representations in respect of this application the licence was duly transferred on 16 August 2007.

On 15 January 2010 an application was made to vary the DPS from Christine Smith to David Wilson. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation the licence was duly varied.

At 01:40 hours on 10 June 2011, the Principle Licensing Officer and Durham Police visited the premises during routine late night enforcement and found that the premises were still operating with approximately 15 persons on the premises drinking alcohol and playing pool. A warning was issued to the Designated Premises Supervisor in relation to this offence.

On 11 August 2011, the Principal Licensing Officer wrote to the Designated Premises Supervisor following a complaint which alleged that live music was being held at the premises until 11.30 hours and that patrons were regularly on the premises until 01.00 hours. In addition it was also alleged that Race Nights were being held at the premises.

On the 18 October 2011 Durham Police wrote to the Premise Licence Holder to advise them of a meeting which had been held between the police and the Designated Premises Supervisor following complaints from local residents about disorderly conduct and drug use at the front of the premises.

On 6 August 2013 an application was made to vary the DPS from David Wilson to John Robert Hewitson. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation the licence was duly varied.

On 14 January 2014 an application was made to vary the DPS from John Robert Hewitson to Kate Hodgson. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation the licence was duly varied.

On 7 February 2014 an application was made to vary the DPS from Kate Hodgson to John Robert Hewitson. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation the licence was duly varied.

On 2 September 2014 an application for a minor variation of the premise licence was received. The application sought to amend the licence conditions to

- **Noise monitoring checks must be carried out by the duty manager at regular intervals of one hour whenever entertainment is provided. These will be recorded and made available to Durham Police and Responsible Authorities upon request**
- **An incident book shall be maintained at the premises and be made available to Durham Police and Responsible Authorities on request.**

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- **The premises shall maintain a refusals register, made available to Durham Police and Responsible Authorities upon request.**
- **A CCTV system will be in operation at all times the premises is being used for licensable activities, covering the access and egress in all public areas. It must be operated by properly trained staff.**
- **Recordings must be kept secure and retained for a period no less than 28 days. Recordings must be available on request to the Licensing Authority or Durham Constabulary, and provided within 7 days of such a request.**
- **The premises licence holder and/or Designated premise supervisor must report any technical failures/ faults to Darlington Alcohol Harm Reduction Unit along with details of steps taken to remedy the faults, within 24 hours of the fault occurring.**

A copy of the current licence is appended for Members' attention at **Appendix 1A**.

THE APPLICATION FOR THIS REVIEW

On 5 March 2015 an application was properly made by the Environmental Health Manager to review this premises licence on the grounds of the prevention of public nuisance. In summary, the application advises of a complaint that alleges noise from amplified music is being played at the premises at excessive levels and it is clearly audible at the exterior of the premises and that this is creating a nuisance to nearby residents. The application for review has been reproduced in full at **Appendix 1B**.

THE LICENCE HOLDER'S RESPONSE

A copy of the application for review has been served on the licence holder, and the legal representatives of the Premise Licence Holder have met with the Environmental Health Manager's representative and have agreed conditions which they believe would address the issue.

Members are advised that due to minor variation application made on 2 September 2014, the agreed conditions offered by the Premise Licence Holder cannot replace Annex 2 in its entirety as it would have the effect to delete conditions offered by way of the minor variation which include CCTV which still needs to be covered.

A copy of the agreed conditions is attached at **Appendix 1C**

OTHER PARTIES TO THE REVIEW

On 18 March 2015 a representation was received from Mr and Mrs Anderson based on the grounds of the Prevention of Public Nuisance and the Prevention of Crime and Disorder. In summary, they are concerned about the amount of noise, anti-social behaviour and disorder generated by the premises. A copy of their representation is attached in full at **Appendix 1D**.

A copy of the Premise Licence Holder's agreed conditions was served upon Mr and Mrs Anderson and their views sought on whether they considered their concerns addressed by the proposed conditions. On 2 April 2015 a letter was received from Mr and Mrs Anderson

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containing their comments with regard to the proposed conditions. A copy of their response is attached at **Appendix 1E**

THE LICENSING POLICY

Members are referred to the following sections of the Council's Licensing Policy covering the licensing objectives which were raised as part of the review and are reproduced at **Appendix 1F**

Section 6.1 – 6.3	Impact of Licensable Activities
Section 8.0 – 8.7.5	Prevention of Public Nuisance
Section 10-10.4.	Prevention of Crime and Disorder

THE GUIDANCE

Members are referred to the Secretary of State's Guidance in relation to the prevention of public nuisance and the review process. This is reproduced at **Appendix 1G**

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 **Environmental Health Manager** has been asked to provide details of any further incidents of concern since the application for the review

The **Licence holder** has been asked to clarify his position in relation to what measures are in place to control noise both from inside and outside the premises and ensure that patrons do not disturb local residents while at the premises and when leaving the premises.

MEMBERS' OPTIONS

Members may consider the following options:

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

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If Members are minded to add additional conditions they must be appropriate to promote the licensing objectives detailed above. Members are reminded that any such conditions should not duplicate existing legislation.

Members are further reminded that any party to the review who is aggrieved at the decision of the Licensing Sub Committee (i.e. Premises Licence Holder or Environmental Health Manager) may appeal the decision to the Magistrates Courts. In the event of such appeal any determination by the subcommittee will not take effect until the appeal is disposed of.

Ian Williams
Director of Economic Growth

Contact Officer: Julie Richings
Ext: 6391

For admin use only:

Date of Sub Committee: 5 May 2015

Sub Committee Decision:

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

Reasons:



Licensing

PART A

Town Hall, Feethams, Darlington. DL1 5QT
Tel: (01325) 388562 Fax: (01325) 388555

<http://www.darlington.gov.uk>

Licensing Act 2003 Premise Licence The Grey Horse

Premises Licence Number	DL14/01403/MINVAR
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PART 1 – PREMISES DETAILS

Premises Details:	GREY HORSE 39 Haughton Green, Darlington, DL1 2DD
Telephone Number:	01325 465402

Licence effective from:	16 September 2014	Duration of Licence:	Indefinite
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Authorised Licensable Activities:	Authorised Hours
Retail sale of alcohol (for consumption ON AND OFF the premises)	09:00 - 24:00 Monday to Saturday 10:00 - 24:00 Sunday
Regulated Entertainment: Films, Indoor Sporting Events, Recorded Music Live Music Entertainment similar to Live or Recorded Music, Provision of Facilities for Making Music, Provision of Facilities for Dancing	09:00 - 24:00 Monday to Saturday 10:00 - 24:00 Sunday 11:00 - 23:00 Every Day 11:00 - 24:00 Every Day
Late Night Refreshment:	23:00 - 01:00 Every Day

Premises Opening Hours:	09:00 - 01:00 Monday to Saturday 10:00 - 01:00 Sunday
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Non-standard/seasonal timings:

The licensable activities specified in this licence shall be extended to 02:00 hrs. on Christmas Eve, Boxing Day and New Year's Eve.

The premise will close 1 hour after the end of the non-standard/seasonal timings.

PART 2

Premises Licence Holder:	Camerons Brewery Limited, Main Gate House, Waldon Street, Hartlepool, TS24 7QS
Telephone Number:	01429 852000
Registered Company No:	crn357110

Designated Premises Supervisor:	John Robert Hewitson, 20 Crossfield Road, Darlington, DL3 0TR
Personal Licence No:	DL13/00863/PERSON
Issuing Authority:	Darlington Borough Council

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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 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.

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7. The responsible person shall ensure that—

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

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

(b) customers are made aware of the availability of these measures

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

9. For the purposes of the condition set out at 8 —

- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
- b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V) \text{ where—}$$

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

c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

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

d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994

10. Any person acting in the capacity of a Door Supervisor must be registered in accordance with the requirements of the Security Industry Authority.

11. The admission of children to film exhibitions must be limited to those films classified as suitable for children by the film classification body. Where no classification has been made the licence holder must approach the Licensing Authority who will then classify the film. The same restriction will then apply.

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

- 1. Conspicuous and legible signage will be prominently displayed within the premises at each exit, requesting that patrons leave the establishment in a quiet and orderly manner.
- 2. Children under the age of 18 years will not be admitted to or permitted on the premises after 6:00pm.
- 3. The maximum number of persons permitted on the premises for functions and events shall not exceed 160.

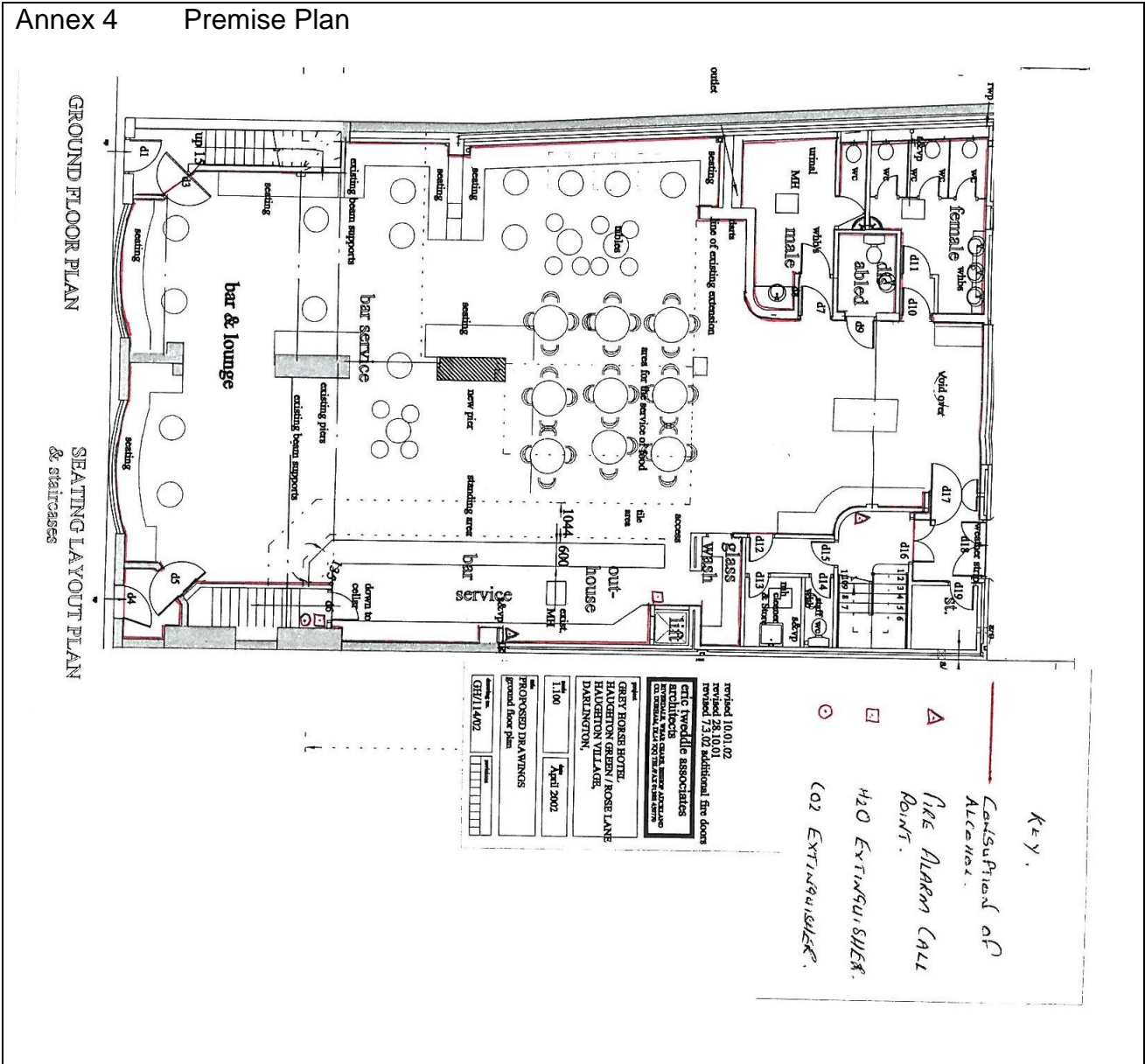
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4. For events with between 60 or 120 patrons there must be a minimum of one SIA door supervisor on duty.
5. For events with between 121 and 160 patrons there must be a minimum of two SIA door supervisors on duty.
6. Music from the licensed premises must not give rise to levels of 5db(A) or more above the background noise level, measured in accordance with BS4142 at the nearest affected residential premises.
7. All windows must remain closed from 21.30 hrs. onwards.
8. All windows and doors must remain closed during any live performance except for normal ingress/egress.
9. All speakers to amplify sound must be positioned away from the entry and exit points.
10. Amplified sound must not be relayed to outside of the building.
11. All artists must be informed of the conditions placed on the premises licence to reduce noise disturbance and will be required to comply with these conditions.
12. Slow, quiet music must be played at the end of any musical entertainment as part of a wind down policy.
13. All licensable activities must be confined to the inside of the premises building.
14. Emptying of bottle bins, deliveries and removal of waste must not take place between the hours of 9:00pm and 8:00am. The outside of the premises must be checked and cleaned at regular intervals every day for littering.
15. All waste material must be securely contained in sealed waste bins within the car park and this area shall be cleaned daily.
16. Effective lighting must be installed and maintained in the car park area and the outside of the building.
17. Noise monitoring checks must be carried out by the duty manager at regular intervals of one hour whenever entertainment is provided. These will be recorded and made available to Durham Police and Responsible Authorities upon request.
18. An incident book shall be maintained at the premises and be made available to Durham Police and Responsible Authorities on request.
19. The premises shall maintain a refusals register, made available to Durham Police and Responsible Authorities upon request.
20. A CCTV system will be in operation at all times the premises is being used for licensable activities, covering the access and egress in all public areas. It must be operated by properly trained staff. Recordings must be kept secure and retained for a period no less than 28 days .Recording must be available on request to the Licensing Authority or Durham Constabulary, and provided within 7 days of such a request. The premises licence holder and/or Designated premise supervisor must report any technical failures/ faults to Darlington Alcohol Harm Reduction Unit along with details of steps taken to remedy the faults, within 24 hours of the fault occurring.

Annex 3 Conditions attached after Licensing Authority Hearing:

None

Annex 4 Premise Plan



In accordance with the application for a minor variation.

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Authorised Officer

Date of Issue: 17 September 2014

REPRESENTATIONS IN RESPECT OF THE GREY HORSE PUBLIC HOUSE

Representor: Environmental Health Manager based on the Prevention of Public Nuisance.

Comments:

“It is my opinion that the management of the premises is failing in its duty under the Licensing Act 2003 with regard to the prevention of public nuisance.

The Environmental Health Section is in receipt of a complaint which alleges that noise from amplified music being played at the premises is creating a nuisance to nearby residents.

It is stated that music is played at excessive levels and that it is clearly audible to the exterior of the premises.

It is also stated that whilst music is being played both sets of doors to the front and rear of the building are not kept closed (other than to allow access or egress) and this exacerbates the problem.

Noise complaint record forms have been sent to the complainant and duly returned completed (these are attached as an Appendix with the personal details of the complainant redacted).

Noise monitoring has been carried out by an officer from the Environmental Health Section in order to assess compliance. Details are given below.

It is therefore my opinion that the management of the premises is failing in its duty under the Licensing Act 2003 with regard to the prevention of public nuisance

The Environmental Health Section has received a number of complaints over time with regard to noise emanating from the premises.

Complaints were received in November 2003, January 2004, July 2007, July 2011 and May 2012.

These complaints were investigated in accordance with the Council Noise Complaint procedure but after discussions with the complainants and the management of the premises no enforcement action was taken.

More latterly on **7 May 2014** an anonymous complaint was received. The details of the complaint were:

“Caller wishes to report excessive noise from the Grey Horse pub, this is largely on weekends (recent bank holidays have been particularly bad).

She also said there was an issue with noise about three years ago, it went away for a while but it bad again now.

States when this is going on she has to keep doors and windows locked to try to block it out.”

No formal action was taken but the management of the premises were notified that there had been a complaint.

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On 4 August 2014 a further complaint was received, the details of which are recorded as:

“Extremely loud music until 11pm on a Sunday, all windows and front door left open and table and chairs left outside so alot of drunk and noisey people sat outside. Police have been called several times.”

On 4 August 2014 the complaint was discussed with the complainant. She said that she complained in May and then when someone from Environmental Health spoke to them it improved. It was stated that Sundays had become really bad with windows and doors wedged open and noise really loud. She didn't want her name giving out. It was agreed that an officer would visit and give warning and then she would contact us if any further problems.

At 15.30 an officer visited the premises. The manager was not available so the officer gave a warning to bar staff and she agreed to tell manager. A copy of the Premises Licence and the associated conditions was also given to the member of staff and a reminder needed that they needed to comply with the conditions.

No further contact was made by the complainant.

On 13 October 2014 a further complaint was received. The details are recorded as:

“Noise complaint regarding loud music from live band and karaoke very loud and then nuisance noise from closing time. This issue seems to be occurring every weekend night.”

It was agreed that the complainant would monitor the noise for a number of weeks and Environmental Health would speak to premises management and confirm with a letter.

On 14 October 2014 an officer visited the premises and discussed the complaint with the manager of the premises. He was advised of the procedure and that an investigation would follow. He became upset and stated that he was sick of complaints being made.

The officer advised that as long as he was sticking to his Premises Licence Conditions he had nothing to worry about. **The officer asked to see the log book that was recommended to be kept to demonstrate compliance with Condition 13 of Annex 2 on the licence. The manager stated that it had already been sent off but when pressed could not state where, when or why it had been sent off and was not available on the premises for examination.**

On 14 November 2014 the complainant phoned and stated that the noise was still bad and that he would send the noise complaint record forms (NCRF) back.

On 19 November 2014 an officer phoned the complainant and said that he would contact brewery, as he hadn't yet done so, in an attempt to resolve informally. It was agreed that the complainant would continue to monitor until after Christmas and then the situation would be reviewed. More NCRFs were sent to the complainant.

Contact was made with Mr Jeff Cowley at Cameron's Brewery and he was advised of the situation and possibility of review of the premises licence. He said he would attempt to resolve issues at the premises.

On 25 November 2014 Initial NCRF's returned from the complainant

On 21 January 2015 - Further NCRFs returned from the complainant

On 23 January 2015 the complainant was offered noise monitoring equipment to be installed in his house. This offer was refused so it was agreed that an officer would visit over next few weeks to monitor.

On 25 January 2015:

@20.00 An officer visited and listened to noise. Not particularly audible at front of premises although it was noted that only one door in front entrance closed.

In lane at rear of the premise

@20.10 Diana Ross song clearly audible all way down alley to end where garages are.

@20.15 "Working my way back to you babe" was clearly audible. Also only one door to rear lobby closed.

The fact that entertainment noise can be heard to the exterior of the building is in contravention of Conditions 10 and 14 of Annex 2 of the Premises Licence. The fact that both lobby doors to the front and rear of the building are not kept closed whilst entertainment is taking place is in Contravention of condition 8 of Annex 2 of the Premise Licence

The officer spoke to two females (not connected with the Licensed premises) in the alley outside a house who were singing and dancing along to music. They said the noise was always like this on weekend nights but weekdays were quiet. They also said that glasses were often broken in alley and caused problems for cars.

On 1 February 2015:

@20.00 An officer visited and listened to noise. Noise only just audible at front of the premises.

@20.25 "Rockin Robin" by Michael Jackson clearly audible all the way down the alley to side and rear.

Between songs amplified speech from the DJ on the microphone was clearly audible outside the premises. This was followed by 2 songs which were not known to the officer but were also clearly audible.

At both entrances to the pub only one door of the lobby was closed and music was much louder as people accessed and egressed premises.

The fact that entertainment noise can be heard to the exterior of the building is in contravention of Conditions 10 and 14 of Annex 2 of the Premises Licence. The fact that both lobby doors to the front and rear of the building are not kept closed whilst entertainment is taking place is in Contravention of condition 8 of Annex 2 of the Premise Licence

12 February 2015:

@13.35 the complainant was again offered monitoring equipment to be installed in his house. This offer was refused so it was agreed that an officer would continue to visit.

22 February 2015:

@19.50 An officer visited and listened to noise. No noise audible at front of premises. One of the lobby doors to the front of the premises was open. Walked down the lane to side and music became louder.

@19.55 "Come on over Valerie" by Amy Winehouse was clearly audible.

@20.00 song (title unknown to officer) but lyric is "he would buy me a rubber dolly" was clearly audible.

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Noise not as loud as previous visits but still clearly audible half way down the lane. The noise was only very faint but still audible at end of lane by the garages. One of the lobby doors to the rear of the premises was open.

The fact that entertainment noise can be heard to the exterior of the building is in contravention of Conditions 10 and 14 of Annex 2 of the Premises Licence. The fact that both lobby doors to the front and rear of the building are not kept closed whilst entertainment is taking place is in Contravention of condition 8 of Annex 2 of the Premise Licence

2 March 2015 an officer left a message on the answerphone of Mr Matthew Stancliffe of Cameron's Brewery to inform them of progress and possibility of a review of the premises licence and asked them to make contact.

5 March 2015 an officer discussed the situation with Mr Matthew Stancliffe from Cameron's Brewery and advised him of the situation."

NOISE MONITORING FORM (PN7)

STATEMENT OF WITNESS

(Criminal Procedure Rules 2005 r 27.1(1), Criminal Justice Act 1967, s 9; Magistrates Court Act 1980, s 5B)

NAME	
OCCUPATION	
ADDRESS	
RE-	The Grey Horse 39 Houghton Green Darlington DL1 2DD
Uniform Reference	14/04526/NOICOM

DATE	TIME NOISE STARTED AND STOPPED	TYPE OF NOISE (DESCRIBE)	WHERE HEARD (LOCATION AND PEOPLE PRESENT)	HOW AFFECTED, WHAT DID IT PREVENT YOU DOING? HOW DID IT DISTURB YOU? HOW DID IT MAKE YOU FEEL?
Fri 17/10	11.45pm - 12.15am	Shouting & bad language	Both front & back of property	Disturbed sleep
Sat 18/10	5.30pm	Shouting & bad language	3-4 people Back of property	
Sun 19/10	8pm - 10pm	Loud music, audible in double glazed rooms	Inside our property	
25/10 Sat 25/10	8pm	Shouting / bad language out back		
	9pm	Shouting / noise out front		
Sun 26/10	7.30pm - 11pm music stopped 11.45pm -	Loud music playing & noise out front Chattering & loud singing 3-4 people + in car park.	Clearly audible inside our property.	

This statement is true to the best of my knowledge and belief and I make it known that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed:

Dated: 22/11/14

NOTE:

Please return this form to
The Environmental Health Section, Room 407, Town Hall, Feethams, Darlington, DL1 5QT

NOISE MONITORING FORM (PN7)

STATEMENT OF WITNESS
 (Criminal Procedure Rules 2005 r 27.1(1), Criminal Justice Act 1967, s 9; Magistrates Court Act 1980, s 5B)

NAME		
OCCUPATION		
ADDRESS		
RE-	The Grey Horse 39 Haughton Green Darlington DL1 2DD	DAR 20 NOV 2014 F
Uniform Reference	14/04526/NOICOM	

DATE	TIME NOISE STARTED AND STOPPED	TYPE OF NOISE (DESCRIBE)	WHERE HEARD (LOCATION AND PEOPLE PRESENT)	HOW AFFECTED, WHAT DID IT PREVENT YOU DOING? HOW DID IT DISTURB YOU? HOW DID IT MAKE YOU FEEL?
Fri night 31st Oct		loud music - audible indoors lots shouting outside		
Sun 2nd Nov	2.30ish - 11.00pm when loud music stopped. Noise & shouting outside front until 11.50pm	loud music - got louder 8.30ish & lots shouting outside.		
Sunday 9th Nov	Arrived home at 8pm → 11pm 11 pm → 11.30ish	Very loud music from pub lots noise/shouting outside	Inside house outside on front pavement	

This statement is true to the best of my knowledge and belief and I make it known that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true

Signed: ..

Dated: 22/11/14

NOTE:

Please return this form to
 The Environmental Health Section, Room 407, Town Hall, Feethams, Darlington, DL1 5QT

THE GREY HORSE

NOISE MONITORING FORM (PN7)

STATEMENT OF WITNESS
 (Criminal Procedure Rules 2005 r 27.1(1), Criminal Justice Act 1967, s 9; Magistrates Court Act 1980, s 5B)

NAME	
OCCUPATION	
ADDRESS	
RE-	The Grey Horse 39 Haughton Green Darlington DL1 2DD
Uniform Reference	14/04526/NOICOM

DATE	TIME NOISE STARTED AND STOPPED	TYPE OF NOISE (DESCRIBE)	WHERE HEARD (LOCATION AND PEOPLE PRESENT)	HOW AFFECTED, WHAT DID IT PREVENT YOU DOING? HOW DID IT DISTURB YOU? HOW DID IT MAKE YOU FEEL?
22/11/14	10.30 ish bud music + shouting loud shouting + singing out back continued to 12.20am	loud music Shouting Singing	Back of house + inside Music heard inside house also.	
23/11/14	Spanish music from pub 11.30pm bud music from cars in front of pub			
30/11	7.15pm - 11pm	Music - got louder from 9pm ish Shouting outside after 11pm	Inside house Outside on pavement	

This statement is true to the best of my knowledge and belief and I make it known that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed:

Dated: 18/11/15

NOTE:

Please return this form to
 The Environmental Health Section, Room 407, Town Hall, Feethams, Darlington, DL1 5QT

NOISE MONITORING FORM (PN7)

STATEMENT OF WITNESS
 (Criminal Procedure Rules 2005 r 27.1(1), Criminal Justice Act 1967, s 9; Magistrates Court Act 1980, s 5B)

NAME	
OCCUPATION	
ADDRESS	
RE-	The Grey Horse 39 Haughton Green Darlington DL1 2DD
Uniform Reference	14/04526/NOICOM

DATE	TIME NOISE STARTED AND STOPPED	TYPE OF NOISE (DESCRIBE)	WHERE HEARD (LOCATION AND PEOPLE PRESENT)	HOW AFFECTED, WHAT DID IT PREVENT YOU DOING? HOW DID IT DISTURB YOU? HOW DID IT MAKE YOU FEEL?
7/12/14	7.30am - 11pm	Music - only audible through single glazed windows - better than usual		
14/12/14	7.30am - 11	Music audible double glazing but of noise + cars, shouting 11 - 11.30pm		
19/12/14	7.40	Music - heard through house		
21/12/14	from ~ 3.30pm - 11.30pm	Music and noise through double glazing shouting / shouting	Front & rear of pub Front of pub	
31/12/14	from before 9pm - after 10pm	Very loud music & shouting / shouting	Music from rear - shouting / shouting	

This statement is true to the best of my knowledge and belief and I make it known that if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signed:

Dated: 18/1/15

NOTE:

Please return this form to
 The Environmental Health Section, Room 407, Town Hall, Feethams, Darlington, DL1 5QT

1. Children under the age of 18 years will not be admitted to or permitted on the premises after 6.00pm.
2. The maximum number of persons permitted on the premises for functions and events shall not exceed 160.
3. For events with between 60 or 120 patrons there must be a minimum of one SIA door supervisor on duty.
4. For events with between 121 and 160 patrons there must be a minimum of two SIA door supervisors on duty.
5. All windows must remain closed (except for normal ingress/egress) when regulated entertainment involving live or recorded music is taking place on the premises.
6. The interior front doors and both sets of double lobby doors at the rear of the premises must remain closed (except for normal ingress/egress) when regulated entertainment involving live or recorded music is taking place on the premises.
7. The designated premises supervisor or their representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment involving live or recorded music and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. (*See Note Below). A written record shall be made of those assessments in a log book kept for that purpose and shall include, the time and date of the checks, the person making them and the results including any remedial action.
8. No speakers or other amplification equipment must be placed outside the building so as to relay amplified sound beyond the perimeter of the building.
9. A dispersal policy will be implemented at the end of trading to ensure customers leave the premises and its immediate vicinity in such a way as to cause minimum disturbance or nuisance in the neighbourhood.
10. Emptying of bottle bins, deliveries and removal of waste must not take place between the hours of 9.00pm and 8.00am. The outside of the premises must be checked and cleaned at regular intervals every day for littering.
11. All waste material must be securely contained in sealed waste bins within the car park and this area shall be cleaned daily.
12. Effective lighting must be installed and maintained in the car park area and the outside of the building.

* Hourly checks are recommended. Noise is likely to cause a disturbance to local residents if it is clearly audible and recognizable as coming from the licensed premises at or beyond the boundary of any nearby noise sensitive property.

Dear Sirs,

With regard to the licence review of that held by the Grey Horse public house on Haughton Green, I would like to make the licensing section aware of our views and concerns of and with that establishment.

As you are aware, Haughton Green is the main road running through the old village; it is a designated conservation area and is populated by a broad mix of people including elderly residents and those with young families, such as ours.

We are unfortunate enough; however, to essentially live next door to the pub, which to all intents and purposes is nothing less than a town centre beer hall.

It is my understanding that when planning permission was granted at the time of the extension of the building it was on the basis that a restaurant facility was being added to the rear. The actual situation is that all internal walls were removed, the building footprint doubles and a bar running almost the full depth of the building was installed.

Whatever food offering was envisaged has long since stopped and the pub evidently now operates in much the same manner as JD Weatherspoon, in that it comprises a very large open plan room selling massive amounts of cheap beer.

The business model is fine in the town centre, but has no place in the middle of a residential conservation area, particularly with the customers it attracts.

We have lived in this house for twelve years and the situation with the pub has never improved with regards to its custom. In summer months, customers sit outside the pub front during the day, often shouting and swearing at each other as part of a normal conversation. I should not have to try and explain to a four year old boy, when he asks me, what some of the words mean. There is no avoiding this, as when we sit in our rear garden, the general noise, swearing and shouting is also constant from the pub car park, where those who smoke congregate. The smell of some of the "tobacco" used can be quite interesting at times too.

At weekends, at all times, cars drive into the car park, often at speed, windows down and playing music so loud it can be heard through our double glazed windows. Revving engines and blowing horns to let their friends inside the pub know they are there.

We regularly have to sweep up broken pint glasses and beer bottles, thrown into our front garden and whilst all of this is simply constant low level irritation and something we have learned to put up with as the price of living next to a pub, the customers' behaviour, can at times, become completely unacceptable. For example on one occasion whilst in our front garden, I saw a customer leave the pub's front seating area, run across the road and use the public telephone box as a toilet rather than go back inside the pub. We also very recently witnessed an individual leaving the pub and going into our next door neighbours' garden and relieving himself there.

Further, it is impossible to have windows open even on the hottest nights, without being treated to the constant noise, cigarette smoke and foul language emanating from both the front and rear of the pub.

THE GREY HORSE

There is also the issue of “disco nights” and live music. I have no issue generally with live music, indeed we have been in two bands ourselves and will still regularly go to concerts and festivals. There is though, a time and place for all things and midnight on a Sunday in a residential village it not it.

This is invariably followed by shouting, singing, swearing etc as people leave the pub and/or queue for their taxis back home.

Unfortunately, the noise, shouting and swearing will often take a more sinister turn and one of the biggest issues we have if the fights. In the last twelve months, we have been obliged to call the police on two occasions due to the battles enacted outside the pub, in Rose Lane and in the middle of the road.

I have seen a woman, drunk to the point of staggering into the road, with her blouse ripped of by another woman, I have seen pitch battles between groups of young men in the middles of the road and vehicles having to stop of slow to avoid it. In point of fact, I believe I may have seen every different combination of antagonist imaginable on the pavement in front of the pub.

Sadly in a recent experience, my little boy was woken up by a furious argument between a young woman and her boyfriend at around 10.30pmon a Sunday night. We have left his bedroom window open and they began a fight at the front entrance of the pub. I was so upset that it frightened my son, I went outside to ask them to calm down. By the time I go there the boyfriend had walked off.

I asked the young woman to stop the screaming and calm down and that she’d woken my son. She was clearly drunk an in response she screamed at the “just f**k off”. Her friend told me I wasn’t helping, so I advised her that she didn’t tone it down I would call the police. Her reply was “well call the f**ing police then the f**ing c**t”

As it happens I didn’t need to as they arrived about 30 seconds later. At this point the boyfriend returned and became aggressive with the police. Consequently he was arrested. This incident perfectly illustrates the general behaviour of the customers at the pub on a weekend evening and it seems self evident that the pub management take the view that once a customer has stepped outside the front door, they are no longer their responsibility.

Whilst a cctv camera was recently put on the wall of the building in Rose Lane; presumably to try and dissuade post pub combat, the streetlight which illuminated the area was damaged shortly thereafter and was removed by the Council a couple of weeks ago. Consequently it is unlikely that the camera will be recording anything anytime soon.

We do not believe that we are alone in having these concerns and whilst during the weekday, the pub appear to provide a quiet social venue for a regular group of retired gentlemen, evenings and weekends become something quite different.

Noise, antisocial and even violent behaviour is commonplace and I would appreciate these matters being taken under consideration during the review of the licence for this pub.

Re: Review of Premise Licence: The Grey Horse, Haughton Green

Thank you for your letter of 18 March providing details of the proposed conditions of licence for comment. Please accept the comments below as our representation on this matter.

1. The proposals appear to deal with the issue of loud music and seem appropriate for dealing with that issue, if they are adhered to. However, they only seem to pertain to event nights when musical events are on and give no proposals for dealing with general noise and antisocial behaviour on any other evening regardless of whether there is music.

Whilst point 9 proposes a dispersal policy at the end of trading it does not deal with the issues throughout the evening outlined in our previous letter when quiet dispersal control of noise from patrons is also required.

2. Points 3 & 4 deal with the employment of SIA door supervisors. Whilst generally welcoming this, there is no detail regarding their remit. The Grey Horse has regularly employed door staff but their effectiveness is questionable in dealing with noise, anti-social behaviour and violence from patrons in the immediate vicinity of the Grey Horse, particularly Rose Lane and Haughton Green itself. Whilst we accept there is a limited amount the door staff can do as patrons get further from the premises, there does appear to be an attitude at the pub that 1 inch off the premises and its no longer their problem. We would therefore like to see some proposals for dealing with noise and drunk patrons in the immediate vicinity.

We would also like to see the guidance for door staff on calling the police to deal with trouble. At the moment, the policy seems to be to ignore it until it peters out or moves away – this is unacceptable.

3. Nowhere in the proposals are there any measures to deal with serving extremely drunk people more alcohol. This seems to happen on a regular basis and is often the root cause of the subsequent noise, anti-social behaviour and violence.
4. We welcome the requirement in point 12 to install lighting in the car park area and whilst we appreciate this is not the business of the Grey Horse itself, we would wish to see the replacement of the streetlight attached to number 4 Rose Lane which was broken and subsequently removed. We would also wish to see recoding CCTV around the premises which is checked on a regular basis to ensure it is switched on. We would also wish to see recordings kept for a specified period of time.

We hope these comments are useful and would like to add that we have no wish to see the Grey Horse closed, but some recognition that it is a large “town centre” style pub in a residential area. We also recognise the difficulties faced by landlords in dealing with such behaviour as Mr Anderson was a licence holder for a bar in a garrison town for a number of years.

6.0 THE IMPACT OF LICENSABLE ACTIVITIES

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

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

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

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

THE GREY HORSE

- 6.2 Reason: To achieve the licensing objective of preventing public nuisance. To promote this objective the Licensing Authority, in considering the likelihood of adverse impact, will, along with other matters, take into account:
- a. The precise nature of the activity, particularly in terms of entertainment, as this may impact in terms of the age of patrons and their behaviour.
 - b. Noise levels and type of noise, which may be acceptable during daytime hours but may have greater impact at times when ambient noise levels are much lower.
 - c. The impact of patrons arriving, queuing and exiting which should take place on main pedestrian routes rather than through residential areas.
 - d. The impact of other sources of nuisance from smells, smoke, refuse storage, vermin and other similar causes of nuisance.

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

6.3 ADDITIONAL INFORMATION

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

PREVENTION OF NUISANCE

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

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

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

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

8.2 ADDITIONAL INFORMATION

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

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

8.3 LOCATION AND IMPACT OF ACTIVITY

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

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

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

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

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

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

8.4.2 Parts of this Borough are very sensitive to the impact of licensed activities because they are either residential in character or close to residential areas. Many shopping areas are close to residential areas, including housing above commercial premises. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of patrons arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents being prevented from parking close to their homes and by increasing the danger from traffic in residential streets.

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

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

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

8.5 ADDITIONAL INFORMATION

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

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

8.6 SATURATION AND CUMULATIVE EFFECT

8.6.1 The Licensing Authority recognises that the cumulative effect of licensed premises may result in an increase in numbers of people either walking through or congregating in streets or cause adverse effects on the area and this in turn may have a number of undesirable consequences, for example:

- a. An increase in crime against both property and persons.
- b. An increase in noise causing disturbance to residents.
- c. Traffic congestion and/or parking difficulties.
- d. Littering and fouling.

8.6.2 In considering a Saturation Policy, the Licensing Authority will take into account:

- a. The Character of the surrounding area.
- b. The potential and real impact of the licence on the surrounding area, both individually and cumulatively with existing licences.
- c. The nature and character of the proposed operation.
- d. Any other relevant considerations.

8.6.3 Where there is evidence that a particular area of the Borough is suffering adverse effects arising from a concentration of licensed premises, or that residential areas are under stress, this will be taken into account in determining any further applications or variations to existing licences for premises within the area identified. The onus will be on those making relevant representations to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed. The Licensing Authority may consider a specific Saturation Policy if this proves necessary. The Licensing Authority in considering whether to adopt a special Saturation Policy will take the following steps:

- a. Consider any serious and chronic concern from a responsible authority or representatives from residents or local businesses concerning nuisance and/or disorder.
- b. Assess the causes.
- c. Where it can be demonstrated that disorder and nuisance is arising as a result of patrons of licensed premises, identify the area from which problems are arising and the boundaries of that area
- d. Consult with all concerned.
- e. Where appropriate adopt and publish a Special Policy about future licence applications from that area.

8.6.4 At the present time the Licensing Authority has not designated any Saturation Areas within the Borough. If in future the Licensing Authority is invited to designate any such areas the Licensing Policy will be revised and advertised. Current licence holders will be informed and new applicants advised on their initial enquiry. Any such Policy would then be subject to regular review.

8.7 STAGGERED CLOSING TIMES

8.7.1 Policy: In areas containing a number of licensed premises the Policy of the Licensing Authority will be to encourage licensees to stagger their closing times. Where voluntary agreements cannot be obtained, or are unsuccessful and problems of nuisance for local residents or businesses arise, the Licensing Authority will, if relevant representations are made, consider whether it is appropriate to limit the hours of individual licensed premises. This will be particularly the case in areas judged to be noise sensitive areas.

THE GREY HORSE

Reason: The aim of this Policy is to minimise disturbance and strain on transport systems and public nuisance. One of the aims of the new licensing regime was to prevent the mass exodus of patrons at 11 pm or 2 am that occurred under the current pre-2003 legislation. Fixed licensing hours were to be abolished in favour of hours tailored to individual premises. However the same cumulative effect referred to in Section 8.6 may arise where the closing time of a number of licensed premises coincide.

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.

THE GREY HORSE

- 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.

CRIME AND DISORDER

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

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).**

THE GREY HORSE

- 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 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.

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003
(REVISED MARCH 2015)**

Purpose

- 1.7** This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 1.8** The police remain key enforcers of licensing law. This Guidance does not bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this 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. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this 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.

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;

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- 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;
- 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.

OTHER RELEVANT LEGISLATION

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. Legislation which may be relevant includes:

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- Health and Safety (First-Aid) Regulations 1981
- The Equality Act 2010

Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

- 2.3** Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally.

Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

- 2.4** The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

- 2.5** Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

Public safety

- 2.6** 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.

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2.7 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 2.11-2.12, 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).

2.8 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 (8.33- 8.41), 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

2.9 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.

Public nuisance

2.14 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.

- 2.15** 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 may 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.
- 2.16** 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 persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.17** 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.
- 2.18** Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.19** 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.
- 2.20** 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

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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.

General

- 10.1** This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 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 an unlimited fine 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 exercised 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. This provision also applies to minor variations.

10.9 It is possible that in some cases no additional conditions will be 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. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. 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.

The review process

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in

hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.

- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

- 11.8** Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.9** Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10** Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11** If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12** A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13** Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14** The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15** When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16** The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17** The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18** However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again.

However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- **for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;**
- **for the sale and distribution of illegal firearms;**
- **for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;**
- **for prostitution or the sale of unlawful pornography;**
- **by organised groups of paedophiles to groom children;**
- **as the base for the organisation of criminal activity, particularly by gangs;**
- **for the organisation of racist activity or the promotion of racist attacks;**
- **for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;**
- **for unlawful gambling; and**
- **for the sale or storage of smuggled tobacco and alcohol.**

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered

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

Date of Notification: 16 April 2015

Type of Hearing: Review of Premises Licence

Premises: The Grey Horse
Haughton Green
Haughton
Darlington
DL1 2DD

Hearing Details: 12.00 hours on Tuesday 5 May 2015

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

Copy of notice sent to: Cameron's Brewery – Premise Licence Holder
Environmental Health Manager (Applicant for Review)

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 30 April 2015**

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,

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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 **Environmental Health Manager** at the Hearing

- details of any further incidents of concern since the application for the review

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

- What measures are in place to control noise and ensure that patrons do not disturb local residents while at the premises and when leaving the premises



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

NOTICE OF ATTENDANCE

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

DATE OF HEARING: 12.00 hours on Tuesday 5 May 2015

NAME OF PREMISES: The Grey Horse
 Haughton Green
 Haughton
 Darlington
 DL1 2DD

YOUR NAME: _____

I WILL* I WILL NOT* BE ATTENDING THE HEARING

I WILL* I WILL NOT* LEGALLY REPRESENTED

NAME OF LEGAL REPRESENTATIVE (IF APPROPRIATE):

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

(*delete as appropriate)

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

Name

Details

Please return to: Mrs J Richings
 Principal Licensing Officer
 Darlington Borough Council
 Town Hall
 Feethams
 DARLINGTON
 DL1 5QT

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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 Interested Parties will be asked for their views, which will be taken into consideration.

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

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