

FOR CHAIR AND MEMBERS
OF THE LICENSING SUB COMMITTEE
FOR 17 July 2015

APPENDIX 1

APPLICATION TO VARY PREMISES LICENCE

Licence Holder: DAVID JOHNSON Ref No: DL15/00048/VARDPS

PREMISES: AVALON, 8 BLACKWELLGATE, DARLINGTON DL1 5HL

Current Licensable Activities

Authorised Hours

**Sale of alcohol (Indoors & Outdoors)
(for consumption ON & OFF the premises)**

11.00 hrs – 01.00 hrs Every day

Regulated Entertainment:

**Indoors: Films, Indoor Sporting Events,
Live Music, Recorded Music,
Performance of Dance, Provision
of Facilities for Making Music
Provision of Facilities for
Dancing.**

11.00 hrs – 01.00 hrs Every day

**Outdoors: Films, Indoor Sporting Events
Live Music, Recorded Music,
Performance of Dance, Provision
of Facilities for Making Music
Provision of Facilities for Dancing**

**11.00 hrs – 00.30 hrs
on Friday, Saturday and Sunday of a
weekend where Monday constitutes
a Bank Holiday, plus Christmas Eve,
Boxing Day and New Year's Eve,
and on no more than 24 further
occasions per year***

Late Night Refreshment: (Indoors & Outdoors)

23.00 hrs – 01.00 hrs Every day

Premises Opening Hours

09.00 hrs – 01.30 hrs Every day

Non-standard/seasonal timings:

**Indoors: The licensable activities specified in this licence may be provided from
10:00 New Year's Eve to the terminal hour stated in this licence on New
Year's Day.**

**The licensable activities specified in this licence may be extended by one hour on
the last Sunday in March, when the change to British Standard Time takes effect at
01:00hrs.**

**To permit the premises to open for licensable activities to show the broadcast of
televised sporting events of national or international interest outside normal
operating hours such opening times for this purpose to be confirmed upon 10 days'
notice in writing to the police before the premises intend to open, such notification
to include the opening times and the sporting event which is to be shown.**

**Outdoors: *There shall be no more than 4 occasions in total in any calendar month
where regulated entertainment takes place outdoors.**

AVALON PUBLIC HOUSE

- APPLICATION TO VARY:**
- To extend the current external permission to permit regulated entertainment between 11.00 hrs and 00.30 hrs on Thursday to Monday and also on Christmas Eve, Boxing Day and New Year's Eve.
 - To remove the restrictions relating to the number of events that may be held per annum or each calendar month
 - To remove Condition 1 in Annex 2 limiting the occupancy of the premises to 120 in the bar area and 180 in the garden area and replace it with an occupancy level determined by the fire risk assessment

Notification to Responsible Authorities/Interested Parties:

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

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

Advertisement in The Advertiser:	29 May 2015
Information on Council's web site:	21 May 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 States Guidance if it has good cause but must be able to give full reasons for such a departure.

HISTORY OF APPLICATIONS

On 30 August 2005, an application was made for a premises licence in respect of these premises, which at the time were known as the Falchion Public House, 8 Blackwellgate, Darlington. Following representations from the Police and Environmental Health the application was amended and was granted on 10 October 2005 to take effect from 24 November 2005.

In December 2005, an application was made to transfer the premises licence from Stephen Murray to Simon Bell and Peter May and to vary the Designated Premises Supervisor (DPS) to Simon Bell. The Police, who are the only statutory consultee in

AVALON PUBLIC HOUSE

respect of such applications, did not make any representation and the licence was duly transferred and varied.

On 27 April 2006, an application was made to vary the premises licence in respect of some refurbishment of the premises. At the same time, the name of the premises was amended to **Avalon**. As representations were not made in respect of this application it was duly granted.

On 21 February 2008, an application was made to transfer the premises licence from Simon Bell to William Steele and to vary the DPS from Simon Bell to Darrel Johnson. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation and the licence was duly transferred and varied.

On 07 July 2008, an application was made to vary the DPS from Darrel Johnson to Troy Simmons-Turner. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation and the licence was duly varied.

On 02 September 2008, an application was made to vary the DPS from Troy Simmons-Turner to Barry Dodsworth. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation and the licence was duly varied.

On 03 April 2009, an application was made to vary the DPS from Troy Barry Dodsworth to Craig Shaw. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation and the licence was duly varied.

On 02 December 2011, an application was made to transfer the premises licence from William Steele to David Johnson and to vary the DPS from Craig Shaw to Daniel Collings. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation and the licence was duly transferred and varied.

On 29 October 2012, an application was made to vary the DPS from Daniel Collings to Darrel Johnson. 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 30 November 2012 an application was made to vary the premise licence to amend the terminal hour for all licensable activities to 2 am; to permit all licensable activities to be offered both indoors and outdoors; to remove the condition limiting occupancy to 110 from the licence; to amend the opening hours so that the premises can open from 9 am for non licensable activities and to amend the plans for the premises to reflect the inclusion of the outdoor areas for all licensable activities. Two representations were submitted - one by the Environmental Health Manager on the grounds of the prevention of public nuisance and the other by Durham Constabulary based on the prevention of crime and disorder and the prevention of public nuisance.

On 28 January 2013, the Licensing Sub Committee heard the contested application. Members listened carefully to both representations and also the submissions in support of the application and after due deliberation Members decided to grant the application in part only as follows:

1. It was agreed that the terminal hour of all licensable activities inside the premises should be extended to 01.00 hours every day. *(Members decided not to grant the application until 2.00 hours as requested due to the Committee's concerns regarding the recent history of incidents at the premises and the behaviour of the management as this was seen as relevant to both the prevention of crime and disorder and the prevention of public nuisance.)*

AVALON PUBLIC HOUSE

2. It was agreed that all licensable activities should also be allowed **outside** the premises until 01.00 hours every day, with the exception of regulated entertainment which would terminate outside at 00.30 hours every day and was further subject to 3 below. *(This reflected the agreement made by the Applicant and the Environmental Health Manager.)*
3. Entertainment was permitted **outside** the premises on the Friday, Saturday and Sunday of a weekend where the Monday constitutes a Bank Holiday plus Christmas Eve, Boxing Day and New Year's Eve.
4. Entertainment was additionally permitted outside the premises on no more than 24 further occasions per year.
5. The Licensing Authority were to be notified seven days in advance as to when the occasions detailed above were to take place and there were to be no more than 4 occasions **IN TOTAL** in any calendar month. *(This reflected the agreement made by the Applicant and the Environmental Health Manager.)*
6. The premises opening hours were amended so as to permit the premises to open at 09.00 hours every day for non-licensable activities such as the sale of breakfasts, tea, coffee etc and to close at 01:30 hours. *(The sale of alcohol and licensable activities would not commence until 11:00 hours. The closing time of 01:30 hours was agreed so as to allow half an hour drinking up period after the sale of alcohol has ceased.)*

The condition restricting maximum occupancy to 110 persons was to remain in place until such a time as the Fire Authority were satisfied it could be altered. *(This was felt to be necessary in the interests of public safety. The Committee did not agree with the applicant's representation that the figure of 110 only applied to the inside area, particularly in light of the correspondence the Licensing Authority had received from the Fire Officer.)*

The Members decided to add the following two conditions to the licence

7. "The Premise Licence Holder shall work with Durham Constabulary to establish a written drugs policy."
8. The conditions contained in the document entitled Guidance on Protection of Young People, namely
 - a) The Police Licensing Officer, Licensing Authority and Local Safeguarding Children's Board to be notified of any under 18 event at least 28 days in advance of the event.
 - b) The premises to be covered by colour, digital CCTV which meets the requirements and expectations of the Licensing Authority and Police. The equipment to record whilst the premises are carrying out licensable activities, all recordings retained for a minimum period of 28 days and being made available upon request to the Police or Licensing Authority within a period of 7 days.
 - c) The operator ensuring that the premises have sufficient numbers of SIA registered security staff and ensuring that they are employed in the following ratio: 2 for the first 100 customers, one of which being female, 2 for the second 100 customers and 1 for every 100 customers thereafter. At least one member of security staff being employed as a floorwalker and constantly monitoring patrons for evidence of alcohol or drugs and also protecting patrons from unwanted attention or harassment.
 - d) Ensure efficient entry and dispersal procedures are in place so that young

AVALON PUBLIC HOUSE

- people are not left in a vulnerable position outside of the premises.
- e) Where there is normally a bar, ensuring that alcohol is not on display and is locked away.
 - f) Ensuring that there is at least 1 hour between the conclusion of the youth event and the venue opening for the commencement of any adult entertainment.
 - g) Searches on entry, to include all bags, to prevent alcohol and other illegal substances being brought onto the premises.
 - h) Where alcohol is seized from persons aged under 18 details recorded in a refusals register.
 - i) Any prior marketing of the event (internet, flyers, posters etc) to make it clear that no alcohol will be sold to under 18's, nobody who appears to be drunk will be allowed admission to the event and searches will take place to ensure that no alcohol is brought into the venue. Permissible ages to be printed in prominent writing on any tickets issued for the event.
 - j) Ensure a policy is in place for dealing with under 18's who appear to be under the influence of drugs or alcohol which incorporates a duty of care expected to be provided.
 - k) Toilet checks being carried out at regular intervals and records of such checks retained.
 - l) First aid provision available at the premises.
 - m) Ensure a policy is in place to prevent under aged persons leaving and returning to the premises in order to consume alcohol outside.
 - n) For events held on a Thursday, Friday or Saturday evening a terminal hour of no later than 10.30pm.
 - o) An area should be designated as a safe space, whereby ill or intoxicated persons, including minors, can be taken to a place of safety for medical treatment or in the case of minors until reunited with a parent, guardian or responsible adult.
 - p) All patrons to be given a secure wristband of different colours, differentiating over 18's from under 18's.
 - q) Only one alcoholic drink to be purchased at any one time by an individual aged over 18 years of age.
 - r) At least 2 SIA registered security staff acting as floorwalkers to constantly monitor patrons aged under 18 years of age for evidence of alcohol or drugs and also to protect patrons from unwanted attention or harassment.
 - s) Children under 16 years of age not being admitted to the event unless accompanied by a responsible adult. Each responsible adult not being responsible for more than 4 such children.
 - t) All drinks being served in plastic or polycarbonate glasses.

On 25 March 2015, an application was made for a minor variation of the premise licence to permit an extra hour for the sale of alcohol, regulated entertainment and the provision of late night refreshment at the commencement of British summertime. This was duly granted.

AVALON PUBLIC HOUSE

On 12 January 2015, an application was made to vary the Designated Premises Supervisor from Darrel Johnson to Chris Wilsden. As the Police, who are the only statutory consultee in respect of such applications, did not make any representation the licence was duly varied. This is the current licence for the Premises (see **Appendix 1A**)

ADDITIONAL INFORMATION

On 16 September 2014, the licensing Section received a letter from the Fire Safety Section of the Fire Authority following a fire safety audit at the premises by their Officer on 6 September 2014. The letter reflected that deficiencies identified by the fire safety risk assessment had not been addressed by the Premises Licence Holder. At the time of the visit, the Officer found that rear final exit gate from the beer garden was obstructed and the ground outside that exit appeared to be uneven and therefore unsafe should persons have to leave the area in an emergency. The Officer also stated that there appeared to be an insufficient provision of emergency lighting in the beer garden and recommended that an assessment of the existing emergency lighting system should take place and the emergency lighting be upgraded as necessary. The Officer also stated that whilst he found the occupancy level figures to be acceptable for each area (inside and outside) he recommended that management should have a robust management plan regarding the controlling of these figures should the public in the beer garden unexpectedly attempt to re-enter the premises.

On 20 March 2015, a complaint was made to the Licensing Authority alleging that music was being played in the outside terrace every Monday and Friday which it was alleged was in breach of the premise licence conditions. As a result an Officer visited the premises on the 24 March 2015 and spoke to the Premise Licence Holder who confirmed that the premises had been holding regulated entertainment outside but stated that this was a genuine mistake and would be rectified immediately. The Officer also found that the CCTV at the premises was not compliant with the conditions attached to the premises licence. A written warning was issued to the Premises Licence Holder in respect of these matters.

On 15 May 2015, a further visit was made to the premises and, once again, the Officer found that the premises was not complying with the condition in relation to the retention of CCTV recordings for the premises and once again a further written warning was issued.

On 26 May 2015, a further visit was made to the premises when the officer found that once again, the premises was not complying with the conditions attached to the premises licence in relation to CCTV. As a result further proceedings are to take place in respect of this repeated non-compliance.

THE APPLICATION TO VARY THE LICENCE

On 21 May 2015 an application was received from the Applicant's legal representative to vary the premise licence to:

- allow regulated entertainment externally between 11.00 hours and 00.30 hours every Thursday to Monday, and every Christmas Eve, Boxing Day and New Year's Eve without restriction.
- replace the condition that restricts occupancy to 120 in the bar area and 180 in the garden area with a condition that permits the occupancy of the premises to be set by reference to the fire risk assessment which will deal with both internal and external usage and the combination of both.

AVALON PUBLIC HOUSE

On 16 June 2015, the Applicants' legal representative submitted an amendment to the application to vary the premises licence to cover the potential risk of noise nuisance arising from the external area as follows:-

“The Designated Premises Supervisor or their representative shall conduct checks, no more than 90 minutes apart, of the noise coming from the premises on every occasion the external area of the premises are used for live music or regulated recorded, music and shall take steps to reduce the level of noise where it is clearly audible and recognisable as coming from the premises at or beyond the boundary of any nearby property.

A written record shall be made of those checks 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. The log book shall be kept onsite and made available for inspection by Authorised Officers of the Local Authority or Police. Section 177A of the Licensing Act 2003 does not apply to this condition.”

The Application to vary the premises licence was properly advertised and as a result 3 representations were received in respect of the application as detailed below:

THE REPRESENTATIONS - RESPONSIBLE AUTHORITIES

On 17 June 2015, a representation was received from the Durham Constabulary based on the prevention of crime and disorder and public safety. In summary, the Police have expressed concern about the CCTV provision at the premises and also that officers have visited the premises on a number of occasions and door staff have been unable to provide an accurate account of how many patrons have been present on the premises. This latter concern was also raised by the police at the Licensing Sub Committee meeting in January 2013. The Police have suggested the following conditions as a way of reducing their concerns:

- **“Sufficient measures will be put in place by means inclusive of door staff with counters, to ensure the occupancy within the premises remains at a level which is no greater, set by the fire risk assessment.**
- **Cognisance will be given to specific areas of the premises inclusive of the main room and beer garden during any risk assessment. Such measures will ensure compliance with the risk assessment.”**

The representation has been reproduced in full at Appendix 1B (i)

On 19 June 2015, a representation was received from the Environmental Health Manager based on the grounds of public safety. In summary, he has expressed concerns about how the occupancy level will be managed given that he has not received a risk assessment to address this issue. He has suggested the following condition as a way of reducing his concern:

“A risk assessment, submitted to and approved by the Licensing Authority, to determine the occupancy levels of both the interior and exterior areas of the premises shall be carried out. Whilst carrying out the Risk Assessment the applicant shall have due regard to any guidance and documentation available in relation to available floor space and safe means of escape. Due regard shall also be had to BS6465 on the provision of adequate facilities for sanitary accommodation.

AVALON PUBLIC HOUSE

The representation has been reproduced in full at **Appendix 1B(ii)**.

THE REPRESENTATIONS – OTHER PERSONS

On 18 June 2015, a representation was received from Ms Mills, a local resident, on the ground of public nuisance. In summary, she expresses concerns that if external entertainment were to be permitted this would create further noise nuisance. The representation has been produced in full at Appendix 1B(iii)

THE APPLICANT'S RESPONSE

The representations have been sent to the Applicant's legal representative to provide an opportunity for a response to the concerns expressed. At the time of writing this report a response had not been received and therefore this report has been prepared without the benefit of any input from the Applicant.

THE OPERATING SCHEDULE

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

- a) **General:** - a risk assessment has been undertaken with regard to the extension of regulated entertainment externally. It is not intended that regulated entertainment should take place all as day requested however increased flexibility from the current four occasions per calendar month is sought. It is considered that on the current endorsement at Annex 2 condition 8 there is suitable protection for members of the public in respect of protection of public nuisance. No additional conditions are tended
- b) **Prevention of Crime and Disorder:** No further risks have been identified which need to be addressed
- c) **Public Safety:** It is proposed that the occupancy condition be modified to:
"The occupancy of the premises shall be set by reference to the fire risk assessment which will deal with both internal and external usage and the combination of both"
- d) **Prevention of Public Nuisance:** No further risks have been identified which need to be addressed
- e) **Protection of Children from Harm:** No further risks have been identified which need to be addressed

Members are aware that the operating schedule can be turned into conditions to be placed on any grant of licence. Members are also aware that all conditions should be clear, unambiguous and enforceable.

THE LICENSING POLICY

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

AVALON PUBLIC HOUSE

Section 6.1 – 6.3	Public Nuisance/Crime & Disorder	Impact of Licensable Activities
Section 8.0 - 8.5	Public Nuisance	Location of Premises
Section 8.7.2-8.7.6	Public Nuisance	Noise disturbance
Section 10-10.4.	Prevention of Crime and Disorder	Effect in Vicinity

THE GUIDANCE

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

FURTHER INFORMATION

A map of the area will be produced for Members and circulated at the Hearing showing the location of the premises and their proximity to residential properties.

POINTS FOR CLARIFICATION

Members are referred to the notice of hearing **points for clarification** (See **Appendix 2**). The **Applicant** has been asked to clarify the following:

- Details of how noise from external events is to be managed
- Details of how occupancy levels will be managed to prevent overcrowding in one or both areas of the premises.
- Details of the provision of sanitary accommodation in line with *British Standard 6465-1:2006 Sanitary Installations*

The **Chief Constable** has been asked to provide

- specific details of any incidents of crime and disorder in respect of the current operation of the premises
- Proposals for the number of door staff to be employed and the days and times for use of doorstaff
- clarification of the proposed condition "*Cognisance will be given to specific areas of the premises inclusive of the main room and beer garden during any risk assessment. Such measures will ensure compliance with the risk assessment*"

The **Environmental Health Manager** has been asked to provide more detailed information in respect of:

- Any incidents of public nuisance in respect of the current operation of the premises.
- Details of toilet provision requirements in respect of occupancy numbers

MEMBERS' OPTIONS

Members may consider the following options:

1. **Grant** the application **in full** subject to the mandatory conditions detailed in Annexe 1 of **Appendix 1A**; conditions 2-12 of Annexe 2 of **Appendix 1A**; conditions 1-22 of Annexe 3 of **Appendix 1** and the new condition offered by the Applicant as follows:

AVALON PUBLIC HOUSE

The Designated Premises Supervisor or their representative shall conduct checks, no more than 90 minutes apart, of the noise coming from the premises on every occasion the external area of the premises are used for live music or regulated recorded, music and shall take steps to reduce the level of noise where it is clearly audible and recognisable as coming from the premises at or beyond the boundary of any nearby property.

A written record shall be made of those checks 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. The log book shall be kept onsite and made available for inspection by Authorised Officers of the Local Authority or Police. Section 177A of the Licensing Act 2003 does not apply to this condition.”

2. Place any **additional conditions** on the licence that Members consider are necessary to address any concerns relating to crime and disorder, public nuisance, public safety and protection of children from harm. These may include the conditions proposed by the police and/or environmental health as follows:
 - “Sufficient measures will be put in place by means inclusive of door staff with counters, to ensure the occupancy within the premises remains at a level which is no greater, set by the fire risk assessment.” (Police)
 - “Cognisance will be given to specific areas of the premises inclusive of the main room and beer garden during any risk assessment. Such measures will ensure compliance with the risk assessment.” (Police)
 - “A risk assessment, submitted to and approved by the Licensing Authority, to determine the occupancy levels of both the interior and exterior areas of the premises shall be carried out. Whilst carrying out the Risk Assessment the applicant shall have due regard to any guidance and documentation available in relation to available floor space and safe means of escape. Due regard shall also be had to BS6465 on the provision of adequate facilities for sanitary accommodation. (Environmental Health)

NB Members may wish to amend the wording of the police proposed condition(s) to make it simpler for the Applicant to understand and therefore comply with and also make it properly enforceable as follows:

(number of) Door staff shall be employed (on which days/between which times). Each member of door staff shall use equipment approved by the Licensing Authority to determine the occupancy of the premises and ensure that the occupancy levels do not at any time exceed those set by the fire risk assessment.

Officers are unable to suggest an alternative wording for the second requested condition until the police clarify its meaning.

Members may also wish to amend the condition proposed by the Environmental Health manager to make it more enforceable as follows:

- *A risk assessment, to determine the occupancy levels of both the interior and exterior areas of the premises, shall be carried out, submitted in writing to, and approved by, the Licensing Authority prior to any change in operational hours or occupancy levels being implemented. Whilst carrying out the Risk Assessment the*

AVALON PUBLIC HOUSE

Applicant shall have due regard to any guidance and documentation available in relation to available floor space and safe means of escape and also to BS6465 on the provision of adequate facilities for sanitary accommodation.

3. Reject all or part of the application

Members are reminded that any aggrieved party (i.e. Applicant, either of the Responsible Authorities or the local resident) may appeal any decision of the Licensing Sub Committee to the Magistrates' Courts.

Contact Officers: Julie Richings/ Pam Ross
Ext 6391 Ext 5988

For admin use only:

Date of Sub Committee: 17 July 2015

Sub Committee Decision:

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

Reasons:



Licensing

Town Hall, Feethams, Darlington. DL1 5QT

Tel: (01325) 388562 Fax: (01325) 388555

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

Licensing Act 2003 Premise Licence

Avalon

Premises Licence Number	DL15/00048/VARDPS
--------------------------------	--------------------------

PART 1 – PREMISES DETAILS

Premises Details:	AVALON 8 Blackwellgate, Darlington, DL1 5HL
Telephone number:	01325 469977

Licence effective from:	12 January 2015	Duration of Licence:	Indefinite
--------------------------------	------------------------	-----------------------------	-------------------

Authorised Licensable Activities:	Authorised Hours
Retail sale of alcohol (Indoors & Outdoors) (for consumption ON AND OFF the premises)	11.00 hours – 01.00 hours every day
Regulated Entertainment: (Indoors & Outdoors) Indoors: Films, Indoor Sporting Events, Live Music, Recorded Music, Performance of Dance, Provision of Facilities for Making Music, Provision of Facilities for Dancing Outdoors: Films, Indoor Sporting Events, Live Music, Recorded Music, Performance of Dance, Provision of Facilities for Making Music, Provision of Facilities for Dancing	11.00 hours – 01.00 hours Every day 11.00 hours – 00.30 hours on Friday, Saturday and Sunday of a weekend where Monday constitutes a Bank Holiday, plus Christmas Eve, Boxing Day and New Year’s Eve, and on no more than 24 further occasions per year*
Late Night Refreshment: (Indoors and Outdoors)	23.00 hours – 01.00 hours Every day

Premises Opening Hours:	09.00 hours – 01.30 hours Every day
--------------------------------	---

<p>Non-standard/seasonal timings:</p> <p>Indoors:</p> <p>The licensable activities specified in this licence may be provided from 10:00 New Year’s Eve to the terminal hour stated in this licence on New Year’s Day.</p> <p>The licensable activities specified in this licence may be extended by one hour on the last Sunday in March, when the change to British Standard Time takes effect at 01:00hrs.</p> <p>To permit the premises to open for licensable activities to show the broadcast of televised sporting events of national or international interest outside normal operating hours such opening times for this purpose to be confirmed upon 10 days’ notice in writing to the police before the premises intend to open, such notification to include the opening times and the sporting event which is to be shown.</p> <p>Outdoors:</p> <p>*There shall be no more than 4 occasions in total in any calendar month where regulated entertainment takes place outdoors</p>
--

PART 2

Premises Licence Holder:	Mr David Johnson 19 Harley Grove, Darlington, DL1 3HD
Designated Premises Supervisor:	Mr Chris Willsden 18 George Street, Darlington, DL1 5DW
Personal Licence No:	DL13/01673/PERSON
Issuing Authority:	Darlington Borough Council

Annex 1 Mandatory Conditions:

1. Every Supply of alcohol under the premises licence must be made by or authorised by a person who holds a personal licence.
2. No supply of alcohol may be made under the premises licence:-
 - (a) at a time when there is no Designated Premises Supervisor in respect of the premises licence or
 - (b) at a time when the designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
- 3.(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) 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—
 - (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 in a manner which carries a significant risk of undermining a licensing objective;
 - (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 in a manner which carries a significant risk of undermining a licensing objective;
 - (d) 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;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 (3) 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 either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
6. The responsible person must 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—

AVALON PUBLIC HOUSE

- (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;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available
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;
- “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.

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

1. The maximum occupancy of the premises (including staff and performers) will be restricted to 120 persons for the bar area and 180 persons for the garden area. These figures must not be applied cumulatively and must remain separate.
2. Alcoholic and other drinks may not be removed from the premises in open containers save for consumption in any external area provided for that purpose.
3. No person apparently carrying open bottles upon entry shall be admitted to the premises at any times the premises are open to the public.
4. The current CCTV system shall be in operation at all times when the premises are open to the public. The tapes shall be properly stored and kept for a minimum of 30 days and made available on request to the Police and Authorised Officers of this Council.
5. 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.
6. No person under the age of 16 years shall be permitted on the premises after 21.00 hours
7. Any nuisance customers shall be banned from the premises.
8. 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.
10. Suitable refuse containers with close fitting and lockable lids must be available and used at all times.
11. Such containers must be effectively secured by appropriate means to prevent unauthorised persons from moving them. Such containers must be effectively secured by appropriate means to prevent unauthorised persons from moving them.
12. A contractual arrangement with an authorised refuse collection and disposal company must be undertaken to ensure that all refuse is collected and disposed of properly.

Annex 3 Conditions attached after Licensing Authority Hearing:

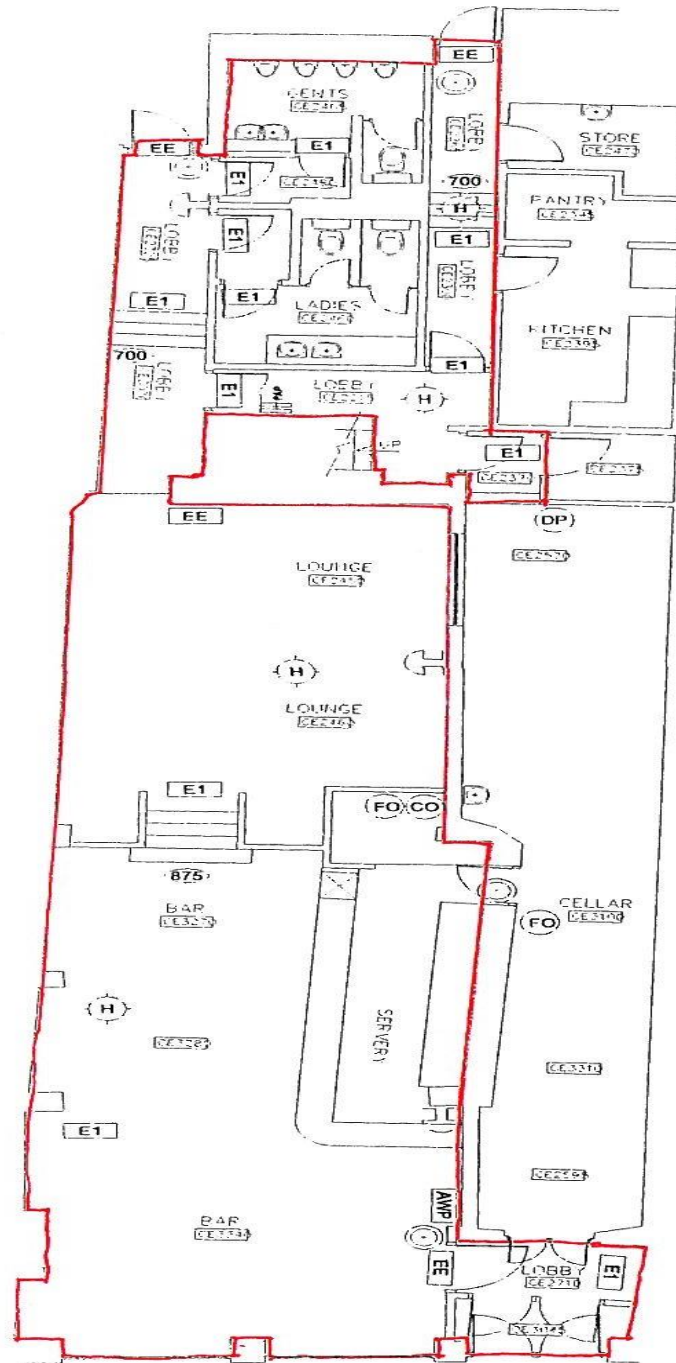
- 1) The Premise Licence Holder shall work with Durham Constabulary to establish a written drugs policy
- 2) The Licensing Authority shall be notified 7 days in advance when it is proposed to hold regulated entertainment in the outdoor area.

Where events take place that persons under the age of 18 are permitted to attend then Conditions 3-17 detailed below shall have effect and where "mixed age" events take place then Conditions 3-22 detailed below shall have effect

- 3) The Police Licensing Officer, Licensing Authority and Local Safeguarding Children's Board to be notified of any under 18 event at least 28 days in advance of the event.
- 4) The premises to be covered by colour, digital CCTV which meets the requirements and expectations of the Licensing Authority and Police. The equipment to record whilst the premises are carrying out licensable activities, all recordings retained for a minimum period of 28 days and being made available upon request to the Police or Licensing Authority within a period of 7 days.
- 5) The operator ensuring that the premises have sufficient numbers of SIA registered security staff and ensuring that they are employed in the following ratio: 2 for the first 100 customers, one of which being female, 2 for the second 100 customers and 1 for every 100 customers thereafter. At least one member of security staff being employed as a floorwalker and constantly monitoring patrons for evidence of alcohol or drugs and also protecting patrons from unwanted attention or harassment.
- 6) Ensure efficient entry and dispersal procedures are in place so that young people are not left in a vulnerable position outside of the premises.
- 7) Where there is normally a bar, ensuring that alcohol is not on display and is locked away.
- 8) Ensuring that there is at least 1 hour between the conclusion of the youth event and the venue opening for the commencement of any adult entertainment.
- 9) Searches on entry, to include all bags, to prevent alcohol and other illegal substances being brought onto the premises.
- 10) Where alcohol is seized from persons aged under 18 details recorded in a refusals register.
- 11) Any prior marketing of the event (internet, flyers, posters etc) to make it clear that no alcohol will be sold to under 18's, nobody who appears to be drunk will be allowed admission to the event and searches will take place to ensure that no alcohol is brought into the venue. Permissible ages to be printed in prominent writing on any tickets issued for the event.
- 12) Ensure a policy is in place for dealing with under 18's who appear to be under the influence of drugs or alcohol which incorporates a duty of care expected to be provided.
- 13) Toilet checks being carried out at regular intervals and records of such checks retained.
- 14) First aid provision available at the premises.
- 15) Ensure a policy is in place to prevent under aged persons leaving and returning to the premises in order to consume alcohol outside.
- 16) For events held on a Thursday, Friday or Saturday evening a terminal hour of no later than 22.30 hours.
- 17) An area should be designated as a safe space, whereby ill or intoxicated persons, including minors, can be taken to a place of safety for medical treatment or in the case of minors until reunited with a parent, guardian or responsible adult.
- 18) All patrons to be given a secure wristband of different colours, differentiating over 18's from under 18's.
- 19) Only one alcoholic drink to be purchased at any one time by an individual aged over 18 years of age.
- 20) At least 2 SIA registered security staff acting as floorwalkers to constantly monitor patrons aged under 18 years of age for evidence of alcohol or drugs and also to protect patrons from unwanted attention or harassment.
- 21) Children under 16 years of age not being admitted to the event unless accompanied by a responsible adult. Each responsible adult not being responsible for more than 4 such children.
- 22) All drinks being served in plastic or polycarbonate glasses.

AVALON PUBLIC HOUSE

Annex 4 Premise Plan – Interior



GROUND FLOOR PLAN - RE-SURVEY

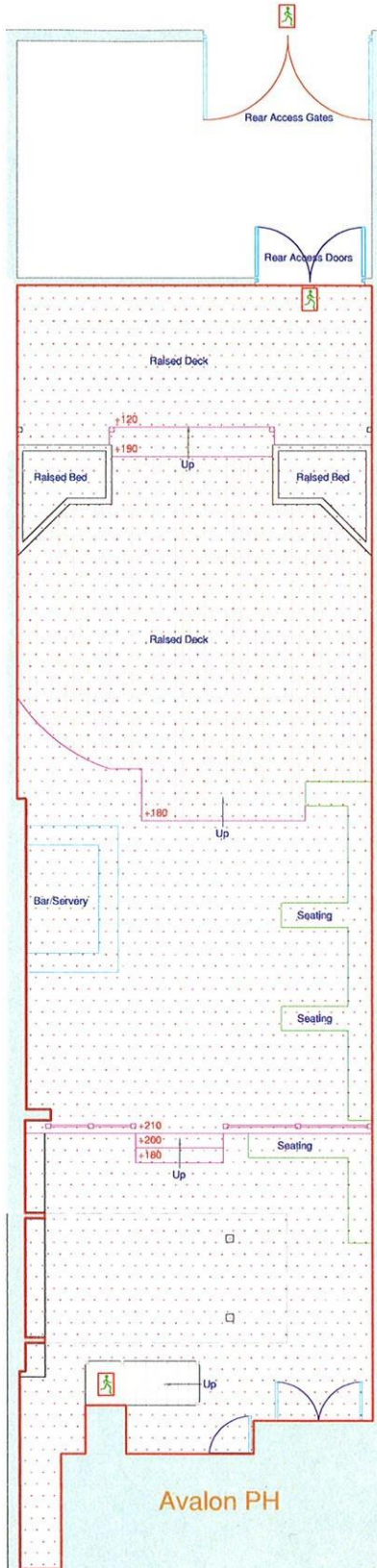


Annex 4 Premise Plan - Exterior

Notes:
 No deviation may be made from the details shown on this drawing without prior written permission of the architects. Any discrepancy found between this drawing and any other document should be referred immediately to the architects. **IF IN DOUBT ASK.**
NO DIMENSIONS TO BE SCALED FROM THIS DRAWING.
 This drawing is to be removed from currency immediately a revised version is issued.
 All rights described in chapter IV of copyright, design and Patents Act 1988 have been generally asserted.

Licensed Area: 171sm

Drawing Symbols	
	: Licensed Area
	: Fire exit



Drawing No: 002592	Drawing Title: Licensing Plan	Drawing: External Drinking Area, Avalon PH, 8 Blackwell Gate, Darlington DL1 5HL	Date: 26.11.2012	Sheet: 1 of 1
UK SURVEYORS LTD Architectural CAD Design, Planning & Surveying Services		☎: Birmingham: 0121 647 4060 ☎: London: 0203 056 7537 ☎: Manchester: 0161 871 7006 ✉: enquiries@uksurveyors.net 🌐: www.uksurveyors.net	Do not scale off this plan	
		Drawn By: DJR	Scale: 1:100 @ A3	

REPRESENTATIONS IN RESPECT OF APPLICATION

Appendix 1B(i)

Representor: PCSO McAllister on behalf of Durham Constabulary
Comments: Based on the prevention of crime and disorder and public safety

“The grounds for this application to assess whether within the proposed operating schedule, the applicant have outlined suitable steps to prevent public safety and the prevention of crime and disorder.

The applicant seeks to remove restrictions regarding regulated entertainment within the external area which the police have no objection to. They also wish to amend condition 1 at Annex 2.

The police have concerns regarding public safety due to the layout of the premises and the small corridor that connects the inside and outside areas. Officers have visited Avalon on a number of occasions, door staff provide numbers of patrons inside the premises by means of clickers, however due to the lay out of the venue, they are unable to provide exact numbers for the inside / bar area (120 presently allowed) or indeed the rear beer garden (180 presently allowed).

When officers have asked door staff for numbers in the rear beer garden they have been unable to provide a number. On one occasion stating “Oh around a hundred and fifty“, when the visiting officers have asked how they would know, the reply was ‘I can just tell’. The police have previously raised identical concerns in 2012.

Additional conditions placed upon the licence that would placate police concerns, we would request the following:

“Sufficient measures will be put in place by means inclusive of door staff with counters, to ensure the occupancy within the premises remains at a level which is no greater, set by the fire risk assessment.

Cognisance will be given to specific areas of the premises inclusive of the main room and beer garden during any risk assessment. Such measures will ensure compliance with the risk assessment.”

The police also have concerns with the CCTV at the premises. Despite raising concerns with the DPS and PLH in September 2014, the CCTV still does not comply with the Annex 2 condition 4.”

REPRESENTATIONS IN RESPECT OF APPLICATION

Appendix 1B(ii)

Representor: Stephen Todd on behalf of the Environmental Health Manager
Comments: Based on the public safety

The applicant has stated that they wish to set occupancy levels for the premises by way of a Risk Assessment. No risk assessment has yet been provided which will determine the occupancy level for the interior and exterior of the premises that will ensure public safety and allow satisfactory evacuation at a time of emergency.

A condition was drafted by Environmental Health to facilitate the carrying out of a risk assessment in accordance with the suggestion on the application form.

The condition is:

“A risk assessment, submitted to and approved by the Licensing Authority, to determine the occupancy levels of both the interior and exterior areas of the premises shall be carried out.

Whilst carrying out the Risk Assessment the applicant shall have due regard to any guidance and documentation available in relation to available floor space and safe means of escape. Due regard shall also be had to BS6465 on the provision of adequate facilities for sanitary accommodation.

The current capacity levels for the premises must not be changed until approval for the Risk Assessment has been given by the Licensing Authority.”

The legal representative for the applicant suggested that this condition would be acceptable but has not given a formal response.

Appendix 1B(iii)

Representor: Ms Victoria Mills, Friends Meeting House, Skinnergate, Darlington
Comments: Public Nuisance

“I am writing to you regarding the application in question and, if granted, this external entertainment would create even more of a noise nuisance. From our flat we can hear the current external music. Not only is it loud and bass driven but here is knock on noise caused by people trying to talk over the music both within the confines of the outside area of the premises but also in the streets surrounding. This already disturbs our sleep. Currently the disturbance is mainly Friday and Saturday nights, meaning we have the weekend to recover from it. However, by extending the number of days this later entertainment would be audible on work night and this would impact on our working routine.

In the summer this becomes even more of an issue if temperatures are high and we open a bedroom window.”

EXTRACTS FROM LICENSING POLICY

6.0 THE IMPACT OF LICENSABLE ACTIVITIES

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

- a) The proposed hours and days of operation and how often an activity occurs.
- b) The location of the premises, particularly in relation to residential properties and such places as hospitals, hospices and places of worship.
- c) The number and type of current and future customers.
- d) The means of access and egress to the premises which should have public access on principal pedestrian routes.
- e) The availability of public transport for patrons arriving at and leaving the premises compared to the anticipated level of private transport usage.
- f) The likely effect of car parking demand on both principal roads and residential streets and the impact this may have on local residents and emergency access.
- g) The need for provision of portable toilet facilities outside of the premises.
- h) The cumulative impact of licensed premises within the area and the scope for mitigating such impact.
- i) Waste disposal arrangements including bin storage and the collection and containment of litter from the vicinity of the premises.
- j) Public nuisance caused by unauthorised advertising and fly-posting and, in considering any application from premises which are currently licensed, the Licensing Authority will, if relevant representations are received, take into account any evidence of:
 - a. Past demonstrable adverse impact from the activity, particularly on local residents and businesses; or
 - b. If adverse impact has been caused, that appropriate measures have been agreed and put into place to address any future adverse impact. If measures are to be put into effect or alternatively if there has been insufficient time to assess their usefulness a licence may be granted for a limited period only.

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

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

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

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

6.3 Additional Information

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

6.0 PREVENTION OF NUISANCE

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

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

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

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

8.2 ADDITIONAL INFORMATION

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

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

8.3 LOCATION AND IMPACT OF ACTIVITY

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

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

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

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

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

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

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

The impact may be felt by local residents being prevented from parking close to their homes and by increasing the danger from traffic in residential streets.

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

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

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

8.5 ADDITIONAL INFORMATION

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

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

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

Reason: One of the greatest causes of annoyance to residents trying to sleep is the noise including music emanating from licensed premises. Such noise might preclude the grant of a licence or, if one has already been granted, for it to be reviewed with a view to possible revocation. It might also lead to a Noise Abatement Notice being issued under the Environmental Protection Act 1990 and related environmental legislation subject to evidence and circumstances. Responsible Applicants and licensees will wish to avoid the need for such action, as they will wish to comply with the licensing objective of preventing public nuisance.

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

8.7.4 **ADDITIONAL INFORMATION**

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

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

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

8.7.5 Excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. This action can also help stop drug dealers from passing on drugs during the queuing process but the prime purpose is to prevent noise and disturbance. Door Supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities – where necessary they should be adequately supervised.

8.7.6 In terms of patrons leaving the premises particularly late at night or early in the morning the Licensing Authority will expect the applicant to have considered including in the operating schedule such practical steps as:

- a. Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors.
- b. At appropriate times making loudspeaker announcements to the same effect

- c. Instructing door staff to ask customers leaving the premises to leave the area quietly.
- d. Reducing the volume of music towards the end of the evening and having in place arrangements for playing quieter, more soothing music as the evening winds down.
- e. Availability of licensed taxis, private hire vehicles or public transport to take patrons from the premises.
- f. In appropriate cases, requiring Door Supervisors or a Manager to patrol nearby streets to assess for themselves whether there is a problem and how best to deal with it.
- g. Banning from the premises people who often leave in a noisy fashion.
- h. Increasing outside lighting levels without causing collateral intrusion.
- i. Installing outside CCTV systems.
- j. Where there is a private forecourt, preventing patrons from using it for eating and drinking etc after a specified time.

NB this list is not exhaustive

10.0 CRIME AND DISORDER

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

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

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

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

- a. Effective and responsible management of premises.
- b. Training and supervision of staff.
- c. Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other Voluntary Codes of Practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA).
- d. Acceptance of accredited means of age identification e.g. DVLA photo driving licence or "PASS" approved proof of age' cards
- e. Provision of effective digital CCTV in and around premises.

- f. Employment of Security Industry Authority licensed door-staff.
- g. Provision of plastic or shatter resistant glasses.
- h. Provision of secure, deposit boxes for confiscated items.
- i. Procedures for assessing risk associated with promotions and events such as “happy hours” for the potential to cause crime and disorder, and plans for minimising such risks.
- j. Measures to prevent the use or supply of illegal drugs.
- k. Employment of licensed door supervisors and other appropriately trained staff.
- l. Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with bottles or glasses (on licence sales).
- m. Provision of litterbins and other security measures, such as lighting, outside premises.
- n. Membership of Darlington ‘Pubwatch’ scheme.

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

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

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

Each application on its own merits

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

Other relevant legislation

- 1.19 While 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
 - The Health and Safety at Work etc. Act 1974
 - 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).
- 2.3 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.

- 2.5 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.
- 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).

Safe capacities

- 2.11 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.12 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

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 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

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.

Regulated entertainment

- 15.6 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500
 - Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.

- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500

Where representations are made

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

The role of responsible authorities

9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

Determining actions that are appropriate for the promotion of the licensing objectives

- 9.41 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.42 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.43 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters.

As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

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.

Hours of trading

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

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

Date of Notification: 02 July 2015

Type of Hearing: Application to Vary Premises Licence

Premises: Avalon Public house
8 Blackwellgate
Darlington, DL1 5HL

Hearing Details: 09.30am Friday 17 July 2015

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

Copy of notice sent to David Johnson (Applicant)
John Gaunt & Partners (Applicant's Legal Representative)
Durham Constabulary (Responsible Authority)
Head of Environmental Health (Responsible Authority)

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 Thursday 09 July 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, where possible, to give at least 24 hours notice as it may no longer be necessary for the Hearing to proceed.

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

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

- Details of how noise from external events is to be managed
- Details of how occupancy levels will be managed to prevent overcrowding in one or both areas of the premises.
- Details of the provision of sanitary accommodation in line with *British Standard 6465-1:2006 Sanitary Installations*

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

- specific details of any incidents of crime and disorder in respect of the current operation of the premises
- Proposals for the number of door staff to be employed and the days and times for use of door staff
- clarification of the proposed condition “*Cognisance will be given to specific areas of the premises inclusive of the main room and beer garden during any risk assessment. Such measures will ensure compliance with the risk assessment*”

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

- Any incidents of public nuisance in respect of the current operation of the premises.
- Details of toilet provision requirements in respect of occupancy numbers



LICENSING

Town Hall, Feethams, Darlington DL1 5QT
☎ 01325 405 888
☎ 01325 405983
✉ licensing@darlington.gov.uk
DX 69280 Darlington 6
Web site: <http://www.darlington.gov.uk>

NOTICE OF ATTENDANCE

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

DATE OF HEARING: 09.30 am Friday 17 July 2015

NAME OF PREMISES: Avalon, 8 Blackwellgate, Darlington, DL1 5HL

YOUR NAME: _____

I WILL* I WILL NOT* BE ATTENDING THE HEARING

I WILL* I WILL NOT* LEGALLY REPRESENTED

NAME OF LEGAL REPRESENTATIVE (IF APPROPRIATE):

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

(*delete as appropriate)

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

Name

Details

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

LICENSING SUB COMMITTEES

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

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

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

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

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

The Licensing Manager will outline the application.

2. **The 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.