

BACKGROUND INFORMATION

On 29 October 2013 an application was properly made for the **grant** of a premises licence in accordance with Section 17 of the Licensing Act 2003. The application was for the sale of alcohol for consumption off the premises during the hours of 08.00 am to 01.00 am Monday to Saturday and 10.30 am to 11:00 pm on Sunday. The Police initially had some concerns about the application but these were resolved by the Applicant reducing his terminal hour for sale of alcohol to 11 pm and agreeing to specific conditions being placed upon the premises licence. As a result the licence was granted on 26 November 2013.

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

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

On 16 September 2014 an application was properly made by the Applicant in accordance with Section 34 of the Licensing Act 2003 to **vary** the Premises Licence to extend the hours for the sale of alcohol for consumption off the premises to 07.00 am- 02.00 am Monday to Saturday and 10.30am-02.00 am Sunday. As a result of the consultation a representation was received from one Responsible Authority, namely The Police on the grounds of the prevention of crime and disorder, public nuisance and the protection of children from harm. In addition representations were also received from an "Other Person" namely Westbrook Residents' Association on similar grounds.

On 5 November 2014 Members of the Licensing Sub Committee heard the contested application and agreed to the variation in hours subject to specific conditions, most of which had been agreed by the licence holder at the hearing. A copy of the current licence is appended for Members' reference at **Appendix 1A**.

On 15 February 2015 Licensing Enforcement Officers visited the premises and found that the CCTV recordings were only available for 14 days rather than the 28 days required by condition on the premises licence. In addition there was an issue in respect of the production of the training records for staff. As a result a written warning was issued on 25 February 2015.

On 8 April 2015 a further visit was made by a Licensing Enforcement Officer and on this occasion, once again the training records were not available and the CCTV recordings were only available for 13 days. A further written warning was issued which advised that another visit would be made within 21 days and if there was continued non-compliance the matter would be referred for legal proceedings.

On 28 April a further visit was made by a Licensing Enforcement Officer and while there was an improvement in compliance, the CCTV recordings were only available for 24 days. The Officer advised that he would revisit on 05 May 2015 to check this once again.

On 5 May 2015 the Licensing Enforcement Officer and the Police revisited the premises. While they found that CCTV footage was available for 28 days they also found that the CCTV system had been turned off. As a result an interview under caution was conducted on 21 May 2015.

The premises licence holder, who is also the Designated Premises Supervisor advised that he had not availed himself of the later hours approved by Members in November 2014 as he had been unable to comply with a specific condition required by Members as follows:

“No sale of alcohol shall take place after 11 pm until a restricted area has been defined and hatched and is approved, in writing, by officers from the Licensing Section.”

He advised that he had experienced problems with his CCTV because of the size of memory available with his system and that he had purchased a new system to enable him to meet the requirements of his licence. He stated that he had still experienced problems with the memory and had turned off the cameras for periods of time at both the front and the rear of his premises (in contravention of his licence condition requiring coverage at both front and rear of the premises) in an effort to make more memory available. He advised that he had resolved the issues with his CCTV and had started to fully comply with the licence requirements. He further stated that he was undertaking regular checks of the equipment to ensure the CCTV was fully operational.

After careful consideration Officers decided that as he was now compliant it was not in the public interest to prosecute and he was issued with a further written warning.

THE APPLICATION FOR REVIEW

On 03 September 2015 an application to **review** the premises licence was properly made by Durham Constabulary on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm. The application has been served on the licence holder by the Police and also served on all of the Responsible Authorities.

In summary the Police advise of numerous failures to operate within the lawful requirements of the Licensing Act 2003 (including repeated breaches of licence conditions) and also that the premises licence holder, who is also the Designated Premises Supervisor (DPS) and another staff member have been convicted of licensing offences and handling stolen goods, namely stolen alcohol which has been offered for sale at the premises.

The application has been reproduced in full at **Appendix 1B**. Members will note that the index of documents received from the police shows that the Part A of the premises licence was one such document. As members are aware it is standard practice for officers to append the premises licence to all such reports (see **Appendix 1A**) and to avoid duplication the Police copy has not been further appended.

Officers can confirm that the application for review was properly signed by Inspector Colin Dobson who advises that he has delegated authority to make such applications on behalf of the Chief Constable.

In addition signed copies of the statements that form part of the review documentation have been submitted to the Licensing Authority. The Police have indicated that they wish to use CCTV evidence at the hearing and have been advised to ensure that the premises licence holder has been given a copy of the CCTV well in advance of the hearing.

At the time of writing this report there had not been any response to the application for review from the premises licence holder and therefore it is referred to Members without the benefit of any comment from the licence holder.

THE CURRENT CONDITIONS ON THE PREMISES LICENCE

Members will note from the premises licence (see **Appendix 1A**) that the conditions attached to the current licence, in addition to the mandatory conditions for sale of alcohol are as follows:

1. Staff training will be carried out by the DPS for all new members of staff prior to being allowed to sell alcohol and once per year for all other staff members in relation to the law applicable to the sale of alcohol.
2. Training records will be kept and signed and dated by staff taking part. These will be made available to the police and Authorised Officers of the Council upon request.
3. An incident, accident book and refusals register will be kept on site and shall document all incidents, accidents and each refusal of sale. These shall be made available to Police and Authorised Officers of the Council upon request.
4. The Challenge 25 Proof of Age scheme shall be implemented at the premises requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 25 years of age. Notices shall be displayed within the premises advertising this scheme.
5. The current CCTV system shall be maintained in working order and recording whilst the premises are open and being used for licensable activity. The system shall also provide coverage to the front and rear of the premises.
6. CCTV recordings will be kept for a minimum of 28 days. The recordings shall be made available to the Police and an Authorised Officers of the council upon request.
7. A personal licence holder shall be present from 11 pm to 02.00 am to authorise all sales of alcohol. (condition attached at hearing)
8. A minimum of 2 members of staff (including the personal licence holder) shall be present to conduct all sales of alcohol between 11 pm and 02.00 am. (condition attached at hearing)
9. No alcohol shall be sold at a price below the recommended retail price. (condition attached at hearing)
10. No sale of alcohol shall take place after 11 pm until a restricted area has been defined and hatched and is approved, in writing, by officers from the Licensing Section. (condition attached at hearing)

THE LICENSING POLICY

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

Section 6-6.3	Impact of Licensable Activities
Section 9.0 – 9.3	Public Safety
Section 10-10.4.	Prevention of Crime and Disorder (Effect in Vicinity/Personal Licence holder to be on premises)
Section 11-11.2.2	Protection of Children from Harm
Section 12.7	Off Sales

THE GUIDANCE

Members are referred to the Secretary of State's Guidance has been reproduced at **Appendix 1D**. Members' attention is particularly drawn to the section dealing with reviews and in particular reviews arising in connection with crime.

ADDITIONAL INFORMATION

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

POINTS FOR CLARIFICATION

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

The **Police** have been asked to provide up to date information about any recent issues of crime and disorder within the vicinity of, or attributed to the premises

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

- Full information about the operation of, and any limitations of the CCTV system
- Full details of the training provided to all staff in respect of the requirements of the premises licence and the sale of alcohol from the premises
- Details of how the proof of age requirement is implemented
- Details of how the refusals book is used including copies of the refusals for the preceding 12 months

MEMBERS' OPTIONS

Members may consider the following options

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

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

Members are further reminded that any aggrieved party (i.e. Police or licence holder) may appeal any decision of the Licensing Sub Committee to the Magistrates' Courts.

**Ian Williams
Director of Economic Growth**

Contact Officer: Pam Ross
Ext 5988

Date of Sub Committee: 27 October 2015

For admin use only:

Sub Committee Decision:

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

Reasons:



Licensing

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

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

PART A

Licensing Act 2003 Premises Licence **TRO Food and Wine**

Premises Licence Number	DL14/01452/PREVAR
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PART 1 – PREMISES DETAILS

Premises Details:	TRO Food and Wine 34 High Northgate, Darlington, DL1 1UW
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Licence effective from:	5 November 2014	Duration of Licence:	Indefinite
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Authorised Licensable Activities:	Authorised Hours
Retail sale of alcohol (for consumption OFF the premises)	07:00 – 02:00hrs Monday to Saturday 10.30 – 02:00hrs Sunday

Premises Opening Hours:	07:00 – 02:00hrs Monday to Saturday 09.00 – 02:00hrs Sunday
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Non-standard/seasonal timings:	None
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PART 2

Premises Licence Holder:	Mr. Tharmarajah Sriskantharajah 34 High Northgate, Darlington. DL1 1UW
Telephone Number:	01325 245743

Designated Premises Supervisor:	Mr. Tharmarajah Sriskantharajah 34 High Northgate, Darlington. DL1 1UW
Personal Licence No:	DL13/01451/PERSON
Issuing Authority:	Darlington Borough Council

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 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.
4. A relevant person shall ensure that no alcohol is sold or supplied for consumption off the premises for a price which is less than the permitted price.
5. For the purposes of the condition set out at 4 —
 - 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—

$$P = D + (D \times V)$$
 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

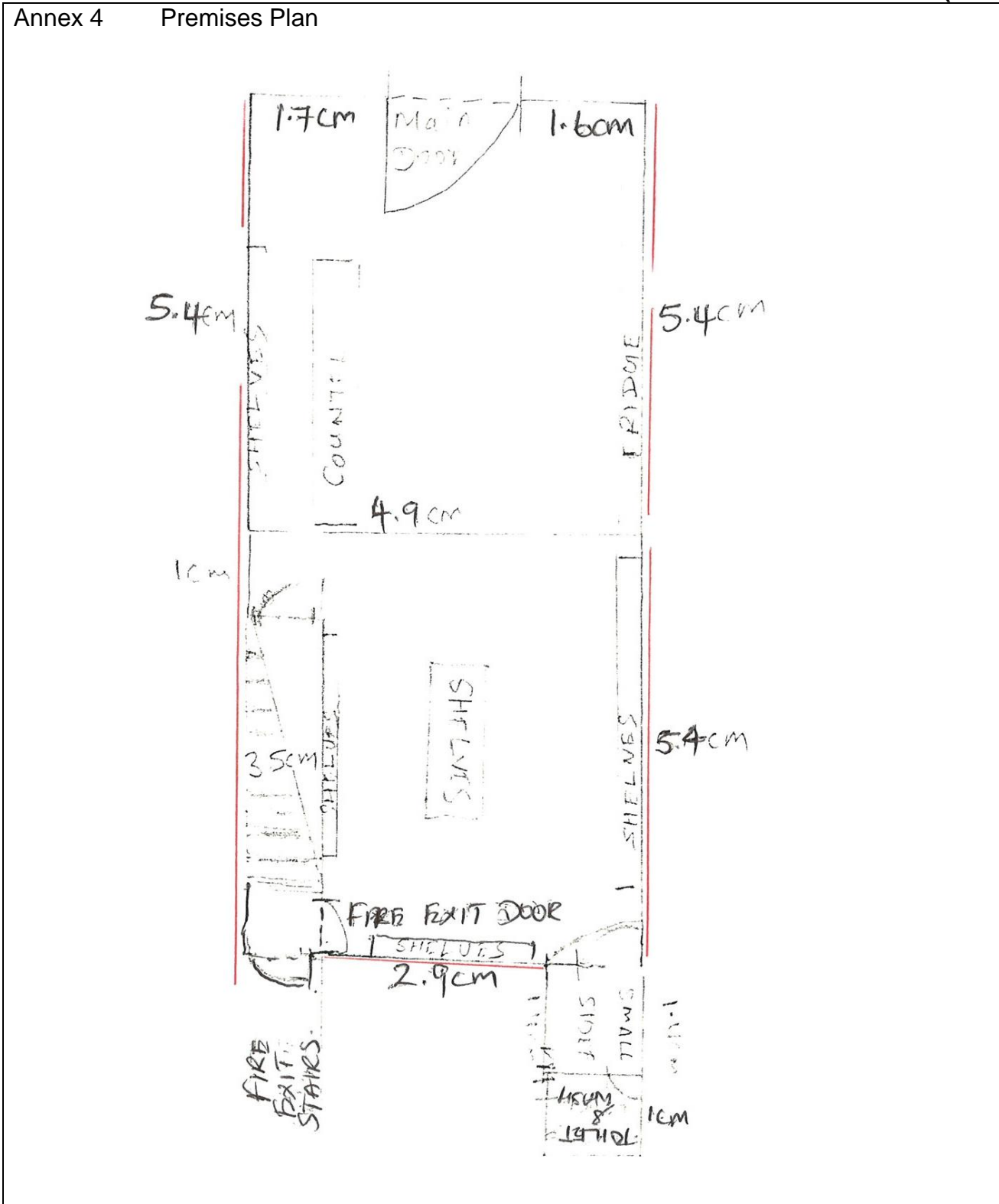
Annex 2 Conditions consistent with the Operating Schedule and/or converted from the Original Licence(s):

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

Annex 3 Conditions attached after Licensing Authority Hearing:

- 1. A personal licence holder shall be present from 11 pm to 02.00 am to authorise all sales of alcohol.**
- 2. A minimum of 2 members of staff (including the personal licence holder) shall be present to conduct all sales of alcohol between 11 pm and 02.00 am.**
- 3. No alcohol shall be sold at a price below the recommended retail price.**
- 4. No sale of alcohol shall take place after 11 pm until a restricted area has been defined and hatched and is approved, in writing, by officers from the Licensing Section.**

Annex 4 Premises Plan



In accordance with the application to vary the premises licence.

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Authorised Officer

Date of Issue: 6 November 2014

APPLICATION FOR REVIEW OF PREMISES LICENCE

Representor: Durham Constabulary

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

1. The Applicant is seeking a review of the premises licence for TRO Food & Wine Shop at 34 High Northgate, Darlington to address concerns relating to the prevention of crime and disorder, public safety and the protection of children from harm objectives in the Licensing Act 2003.
2. The Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) is Mr Tharmarajah Sriskantharajah.
3. There have been a number of incidents at this premises that have given rise to concern. These have included failures to implement the Challenge 25 Scheme, inadequate CCTV coverage, sales of alcohol outside of licensing hours, sales of alcohol to drunk customers, allowing customers to take alcohol without payment, failure to maintain a training register and refusals register and so on.

In addition to the above the PLH/DPS and a staff member have also been charged with Handling Stolen Goods arising from suspected stolen alcohol for sale in the premises.

The criminal case was presented before the courts on 22 July and 31 July 2015 where by both defendants were found guilty of handling stolen goods, with the DPS also being found guilty of section 136 unauthorised licensable activities. All in all there has been a catalogue of failures to adhere to the standard expected of a licensee leading to the Applicant's position that the existence of this licence is undermining the licensing objectives.

4. On the 19 February 2015 the PLH/DPS and his brother and staff member Elango Tharmarajaha were arrested on suspicion of Handling Stolen Goods. The stolen goods were a number of bottles of alcohol for sale in the premises. Some of these bottles were believed to have been stolen from W M Morrisons, Darlington. The PLH/DPS admitted the offence during his police interview however and his brother also admitted the offence however at the first court appearance they both entered not guilty pleas.
5. On the 19 February 2015 the premises' CCTV was seized. Upon viewing the footage it was noted that there was only 15 days footage instead of the required 28 days. For those 15 days, the footage did not cover all of the hours that the premises were open for licensable activities. In addition certain cameras covering the till area and the rear of the premises appear to have been turned on or off on certain days and times.
6. From the limited footage obtained there were a number of incidents viewed.
7. On the 10 February 2015 at 15.10hrs two young males are seen to enter the store and select a number of cans of lager. It is apparent from the CCTV that they should have been challenged under the Challenge 25 Scheme yet no challenge appears to be made by the PLH/DPS and the alcohol is sold. Then later that day a young female who should be challenged is also able to purchase alcohol without producing any identification.

APPENDIX 1B (cont)

8. On the 8 February 2015 at 10.11am and 10.16am the CCTV footage shows the PLH/DPS serving two males with alcohol when he is not licensed to serve until 10.30am. When this is put to him in interview he states it was only 15 or 20 minutes early so should not matter and he did not see what the problem was.
9. On the 3 February 2015 the PLH/DPS is seen selling alcohol to a male so intoxicated that he staggers into the shop and struggles to pay for the alcohol and then to put his change in his pocket. At a later incident on the 9 March 2015 Temporary Sgt Dickenson and Helen Sefton, Licensing Enforcement Officer, are present when the PLH/DPS sells a bottle of cider to an intoxicated male. When the PLH/DPS is asked about serving to intoxicated persons he said the customer was one of those people who was always like that and just needed a drink.
10. On a number of dates the PLH/DPS and his brother are seen on the CCTV footage allowing different customers to take alcohol without any payment. This is seen taking place on the 6 February 2015, 7 February 2015, 8 February 2015, 10 February 2015 and 11 February 2015. On the 6 February, a female is seen to show Elango Tharmarajah four DVDs from inside her coat before helping herself to alcohol. On certain occasions the both the PLH/DPS and his brother are seen to write in a book when customers take alcohol without payment.
11. In addition to the above concerns the PLH/DPS and his brother have recently lost their Camelot "scratch card" machine after admitting they have been dishonest in relation to the "scratch cards", using them to fund the business and due to a gambling problem.
12. Whilst it is ultimately for the Licensing Authority to determine the appropriate action, the Applicant would ask the Authority to revoke the premises licence as the repeated transgressions of the licensing laws and the poor management displayed shows that this is the most appropriate action to promote the relevant licensing objectives.

APPLICATION FOR REVIEW OF PREMISES LICENCE

TRO FOOD AND WINE, 34 HIGH NORTHGATE, DARLINGTON, DL1 1UW

APPLICANT'S BUNDLE OF EVIDENCE

No. Details

1. Premises Licence and Plan
2. Statements of T/Sgt Dickenson dated:
 - 19 March 2015 (Appendix 1B(a))
 - 18 May 2015 (Appendix 1B (b))
 - 31 May 2015 (Appendix 1B (c))
3. Statement of Helen Louise Sefton dated the 10 March 2015 (Appendix 1B(d))
4. CCTV footage (to follow)

WITNESS STATEMENT

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

Statement of Caroline DICKENSON

Age if under 18 **O'18** Occupation: **TPS 484 DICKENSON**

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature: _____ Date 19/03/2015

I am a temporary police sergeant with DURHAM CONSTABULARY currently stationed at DARLINGTON POLICE OFFICE, within the Alcohol Harm Reduction Unit.

At 11:50hrs on 19/02/2015 I attended the TRO shop at 34 High Northgate, Darlington following information stolen goods were being bought within the premises. On arrival at the shop I spoke to the owner Tharmarajah SRISKANTHARAJAH d.o.b 19/12/1981 and advised him why I was there, he stated that he didn't have any stolen property within the shop and we were welcome to have a look around.

I observed on the shelves behind the counter a number of bottles of spirits and could clearly see there was damage around the neck of the bottles consistent with a security tag being forcefully removed. SRISKANTHARAJAH informed me that the damage to the bottles was due to them bashing together when he transported them from the cash and carry.

At 12:00hrs on the same day I cautioned and arrested SRISKANTHARAJAH on suspicion of handling stolen goods, he made no reply to caution. I then conducted a section 32 search of the premises whereby I seized the following items which were booked into ERP ref no SJ/767/15

- CD/1 2 x 100 cl Bacardi
- CD/2 2 x 1 litre Bells Whiskey
- CD/3 1 x 70cl Glenmorangie
- CD/4 1 x boxed bottle Glenmorangie
- CD/5 1x 70cl Barcardi.

SRISKANTHARAJAH has conditions on his premises licence to have CCTV so I requested to view the system to see if he was in fact complying with his conditions. He was unable to get the system working stating there was a problem with his laptop and he was unable to access the monitor due to building works so SRISKANTHARAJAH allowed me to take the hard drive stating I could view it to check he was complying with his licence. At 12:20 Elango THARMSRAJAH d.o.b 09/08/1985 came into the shop, I was aware that he worked there and was the brother of SRISKANTHARAJAH so I cautioned and arrested him on suspicion of handling stolen goods. He made no reply to caution.

Both males were transported to Darlington Police Station where their detention was authorised.

APPENDIX 1B(a) (cont)

At 14:53hrs on the same day I conducted a recorded interview with SRISKANTHARAJAH on tape reference 601802, this interview was concluded at 15:18hrs, whereby he admitted having alcohol which he knew was stolen on his shelves for sale.

At 15:45 hrs I conducted a recorded interview with THARMSRAJAH on tape reference 601803, this interview was concluded at 16:14hrs, he also admitted having alcohol for sale which he knew was stolen. Both males were released from custody on unconditional bail till 18/03/2015.

On 22 February I attended W M Morrison at North Road, Darlington to try and locate where the alcohol I had seized had been stolen from. I can confirm on the shelves at Morrisons was a bottle of Glenmorangie with the same lot number of L5868116062014 which had been seized from the TRO shop. This information meant that it was highly likely the alcohol had been stolen from W M Morrisons.

On 24 February 2015 at 10:07hrs I received an email from John MCMULLEN who is the compliance manager for The Glenmorangie Company who confirmed the bottles of Glenmorangie that I had seized from the TRO shop has been dispatched to Morrison's Northampton under order number 0027638668 on 5/9/14. This information negated what both suspects had said in interview as they had claimed they had bought the alcohol several months earlier than when it had been dispatched from the brewery. This email can be exhibited at court if required ref no CD/7.

On 21 February 2015 at 11:30 am I viewed the CCTV which had been surrendered to me by SRISKANTHARAJAH. He should have 28 days' worth of footage to comply with his premises licence conditions however this was not the case and he did in fact only have 15 days' worth of footage most of which did not cover the times he was open for licensable activities, I have made Brian Murray who is employed by Darlington borough Council as a licencing enforcement officer aware of this breach of conditions, whilst viewing the some footage I observed on 8 February 2015 at 10:11am and 10:16am CCTV footage which showed SRISKANTHARAJAH serving two males with alcohol when he is not licenced until 10:30am. This act is an offence under 136 of the licencing act 2003 so I made a copy of the CCTV footage which I can exhibit as CD/6.

At 15:23 hrs on 18 March 2015 I further interviewed SRISKANTHARAJAH on disc ref 604102 putting to him the evidence from Glenmorangie, he stated his brother must have bought the alcohol. I showed him the footage of the unlicensed sales and he stated that it was only 15 or 20 minutes early so shouldn't matter and he didn't see what the problem was. This interview was concluded at 15:35hrs

At 15:57 hrs on the same day I cautioned and charged SRISKANTHARAJAH with Handle stolen goods contrary to section 22(1) of the theft Act 1968 and Carry on unauthorised licensable activity – Licencing contrary to section 136 of the licencing act 2003. He made no reply to charges and was bailed to appear at Newton Aycliffe court on 02/04/2015.

At 16:23 hrs on the same day I further interviewed THARMARAJAH on disc ref 604104 this interview was concluded at 16:33 hrs and at 16:40hrs I cautioned and charged THARMARAJAH with Handle stolen goods contrary to section 22(1) of the theft Act 1968. He made no reply to charges and was bailed to appear at Newton Aycliffe court on 02/04/2015.

WITNESS STATEMENT

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

Statement of Caroline DICKENSON

Age if under 18: **O'18** Occupation: **Temporary Police Sgt 484**

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature:

Date: 18th May 2015

I am a temporary police sergeant with DURHAM CONSTABULARY currently stationed within the Alcohol Harm Reduction Unit based at DARLINGTON TOWN HALL, DARLINGTON.

On Tuesday 5 May 2015 at 11:50 hrs I attended TRO Food and Wine, 34 High Northgate, Darlington I/C with PCSO 5429 MCALLISTER and council licencing enforcement officer Brian MURRAY in order to carry out a licencing check to see if the premises licence holder and designated premises supervisor Mr Tharmarajah SRISKANTHARAJAH was adhering to conditions attached to his licence namely conditions under annex 2 conditions 5 and 6 which are:

5. The current CCTV system shall be maintained in working order and recording whilst the premises are open and being used for licensable activities. The system shall also provide coverage to the front and rear of the premises.

6. CCTV recordings will be kept for a minimum of 28 days. The recordings shall be made available to the police and an Authorised Officer of the council upon request.

The authorised hours for licensable activities are 7:00am till 2:00am Monday to Saturday and 10:30am – 2:00am on a Sunday.

I am familiar with the CCTV system installed at the TRO shop due to a previous incident I dealt with at the shop and am competent in the use of this CCTV system. On checking the CCTV system I can confirm SRUSKANTHARAJAH did not have the minimum of 28 days footage or the CCTV cameras covering the area required by his licence conditions. I can confirm he had CCTV footage from the 7 April 2015 up to 23 April 2015 which fully complied with the licence conditions, so in total 15 days and not the 28 days as required.

I found on 24 April 2015, 25 April 2015, 26 April 2015 and 27 April 2015 there was no camera covering the rear of the premises.

On 28 April 2015 the camera covering the front of the premises goes off at 11:06am and is back on at 23:02pm. SRUSKANTHARAJAH stated that the camera is on a motion sensor which if why it goes on and off, however this would mean that he hadn't had any customers in the shop between 11:06am and 23:02pm however customers are seen in the shop on the camera covering the till area so I strongly suspect that the camera has been manually turned off.

APPENDIX 1B(b) (cont)

On 29 April there is no camera covering the rear of the premises and the CCTV is only switched on at 08:23am.

On 30 April there is no camera covering the rear of the premises. On 1 May 2015 the camera covering the till area is only switched on at 12:26pm, on 2 May 2015 the camera covering the till area is turned on at 08:27am and on the 3 May 2015 the camera covering the till area is only switched on at 14:16pm. On 4 and 5 May 2015 the only camera working is the one covering the till area.

SRUSKANTHARAJAH is currently on court bail to appear on 22 July 2015 having being charged with the offence of handling stolen goods and section 136 of the Licencing Act 2003 – carry on unauthorised licensable activity, whilst I was carrying out this investigation I found that the CCTV was not recording as specified on his licence and having found section 136 licence offences on 8 February 2015 I found that the following Sunday 15 February 2015 the CCTV wasn't switched on until 2:00pm and it appears the CCTV is turned on and off to suit what is happening in the shop at the time.

WITNESS STATEMENT

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

Statement of: Caroline Dickenson

Age: Over 18

Occupation: Police Officer

This statement (consisting of 1 page signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature:

Dated the 31st day of May 2015

I am a temporary police sergeant with DURHAM CONSTABULARY currently stationed at DARLINGTON POLICE STATION within the Alcohol Harm Reduction Unit.

On 19/02/2015 I arrested Tharmarajah SRISKANTHARAJAH who is a personal license holder and the designated premises supervisor at the TRO FOOD & WINE SHOP, 34 HIGH NORTHGATE, DARLINGTON and his brother Elango THARMARAJAH who is employed to work at the store, on suspicion of handling stolen goods.

Whilst carrying out this investigation I viewed the CCTV at the store and found they were not adhering to three of the four licensing objectives namely crime and disorder, protection of children from harm and public safety and some of the conditions attached to their licence.

Due to the CCTV footage not recording for the full 28 days as per their license conditions and during licensable activities I cannot comment on what goes on when the CCTV is turned off however the activity which is being carried out whilst the CCTV was recording is concerning and I feel that Tharmarajah SRISKANTHARAJAH nor his brother Elango THARMARAJAH are fit and proper people to hold a license to sell alcohol as it is clearly shown on CCTV that they are both unable to promote the licensing objectives or adhere to some of the conditions attached to the licence.

It is apparent that Tharmarajah SRISKANTHARAJAH serves alcohol to intoxicated people, on 3 February 2015 at 18:56 two males are seen to enter the store who are clearly intoxicated; they are seen to stagger over to the fridge where the alcohol is kept and select two bottles of Frosty Jacks cider. One male is that intoxicated he struggles to pay for the item and put his change into his pocket. On 9 March 2015 I was present in the store with my colleague from Darlington Borough Council, licensing enforcement officer Helen SEFTON requesting to see the CCTV as there had been a violent incident outside when a male who was clearly intoxicated entered the store and purchased a bottle of Frosty Jacks cider without any problems.

When Tharmarajah SRISKANTHARAJAH was asked by Helen about serving to intoxicated people he stated he was one of those people who was always like that and just needed a drink.

From the CCTV footage viewed it appears that Tharmarajah SRISKANTHARAJAH and his brother are in the habit of not charging people for alcohol, although there is a condition on their license that alcohol will not be sold below the recommended retail price.

APPENDIX 1B(c) (cont)

There are a number of persons who are well known to the police who frequent the shop on a daily basis and help themselves to alcohol. This is observed on 6th February 2015 at 08:18hrs when a female walks in the store and helps herself to a can of lager, shows it to Tharmarajah SRISKANTHARAJAH and leaves without paying for the items. On 7 February 2015 at 10:59hrs a male helps himself to cider and a can of lager and leaves the shop making no payment.

On 8 February 2015 at 10:45hrs a female helps herself to alcohol from the fridge again shows Tharmarajah SRISKANTHARAJAH and leaves without paying.

On 10 February 2015 a male and female help themselves to lager and cider Elango THARMARAJAH is in conversation with them, however they leave without paying.

On 11 February 2015 at 09:18hrs a female helps herself to sweets and a can of lager whilst talking to Tharmarajah SRISKANTHARAJAH and leaves without paying. At 09:41 hrs on the same day a male helps himself to a bottle of cider whilst in conversation with Tharmarajah SRISKANTHARAJAH and leaves without making payment. At 10:51hrs on the same day a male places a single can in his pocket and leaves the store without paying.

On some occasions Elango THARMARAJAH and Tharmarajah SRISKANTHARAJAH appear to write in a book which could indicate they are giving credit to people so they can have alcohol when they don't have the means to pay for it.

On 6 February 2015 at 08:18 hrs a female who is a known shoplifter enters the store and helps herself to a can of lager, she then returns to the store at 09:07hrs and produces 4 DVDs from the inside of her zipped coat, she engages in conversation with Elango THARMARAJAH showing him the DVDs, she then helps herself to a can of lager and some sweets before putting the DVDs back into her coat and leaving the store.

It also appears from the CCTV footage that the brothers are not implementing the challenge 25 policy, on 10 February 2015 at 15:10hrs 2 young males are seen to enter the store and select a number of cans of lager, from the CCTV footage it is apparent they are under 25 and may not even be 18, however instead of doing any ID checks it appears that Tharmarajah SRISKANTHARAJAH suggests a different variety of lager to the males and instead of them purchasing what they selected which was OKOCIM at 7.1% opted for KARPACIE which is 9%.

At 15:16 hrs on the same day a young female who is clearly not 25 also purchases alcohol without producing any ID.

Throughout the course of my investigation it has been made aware to me by council licensing enforcement officers that Tharmarajah SRISKANTHARAJAH has been unable to provide a training register or a refusals register.

The shop also had a Camelot lottery scratch card kiosk, Tharmarajah SRISKANTHARAJAH and Elango THARMSRAJAH were observed on CCTV to be removing several scratch cards some of which they appeared to play and others which they didn't.

APPENDIX 1B(c) (cont)

Tharmarajah SRISKANTHARAJAH would then hand these lottery tickets and money over to a male who frequented the shop. This male would return later in the day and hand money over to Tharmarajah SRISKANTHARAJAH.

Due to this suspicious behaviour Camelot carried out an investigation and both brothers told the investigator that they had a gambling problem and used the scratch cards to fund the business; they also told the Camelot investigator they have been making monetary gains by adopting a dishonest practice when it came to the scratch cards. Due to this Camelot have withdrawn the machine from the store as they feel they are not fit and proper people to be agents for Camelot.

From what has been observed when the CCTV is in operation there is cause for concern around how this premises is ran and the suitability of both brothers to hold a license to sell alcohol

**Witness Statement
(CJ Act 1967, S.9 M C Act 1980,SS5A(3(a)) and 5B,MC Rules 1981,R70)**

Statement of Helen Louise Sefton

Age: "Over 18

Occupation: Licensing Enforcement Officer

This statement (consisting of 1 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 10th day of March 2015

Signature

I am the above named person, I am an authorised Licensing Enforcement Officer employed by Darlington Borough Council. I am familiar with the licensing of premises in accordance with the Licensing Act 2003 and authorised by Darlington Borough Council to enforce the relevant provisions of the Licensing Act. I have been employed by Darlington BC for one month but I carried out the function of Licensing Enforcement Officer with other Local Authorities for over 15 years.

On Monday the 9 March 2015 at 11:35 I attended the TRO Food and Wine shop at 43 High Northgate, Darlington DL1 1UW accompanied by Sgt Caroline Dickenson of Durham Constabulary. There was one male member of staff on duty at the time his name was Tharmarajah Sriskantharajah.

Mr Sriskantharajah is the Premises licence holder and the designated premises supervisor of the store. The purpose of our visit was to obtain some CCTV footage as Sgt Dickenson had received intelligence that there was a violent disturbance in or near the premises on Friday 6 March 2015 at around 21:00 hours.

Sgt Dickenson informed Mr Sriskantharajah why we were there and requested to see the CCTV footage. Whilst Mr Sriskantharajah was attempting to download the footage a male customer entered the shop that appeared to be intoxicated. Sgt Dickenson commented to me that in her opinion this man was indeed intoxicated and smelt strongly of alcohol. Mr Sriskantharajah stopped working on the CCTV system to serve the male customer who then proceeded to purchase a bottle of cider from the chiller unit and a packet of cigarettes.

Mr Sriskantharajah could not successfully obtain the CCTV that we required and it did not appear to be operating properly or recording continuously and so Sgt Dickenson requested that he hand over the CCTV hard drive unit so she could further check the system back at the office. Mr Sriskantharajah retrieved the hard drive unit from within the roof space and handed the unit to Sgt Dickenson.

At this point I asked Mr Sriskantharajah if he was the designated premises supervisor, he answered yes. I then asked if he had therefore undertaken the personal licence holders training course. He said yes. I asked if remembered what the Licensing Act 2003 said in relation to serving alcohol to persons who were intoxicated.

APPENDIX 1B (d) cont

He confirmed he did remember and that he was not allowed to serve someone who was already drunk. I asked whether he thought the male customer who had just purchased cider was drunk, his reply was that he was always like that and came in every morning to buy alcohol and he was one of those people that just needs to drink.

We informed Mr Sriskantharajah that he was continuing, despite previous warnings and letters, to breach his licensing conditions by not having a fully operational CCTV system and left the premises shortly before 12 noon.

6.0 THE IMPACT OF LICENSABLE ACTIVITIES

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

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

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

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

6.2 Reason: To achieve the licensing objective of preventing public nuisance.

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.

8.0 **PREVENTION OF NUISANCE**

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

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

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

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

8.2 **Additional information**

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

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

8.3 LOCATION AND IMPACT OF ACTIVITY

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

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

APPENDIX 1C (cont)

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.

9.0 PUBLIC SAFETY

9.1 Policy: The Licensing Authority will expect the premises to be constructed and maintained to the highest possible standards of safety. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and, where appropriate, the Technical Standards published by the

District Surveyors Association. In particular the Licensing Authority will expect compliance with Fire Safety Legislation in relation to upholstery, curtains and other hanging materials.

Reason: The Licensing Authority expects premises to be constructed with safety in mind and that the operating schedule details how the premises will be properly managed and maintained to ensure public safety at all times. The Licensing Authority will further expect the operating plan to reflect the maximum capacity as determined by the Fire Authority or other relevant legislative body.

9.2 When addressing the issue of public safety, an applicant must demonstrate that those factors that impact on the standards of public safety have been considered. These may include:

- a. The occupancy capacity of the premises.
- b. The age, design and layout of the premises, including means of escape in the event of a fire.
- c. The nature of the licensable activities to be provided, in particular the sale/supply of alcohol, and/or the provision of music & dancing including whether those activities are of a temporary or permanent nature.
- d. The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different).
- e. Customer profile (eg age, disability).
- f. The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

- 9.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:
- a. Suitable and sufficient risk assessments.
 - b. Effective and responsible management of premises.
 - c. Provision of a sufficient number of people employed or engaged to secure the safety of the patrons and the premises.
 - d. Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons.
 - e. Adoption of best practice guidance (Fire Safety Risk Assessment-Open air events and venues or Large Places of assembly (over 300 persons) or Small places of assembly; The Event Safety Guide, Safety in Pubs published by the BBPA).
 - f. Provision of effective digital CCTV in and around premises.
 - g. Provision of toughened or plastic drinking vessels.
 - h. Implementation of crowd management measures.
 - i. Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety.

10.0 CRIME AND DISORDER

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

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.

11.0 PROTECTION OF CHILDREN FROM HARM

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

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

11.2 Additional information

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

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

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

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

- a. Limitations on the hours when children may be present.
- b. Proof of age arrangements for alcohol sales.
- c. Age limitations below 18 (eg considering requiring all persons under 14 years to leave premises before 9pm and persons between 14 years and under 18 years to leave before 11 pm).
- d. Limitations or exclusions when certain activities are taking place.
- e. Requirements for accompanying adults.
- f. Full exclusion of people under 18 from the premises when certain licensable activities are taking place (eg entertainment of a sexual nature, performances of hypnotism etc).
- g. Limitation on the permits of premises to which children might be given access.

12.7 OFF SALES

In accordance with DCMS guidelines the Licensing Authority will not normally seek to limit the hours during which alcohol can be sold for consumption off the premises.

APPENDIX 1C (cont)

The Council does, however, expect that a responsible attitude be adopted in relation to the sale of alcohol to and/or for persons under the age of 18 years. Operating schedules should therefore include the following:

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

NB this list is not exclusive

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

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

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003
(REVISED 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;

APPENDIX 1D (CONTINUED)

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

Other relevant legislation

1.19 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.

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.

CONDITIONS**APPENDIX 1D (CONTINUED)**

10.1 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.

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

10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

Reviews**The review process**

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

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

11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.

- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.

- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

APPENDIX 1D (CONTINUED)

- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors, as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again.

APPENDIX 1D (CONTINUED)

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

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;

APPENDIX 1D (CONTINUED)

- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

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

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

Date of Notification: 08 October 2015

Type of Hearing: Application to Review Premises Licence

Premises: 34 High Northgate
Darlington, DL1 1UW

Hearing Details: 1 pm Tuesday 27 October 2015

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

Copy of notice sent to: Mr T Sriskantharajah (Licence holder)
Durham Constabulary (Responsible Authority & Applicant for Review)

Attendance: All parties may attend this hearing. You may find it useful to be accompanied by your legal representative(s) or any other person who may be able to assist you. Please complete the attached form at **Appendix 2A** and return to the Licensing Section **no later than 12 noon on Monday 19 October 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 Police** at the Hearing:

- Full Information about any recent issues of crime and disorder within the vicinity of, or attributed to the premises

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

- Full information about the operation of, and any limitations of the CCTV system
- Full details of the training provided to all staff in respect of the requirements of the premises licence and the sale of alcohol from the premises
- Details of how the proof of age requirement is implemented
- Details of how the refusals book is used including copies of the refusals for the preceding 12 months



Economic Growth
Licensing, D Block, Town Hall
Darlington DL1 5QT
Tel: 01325 405888
Fax: 01325 405983
Email: licensing@darlington.gov.uk

NOTICE OF ATTENDANCE

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

DATE OF HEARING: 1 pm, Tuesday 27 October 2015

NAME OF PREMISES: TRO
34 High Northgate
Darlington, DL1 1UW

YOUR NAME:

I WILL*/ WILL NOT* BE ATTENDING THE HEARING

I WILL*/ WILL NOT* BE LEGALLY REPRESENTED

NAME OF LEGAL REPRESENTATIVE (IF APPROPRIATE):

.....

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

(*delete as appropriate)

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

Name:

Details:

.....

Please return to: Mrs P Ross
Licensing, Parking, TS & CCTV Manager
Darlington Borough Council
D Block, Town Hall
Feethams
DARLINGTON DL1 5QT

LICENSING SUB COMMITTEES

FULL HEARING PROCEDURE FOR APPLICATIONS FOR REVIEWS OF 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 Premises Licence holder 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 Application for the Review**

NB: Where the application comes from Other Persons, i.e. local residents or businesses within the vicinity of the premises, 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 Applicant for the review or their representative will give their reasons for making the application.
- [2] The Applicant for the review or their representative will then call any witnesses and/or give reasons for their objection.
- [3] The Premises Licence Holder or his/her representative may then question the Applicant for the review [if they have given evidence] and any witnesses.
- [4] The Chair or any member of the Licensing Sub Committee, through the Chair, may ask questions of the Applicant for the Review and any witnesses.

If several applications/representations have been received and the Applicants for the Review have not agreed to present the case jointly, this procedure will normally be repeated for each individual Applicant.

APPENDIX 2B (cont)

3. **The Premise Licence holder's (PLH) Case**

- [1] The PLH or their representative presents their response to the application for review.
- [2] The PLH or their representative will then call any witnesses and/or give evidence in support of his/her response.
- [3] The Applicant(s) for the Review may then question the PLH if they have given evidence] and any witnesses.
- [4] The Chair or any Member of the Licensing Sub Committee through the Chair will ask questions of the PLH and any witnesses.
- [5] The PLH or their 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 PLH will be asked by the Chair of the Sub Committee whether, in the light of the information heard in relation to the review, they wish to amend the operating schedule, change the Designated Premises Supervisor (Premises Licences only) or offer additional conditions, as when they retire, Members will consider only the information before them at that time.

If the PLH wishes to amend the operating schedule, change the designated premises supervisor (Premises Licences only) or offer additional conditions the Applicant(s) for the Review will be given the opportunity to comment on the proposal.

5. **Closing Statement or Summary**

- [1] **By or on behalf of the Applicant(s) for the Review.** The Applicant(s) for the review 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 PLH.** The PLH will be invited to summarise any points they wish to make and comment briefly on the Applicant for the Review's replies to questions. They cannot introduce new issues

6. **Conclusion**

All decisions will be made in private.

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

Once a decision has been reached the press and public will be re-admitted to the meeting together with the Premises Licence Holder, 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.