

The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State. The Licensing Authority may depart from its own Policy or the Secretary of State's Guidance if it has good cause but must be able to give full reasons for such a departure.

DESCRIPTION OF PREMISES

When the application was originally made the Applicant Company described the premises as follows: "these premises comprise a public bar on the 1st floor".

BACKGROUND

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

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 In addition, the representation from Environmental Health was also withdrawn based on agreement with the Applicant Company that an occupancy figure of 110 (which accommodates the limited toilet provision) would become an agreed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

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 Members were advised that an application for live music had been withdrawn by the applicant Company prior to the hearing.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

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

On 17 October 2012 an application was received to transfer the Premises Licence from Osbourne Leisure Ltd to Grange Bars Ltd. The Police, who are the only statutory consultee in respect of such an application, did not object and the transfer was duly granted with effect from

18 October 2012. Officers understand that this was simply a change of company name and that the same people were responsible for the premises.

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

On 16 March 2013 Licensing Officers, accompanied by Durham Licensing Police, attended the premises at the request of Environmental Health and found that there were breaches of the licence conditions in respect of overcrowding, recorded music being played above background level and other breaches. Officers also found a person smoking on the premises. As a result officers issued the Company with a written warning.

On 16 April 2013 an application was properly made in accordance with Section 34 of the Licensing Act 2003 to vary the premises licence to permit dancing to be included as a licensable activity, to remove the requirement that recorded music should be limited to background music and to extend the terminal hour for sale of alcohol and regulated entertainment by one hour on Fridays and Saturdays. The application was circulated to the Responsible Authorities and duly advertised. As a result one representation was received from a Responsible Authority (Environmental Health) and one from two "Other Persons", namely Mr Neil Curry of Prego and also M & E Robertson of Truffles Restaurant (local businesses - one of a similar nature - located in the vicinity of these premises).

On 10 June 2013 the Application was considered by the Licensing Sub Committee and the application was granted in part only. Members permitted dancing to be included on the premises licence, but the application to remove the stipulation that recorded music should be played at background levels only was refused as was the application to extend the terminal hour of all licensable activities by one hour every Friday and Saturday and to extend the premises closing time by one hour on Fridays and Saturdays also.

In addition, following information to Members that the Environmental Health Manager had come to an agreement in respect of conditions to be placed on the licence and on that basis would withdraw the representation, conditions were added to the licence in respect of noise checks being undertaken; the keeping of doors and windows closed while recorded music was being played and the introduction of a queuing system away from Truffles Restaurant.

On 27 June 2013 the Licensing Authority received notice of appeal against the decision of the Licensing Sub Committee.

On 10 July 2013 an application was made to **vary** the Designated Premises Supervisor (DPS) from Joel Walsh to Neil Flockett. the Police, who are the only statutory consultee in respect of such applications did not make any representation and the variation was duly granted.

On 10 August 2013 a Licensing Enforcement Officer made a visit to the premises and found that the level of music was far beyond what could be described as "background". In addition the premises were found to be in breach of the licence conditions in respect of CCTV, production of a refusals register, production of staff training records, attendance at Pub Watch and failure to record noise checks. As a result a written warning was issued.

On 24 August 2013 and 31 August 2013 further licensing enforcement visits were undertaken and the premises were found to be compliant.

On 04 September 2013 the Licence holder's appeal was heard at Darlington Magistrates Courts. The appeal succeeded in part, in that the terminal hours and closing hours were extended by one hour. The application to remove the stipulation that recorded music must be played at background levels only did not succeed and the additional conditions placed by the Sub Committee were retained.

On 29 November 2013 an application was made to **vary** the Designated Premises Supervisor (DPS) from Neil Flockett to David E Sturrock. the Police, who are the only statutory consultee in respect of such applications did not make any representation and the variation was duly granted.

On 13 November 2013 following noise complaints to the Council, Officers made a licensing enforcement visit with Durham Police and found that live amplified music was taking place on the premises. A written warning was issued and the premises licence holder was advised that any further contraventions may result in legal proceedings.

On 07 September 2014 a routine enforcement visit to the premises found that it was fully compliant.

On 08 September 2014 an application was made to **vary** the Designated Premises Supervisor (DPS) from David E Sturrock to Vicki Marsh Steele. the Police, who are the only statutory consultee in respect of such applications did not make any representation and the variation was duly granted.

On 16 July 2015 an application was made to **vary** the Designated Premises Supervisor (DPS) from Vicki Marsh Steele to Laura Kelly. the Police, who are the only statutory consultee in respect of such applications did not make any representation and the variation was duly granted.

On 24 November 2015 Laura Kelly advised the Council that she wished to be removed as the Designated Premises Supervisor.

On 25 November 2015 an application was made to **vary** the Designated Premises Supervisor (DPS) from Laura Kelly to Matthew Marriott. the Police, who are the only statutory consultee in respect of such applications did not make any representation and the variation was duly granted

On 14 January 2016 an application was made to **vary** the Designated Premises Supervisor (DPS) from Matthew Marriott to Adam Knox. the Police, who are the only statutory consultee in respect of such applications did not make any representation and the variation was duly granted

The current licence is appended as **Appendix 1A** for the attention of Members

THE CURRENT APPLICATION TO VARY THE PREMISES LICENCE

On 14 January 2016 an application was properly made in accordance with Section 34 of the Licensing Act 2003 to vary the premises licence to remove the requirement that a minimum of 2 door staff shall be employed from 9 pm until the close of the premises each Friday and Saturday and replace it with the following:

"THE DECISION TO EMPLOY DOOR STAFF ON A FRIDAY AND SATURDAY NIGHT WILL BE MADE ON A RISK ASSESSMENT BASIS"

Members should however note that the full condition currently on the premises licence requires a minimum of 2 door staff to be employed from 9 pm to close of business on those Sundays on a Bank Holiday weekend. There has not been an application to vary this part of the condition and therefore Members can only consider whether or not to amend the condition on Fridays and Saturdays.

The application was circulated to the Responsible Authorities and duly advertised. As a result, although there were not any representations from any of the Responsible Authorities, representations have been received from two "Other Persons", namely Mr Neil Curry of Prego and also Mr David Storer of The Grange. Both representors hold premises licences in the vicinity of Sloan's.

THE REPRESENTATIONS

On 05 February a representation was received from Mr Neal Curry on the basis of the prevention of crime and disorder, public safety and the prevention of public nuisance. In summary Mr Curry states that he believes not to have door staff on Fridays and Saturdays would undermine the work of the police and Council and increase anti social behaviour. In addition he asserts that Sloan's is in breach of its condition requiring CCTV to cover the front door. This representation is reproduced in full as **Appendix 1B(i)** Members may be interested to know that there is a condition on Mr Curry's licence requiring the use of door staff as follows

"Two door supervisors shall be employed from 21:00 hours until closing on Friday and Saturday. Door supervision shall be risk assessed by management on all other nights ie. Xmas and bank holidays".

On 11 February a representation was received from Mr David Storer on the basis of public safety. In summary Mr Storer expresses concern at the potential for serious injury and the potential impact on other premises. This representation is reproduced in full as **Appendix 1B(ii)**. Members may be interested to know that there is a condition on Mr Curry's licence requiring the use of door staff as follows:

"2 Door Supervisors shall be employed from 22:00 hours until closing on Friday and Saturday. Door supervision provision shall be risk assessed by management on all other nights unless there are under age or mixed age events taking place."

THE OPERATING SCHEDULE

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

"To date in over 3 years of operating, there are no recorded incidents of crime and disorder at Sloan's and we believe we have a very strong record in the discouragement of any crime and disorder. Since 2012 there has not been a single police incident and the police have not objected to this variation. We operate a CCTV system which records for 31 days. We will continue to operate a refusals register".

In respect of the prevention of public nuisance the Applicant Company has stated:

"Regular staff visits to the exterior/front of the premises to ensure they are clean and tidy during opening hours"

In respect of the protection of children from harm the Applicant Company has stated:

"Bar staff will request personal identification from all potential customers believed to be under 18. We currently operate a Challenge 21 policy and will continue to do so."

Although the Operating Schedule can be turned into conditions on the premises licence Members will note that there is nothing contained within the information provided above that adds any strength to the current conditions and as such the current conditions should prevail.

THE LICENSING POLICY

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

Section 6.1	Premises Licences
Section 7.1-7.3	The Impact of Licensable Activities
Section 9.0 - 9.5	Prevention of Nuisance -
Section 10.1-10.3	Public Safety
Sections 11.3 - 11.5	Steps to be taken by Licensees to address Crime and Disorder Issues

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

THE GUIDANCE

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

ADDITIONAL INFORMATION

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

POINTS FOR CLARIFICATION

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

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

- Specific details of issues from the premises that would require door staff to be present every Friday and Saturday night.
- Specific details/evidence of why the removal of the condition requiring 2 door staff from 9 pm every Friday and Saturday and the move to a risk assessed basis for door staff would undermine the licensing objectives

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

- Details of the issues that will be taken into account as part of process that will be followed to risk assess the need for door staff on Fridays and Saturdays (e.g. what will be the determining factors, , how will the exact number of door staff - if any - be determined et

MEMBERS' OPTIONS

Members may consider the following options

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

- (x) The Designated Premises supervisor shall ensure that glassware of any kind is not taken outside of the premises by patrons.
 - (xi) Children under the age of 16 years shall not be permitted in the premises after 19.00 hours.
 - (xii) Young persons between the ages of 16-18 years who are supervised by a responsible adult shall be permitted at the discretion of the Designated Premises supervisor”.
 - (xiii) A minimum of 2 door staff shall be employed from 9 pm until the close of the premises on the Sundays of each Bank Holiday weekend.
 - (xiv) Each day that recorded music and/or dancing takes place a check shall be carried out on an hourly basis to ensure that such entertainment provided within the premises is not audible in Grange Road
 - (xv) On each day that recorded music and/or dancing takes place a check shall be carried out at 21.00 and 23.00 at any surrounding business that is open to ensure that such entertainment provided at the Applicant Company’s premises is not audible in the receptor premise. If such entertainment is provided prior to 19:00 then additional checks must be carried out at intervals of no greater than 2 hours.
 - (xvi) All checks carried out in accordance with the preceding two conditions shall be recorded in a log book. The information recorded shall include the date, time, person carrying out the check, the results of the check and what remedial action, if any, is taken. The book shall be produced on request to the Police or Authorised officers of the Council.
 - (xvii) The Applicant Company and/or their staff shall record details of all noise complaints made directly to them in the log book required by condition above. The information recorded shall include the date, time, person recording the complaint, the details of the complaint and what remedial action, if any, is taken. The log book shall be made available at any time to any Authorised Officer of Darlington Borough Council, the Police and the Fire Service.
 - (xviii) All windows to the premises shall be kept closed at all times when recorded music and/or dancing is offered.
 - (xix) The doors to the premises shall be kept closed at all times when recorded music and/or dancing are offered other than to allow for the ingress and egress of visitors.
 - (xx) The Designated Premises Supervisor shall ensure that patrons who are queuing to gain admission to the premises shall form a queue away from the entry/exit point of Truffle Restaurant.
2. Place any additional conditions on the licence that Members consider are necessary to address any concerns relating to crime and disorder, public nuisance, public safety and protection of children from harm.
 3. Reject all or part of the application

Members are reminded that any aggrieved party (ie Applicant Company, Responsible Authority or Other Person) may appeal any decision of the Licensing Sub Committee to the Magistrates' Courts.

Contact Officer: Pam Ross
Ext 5988

Ian Williams
Director of Economic Growth

For admin use only: Date of Sub Committee: 09 MARCH 2016
Sub Committee Decision:

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

Reasons:



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

APPENDIX 1A
PART A

Licensing Act 2003 Premises Licence
SLOAN'S

Premises Licence Number	DL16/00067/VARDPS
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PART 1 - PREMISES DETAILS

Premises Details:	Sloan's 22 Grange Road, Darlington, DL1 5NG		
Licence effective from:	14 January 2016	Duration of Licence:	Indefinite
Authorised Licensable Activities:	Authorised Hours		
Retail sale of alcohol (for consumption ON AND OFF the premises)	10:00 - 24:00 Sunday to Thursday 10:00 - 02:00 Friday to Saturday		
Regulated Entertainment:	10:00 - 00:30 Sunday to Thursday		
Recorded Music (Background) & Dancing	10:00 - 02:30 Friday to Saturday		
Premises Opening Hours:	10:00 - 00:30 Sunday to Thursday 10:00 - 02:30 Friday to Saturday		
Non-standard/seasonal timings:	None		

PART 2

Premises Licence Holder:	Grange Bars Ltd. 20 Blackfriars, Yarm, TS15 9HG
Telephone Number:	07807 039099
Registered Company Number:	08063186
Designated Premises Supervisor:	Adam Knox 1 Dilgence Way, Eaglescliffe, Stockton on Tees. TS16 0RR
Personal Licence No:	SBC142017
Issuing Authority:	Stockton Borough Council

Annex 1 Mandatory Conditions:

1. Every Supply of alcohol under the premises licence must be made by or authorised by a person who holds a personal licence.
2. No supply of alcohol may be made under the premises licence:-
 - (a) at a time when there is no Designated Premises Supervisor in respect of the premises licence or
 - (b) at a time when the designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
- 3.(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
6. The responsible person must ensure that—
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available

7. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
8. For the purposes of the condition set out at 8 —
 - a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - b) “permitted price” is the price found by applying the formula—

$$P = D + (D \times V) \text{ where—}$$
 - i) P is the permitted price,
 - ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - i) the holder of the premises licence,
 - ii) the designated premises supervisor (if any) in respect of such a licence, or
 - iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
9. Any person acting in the capacity of a Door Supervisor must be registered in accordance with the requirements of the Security Industry Authority.

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

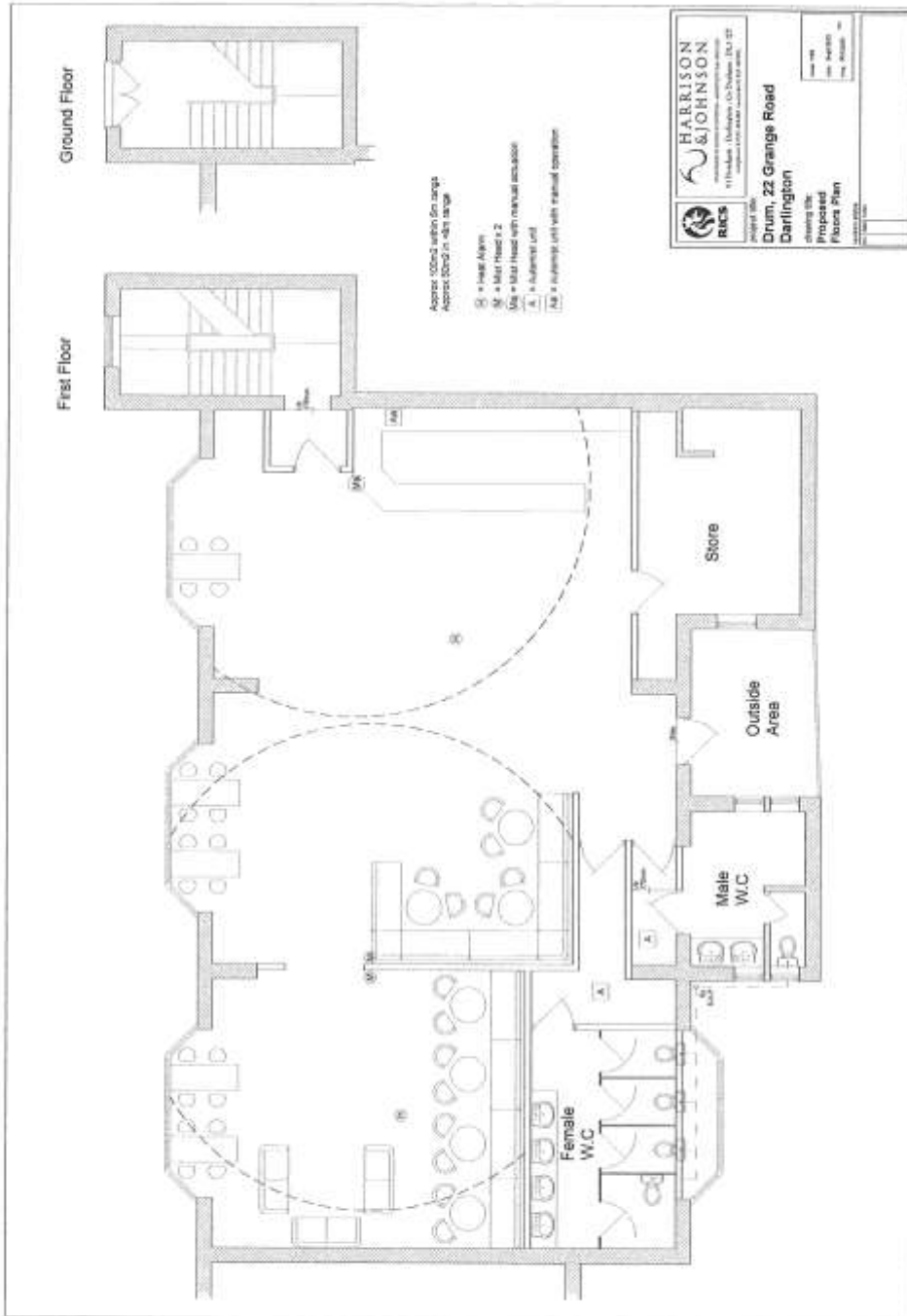
1. A digital CCTV system complying with Durham Constabulary’s Minimum Standards for Licensed Premises will be installed and in operation at all times the premises are being used for licensable activities. It must be operated by properly trained staff. The system shall cover the public entrances and also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

6. The capacity of the premises shall not exceed 110. The Licensee shall implement a procedure for monitoring the number of people present in the premises to ensure that the capacity is not exceeded.
7. The designated premises supervisor or another designated representative of the Applicant Company shall attend and actively participate in the Darlington Pub Watch scheme.
8. Clear and legible signage shall be prominently displayed at each exit advising customers of the need to leave the premises quietly.
9. All deliveries shall take place during the hours of 9.00 am and 4 pm.
10. The Designated Premises supervisor shall ensure that glassware of any kind is not taken outside of the premises by patrons.
11. Children under the age of 16 years shall not be permitted in the premises after 19.00 hours.
12. Young persons between the ages of 16-18 years who are supervised by a responsible adult shall be permitted at the discretion of the Designated Premises supervisor".

Annex 3 Conditions attached after Licensing Authority Hearing:

1. A minimum of 2 door staff shall be employed from 9 pm until the close of the premises each Friday and Saturday. At bank holiday weekends this shall extend to include Sundays also.
2. Each day that recorded music and/or dancing takes place a check shall be carried out on an hourly basis to ensure that such entertainment provided within the premises is not audible in Grange Road
3. On each day that recorded music and/or dancing takes place a check shall be carried out at 21.00 and 23.00 at any surrounding business that is open to ensure that such entertainment provided at the Applicant Company's premises is not audible in the receptor premise. If such entertainment is provided prior to 19:00 then additional checks must be carried out at intervals of no greater than 2 hours.
4. All checks carried out in accordance with the preceding two conditions shall be recorded in a log book. The information recorded shall include the date, time, person carrying out the check, the results of the check and what remedial action, if any, is taken. The book shall be produced on request to the Police or Authorised officers of the Council.
5. The Applicant Company and/or their staff shall record details of all noise complaints made directly to them in the log book required by condition above. The information recorded shall include the date, time, person recording the complaint, the details of the complaint and what remedial action, if any, is taken. The log book shall be made available at any time to any Authorised Officer of Darlington Borough Council, the Police and the Fire Service.
6. All windows to the premises shall be kept closed at all times when recorded music and/or dancing is offered.
7. The doors to the premises shall be kept closed at all times when recorded music and/or dancing are offered other than to allow for the ingress and egress of visitors.
8. The Designated Premises Supervisor shall ensure that patrons who are queuing to gain admission to the premises shall form a queue away from the entry/exit point of Truffle Restaurant.

Annex 4 Premise Plan



In accordance with the application to vary the designated premises supervisor

.....
Authorised Officer

Date of Issue: 19 February 2016

REPRESENTATIONS IN RESPECT OF APPLICATION**Appendix 1B(i)**

Representor: Neil Curry, Director, Prego Café & Wine Bar
Comments: Based on the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance

"I am writing to strongly object to the proposed Minor Variation for the licensed premises at 20-22 Grange Road, Darlington, known as Sloan's Bar. As a business owner I know how hard it is to continually trade in these difficult times, but to cut costs on public safety is ludicrous!! The decision not to have door staff on a Friday and Saturday night would undermine everything in which Darlington council and the police have worked so hard to achieve and would go against the licensing objectives of **the prevention of crime and disorder, public safety and the prevention of public nuisance**. The decision to employ door staff on a Friday and Saturday night should be **every Friday and Saturday night**, to do otherwise should bring their risk assessment in to serious question.

I was present at a hearing for Sloan's and it was stipulated that there had to be CCTV on the front door at all times; I believe this has been over looked. Currently there is no CCTV on their front door and only one member of staff works in the premise Sunday to Thursday and most of Friday evening. As a results no members of staff are aware of what is happening in there front door. This results in people smoking inside the premises and people standing on the street with glass ware and alcohol. I strongly believe that not to have door staff on a Friday Saturday night would just increase this type of behaviour and impact on other businesses on Grange Road."

Appendix 1B(ii)

Representor: Mr David Storer, T/A The Grange, 51 Grange Road, Darlington, DL1 5PD
Comments: Based on Public Safety

"I wish to register my objection to the request to amend the licence of Sloan's Bar 20-22 Grange Road to allow the requirement of door staff to be changed from mandatory at a weekend to being the choice of the proprietor via risk assessment.

I believe that the variables involved in such a risk assessment are not controllable other than above a baseline of a set minimum level of door supervision.

The premises layout, with the entrance at a different level to the main bar area would already make it difficult to control with less than 2 door staff and if difficulties did occur the potential for serious injury on the steep stone stairwell would be classed as high.

Finally if issues did arise and no door staff were in attendance, the general public would look to the staff on adjoining properties to assist, which insurance issues would preclude and this may not be understood by people involved therefore casting a negative view of such establishments."

**EXTRACTS FROM DARLINGTON COUNCIL'S LICENSING POLICY
(EFFECTIVE FROM 07 JANUARY 2016)**

6.0 PREMISES LICENCES

- 6.1 Policy:** Applicants for Premises Licences will be expected to address the licensing objectives. It may assist to consider Local Crime Prevention Strategies, Planning and Transportation Policies and Tourism and Cultural Strategies when determining their operating schedule.

The Licensing Authority will expect the operating schedule to have regard to the nature of the area in which the premises are located, the type of premises, the licensable activities to be provided, the hours of operation, impact on the locality and the needs of the local community.

In this respect the Licensing Authority will expect the applicant to demonstrate how the premises will be a "good neighbour" both to residents and other venues and businesses. The applicant will be required to demonstrate that he/she has satisfactorily addressed each of the licensing objectives as part of any application to vary the operation of the premises.

7.0 THE IMPACT OF LICENSABLE ACTIVITIES

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

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

- b. **If adverse impact has been caused, that appropriate measures have been agreed and put into place to address any future adverse impact. If measures are to be put into effect or alternatively if there has been insufficient time to assess their usefulness a licence may be granted for a limited period only.**

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

- The precise nature of the activity, particularly in terms of entertainment, as this may impact in terms of the age of patrons and their behaviour.
- Noise levels and type of noise, which may be acceptable during daytime hours but may have greater impact at times when ambient noise levels are much lower.
- The impact of patrons arriving, queuing and exiting which should take place on main pedestrian routes rather than through residential areas
- The impact of other sources of nuisance from smells, smoke, refuse storage, vermin and other similar causes of nuisance

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

7.3 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.

9.0 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.

9.1 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.

9.2 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.

9.3 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:

- e) 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.
- f) There will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area.
- g) The activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets or on roads.

9.4 **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.

9.4.1 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.

9.4.2 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.

9.4.3 However, some commercial areas in the Borough, 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.

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

9.5 **Additional information:**

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

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

10.0 **PUBLIC SAFETY**

10.1 **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.

- 10.2 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 or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature.
 - d) The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different).
 - e) Customer profile (e.g. age, disability).
 - f) The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- 10.3 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 (eg Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, 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.

11.0 CRIME AND DISORDER

11.3 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:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour

11.3.1 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 eg DVLA photo driving licence or '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.

11.4 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.

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

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

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

PURPOSE

- 1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 1.8 The police remain key enforcers of licensing law. This Guidance does not bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.

Legal status

- 1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.
- 1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

General principles

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

Licence conditions – general principles

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

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

Each application on its own merits

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

Other relevant legislation

1.19 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation.

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime

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

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

Public safety

- 2.6 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

Public nuisance

- 2.14 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.15 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

- 2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.19 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

APPLICATIONS FOR PREMISES LICENCES

Other persons

- 8.12 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the

grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous, vexatious and repetitious representations.

- 8.13 While any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity.

Variations

Introduction

- 8.42 Where a premises licence holder wishes to amend the licence, the 2003 Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives. Applications to vary can be made electronically via GOV.UK or by means of the licensing authority's own electronic facility following the procedures set out in Chapter 8 above.

Minor variations process

- 8.46 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. In accordance with those regulations, the notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.
- 8.47 On receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives. It is recommended that decisions on minor variations should be delegated to licensing officers.
- 8.48 In considering the application, the licensing authority must consult relevant responsible authorities (whether the application is made in writing or electronically) if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision.
- 8.49 The licensing authority must also consider any relevant representations received from other persons within the time limit referred to below. As stated earlier in this Guidance,

representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision.

- 8.50 Other persons have ten working days from the 'initial day', that is to say, the day after the application is received by the licensing authority, to submit representations. The licensing authority must therefore wait until this period has elapsed before determining the application, but must do so at the latest within 15 working days, beginning on the first working day after the authority received the application, with effect either that the minor variation is granted or the application is refused.
- 8.51 If the licensing authority fails to respond to the applicant within 15 working days (see section 193 of the 2003 Act for the definition of working day), the application will be treated as refused and the authority must return the fee to the applicant forthwith. However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application.
- 8.52 Where an application is refused and is then re-submitted through the full variation process, the full 28 day notification period will apply from the date the new application is received and applicants should advertise the application and copy it to all responsible authorities (in accordance with the regulations applicable to full variations).
- 8.53 Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

Licensing conditions - Imposed conditions (minor variations)

- 8.61 Licensing authorities cannot impose their own conditions on the licence through the minor variations process. If the licensing officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, they should refuse it.

Full variations process

- 8.66 Any other changes to the licence or certificate require an application to vary under sections 34 or 84 of the 2003 Act.
- 8.67 Licensing authorities may wish to consider whether there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an application to vary in relation to features which are not required to be shown on the plan under section 17 of the 2003 Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes).

- 8.68 However, it should be noted that a section 34 application cannot be used to vary a licence so as to:
- extend a time limited licence;
 - transfer the licence from one holder to another; or
 - transfer the licence from one premises to another.
- 8.69 If an applicant wishes to make these types of changes to the premises licence, the applicant should make a new premises licence application under section 17 of the 2003 Act; or, to transfer the licence to another holder, an application under section 42 of the 2003 Act.

DETERMINING APPLICATIONS

Where representations are made

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

Relevant, vexatious and frivolous representations

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

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

Disclosure of personal details of persons making representations

- 9.25 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.
- 9.26 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.
- 9.27 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.
- 9.28 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.
- 9.29 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

Hearings

- 9.30 Regulations governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

- 9.31 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.32 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.33 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.34 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.
- 9.35 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.36 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 9.37 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
 - the representations (including supporting information) presented by all the parties;
 - this Guidance;
 - its own statement of licensing policy.

- 9.38 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.
- 9.39 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

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

- 9.41 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.42 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.43 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

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

Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

Imposed conditions

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. This provision also applies to minor variations.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

Proportionality

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Hours of trading

10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement.

Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.

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.

Age verification

10.48 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.41) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature.

10.49 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies by the premises.

- 10.50 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.
- 10.51 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.

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

Date of Notification: 22 February 2016

Type of Hearing: Application to Vary a Premises Licence

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

Hearing Details: 9.30 am Wednesday 09 March 2016

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

Copy of notice sent to: Grange Bars Ltd (Applicant Company)
Mr N Curry (Other person)
Mr D Storer (Other person)

Attendance: All parties may attend this hearing. You may find it useful to be accompanied by your legal representative(s) or any other person who may be able to assist you. Please complete the attached form at **Appendix 2A** and return to the Licensing Section **no later than 12 noon on Wednesday 02 March 2016**

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

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

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

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

Points for Clarification:

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

Mr Curry & Mr Storer have each been asked to provide:

- Specific details of issues from the premises that would require door staff to be present every Friday and Saturday night.
- Specific details/evidence of why the removal of the condition requiring 2 door staff from 9 pm every Friday and Saturday and the move to a risk assessed basis for door staff would undermine the licensing objectives

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

- Details of the issues that will be taken into account as part of process that will be followed to risk assess the need for door staff on Fridays and Saturdays (e.g. what will be the determining factors, , how will the exact number of door staff - if any - be determined etc).



Public Protection Division
Economic Growth
Block D, Town Hall
Darlington DL1 5RQT
Tel: 01325 388799
Fax: 01325 388555
Email: licensing@darlington.gov.uk

NOTICE OF ATTENDANCE

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

DATE OF HEARING: 9.30 am Wednesday 09 March 2016

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

YOUR NAME:

I WILL*/ WILL NOT* BE ATTENDING THE HEARING

I WILL*/ WILL NOT* BE LEGALLY REPRESENTED

NAME OF LEGAL REPRESENTATIVE (IF APPROPRIATE):
.....

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

(*delete as appropriate)

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

Name:

Details:
.....

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

LICENSING SUB COMMITTEES

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

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

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

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

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

1. The Licensing Manager will outline the application - Members may ask questions of the Licensing Manager

2. **THE APPLICANT'S CASE**

[1] The Applicant or his/her representative will present his/her application for a licence

[2] The Applicant or his/her representative will then call any witnesses and/or give

[4] The Chair or any Member of the Licensing Sub-Committee (and Officers) through the Chair will ask questions of the Applicant and any witnesses.

[3] The Representors may then question the Applicant if he/she has given evidence and any witnesses.(NB questions only – must not start presenting their case)

[5] The Applicant or his/her representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

3. **THE REPRESENTOR'S CASE (Responsible authorities first, then Councillors, then "Other Persons")**

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

[1] The Representor or his/her representative will give their reasons for objecting to the application.

- [2] The Representor or his/her representative will then call any witnesses and/or give reasons for his/her objection.
- [3] The Chair or any member of the Licensing Sub Committee, through the Chair, may ask questions of the Objector and any witnesses.
- [4] The Applicant or his/her representative may then question the Representor that has given evidence and any witnesses.
- [5] The Chair will invite the Representors to sum up – no new information can be introduced at this point
- [6] The Chair will give the applicant a final opportunity to ask questions.

If several objections have been received and the Representors have not agreed to present their objection jointly, this procedure will normally be repeated for each individual Representor

The Applicant will be asked by the Chair of the Sub-Committee whether, in the light of the information heard in relation to the application, (s)he wishes to amend the application, as when they retire, Members will consider only the information before them at that time.

If the Applicant wishes to amend the application or indicates that (s)he is prepared for Members to consider an amended application if they are minded to refuse the original application, all Objectors will be given the opportunity to comment on the amended application.

5. **CLOSING STATEMENT OR SUMMARY**

The Applicant will be invited to summarise any points they wish to make and comment briefly on the Representors' replies to any questions. They cannot introduce new issues.

6. **CONCLUSION**

All decisions will be made in private

If Members, when considering the application, are minded to grant on a different basis than that requested, the Applicant, the Responsible Authorities and Other Persons will be asked for their views, which will be taken into consideration.

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

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