



**FOR CHAIR AND MEMBERS
OF THE LICENSING ACT 2003 SUB COMMITTEE
12 JANUARY 2016**

APPENDIX 1

APPLICATION FOR PREMISES LICENCE

Licence Holder **RONTEC WATFORD LTD** **Ref No: DL14/01854/PREMIS**

Premises: **GRANGE ROAD SERVICE STATION,
68-70 GRANGE ROAD, DARLINGTON, DL1 5NP**

Current Licensable Activities: **SALE OF ALCOHOL
FOR CONSUMPTION OFF THE PREMISES**

Current Hours (both for alcohol sales and opening hours): **07.00 to 22.00 MONDAY TO SATURDAY
08.00 to 22.00 SUNDAY**

Proposed opening hours only **00.00 to 24.00 EVERY DAY**

Application for Variation **a) to vary the opening hours of the premises;
b) to remove condition 19 imposed by the
Licensing Sub Committee on 19 January 2015**

Notification to Responsible Authorities/Interested Parties:

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

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

Advertisement in: The Darlington Advertiser 11 November 2015

Information on Council's web site: 06 November 2015

LEGISLATION:

The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four Licensing Objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

GRANGE ROAD SERVICE STATION

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

The Applicant has described the premises as a "petrol forecourt store selling a broad range of groceries, household products and alcohol. Situated at 68-70 Grange Road, Darlington, DL1 5NP"

BACKGROUND

On 01 November 2012, an application was made for a premises licence in respect of Grange Road Service Station (the TOTAL garage) in accordance with Section 17 of the Licensing Act 2003. The application was properly advertised and a copy was sent to all Responsible Authorities.

As a result, representations were received from 2 Responsible Authorities (Environmental Health and Planning) and 28 Other Persons, namely local residents and ward councillors. The representations were in respect of a host of issues including likely effect on the area, issues with noise, breach of planning requirements. A hearing was arranged for 19 December 2012 but prior to this date the Applicant Company's legal representative withdrew the application in its entirety.

On 19 November 2014, an application was once again properly made for a premises licence in respect of Grange Road Service Station in accordance with Section 17 of the Licensing Act 2003. As a result, representations were received from 2 Responsible Authorities and 41 Other Persons in respect of a range of issues including the Prevention of Crime and Disorder, the Protection of Children from Harm, the Prevention of Public Nuisance and Public Safety.

On 19 January 2015 the application was considered by members of the Council's Licensing Act 2003 Sub Committee and a licence was granted to permit the sale of alcohol between the hours of 7 am to 10 pm on Mondays to Saturdays and from 8 am to 8 pm on Sundays and Bank Holidays subject to the following conditions;

1. *"A CCTV system will be installed, or the existing system maintained, such system to be fit for purpose and to the satisfaction of Durham Constabulary*
2. *The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will be capable of being recorded digitally on to CD/DVD or other equivalent medium.*
3. *Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be made available , subject to compliance with Data Protection legislation, to the police for inspection on request.*
4. *The CCTV system will incorporate a camera covering the entrance door and the alcohol display areas and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.*
5. *The system will display, on any recording, the correct time and date of the recording.*
6. *A system will be in place to maintain the quality of the recorded image.*

GRANGE ROAD SERVICE STATION

7. *The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.*
8. *All cashiers shall be trained to record refusals of sales of alcohol in a refusals register.*

The book will contain:

- *Details of the time and date the refusal was made;*
- *The identity of the staff member refusing the sale*
- *Details of the alcohol the person attempted to purchase*

This book/register will be available for inspection by a police officer or a responsible officer.

9. *The premise licence holder will at all times maintain\in adequate levels of staff. Such staff levels will be disclosed, on request to the licensing authority and police.*
10. *Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.*
11. *The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of twenty five years (or older if the licence holder so elects) to produce, before being sold alcohol, identification, being a passport or photo-card driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.*
12. *All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:*
 - *Induction training which must be completed and documented prior to the sale of alcohol by the staff member.*
 - *Refresher/reinforcement training at intervals of no more than 6 months*

Training records will be available for inspection by a police officer or responsible officer of the local authority on request.

13. *There shall be no sale of single cans of beer, lager or cider from the premises.*
14. *There will be no sales/supplies of beers, ales, lagers or ciders of 5.5% ABV or above.*
15. *Outside of permitted hours for the sale of alcohol, all alcohol within the trading area is to be kept behind shutters/screens/grills.*
16. *Signage will be displayed in a prominent position informing customers of the illegality of purchasing alcohol for persons under the age of 18*
17. *The licence holder will monitor the primary use of the premises and if transaction data demonstrates that the premises are excluded premises pursuant to s176 of the Licensing Act 2003 the sale of alcohol will cease until such time as the data demonstrates that the premises are not so excluded. Such data will be available on request to the police and the licensing authority. This condition will fall away if s176 is repealed.*
18. *Alcohol shall not be advertised on the forecourt of the premises.*

GRANGE ROAD SERVICE STATION

19. *The garage shall operate a “closed hatch” policy with no public access into the shop between 19.00 hours and the terminal hour when alcohol is being offered for sale.*

On 23 January 2015 an application was made to **vary** the Designated Premises Supervisor (DPS) from Giles Taylor to Niroshan Gunaseelan. The police, who are the only statutory consultee in respect of such applications, did not object and this application was duly granted.

On 11 February 2015 a routine enforcement visit was made to the premises when officers found that the Part A licence was not available on the premises, that Part B was not on display and that there was not a CCTV camera covering the alcohol display areas. As a result a written warning was issued to the Premises Licence holder.

On 18 March 2015 Officers again visited the premises and found that the requirement to retain CCTV images for 28 days and produce on request to the Police (condition 3) was not being complied with. As a result a further written warning was issued.

On 29 September 2015 an application for a **minor variation** was received. This application was to remove condition 19 on the Premises licence – i.e. to remove the requirement that a “closed hatch” policy with no public access be implemented from 19.00 hours when alcohol is offered for sale. As a result representations were received from one Responsible Authority, namely Durham Police and 8 Other Persons, namely local residents, and in accordance with the requirements of the legislation in respect of minor variations the application was rejected.

On 05 November 2015 an application was properly made for a full **variation** of licence, in accordance with Section 34 of the Licensing Act 2003. The variation was to vary the opening hours of the premises to 24 hour opening (this would extend the hours from the current hours of 7 am to 10 pm Mondays to Saturdays and 8 am to 8 pm on Sundays to 24 hour trading every day) and to remove condition 19 on the Premises Licence, i.e. *‘The garage shall operate a “closed hatch” policy with no public access into the shop between 19.00 hours and the terminal hour when alcohol is being offered for sale’*. While the opening hours form part of the variation of licence they are not part of the licensable activities. There are restrictions on hours as part of the Planning Regulations, however, and these are referred to later in this report.

The application was properly advertised and as a result representations have been received from two Responsible Authorities, namely Durham Constabulary and the Director of Public Health, and 14 Other Persons

THE REPRESENTATIONS – RESPONSIBLE AUTHORITIES

On 18 November 2015 a representation was received from Durham Constabulary based on the Prevention of Crime and Disorder and Public Safety. In summary the Police advise of their concerns about the effectiveness of the current management arrangements and at the number of incidents currently reported by staff to the Police. They also express concern for the safety of staff should patrons be permitted into the store area and advise that there is often only one member of staff employed in the evening. The Police further advise that these premises are close to accommodation for people with alcohol problems. The representation has been reproduced in full at **Appendix 1B(i)**

On 02 December 2015 a representation was received from the Director of Public Health based on the prevention of Crime and Disorder and Public Safety. In summary she states that the removal of the hatch could result in alcohol harm. The representation has been reproduced in full at **Appendix 1B(ii)**.

THE REPRESENTATIONS – OTHER PERSONS

On 19 November 2015 a representation was received from Mr Simon Todd based on all 4 licensing objectives. In summary he is concerned at the current level of antisocial behaviour in the proximity of the premises and also expresses concern about the staffing levels at night.

The representation has been reproduced in full at **Appendix 1B(iii)** (NB also see **Appendix 1B(xi)** which is a representation from Ms Tricia Todd of the same address as Mr Simon Todd)

Mr Todd made a similar representation in respect of the original application which was dealt with in January 2015.

On 23 November 2015 a representation was received from Paul Claxton based on the prevention of crime and disorder and public nuisance. In summary, he is concerned at the antisocial behaviour in the area and raises issues around staffing levels at the premises. The representation has been reproduced in full at **Appendix 1B(iv)**. Mr Claxton made a very similar representation in respect of the original application which was dealt with in January 2015.

On 23 November 2015, a representation was received from Mr & Mrs Barrigan based on the prevention of crime and disorder and public nuisance and public safety. In summary they are concerned at the level of antisocial behaviour and issues around staffing. The representation has been reproduced in full at **Appendix 1B(v)**. Mrs Barrigan made a representation with some similarities in respect of the original application which was dealt with in January 2015.

On 23 November 2015 a representation was received from Ms Susan Lay based on the grounds of public safety and the prevention of public nuisance. In summary, she is concerned about the level of antisocial behaviour in the area and also expresses concern about the staffing levels at the premises. The representation has been reproduced in full at **Appendix 1B(vi)** Ms Lay made a less detailed representation in respect of the original application which was dealt with in January 2015.

On 25 November 2015, a representation was received from Mr R Morgan, based upon the prevention of crime and disorder and public nuisance. In summary, he is concerned about antisocial behaviour in the area and raises concerns about the staffing levels at the premises. The representation has been reproduced in full at **Appendix 1B(vii)**. Mr Morgan made a representation expressing concern about antisocial behaviour in respect of the original application which was dealt with in January 2015.

On 25 November 2015 a representation was received from Councillor Heather Scott based on the prevention of crime and disorder and the prevention of public nuisance. In summary, she is concerned at the level of antisocial behaviour in the area of the premises and also expresses concern about the staffing levels at the premises. Councillor Scott also sent a further, more detailed representation on 02 December 2015.

GRANGE ROAD SERVICE STATION

Both representations have been reproduced in full at **Appendix 1B(viii)**. Councillor Scott made a representation with some similarities in respect of the original application which was dealt with in January 2015.

On 26 November 2015 a representation was received from Ms Hylda Hopper based on all 4 licensing objectives. In summary, she is concerned at the current level of antisocial behaviour in the area and also expresses concern about the staffing levels at the premises. The representation has been reproduced in full at **Appendix 1B(ix)**

On 27 November 2015 a representation was received from Mr Ray Ward based on all 4 licensing objectives. In summary, he is concerned at the current level of antisocial behaviour in the area and also expresses concern about the staffing levels at the premises. The representation has been reproduced in full at **Appendix 1B(x)**

On 30 November 2015 a representation was received from Ms Tricia Todd based on all 4 licensing objectives. In summary, she is concerned at the level of alleged criminal activity in proximity to the premises, the level of antisocial behaviour which directly affects her; the proximity of the premises to a place for vulnerable adults and she also expresses concern about the staffing levels at the premises. The representation has been reproduced in full at **Appendix 1B(xi)** (NB also see **Appendix 1B(iii)** which is a representation from Mr Simon Todd of the same address as Ms Tricia Todd). Ms Todd made a very similar representation in respect of the original application which was dealt with in January 2015.

On 30 November 2015 a representation was received from Mr & Mrs Aisbitt based on the prevention of crime and disorder, and public nuisance. In summary they express concern about the level of antisocial behaviour and issues around drunken people visiting the premise to purchase alcohol. They also raise issues of concern about the staffing levels at the premises. The representation has been reproduced in full at **Appendix 1B(xii)** Mr & Mrs Aisbitt made a similar representation in respect of the original application which was dealt with in January 2015.

On 30 November 2015 a representation was received from Ms E Moore based upon the prevention of public nuisance and public safety. In summary she is concerned at the risk of a further armed robbery and further antisocial behaviour. The representation has been reproduced in full at **Appendix 1B(xiii)**.

On 30 November 2015 a representation was received from Mr & Mrs Jones based on all 4 licensing objectives. In summary they express concern at the risk of further crime and disorder (citing the earlier armed robbery) and antisocial behaviour. The representation has been reproduced in full at **Appendix 1B(xiv)**. Mr & Mrs Jones made a similar representation in respect of the original application which was dealt with in January 2015.

On 30 November 2015 a representation was received from Mr AF Murray based on the prevention of public nuisance. In summary he expresses concern at the earlier armed robbery and potential antisocial behaviour, The representation has been reproduced in full at **Appendix 1B(xv)**. Mr Murray made a similar representation in respect of the original application which was dealt with in January 2015.

On 02 December 2015 a representation was received from Mr AJ Redpath based on public safety. In summary he expresses concern at the earlier armed robbery and issues around the level of staffing and suggests that there should be a minimum of 2

GRANGE ROAD SERVICE STATION

staff on duty after a certain time. The representation has been reproduced in full at **Appendix 1B(xvi)**. Members will note that Mr Redpath also refers to a photograph. This has not been circulated as it clearly identifies a member of the public. There is also nothing in the photograph that links it to the petrol station premises.

The photograph will be available at the hearing should members wish to see it for themselves however it cannot play any part in the decision members may make.

Members' attention is specifically drawn to paragraph 9.4 of the Secretary of State's Guidance which advises: *"For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation"* Officers have written to some of the residents asking them to make their representations more relevant to the actual variation but have not received any additional information from them.

THE APPLICANT'S RESPONSE

The representations have been sent to the Applicant Company's legal representative to provide them with an opportunity to respond to the concerns expressed. At the time of preparing this report there had not been a written response received from either the applicant Company or their legal representative and therefore this report has been written without the benefit of any comment from them.

THE OPERATING SCHEDULE

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

- a) **General:** - "The existing conditions on the premises licence to remain unchanged."

The remaining sections pertaining to the 4 licensing objectives have therefore not been completed.

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	Nature of area/ and impact of locality
7.1 – 7.3	Public Nuisance Crime & Disorder	Impact of Licensable Activities
9.0 - 9.4.3	Public Nuisance	Location of Premises
9.10	Public Nuisance	Littering
10.3	Public Safety	Control Measures
11.3	Prevention of Crime & Disorder	Effect in Vicinity
12.2.1-12.2.3	Protection of Children from Harm	Control Measures
13.7	Off Sales	

THE GUIDANCE

Members are referred to the Secretary of State's Guidance in relation to the prevention of crime and disorder and public safety, and also guidance relating to shops, stores, petrol stations and supermarkets. This is reproduced at **Appendix 1D**. Members are referred to sections 5.21 to 5.23 in respect of the licensing of garages for sale of alcohol and also to section 9.4 in respect of whether a representation is relevant.

THE PLANNING RESTRICTIONS

Members will note that there has not been a representation received from the Planning Officer in respect of this application to vary the premises licence. Officers, however, have made enquiries of the Planning Department and have obtained a copy of the planning restrictions for these premises. The Planning Regulations (granted on 10 January 1990) restrict the garage as follows:

- no sound reproducing equipment shall be installed without the prior approval of this planning authority.
- the car wash shall not be fitted with a blow dry phase.
- petrol filling station shall operate between the hours of 07.00 hours and 22.00 hours (Monday to Saturday) and 08.00 hours to 20.00 hours (Sundays & Bank Holidays) only.
- the automatic car wash shall operate between the hours of 08.00 hours and 20.00 hours (Monday to Sunday) only

The reason given was as follows:

- to ensure that neighbouring residents are not adversely affected by the development.

The Section 182 Guidance makes it clear that Planning and Licensing are two separate functions and that the Licensing Committee is not bound by a decision of the Planning Committee. Members' attention is however drawn to the specific guidance which states:

"There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law."

ADDITIONAL INFORMATION

In accordance with the statutory regulations the hearing in respect of this contested application should have taken place no later than 05 January 2015. A hearing date was originally set for 04 January 2016 however on 19 November 2015 the Applicant Company's legal representative made an application for the matter to be adjourned to a later date as he was unable to attend anytime week commencing 04 January 2016 due to a prior commitment and no one else was available to represent the Applicant Company on his behalf.

On 02 December 2015 Members of the Licensing Act 2003 Committee agreed to the adjournment on the basis that it would be in the public interest to do so. This was in

GRANGE ROAD SERVICE STATION

accordance with Statutory Instrument No 44 – The Licensing Act 2003 (Hearings) Regulations 2005, sections 11 and 12. The hearing was therefore adjourned to 12 January 2016.

INFORMATION IN RESPECT OF GARAGES

Section 176 of the 2003 Act states that a premises licence shall not have effect in excluded premises. In respect of this premise, the garage would be an excluded premise if the sale of petrol was greater than the sale of alcohol, confectionery, cigarettes etc. Premises are used as a garage if they are used for one or more of the following:

- the retailing of petrol;
- the retailing of derv;
- the sale of motor vehicles; and
- the maintenance of motor vehicles

This does not prevent a Licensing Authority from issuing a premise licence but where a licence has been granted it would not have effect if the sale of petroleum was the primary use of the premises. The courts appear to have favoured “intensity of use” as a way of establishing primary use, for example a garage may be used more by patrons purchasing groceries & other sundry items than patrons purchasing petrol and therefore the primary use is not as a petrol station.

Copies of a location plan will be made available at the hearing for Members’ consideration.

POINTS FOR CLARIFICATION

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

- Details of any problems that have been experienced by being required to use the hatch from 7pm onwards until the terminal hour when alcohol is available for sale.
- Details of the proposed staffing levels, particularly from 7 pm onwards
- Details of how it is proposed that the premises will operate from 7 pm onwards including built in safety measures for staff and patrons.

The **Police** have been asked to update and provide further details of the type of incidents that they are called to by staff at the garage.

The **Other Persons** have been asked to advise what impact the proposed variation to the licence will have on them.

MEMBERS’ OPTIONS

Members may consider the following options:

1. Grant the application to vary the opening hours to 24 hour trading and to remove condition 19 (*The garage shall operate a “closed hatch” policy with no public access into the shop between 19.00 hours and the terminal hour when alcohol is being offered for sale*), while retaining the following conditions which are in addition to the mandatory conditions for sale of alcohol:

GRANGE ROAD SERVICE STATION

(NB the Licensing Authority has been added to condition 3 as this is this Council's normal wording for such a condition)

1. *“A CCTV system shall be installed, or the existing system maintained, such system to be fit for purpose.*
2. *The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will be capable of being recorded digitally on to CD/DVD or other equivalent medium.*
3. *Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be made available, subject to compliance with Data Protection legislation, to the police and/or Licensing Authority for inspection on request.*
4. *The CCTV system will incorporate a camera covering the entrance door and the alcohol display areas and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.*
5. *The system shall display, on any recording, the correct time and date of the recording.*
6. *A system shall be in place to maintain the quality of the recorded image*
7. *The CCTV system shall be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.*
8. *All cashiers shall be trained to record refusals of sales of alcohol in a refusals register.*

The book shall contain:

- *Details of the time and date the refusal was made;*
- *The identity of the staff member refusing the sale*
- *Details of the alcohol the person attempted to purchase*

This book/register shall be available for inspection by a police officer or authorised officer of the Licensing Authority

9. *The premise licence holder shall at all times maintain adequate levels of staff. Such staff levels shall be disclosed on request to the licensing authority and police*
10. *Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.*
11. *The premises licence holder shall ensure that an age verification policy will apply to the premises whereby all cashiers shall be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of twenty five years (or older if the licence holder so elects) to produce, before being sold alcohol. Identification shall be a passport or photo-card driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence*
12. *All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:*
 - *Induction training which must be completed and documented prior to the*

GRANGE ROAD SERVICE STATION

sale of alcohol by the staff member.

- *Refresher/reinforcement training at intervals of no more than 6 months*

Training records shall be available for inspection by a police officer or responsible officer of the local authority on request.

13. *There shall be no sale of single cans of beer, lager or cider from the premises*
 14. *There shall be no sales/supplies of beers, ales, lagers or ciders of 5.5% ABV or above*
 15. *Outside of permitted hours for the sale of alcohol, all alcohol within the trading area shall be kept behind shutters/screens/grills.*
 16. *Signage shall be displayed in a prominent position informing customers of the illegality of purchasing alcohol for persons under the age of 18*
 17. *The licence holder shall monitor the primary use of the premises and if transaction data demonstrates that the premises are "excluded premises" pursuant to s176 of the Licensing Act 2003 the sale of alcohol shall cease until such time as the data demonstrates that the premises are not so excluded. Such data shall be available on request to the police and the licensing authority. This condition shall fall away if s176 is repealed.*
 18. *Alcohol shall not be advertised on the forecourt of the premises.*
3. 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.

4. **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: 12 January 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>

PART A

Licensing Act 2003 Premise Licence Grange Road Service Station

Premises Licence Number	DL15/00106/VARDPS
-------------------------	-------------------

APPENDIX 1A

PART 1 – PREMISES DETAILS

Premises Details:	GRANGE ROAD SERVICE STATION 68-70 Grange Road, Darlington, DL1 5NP		
Telephone number:	01325 465303		
Licence effective from:	23 January 2015	Duration of Licence:	Indefinite
Authorised Licensable Activities:	Authorised Hours		
Retail sale of alcohol (for consumption OFF the premises)	07:00 - 22:00 08:00 - 20:00	Monday to Saturday Sunday	
Premises Opening Hours:	07:00 - 22:00 08:00 - 20:00	Monday to Saturday Sunday	
Non-standard/seasonal timings:	The Sale of Alcohol shall be restricted as follows: 08:00 to 20:00 Bank Holidays		

PART 2

Premises Licence Holder:	Rontec Watford Limited 3 rd Floor, Meridien House, 67-71 Clarendon Road, Watford. WD17 1DS
Telephone Number:	01923 694038
Designated Premises Supervisor:	Niroshan Gunaseelan
Personal Licence No:	14/01121/LIPERS
Issuing Authority:	Croydon Borough Council

Annex 1 Mandatory Conditions:

1. Every Supply of alcohol under the premises licence must be made by or authorised by a person who holds a personal licence.
2. No supply of alcohol may be made under the premises licence:-
 - a) at a time when there is no Designated Premises Supervisor in respect of the premises licence or
 - b) at a time when the designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.
4. A relevant person shall ensure that no alcohol is sold or supplied for consumption off the premises for a price which is less than the permitted price.
5. For the purposes of the condition set out at 4 —
 - a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - b) “permitted price” is the price found by applying the formula—
$$P = D + (D \times V)$$
 where—
 - i) P is the permitted price,
 - ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
 - i) the holder of the premises licence,
 - ii) the designated premises supervisor (if any) in respect of such a licence, or
 - iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

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

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

Annex 3 Conditions attached after Licensing Authority Hearing:

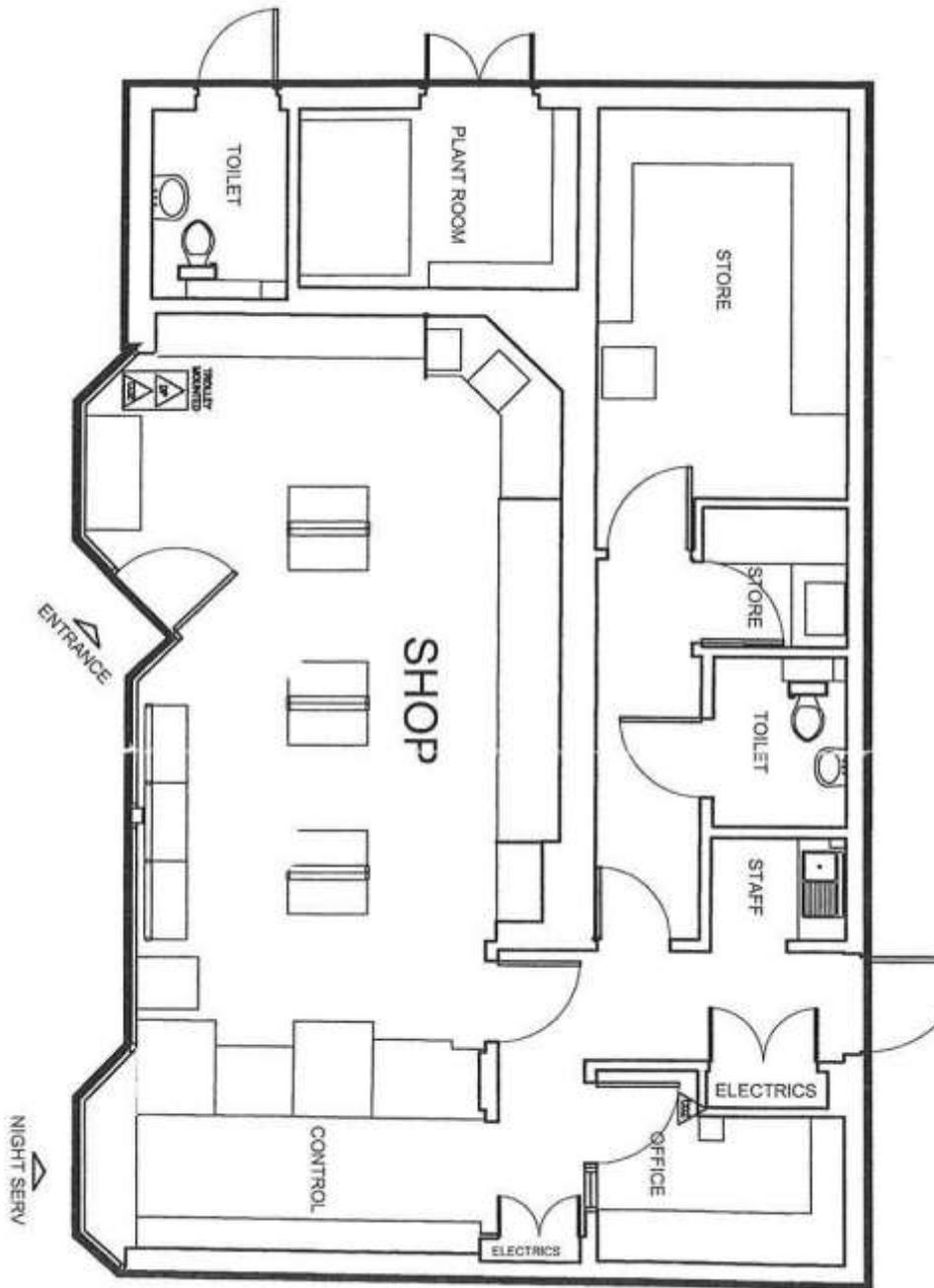
1. A CCTV system will be installed, or the existing system maintained. Such system to be fit for purpose and to the satisfaction of Durham Constabulary.
2. The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will be capable of being recorded digitally on to CD/DVD or other equivalent medium.
3. Any recording shall be retained and stored in a suitable and secure manner for a minimum of 28 days and shall be made available, subject to compliance with Data Protection

GRANGE ROAD SERVICE STATION

- legislation, to the police for inspection on request.
4. The CCTV system will incorporate a camera covering the entrance door and the alcohol display areas and will be capable of providing an image which is regarded as identification standard. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.
 5. The system will display, on any recording, the correct time and date of the recording.
 6. A system will be in place to maintain the quality of the recorded image
 7. The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.
 8. All cashiers shall be trained to record refusals of sales of alcohol in a refusals register. The book will contain:
 - a) Details of the time and date the refusal was made;
 - b) The identity of the staff member refusing the sale;
 - c) Details of the alcohol the person attempted to purchase
- This book/register will be available for inspection by a police officer or a responsible officer
9. The premise licence holder will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request to the licensing authority and police.
 10. Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.
 11. The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of twenty five years (or older if the licence holder so elects) to produce, before being sold alcohol, identification, being a passport or photo-card driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
 12. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:
 - a) Induction training which must be completed and documented prior to the sale of alcohol by the staff member.
 - b) Refresher/reinforcement training at intervals of no more than 6 monthsTraining records will be available for inspection by a police officer or responsible officer of the local authority on request.
 13. There shall be no sale of single cans of beer, lager or cider from the premises.
 14. There will be no sales/supplies of beers, ales, lagers or ciders of 5.5% ABV or above.
 15. Outside of permitted hours for the sale of alcohol, all alcohol within the trading area is to be kept behind shutters or screens or grills
 16. Signage will be displayed in a prominent position informing customers of the illegality of purchasing alcohol for persons under the age of 18.
 17. The licence holder will monitor the primary use of the premises and if transaction data demonstrates that the premises are excluded premises pursuant to s.176 of the Licensing Act 2003 the sale of alcohol will cease until such time as the data demonstrates that the premises are not so excluded. Such data will be available on request to the police and the licensing authority. This condition will fall away if s.176 is repealed.
 18. Alcohol shall not be advertised on the forecourt of the premises.
 19. The garage shall operate a "closed hatch" policy with no public access into the shop between 19:00 hours and the terminal hour when alcohol is being offered for sale.

GRANGE ROAD SERVICE STATION

Annex 4 Premise Plan



In accordance with the application to vary the designated premises supervisor.

Julie Richings
Authorised Officer

Date of Issue: 30 January 2015

REPRESENTATIONS IN RESPECT OF APPLICATION

Appendix 1B (i)

Representor: Durham Constabulary

Comments: Based on the Prevention of Crime and Disorder and Public Safety

“The applicant seeks a full variation to remove the condition: *The garage shall operate a closed hatch policy with no public access into the shop between 19.00 hours and the terminal hour when alcohol is being offered for sale*, from Annex 3 on the premise licence:

Durham Constabulary believes the removal of the condition will undermine the Crime and Disorder and Public Safety objectives. There have been a large number of incidents reported to the police by members of staff at the location, a tiny proportion of which were actual crimes. Staff/management are unable to effectively manage the garage in its currently capacity and the police are concerned on how they would be able to manage with increased footfall inside the premise. Police have attended the garage on occasions and identified only one member of staff particularly on an evening, having to deal with not only releasing of the fuel but also taking payment of sale items/fuel.

This premises and persons working within will be vulnerable due to sales being made within a contained area. Staff will have face to face contact with already intoxicated individuals & may be at risk when refusing a sale. Vulnerable persons who are alcohol and drug dependant reside in close proximity to the venue, and will have direct access to alcohol.

It is our belief that by removing condition 19 that the likely effect will be increased reported incidents to the police regarding crimes that have occurred.”

Appendix 1B (ii)

Representor: Director of Public Health

Comments: Based on the Prevention of Crime and Disorder and Public Safety

“The applicant seeks a full variation to remove the condition: ‘The garage shall operate a closed hatch policy with no public access into the shop between 19.00 hours and the terminal hour when alcohol is being offered for sale’ (from Annex 3 on the premise licence.) I believe the removal of the condition will undermine The Crime and Disorder and Public Safety Licencing Objectives.

I understand there have already been a number of incidents reported to the police by members of staff at the location and I echo concerns raised by Durham Constabulary in relation to this application.

Alcohol related harm is a key public health concern for both children and adults in Darlington. Darlington has high rates of alcohol related hospital admissions with them being significantly worse than the national average during 2012/13. The North East region has the highest rate of under 18 years alcohol specific admissions and on average, over the last three years, at least one under-18 year old has been admitted to hospital every day for an alcohol specific condition. Rates in Darlington are ranked amongst the top 3 highest areas for the whole region.

The evidence is robust that effective ways to reduce harm from alcohol includes reducing affordability, availability and attractiveness of alcohol products. The removal of the hatch system may increase all these areas. Taking into consideration the Licensing Objectives in particular the Prevention of Crime and Disorder & Public Safety, I recommend that the existing condition remains.”

Representor: Mr Simon Todd, 64 Grange Road Darlington

Comments: Based on the Prevention of Crime and Disorder, Public Safety, prevention of Public Nuisance and the Protection of Children from Harm

"I am concerned that the Esso petrol station on Grange Road have again made an application to vary the conditions of their alcohol licence and I would like to make my feelings clear as the closest neighbour to the business. I feel the licencing department applied just the right level of licence restrictions in the first place and to change any of them would be irresponsible.

As a resident of the local area I am very aware of high levels of alcohol fuelled anti-social behaviour and under aged drinking in nearby South Park and Green Park. I am very concerned that if the restrictions applied, only a few months ago, were lifted this site would become the focus of increased levels of anti-social behaviour and under aged drinking, as it would be the closest late night provider of alcohol to these Parks. Even now I regularly pick up empty bottles and cans from my front garden and back alley some of which I believe were purchased at the business, I fear that if the restrictions were to be lifted this will increase and cause problems for all in the area.

Where alcohol abuse is prevalent, drugs tend to make an appearance and I am concerned that should the safeguards not be in place then a drug problem could easily return to this area. We have had issues in the past associated with this petrol station with drug use and

have, with the help of the council and police, managed to virtually eradicate it. I worry if these restrictions are lifted, drug users would once again return to the area.

There are many families with young children in the area and increased access to alcohol and drugs would have a detrimental effect to these young people. There are vulnerable young adults and children at the 700 club that already have issues with alcohol. Lifting any restrictions designed to protect these youngsters would be irresponsible and I implore the council to think very carefully before doing so. **This business is just trying to put profit before responsibility and the licencing authority must not assist them to do so.**

I think public safety would be at risk as the business has very low staffing levels, especially late at night, and one or two members of staff would be unable to cope with any unforeseen circumstances in and around its site. They only seem to have one member of staff on duty at night. The business have in the past shown a disregard for its employees so I worry that it could become a target for increased crime levels. It has already been robbed on a number of occasions, once to my knowledge an armed robbery where the lone employee had to have some time off to get over the event. I'm sure that I don't need to point out that the conditions for which the licencing committee saw fit to apply restrictions designed to protect its four objectives have not changed in this area and therefore the restrictions should remain in place for all of the above reasons and those raised in the original decision. "

Representor: Mr Paul Claxton, 5 Lombard Court Darlington, DL1 5YG

Comments: Based on the Prevention of Crime and Disorder and Public Nuisance

“As I live directly opposite I wish to raise my concerns I and a few neighbours have over the re-application to change the restriction on the alcohol license for the Esso Garage on Grange Rd Darlington. I would like to again repeat my concerns this change could have.

There could be more anti-social behaviour/drug/alcohol related issues as not using the hatch on evening could increase shoplifting of goods and alcohol which would not help the situation of anti-social behaviour in Green Park and South Park.

Again still got to remember about the armed robbery at the garage where a sole member of staff was attacked and had her car stolen which could easily happen again, just look at what has happened in other parts of town where lorries have been driven into houses on purpose, what would happen if there is one member of staff on duty and another attempted robbery took place. I don't know whether the staffing levels have increased at the garage but I don't see many staff there. There are also concerns over extra noise with extra litter such as broken glass and cans which I am sure will occur. This could end up giving the council more work cleaning the streets which in the long term could increase the council tax and put extra burden on councils resources and the police force which have had their budgets cut anyway.

The only way to discourage underage drinking by congregating youths in Green Park and South Park is to make it harder for them to get alcohol. I believe that this re application will not do that. Two schools are also located nearby which should be remembered as well. Think the litter problem on Grange Road has got worse over the last couple of years and think this could be from shop selling more cans etc. Don't think there is any need for this change as Sainsburys and Majestic wine are nearby who have more staff under a more secure and controlled condition to sell alcohol. To sum things up I think there will be more noise/litter, more shoplifting resulting in more resources required from the council and the police and more trouble with youths in Green Park and South Park.

Hope these comments are taken into consideration and the re application is refused.”

Appendix 1B(v)

Representor: Mr & Mrs R Barrigan, 1 Polam Road, Darlington

Comments: Based on the Prevention of Crime and Disorder, Public Safety and the Prevention of Public Nuisance.

“We write to object to the application to vary their licensing restrictions by the Esso Garage on Grange Road. The situation has not changed since their original application. The main issues remain the same. The problem of crime and disorder (eg. the armed robbery a year ago), of public nuisance (eg. the litter and broken glass in places like South Park, visited by families with young children) and of public safety (given the low staffing levels at the garage) – all these problems would be much exacerbated by even easier access to alcohol. Young people are particularly vulnerable to this sort of harm and we should do nothing to increase the likelihood of underage drinking in disorderly groups in public places like the parks.

Over the last few years we have noticed that the amount of nocturnal noise & disorder is linked closely to the weather and temperature. If this summer has been relatively quiet, that will be because of the poor weather – it does not mean that the problem has gone away permanently.”

APPENDIX 1B (cont) Appendix 1B(vi)

Representor: Susan Lay, Flat 1, Polam House, 2 Blackwell Lane, Darlington, DL3 8QD
Comments: Based on Public Safety & the Prevention of Public Nuisance

"I have lived in this flat for nine years and in that time the nature of this business has brought untold problems to the immediate area. The latest of these are obviously caused by the granting of an alcohol licence which was I know strongly objected by neighbours in the nearby area. It now appears that even that grant is not sufficient for the owners. At some point we have to be listened to if this is a democracy.

I object first of all on grounds of public safety. Every house between my home and the garage has been broken into. It is only about twelve months ago (before the granting of the licence) that the garage itself had an armed robbery late at night. This is in itself the cause of my second objection on grounds of public safety. There is most often only one person working at the garage and this cannot meet with regulations covering health and safety at work. It took months for the brave employee to feel fit enough to return to work there.

My next objection is on grounds of public nuisance. It is very sadly a regular task for me to remove empty alcohol bottles from my garden where they have simply been pushed through the railings to get rid of them. I have also in the past had to call Street Scene to get them to remove needles and other drugs paraphernalia from the same area of my front garden. I do not wish to continue to live like this where young people are encouraged to gather in intimidating groups on street corners disturbing the balance of residential areas where the average person simply wants to live peacefully. There is sufficient disruption in this sad world in which we all live. Our hope must be to protect the children from this thoughtless onslaught."

Appendix 1B(vii)

Representor: Mr R Morgan 103 Coniscliffe Road Darlington, DL3 7ET
Comments: Based on the Prevention of Crime and Disorder and Public Nuisance

"I would like to object to the application for a full variation to the alcohol license currently being applied for by the Esso Garage on Grange Road. I believe that it will promote anti-social behaviour in the nearby area and parks, there is already a problem with discarded cans and bottles in Green Park and I continue to see alcohol consumption in public by underage teenagers which I feel will only be added to if the license is permitted. I am also concerned at the level of staffing especially late at night which i feel will encourage crime."

Appendix 1B(viii)

Representor: Councillor Heather Scott
Comments: Based on the Prevention of Crime and Disorder, Public Safety and Public Nuisance

"I object to the proposed variation on the following grounds:

I am concerned that the staffing levels which were agreed as being "adequate" in the original approval of licence are not being met. Invariably there is only one member of staff on duty and therefore if the variation is approved access to the "shop" and the sales of alcohol could be less effectively controlled Darlington has just been declared as one of the

worst in the Country for drink driving offences and to relax any control on the sale of alcohol in petrol stations could make that situation worse.

There has been an increase in antisocial behaviour in the area of Green Park and surrounding street, South Park also and according to police some as a result of alcohol.

Whilst there is no evidence of where this has been acquired I feel very strongly we should not be creating a situation where it is more accessible. If the sales are not properly controlled and lack of staff could result in under age purchase of alcohol, The restriction included in the original application was so that people purchasing either petrol or other items was controlled because of residents' concerns about potential risks and increase in anti-social behaviour.

There are rumours about another change in management which historically has caused problems in compliance in both licensing and planning conditions and any relaxation could result in further disruption to residents in the area I would urge the licensing committee not to approve this variation."

On 02 December 2015 Councillor Scott sent a further representation as follows:

"In the original approval it stated that adequate staffing should be provided. Invariably there is only one member of staff on duty and therefore if the variation is approved access to the "shop" and the sales of alcohol could be less effectively controlled. Darlington has just been declared as one of the worst in the country for drink driving offences and to relax any control on the sale of alcohol in petrol stations could make the situation worse. Residents are concerned this could also increase the possibility of disorder, public safety and nuisance in the area. the closed hatch is at least a failsafe position and any change to this or increase in opening hours is a major concern to the safety of the area".

Appendix 1B(ix)

Representor: Ms H Hopper 3 Dorchester Court Marlborough Drive Darlington DL1 5YD
Comments: Based on all four of the licensing objectives

"I understand that there has been a further application for a full variation to the alcohol licence for the Esso garage on Grange Road. I wish to object to the granting of this licence on the following grounds:

Prevention of crime and disorder: Drugs usage in surrounding areas.

Prevention of public nuisance: Antisocial behaviour on the street and in nearby parks, littering including discarded cans and bottles, alcohol consumption in public.

Public safety: Inadequate staffing levels especially late at night.

Protection of children from harm: Underage drinking, groups of young people congregating in parks to consume alcohol."

Appendix 1B(x)

Representor: Mr Ray Ward, 25 Blackwell Lane, Darlington, DL3 8QF
Comments: Based on all four of the licensing objectives

"I wish to object to this application.

Prevention of crime and disorder - Drugs usage in the surrounding area of this application is a problem. Its only been 12 months or so since an armed robbery and this application can only exacerbate the potential of this or similar criminal activity from occurring again.

Prevention of public nuisance - Anti-social activity in streets and nearby parks, every day I have to pick up empty cans and bottles of alcohol that have been discarded on land adjacent to my property and indeed from my property itself when it has been tossed over my walls and fences. South Park is also badly effected by such littering.

Public safety - The staffing levels in the garage are alarmingly low and lone worker arrangements will do nothing to help manage the safety of staff and public alike. In addition, my daughter has been followed up Blackwell Lane on more than one occasion by youths obviously under the influence of alcohol or drugs shouting and calling her and making her feel insecure - the police have been involved in this regard.

Protection of children from harm - Kids can be found very regularly congregating in both Green and South Park consuming alcohol - clearly under age and exhibiting quite rowdy behaviour."

Appendix 1B(xi)

Representor: Mrs Tricia Todd 64 Grange Road Darlington

Comments: Based on all four of the licensing objectives

"I am writing, once again, to object to any planned changes to the restrictions of the alcohol license at the petrol station on Grange Road in Darlington. This is now the fourth time I have written to object to the license or any amendments to it. Even though many local residents objected, along with Councillor Scott and the Police, the license was granted. I believe the restrictions were placed there to protect the public and staff; prevent crime and disorder; prevent public nuisance and to protect children from harm. I do not believe the licensee has any credible evidence that these no longer apply and therefore see no reason why an amendment should or could be granted. In terms of the four licensing objectives:

Prevention of crime and disorder

The Police have provided evidence that this garage is a weak target for crime and disorder. There have been numerous break-ins, thefts and this time last year saw an armed robbery. There is photographic evidence of drug misuse in broad daylight in close proximity to the garage. I believe that if the door were to be left open late at night when alcohol was for sale, there would be even more opportunities for crime and disorder to occur. All the evidence supports this prediction.

Prevention of public nuisance

There have been increased problems with anti-social behaviour in and around Green Park, much of which is alcohol fuelled. I have witnessed members of the public urinating by the bins on the forecourt next to my living room window late at night. I have regularly found empty cans and bottles discarded in my front garden, of the same brands which are sold in the petrol station. The level of noise emitted from the garage has increased substantially in recent months and we have had to contact Environmental Health to make a formal complaint.

I have been asked to keep a written log of all noise nuisance, which may lead to a Noise Abatement Notice. One example of anti-social noise nuisance is the owner of the business using a petrol- driven high pressure jet wash constantly for up to seven hours a day. This happened four times in three weeks, despite the fact that the owner told the Environmental Health Officer, Stephen Todd, that he only uses it every 6-8 weeks for short periods of time.

When my husband asked him to stop, as it was almost 8pm and we couldn't hear the television, he replied that he didn't care and claimed that he was losing money. It would appear that his anti-social behaviour was linked in some way to the restrictions on his alcohol license. The following week, he used the high pressure jet washer to blow all the leaves and litter off his fore-court and onto the street outside. I would also consider that to be anti-social behaviour as it would be down to Darlington Council to clear it up instead.

Public Safety

I am concerned for the health and safety of staff at the garage. On the 11th and 12th of November, a single female member of staff worked back to back 15 hour shifts, seemingly without any breaks. This surely breaks the employment laws put there to stop employees being exploited. Every six hours, an employee is entitled to a 30 minute break. This employer doesn't seem to care for the welfare of staff and is putting them at risk. How would a person be expected to deal with shoplifters, customers who do not pay for fuel, underage or drunk customers when they are hungry and exhausted? I believe the current staffing levels are inadequate to be selling alcohol at any time of the day.

Protection of children from harm

The 700 Club is just a short walk away and houses young, vulnerable people. They are not permitted to take alcohol back into the hostel, therefore they have no option but to consume it on the street, in back lanes or in the nearby parks. I have often seen some of the residents of the 700 Club standing around outside my house late at night, waiting for a friend who is in the petrol station. When I find discarded cans and bottles in my front garden and back alley the following morning, it would seem evident that the young people have consumed alcohol bought at the garage and drunk it on the way back to the hostel.

In addition to the above, I feel it is also necessary to make the following points:

- The garage CCTV was not fit for purpose and did not record as per the conditions of the license.
- The screens were not fitted before alcohol was put on sale when the licence was granted in January 2015.
- There is still a large illuminated sign on the forecourt stating 'OFF LICENSE OPEN LATE' even though advertising is not permitted in the restrictions.
- Alcohol is again not being covered over after 7pm now that the door is being left open. I went in last week and there were approximately 16 cans of Stella Artois directly in front of the open door and a stack of approximately 32 cans of Carling lager to the right of the door. None of this was covered and was clearly visible from inside and outside of the shop.
- I still firmly believe that this business' primary use is a petrol station, not a shop and therefore the license should not be 'applied'. I do not believe the licensee is adequately Self-monitoring primary use and it would seem that the authority have little power to request definitive proof. I am well aware that a business such as this would produce daily, weekly and monthly data to show footfall, income and profit margins. I run a business which has two sources of income; I know exactly what its primary use is and can easily provide authentic evidence as proof of income. Has this business provided irrefutable proof in the eleven months they have had their license? If not, why not?

APPENDIX 1B(cont) Appendix 1B(xi)(cont)

This company does not abide by the restrictions already in place, so I worry about what would happen should any restrictions be lifted. I am sure they will employ an expert solicitor who will argue that anybody who objects has no proof of what may or may not happen in the future, should the amendment be granted. If that is the case, I would expect to see Rontec put forward evidence to the contrary. Nobody can predict what will or will not happen, but having lived about 4 feet away from the business for the past 15 years, I believe I have the most experience of what occurs on a daily basis. Please reject this proposed amendment. “

Appendix 1B(xii)

Representor: Mr and Mrs Aisbitt 62 Grange Road Darlington

Comments: Based on the Prevention of Crime and Disorder and Public Nuisance.

“We are writing yet again that we object strongly to the application to extend the hours of alcohol sales within the shop. We would question how many times do we have to object to this. We feel the applicant is trying to ‘wear us down’ in a hope we will give up objecting, and the council give in to their demands. We would also like to advise you of the following concerns:

We feel the sale of alcohol encourages anti social behaviour, only today we have complained to the neighbouring hostel that one of their residents was observed by us to be drinking from a bottle inside a carrier bag. He then went into the garage purchased a 2 litre bottle of cider, and then stood in the street and tried to hide it down his trousers, loosening his trousers to do so and struggling to stand in the process. We would question when he appeared inebriated but as there is often only one female assistant on duty, we would fully understand that customers are sold alcohol when they appear inebriated.

We are concerned that the garage appears to be still only staffed by one person although we understood that staffing would be reviewed following the armed robbery.

The garage continues to cause regular litter in the area, with clean ups only appearing to happen when managers visit. We regularly pick up discarded bottles and cans from our garden. We continue to observe groups of young people hanging around the forecourt, and are aware that the police are still having to attend the parks at night are can see evidence of drinking in the parks on a morning. The restrictions to trading were agreed by the council only a short time ago and we feel that these restrictions were reasonable to protect the staff and local residents.”

Appendix 1B(xiii)

Representor: Ms E Moore, 3 Hadrian Court Darlington DL3 8RE

Comments: Based on the Prevention of Public Nuisance and Public Safety

- “1) As this petrol station has already been the scene of an armed robbery before extending it alcohol licence to a full variation will increase the risk this happens again.
- 2) the antisocial behaviour in the area surrounding the ESSO petrol station is very likely to increase with the easier access to alcohol and it's public consumption
- 3 public safety is there for put at risk especially late at night
- 4) It is too easy for groups of young people to indulge in underage drinking in the nearby parks when alcohol is too easily available at the ESSO petrol station in Grange Road.”

Representor: Mr and Mrs Jones 5 Hadrian Court Darlington, DL3 8RE

Comments: Based on all 4 licensing objectives

“Firstly this representation is confirmed to relate to the premises in question ie Grange Road Service Station Darlington.

- 1) the prevention of crime and disorder: the premises has already been a place of crime and disorder as the scene of an armed robbery. Circumstances known to and investigated by the police. Extending the business to increase money and restricting/eliminating closed access arrangements increases the risk of further events considerably. Armed criminals (as before) are more than likely and hence serious injury/loss of life is a significant risk.
- 2) public safety: The comments in 1 above also apply ie serious injury/loss of life to passing members of the public is a matter a major risk factor.
- 3) the prevention of public nuisance: The garage is situated in a residential area. Open parks ie South Park, Blackwell Lane and Green Park are already blighted by groups of (usually young) drinkers and very large groups organised on the Internet have caused problems. Any increase in availability in alcohol through longer hours for example, will increase the level of public nuisance. Gatherings referenced above have led to fighting and assaults with a residue of broken glass and litter.
- 4) children resident in an area blighted as referenced above cannot be completely safeguarded however hard parents try. Broken glass in park areas, syringes on Blackwell Lane are just some examples which I can personally confirmed have arisen and which I have reported.

In summary:

1. Garage was scene of armed robbery on 27 Nov 2014 when security arrangements proved inadequate.
2. Criminal action at Garage poses threat to customers, staff & general public.
3. Garage is in a residential area & encourages groups of drinkers in nearby areas of South Park, Blackwell Lane and Green Park.
4. Level of staffing & security arrangements makes it very difficult to avoid sale of alcohol to underage drinkers.”

Appendix 1B(xv)

Representor: AF Murray 6 Kendal Close Darlington

Comments: Based on the Prevention of Public Nuisance

- “1. I believe that it is only about 12 months since there was an armed robbery late at night and that the only female member of staff was exceedingly distressed and could not return to work for some time.
2. There's already too much litter in Kendal close and the nearby back lanes. We don't need it adding to by more alcohol containers just purchased.
3. Damage to the general public is always on the cards near where alcohol is easily available.

Please do not make these problems increase by making alcohol easily available.”

Representor: Mr AJ Redpath, 181 Grange Road, Darlington, DL1 5NT

Comments: Based on Public Safety

"Please accept this as a formal objection to any variations to the existing use requirements for the night safety hatch on the above petrol station site. I attach a photo taken **less than 150 yards** from the Esso Station. The photo was taken 15.50 pm 22 July 2015, i.e. **in broad daylight**. It took the Police in excess of 15 minutes to respond to a 999 call in respect of 'this gentleman', who can be seen syringe in hand & belt unbuckled (probably for use as a tourniquet to enable injection directly to the crotch area vein.) If the above can and did happen in broad daylight then at night, what will happen? May I remind the Licensing department that there has already been a **robbery with violence** one evening at the very same petrol station last year. I am reliably informed that Majestic Wines in Grange Road have a company security policy of "two members of staff on the premises after dusk".

Unless the licence variation requires two members of staff to be present on the site at all times after a specific time, say 6.00pm/after dark; then for a member of staff (currently usually a female) to be alone on site is far from acceptable and safe. Not only is the sole staff member at increased risk but the petrol station itself becomes a magnet or "easy pickings" for certain members of the "sub-culture". Darlington Police have enough to do already on "their patch, without any additional (yet avoidable) potential crime scenes being added. Therefore I respectfully request this application be rejected."

EXTRACTS FROM DARLINGTON COUNCIL'S LICENSING POLICY

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:**
- k)**
 - a. Past demonstrable adverse impact from the activity, particularly on local residents and businesses; or**

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

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

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

9.3.1 LOCATION AND IMPACT OF ACTIVITY

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

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

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

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

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 Some commercial areas in the Borough, however, particularly the Town Centre may be more suitable locations for licensed activities, especially those with late opening hours or which attract significant numbers of people. In the Town Centre, more patrons are likely to travel by public transport and licensable activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening particularly when compared with residential areas so that additional noise may be less of a problem. Nevertheless, late at night, the impact of licensed activities is more likely to be objectionable to residents living within or close to a licensed activity. The ambient noise level is lower so that noise disturbance from activities becomes more probable.

9.10 LITTERING

Policy: Promotional flyers, advertising leaflets etc should be collected at regular intervals by the licensee or his/her representative and deposited in the premises' own waste bins. At the end of each evening staff should patrol the vicinity, collect all discarded flyers within a 20 metre radius of the premises and deposit them in the premises' own waste bins. Where promotional material is distributed away from the premises concerned the same principle applies, however, at the end of the evening staff must return to the distribution site(s), collect all relevant discarded promotional material and return it to their own premises.

Reason: The aim of this Policy is to prevent public nuisance from littering.

10.0 PUBLIC SAFETY

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 |

12.0 PROTECTION OF CHILDREN FROM HARM

Control Measures

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

- a) Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking.
- b) Where there is a known association with drug taking or dealing.
- c) Where there is a strong element of gambling on the premises.
- d) Where entertainment of an adult or sexual nature is provided.
- e) Where the supply of alcohol for consumption on the premises is the exclusive and primary purpose of the premises.
- f) For the protection of children from exposure to tobacco smoke.

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

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

13.7 OFF SALES

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

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

NB this list is not exclusive

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

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

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

PURPOSE

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.

Protection of children from harm

- 2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

- 2.25 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.26 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
 - restrictions on the parts of the premises to which children may have access;
 - age restrictions (below 18);
 - restrictions or exclusions when certain activities are taking place;
 - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
 - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.28 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

Late night refreshment

- 3.12 Schedule 2 provides a definition of what constitutes the provision of late night refreshment. It involves only the supply of 'hot food and hot drink'. Shops, stores and supermarkets selling cold food and cold drink that is immediately consumable from 11.00pm are not licensable as providing late night refreshment. The 2003 Act affects premises such as night cafés and take away food outlets where people may gather at any time from 11.00pm and until 5.00am. In this case, supply takes place when the hot food or hot drink is given to the customer and not when payment is made. For example, supply takes place when a table meal is served in a restaurant or when a take-away is handed to a customer over the counter.

- 3.13 Some premises provide hot food or hot drink between 11.00pm and 5.00am by means of vending machines. The supply of hot drink by a vending machine is not a licensable activity and is exempt under the 2003 Act provided the public have access to and can operate the machine without any involvement of the staff.
- 3.14 However, this exemption does not apply to hot food. Premises supplying hot food for a charge by vending machine are licensable if the food has been heated on the premises, even though no staff on the premises may have been involved in the transaction.
- 3.15 It is not expected that the provision of late night refreshment as a secondary activity in licensed premises open for other purposes such as public houses, cinemas or nightclubs or casinos should give rise to a need for significant additional conditions. The key licensing objectives in connection with late night refreshment are the prevention of crime and disorder and public nuisance, and it is expected that both will normally have been adequately covered in the conditions relating to the other licensable activities on such premises.
- 3.16 The supply of hot drink which consists of or contains alcohol is exempt under the 2003 Act as late night refreshment because it is caught by the provisions relating to the sale or supply of alcohol.
- 3.17 The supply of hot food or hot drink free of charge is not a licensable activity. However, where any charge is made for either admission to the premises or for some other item in order to obtain the hot food or hot drink, this will not be regarded as “free of charge”. Supplies by a registered charity or anyone authorised by a registered charity are also exempt. Similarly, supplies made on vehicles – other than when they are permanently or temporarily parked – are also exempt.

Garages and motorway service areas

- 5.21 Section 176 of the 2003 Act prohibits the sale or supply of alcohol at motorway service areas (MSAs) and from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:
- the retailing of petrol;
 - the retailing of derv;
 - the sale of motor vehicles; and
 - the maintenance of motor vehicles.
- 5.22 It is for the licensing authority to decide, based on the licensing objectives, whether it is appropriate for that premises to be granted a licence, taking into account the documents and information listed in section 17(3) and (4) which must accompany the application.
- 5.23 If a licence is granted in respect of a premises and the primary use of that premises subsequently changes (for example, the primary use becomes that of a garage rather than a shop) it would no longer be legal to sell alcohol on that premises. If a relevant representation is made, the licensing authority must decide

whether or not the premises are used primarily as a garage. The licensing authority may ask the licence holder to provide further information to help establish what the primary use of the premises is.

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.

Health bodies acting as responsible authorities

- 9.20 Where a local authority's Director of Public Health in England (DPH)⁶ or Local Health Board (LHB) (in Wales) exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services.

- 9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may be used by the health body to make representations in its own right or to support representations by other responsible authorities, such as the police. Such representations can potentially be made on the grounds of all four licensing objectives. Perhaps the most obvious example is where drunkenness leads to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information will often be relevant to the public safety and crime and disorder objectives.
- 9.22 However, health bodies are encouraged to make representations in respect of any of the four licensing objectives without necessarily seeking views from other responsible authorities where they have appropriate evidence to do so. There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well being.
- 9.23 Evidence relating to under 18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. For example, the police could use this data to tackle instances of 'shoulder tapping' (where under 18s approach adults to buy alcohol on their behalf) and to suggest measures which retailers might be able to take to ensure, as far as possible, that they are not knowingly selling alcohol to an adult who is buying on behalf of a person aged under 18. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.
- 9.24 DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

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.

CONDITIONS

- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by 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.

Planning and building control

- 13.57 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 13.58 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

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

Date of Notification: 14 December 2015

Type of Hearing: Application to **VARY** Premises Licence

Premises: Grange Road Service Station,
68-70 Grange Road
Darlington, DL1 5NP

Hearing Details: 10.00 am Tuesday 12 January 2016

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

Copy of notice sent to	Rontec Watford Ltd	(Applicant)
	Winckworth Sherwood Solicitors	(Applicant's Legal Representative)
	Durham Constabulary	(Responsible Authority)
	Director of Public Health	(Responsible Authority)
	Mr S Todd	(Other person)
	Mr P. Claxton	(Other person)
	Mr & Mrs A Barrigan	(Other person)
	Ms S Lay	(Other person)
	Mr R Morgan	(Other person)
	Cllr H Scott	(Other person)
	Ms H Hopper	(Other person)
	Mr R Ward	(Other person)
	Ms T Todd	(Other person)
	Mr and Mrs Aisbitt	(Other person)
	Ms E Moore	(Other person)
	Mr and Mrs Jones	(Other person)
	A F Murray	(Other person)
	Mr A J Redpath	(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 Thursday 24 December 2015**

Non-attendance: If you notify the Licensing Authority that you will not be attending this hearing and that you will not be legally represented in your absence, the hearing may proceed in your absence.

GRANGE ROAD SERVICE STATION

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

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

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

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

Points for Clarification:

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

- Details of any problems that have been experienced by been required to use the hatch from 7pm onwards until the terminal hour when alcohol is available for sale.
- Details of whether the premises has re-opened to the public after the terminal hour for sales of alcohol has passed
- Details of the proposed staffing levels, particularly from 7 pm onwards
- Details of how it is proposed that the premises will operate from 7 pm onwards including built in safety measures for staff and patrons.

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

- An update and further details of the type of incidents that they are called to by staff at the garage.

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

- What impact the proposed variation to the licence will have on them.



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

NOTICE OF ATTENDANCE

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

DATE OF HEARING: 10.00 am Tuesday 12 January 2016

NAME OF PREMISES: 68-70 Grange Road Services Station
Darlington, DL1 5NP

YOUR NAME: _____

I WILL* I WILL NOT* BE ATTENDING THE HEARING

I WILL* I WILL NOT* LEGALLY REPRESENTED

NAME OF LEGAL REPRESENTATIVE (IF APPROPRIATE):

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

(*delete as appropriate)

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

Name

Details

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

LICENSING SUB COMMITTEES

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

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

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

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

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

The Licensing Manager will outline the application.

2. **The Representor's Case**

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

- [1] The Representor or his/her representative will give their reasons for objecting to the application.
- [2] The Representor or his/her representative will then call any witnesses and/or give reasons for his/her objection.
- [3] The Applicant or his/her representative may then question the Representor [if he/she has given evidence] and any witnesses.
- [4] The Chair or any member of the Licensing Sub Committee, through the Chair, may ask questions of the Objector and any witnesses.

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

3. **The Applicant's Case**

- [1] The Applicant or his/her representative presents his/her application for a licence/variation to licence
- [2] The Applicant or his/her representative will then call any witnesses and/or give evidence in support of his/her application.

GRANGE ROAD SERVICE STATION

- [3] The Representors may then question the Applicant if he/she has given evidence and any witnesses.
 - [4] The Chair or any Member of the Licensing Sub-Committee through the Chair will ask questions of the Applicant and any witnesses.
 - [5] The Applicant or his/her representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.
4. The Applicant will be asked by the Chair of the Sub-Committee whether, in the light of the information heard in relation to the application, (s)he wishes to amend the application, as when they retire, Members will consider only the information before them at that time.

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

5. Closing Statement or Summary

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

6. Conclusion

All decisions will be made in private

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

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

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