

FOR CHAIR AND MEMBERS  
OF THE LICENSING ACT SUB COMMITTEE  
FOR 18 MAY 2016

**APPENDIX 1**

**APPLICATION TO VARY A PREMISES LICENCE**

**Applicant:** CAMERONS BREWERY LTD      **Ref No:** DL16/00223/VARDPS

**Premises:** BIJOU  
10 CROWN STREET  
DARLINGTON, DL1 1LU

**Current Licensable Activities:** **Sale of Alcohol for Films, Live Music, Recorded Music, Provision of Facilities for Making Music & for Dancing) and Late Night Refreshment**

**Current Hours:**

<b>Sale of Alcohol:</b>	08.00 - 01.00	Monday to Wednesday
	08.00 - 02.00	Thursday to Sunday
<b>Regulated Entertainment: (Films, Live &amp; Recorded Music, Facilities for Making Music &amp; Dancing)</b>	08.00 - 01.00	Monday to Wednesday
	08.00 - 02.00	Thursday to Sunday
<b>Late night Refreshment</b>	23.00 - 01.30	Monday to Wednesday
	23.00 - 02.00	Thursday to Sunday

**Current Premises Opening Hours**      08.00 - 01.30    Monday to Wednesday  
08.00 - 02.30    Thursday to Sunday

**Current non- Standard hours**      All Licensable Activities extend to 02.00 on Bank Holidays, 24 December, 31 December and 01 January

**Proposed hours**

<b>Sale of Alcohol:</b>	08.00 – 04.00	Every Day
<b>All Regulated Entertainment</b>	08.00 – 04.00	Every Day
<b>Late Night Refreshment</b>	08.00 – 04.00	Every Day
<b>Premises Opening Hours</b>	08.00 – 04.00	Every Day

**Nature of Variation:** To extend the terminal hour of all licensable activities to 04.00 am every day and the terminal opening hour to 04.30 am every day.

**Notification to Responsible Authorities:**

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

**Information on Council's Website:  
Advertisement in the Northern Echo**

**24 March 2016  
04 April 2016**

## LEGISLATION:

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

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

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

## DESCRIPTION OF PREMISES

When the application was originally made the then Applicant described the premises as follows:

*"The Premises are in Darlington Town Centre and are in the course of conversion to an upmarket café bar and public house"*

## BACKGROUND

On 25 July 2006 an application was properly made for a Premises Licence, by a partnership, known as Melsonby Properties, (which was made up of Ms Susan McGee and Ms Lorena McGee) in respect of 10 Crown Street, Darlington, in accordance with Section 17 of the Licensing Act 2003. The application was properly advertised as required by the 2003 Act and one representation was received from a Responsible Authority, namely the Police, on the basis of more information being required in the Operating Schedule. This was addressed through the Applicants' legal representatives and the representation was then withdrawn. The Premises licence was then granted from 18 September 2006.

On 21 November 2007 the licensing authority received a request from the Designated Premises Supervisor (DPS), Nicola Attwood, to be removed from the Premises Licence as she was no longer employed at the premises.

On 28 November 2007 a letter was sent by the Police to the licence holders expressing concern that the premises had been operating without a DPS for approximately one month. The Police advised that while a temporary DPS had been identified they were concerned at the lack of knowledge demonstrated by the licence holders and a warning was issued that further action would be taken by the police in respect of the operation of the premises should there be any recurrence.

On 28 November 2007 an application was made **vary** the DPS from Nicola Attwood to Philip Ormston. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 27 December 2007 an application was made **vary** the DPS from Philip Ormston to David Thirkell. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 15 February 2008 an application was properly made (and advertised) in accordance with Section 34 of the Licensing Act 2003 to **vary** the premises licence. The application was to amend some of the conditions attached to the premises licence. No representations were received from any Responsible Authority or Other Person and the variation was duly granted with effect from 17 March 2008.

On 18 February 2008 an application was made **vary** the DPS from David Thirkell to Benjamin Page. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 21 July 2008 an application was made to **transfer** the premises Licence from Melsonby Properties to Cameron's Brewery Ltd. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the transfer was duly granted.

On 12 November 2008 an application was made **vary** the DPS from Benjamin Page to Simon Noel Wright. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted. At the same time the premises name changed to Aspire.

On 31 March 2009 an application was made **vary** the DPS from Simon Noel Wright to Jodie Javers. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 13 August 2009 a routine licensing visit to the premises found that the premises was not complying with the conditions on the premises licence. On 19 August 2009 a letter was sent to the Premises licence holder warning of the consequences of any such repetition.

On 14 November 2009 a further licensing enforcement visit was made and on this occasion the premises were totally compliant.

On 16 April 2010 an application was made for a **minor variation** to the Premises Licence, namely to permit under 18s to attend pre-arranged functions. No representations were received in respect of this application and the minor variation was granted with effect from 14 May 2010.

On 17 May 2010 an application was made **vary** the DPS from Jodie Javers to Stephanie Connelly. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 28 January 2011 a routine licensing visit to the premises found that the premises was not complying with the conditions on the premises licence. On 09 February 2011 a letter was sent to the Premises licence holder warning of the consequences of any such repetition.

On 03 March 2011 a further licensing enforcement visit was made and on this occasion the premises were totally compliant.

On 11 May 2011 an application was made **vary** the DPS from Stephanie Connelly to Jason Papagiannakis. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 15 September 2011 an application was made **vary** the DPS from Jason Papagiannakis to Leslie David Langley. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 22 October 2012 a routine licensing visit to the premises found that the premises was not compliant with the conditions on the premises licence. On 31 October 2012 a letter was sent to the Premises licence holder warning of the consequences of any such repetition & advising that a further visit would be made on or about 22 November 2012.

On 29 November 2012 a further licensing visit to the premises and once again officers found that the premises was not compliant with the conditions on the premises licence and also was non-compliant with one of the mandatory conditions relating to the availability of smaller sizes of alcoholic drinks. . A further letter was sent to the Premises licence holder on 03 December 2012 warning of the consequences of any such repetition & advising that a further visit would be made on or about 14 December 2012.

On 02 January 2013 a further licensing enforcement visit was made and on this occasion the premises were totally compliant.

On 15 November 2013 an application was made **vary** the DPS from Leslie David Langley to Simone Casey. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 17 December 2013 the name of the Premises was changed from Aspire to No. 10 Crown Street.

On 08 April 2014 an application was made **vary** the DPS from Simone Casey to Carl John Williams. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 07 July 2015 an application was made **vary** the DPS from Carl John Williams to David Henderson. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 12 August 2015 a joint warning letter was sent to Mr Henderson by the police and a licensing enforcement officer following a meeting with the DPS about concerns that both parties had in respect of the premises. The letter reflected incidents of violence, underage persons being intoxicated on the premises and issues in respect of what appeared to be irresponsible drinks promotions. A copy of this letter was also sent to the Premises licence holder (Cameron's Brewery).

On 08 September 2015 a notification of interest was received from Mr David Gibson as someone who had an interest in the licence because he had a legal interest in the premises as either a freeholder or leaseholder. The Council's files were duly noted.

On 17 December 2015 the name of the Premises was changed from No. 10 Crown Street to Bijou.

On 15 February 2016 an application was made to **vary** the DPS from David Henderson to Graham Lish. The Police, who are the only statutory consultee in respect of such applications, did not make any representation and the variation was duly granted.

On 08 April 2016 a routine licensing visit to the premises found that the premises was not complying with the condition on the premises licence requiring 2 door supervisors to be present from 8 pm on Fridays and Saturdays. Staff advised the Officer that the door staff were due to commence work at 10 pm. On 15 April 2016 the Officer concerned wrote directly to Cameron's Brewery asking them to address this matter, particularly given that an application to extend the premises hours had been received.

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

## **THE CURRENT APPLICATION TO VARY THE PREMISES LICENCE**

On 11 March 2016 an application was made in accordance with Section 34 of the Licensing Act 2003 to vary the premises licence to extend the terminal hour for sale of alcohol, provision of entertainment and late night refreshment. The application was duly advertised however it came to light that there was an issue with the contents of blue notice that has to be displayed and then, although the application had been sent to some of the Responsible Authorities by the Applicant Company it had not been sent to the Chief Fire Officer. As a result of this the application had to be resubmitted with an effective date of 24 March 2016 and also had to be re-advertised. The application has led to one representation from a Responsible Authority, namely the Police.

## **THE REPRESENTATION**

On 19 April 2016 a representation was received from Durham Constabulary on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance. In summary the Police express concern at the lack of information contained within the Operating Schedule and also the number of incidents that have occurred at the premises since its re-launch in February 2016 following a refurbishment. The representation has been reproduced in full at **Appendix 1B**. Members should note that the Police will be showing CCTV footage during the hearing to support their concerns.

## **THE APPLICANT COMPANY'S RESPONSE**

The Police representation has been sent to the Applicant Company for their response, however at the time of writing this report no response had been received so this report has been prepared without the benefit of any further comment from the applicant company. This will no doubt be addressed at the hearing.

## **THE OPERATING SCHEDULE**

As part of any application for a premises licence or the variation of a premises licence the application form provides a section for the Operating Schedule. As Members are aware this is the part of the application where an applicant identifies the additional steps they will take to promote the 4 licensing objectives. The contents of the schedule are then converted into conditions on the licence. In the case of this application the entire operating schedule has been left blank.

## **THE LICENSING POLICY**

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

Section 6.1	Premises Licences
Section 7.1-7.3	The Impact of Licensable Activities

## BIJOU

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Section 9.0 - 9.5	Prevention of Nuisance
Section 9.8	Noise Nuisance
Section 10.1-10.3	Public Safety
Sections 11.3 - 11.5	Steps to be taken by Licensees to address Crime and Disorder Issues

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

### THE GUIDANCE

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

### FURTHER INFORMATION

On 22 April 2016 a late Temporary Event Notice (TEN) was submitted by Mr Graham Lish (current DPS of premises) to the Licensing Authority to extend the terminal hour at Bijou to 04.00 am for the sale of alcohol and provision of late night refreshment from 30 April to 01 May 2016 and the premises closing hour to 04.30 am. In accordance with the requirements of the legislation the TEN was also served on the Police and Environmental Health Service. As a result an objection was received from the Police on the grounds of the prevention of crime and disorder. The Police commented:

*"There are incidents occurring at the premises made up of public order, intoxicated persons within the premises, persons fighting outside of the venue, persons outside the premises drinking from glasses, recently there have been fights which have taken place outside of the premises, which have all been initially reported by CCTV to the police.*

*There appears to be poor management and control inclusive of people exiting the premises and being allowed to stand outside of the premises with pint glasses in their hands, one male is observed by CCTV to be urinating outside of the venue."*

As a result of this objection a Counter Notice was served on the Applicant on 25 April 2016. In the case of a late TEN a Counter Notice cannot be appealed.

### ADDITIONAL INFORMATION

A map that shows the location of these premises will be produced for Members' attention at the Hearing. In addition the police will be bringing CCTV evidence to the hearing to support their concerns

### POINTS FOR CLARIFICATION

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

- An explanation of why the premise has not been compliant with its licence conditions and what has been done to address this.
- Details of the type of training provided/to be provided to staff with relevant timescales
- Details of the dispersal policy for the premises
- Details of the management controls in place to reduce antisocial behaviour at or in the vicinity of the premises both during licensed hours and as licensed hours terminate.

The **Police** have been asked to provide:

- Any update in respect of incidents at the premises

## **MEMBERS' OPTIONS**

Members may consider the following options

1. Grant the application subject to the conditions below, all of which are currently on the premises licence and in addition to the mandatory conditions for sale of alcohol. Officers have also taken the opportunity to propose the removal of conditions which are erroneous; (including one which is now covered by the revised mandatory conditions); to update one condition in light of the additional mandatory condition on age verification and to update others to clarify the requirement. NB If Members choose not to grant the application the updating of these conditions is still invited:
  - (i) All staff shall be trained in all aspects of licensing including the 4 licensing objectives and the premises drugs policy. Management checks shall be undertaken to ensure that training is implemented. Such training and checks shall be documented.
  - (ii) A CCTV system, which complies with the Durham Constabulary CCTV guidelines, shall be maintained on the premises. Recordings shall be stored and retained in accordance with the guidelines and produced on request to a Police Officer or an Authorised Officer of the Council.
  - (iii) A minimum of 2 door supervisors shall be employed from 8pm on Friday and Saturday evenings, adding extra if required due to occupancy levels. All other evenings to be at management's discretion.
  - (iv) The maximum number of persons permitted onto the premises (including staff) shall not exceed the figure recommended by the Fire Authority. **(propose removal as Fire officer has advised that they do not have an occupancy figure for these premises & the Fire Authority no longer sets such numbers)**
  - (v) There shall be no irresponsible drinks promotions (e.g. all you can drink for an inclusive fee) designed to encourage excessive drinking. **(propose removal as covered by the mandatory conditions)**
  - (vi) The Designated Premises Supervisor (DPS) or their representative shall regularly attend Darlington Pub Watch meetings. **(propose removal as there is no purpose to this condition)**
  - (vii) The DPS or their representative shall maintain regular contact with the Police Licensing unit and will contact the Police if any problems are experienced. **(propose removal as deemed unnecessary by Police)**
  - (viii) The DPS or their representative shall carry out daily health and safety checks of the Premises and such checks shall be documented **(propose removal as covered by other legislative requirements).**
  - (ix) The DPS or their representative shall designate staff to make regular collections of glassware and undertake regular safety checks of the Premises. **(propose changing**

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**to : The DPS or their representative shall designate staff to regularly clear all empty drinking receptacles)**

- (x) Glasses used for serving drinks shall be made of toughened (i.e. tempered) glass.
  - (xi) Calming and relaxing music shall be played for the last 30 minutes of the licensing hours.
  - (xii) Empty glasses and other waste shall not be disposed of between 10pm and 7am.**(propose changing to empty bottles and other waste shall not be disposed of between 10pm and 7am)**
  - (xiii) A Police approved proof of age scheme shall be implemented and clear and legible signage will be prominently displayed advising that any patron who appears to be under the age of 21 years will be required to produce photographic evidence of age **(propose changing to: The Challenge 21 scheme shall be implemented at the premises and clear and legible signage shall be prominently displayed advising patrons of the requirements of this scheme).**
  - (xiv) No patron under the age of 18 years shall be admitted onto the premises after 7.00pm, save for those attending pre-arranged functions such as birthday parties, engagement, wedding or retirement celebrations, work functions or anything of a similar nature.
2. Place any additional conditions on the licence that Members consider are necessary to address any concerns relating to crime and disorder, public nuisance, public safety and protection of children from harm.
3. Reject all or part of the application

Members are reminded that any aggrieved party (i.e. Applicant Company 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**

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**For admin use only:**

**Date of Sub Committee: 18 MAY 2016**

**Sub Committee Decision:**

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

**Reasons:**



APPENDIX 1A  
PART A

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

Licensing Act 2003 Premise Licence  
**Bijou**

Premises Licence Number	DL16/00223/VARDPS
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## PART 1 – PREMISES DETAILS

Premises Details:	<b>Bijou</b> 10 Crown Street, Darlington, DL1 1LU
Telephone number:	01325 465725

Licence effective from:	15 February 2016	Duration of Licence:	Indefinite
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Authorised Licensable Activities:	Authorised Hours	
Retail sale of alcohol (for consumption ON AND OFF the premises)	08:00 – 01:00 08:00 – 02:00	Monday to Wednesday Thursday to Sunday
Regulated Entertainment: Films, Live Music, Recorded Music, Provision of facilities for Making Music, Provision of facilities for Dancing	08:00 – 01:00 08:00 – 02:00	Monday to Wednesday Thursday to Sunday
Late Night Refreshment:	23:00 – 01:30 23:00 – 02:00	Monday to Wednesday Thursday to Sunday

Premises Opening Hours:	08:00 - 01:30 08:00 - 02:30	Monday to Wednesday Thursday to Sunday
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Non-standard/seasonal timings: The licensable activities specified in this licence will be extended to 02:00 on Bank Holidays, Christmas Eve, Christmas Day, Boxing Day, New Year's Eve, New Year's Day.
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## PART 2

Premises Licence Holder:	Cameron's Brewery Limited, Maingate House, Waldon Street, Hartlepool, TS24 7QS
Registered Company No:	3571101

Designated Premises Supervisor:	Graeme Lish
Personal Licence No:	LN/000006406
Issuing Authority:	South Tyneside Council

**Annex 1 Mandatory Conditions:**

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

8. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
9. For the purposes of the condition set out at 8 —
  - a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
  - b) “permitted price” is the price found by applying the formula—
 
$$P = D + (D \times V)$$
 where—
    - i) P is the permitted price,
    - ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
    - i) the holder of the premises licence,
    - ii) the designated premises supervisor (if any) in respect of such a licence, or
    - iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

“value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994
10. Any person acting in the capacity of a Door Supervisor must be registered in accordance with the requirements of the Security Industry Authority.

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

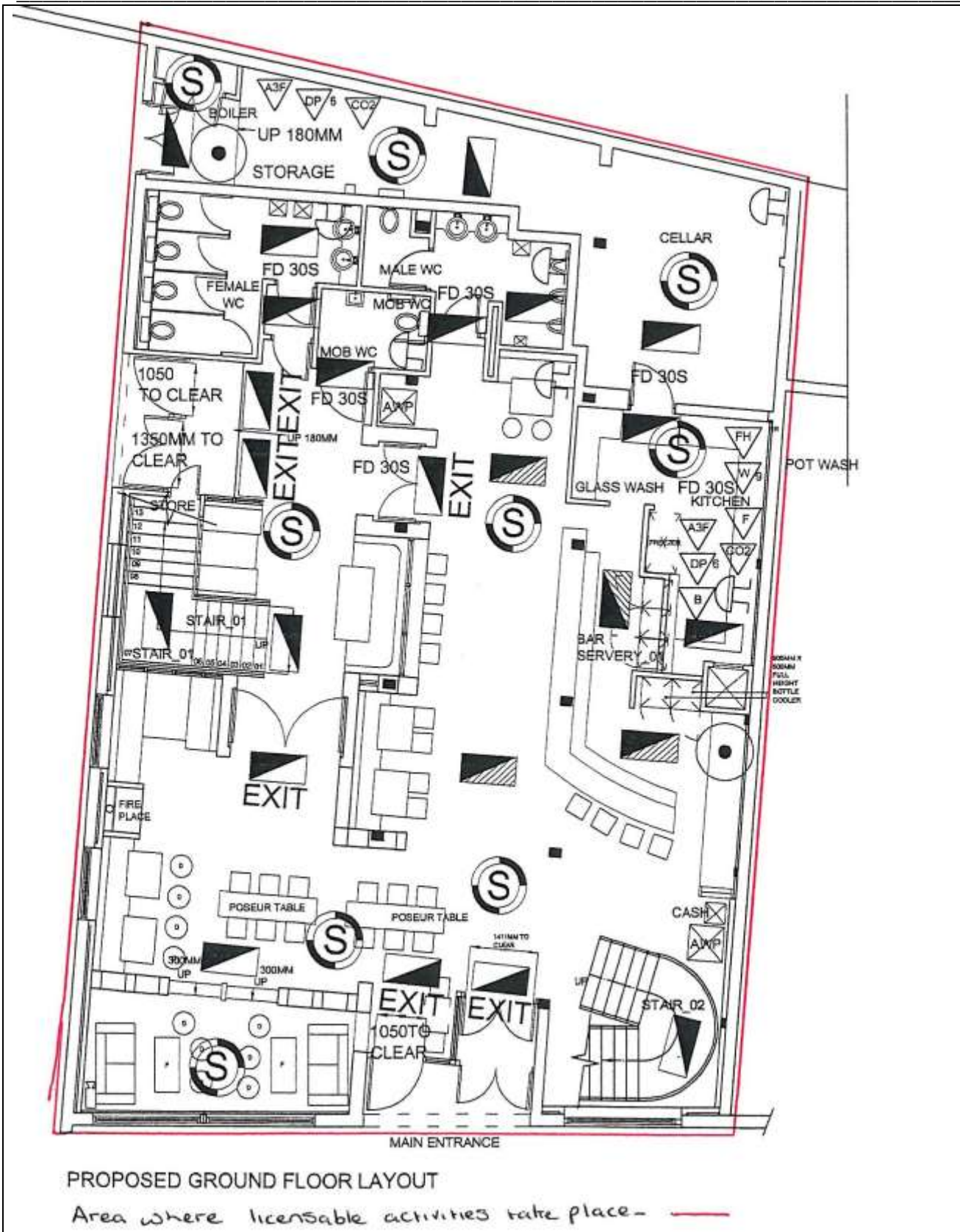
1. All staff will be trained in all aspects of licensing including the 4 licensing objectives and the premises drugs policy. Management checks will be undertaken to ensure that training is implemented. Such training and checks will be documented.
2. A CCTV system, which complies with the Durham Constabulary CCTV guidelines, shall be maintained on the premises. Recordings shall be stored and retained in accordance with the guidelines and produced on request to a Police Officer or an Authorised Officer of the Council.
3. A minimum of 2 door supervisors will be employed from 8pm on Friday and Saturday evenings, adding extra if required due to occupancy levels. All other evenings to be at management's discretion.
4. The maximum number of persons permitted onto the premises (including staff) shall not exceed the figure recommended by the Fire Authority.
5. There will be no irresponsible drinks promotions (e.g. all you can drink for an inclusive fee) designed to encourage excessive drinking.
6. The Designated Premises Supervisor (DPS) or their representative will regularly attend Darlington Pub Watch meetings.
7. The DPS or their representative will maintain regular contact with the Police Licensing unit and will contact the Police if any problems are experienced.
8. The DPS or their representative will carry out daily health and safety checks of the Premises and such checks shall be documented.
9. The DPS or their representative shall designate staff to make regular collections of glassware and undertake regular safety checks of the Premises.
10. Glasses used for serving drinks shall be made of toughened (i.e. tempered) glass.
11. Calming and relaxing music shall be played for the last 30 minutes of the licensing hours.
12. Empty glasses and other waste shall not be disposed of between 10pm and 7am.
13. A Police approved proof of age scheme shall be implemented and clear and legible signage will be prominently displayed advising that any patron who appears to be under the age of 21 years will be required to produce photographic evidence of age.

14. No patron under the age of 18 years shall be admitted onto the premises after 7.00pm, save for those attending pre-arranged functions such as birthday parties, engagement, wedding or retirement celebrations, work functions or anything of a similar nature.

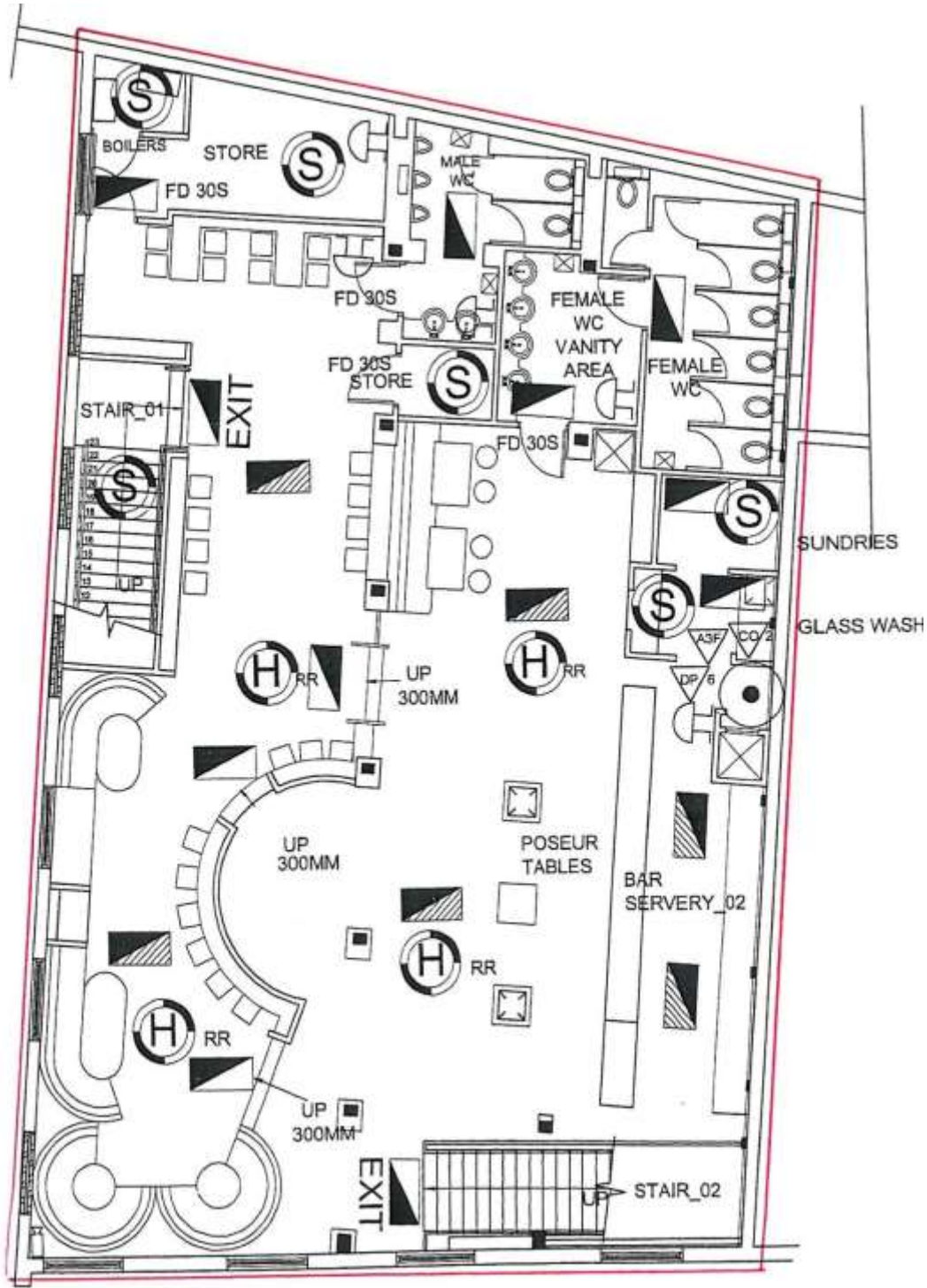
**Annex 3 Conditions attached after Licensing Authority Hearing:**

**None**

**Annex 4 Premise Plan Ground Floor**



Annex 4 - Premise Plan First Floor



PROPOSED FIRST FLOOR LAYOUT  
Area where licensable activities take place. —

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**Authorised Officer**



**REPRESENTATION IN RESPECT OF APPLICATION**

**Representor:** Durham Constabulary  
**Comments:** Based on the Prevention of Crime and disorder, Public Safety and the Prevention of Public Nuisance.

“The application is applying to extend their opening hrs to 08:00am– 04:30am Monday – Sunday to with the sale of alcohol hours being 08:00am – 04:00am Monday – Sunday and the provision of Late night refreshment being from 01:00am – 04:00am Monday – Sunday.

On the application to vary the premises licence under part P where the operator describes any additional steps they intend to take to promote the four licencing objectives, as a result of the proposed variation, this has been left blank The police would assume the operator is extending the hours and intending to run the premises only with the current conditions they have on their licence, which do not adequately support or promote the four licencing objectives with their intended increase in hours. The grounds for this representation are detailed below:

**Crime and Disorder/Public Safety/Public Nuisance**

The premises are owned by Cameron’s Brewery who subsequently sub- let it. The current DPS is a Graham Lish, following refurbishment of the venue it was re-launched as BIJOU on 12/02/2016. Over a two month period since opening there has been 11 incidents of which 4 have been reported by the venue, the other 7 have been either reported/observed by CCTV or by police officers. The incidents occurring at the premises are made up of public order, intoxicated persons within the premises, persons fighting outside of the venue, Anti-Social behaviour, a male urinating outside of the premises, persons outside the premises drinking from glasses. The four fights which have taken place outside of the premises have all been initially reported by CCTV to the police.

The premises currently have a condition on their licence to have two door supervisors from 8pm on a Friday and Saturday, however when a visit was carried out by the police on 8th April 2016 at 21:15 there was no door staff present and it has been established for the two previous weeks the door staff had not started work at the premises until 10pm. So although the premises had an application in to vary their licence they were unable to adhere to this condition.

There are incidents taking place outside of the premises whereby a number of persons are fighting. There are occasions when these fights have broken out on the road and it has been captured on CCTV vehicles turning into the street which have had to brake to avoid hitting them. There is no management or control around the people exiting the premises and they are being allowed stand outside of the premises with pint glasses in their hands. One male is observed by CCTV to be urinating outside of the venue. Footage around the premises shows at closing time people are loitering around the outside of premises. This is being identified as a significant problem for police, especially as this is when most of the incidents are occurring. On one occasion the only door supervisor is seen to leave the premises at 2:20am although there are still a number of people outside.

The venue has a condition on their current licence for all staff to be trained in all aspects of licencing including the 4 licencing objectives and the premises drugs policy however this has not been implemented by the current management. From the number of incidents which have occurred in a relativity short time frame and observations by police officers it is apparent the management of the premises falls below what would be expected. The police feel the venue need to demonstrate effective running with the current licence before they are granted extended opening times. “

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

**6.0 PREMISES LICENCES**

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

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

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

**7.0 THE IMPACT OF LICENSABLE ACTIVITIES**

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

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



**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 antisocial way which impacts on local residents and/or businesses. The Licensing Authority recognises the Council's responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder. The aim of this Policy therefore is to achieve a balanced approach to these difficult issues.

## **9.0 PREVENTION OF NUISANCE**

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

### **9.1 Location of Premises, Licensing Hours and the Prevention of Nuisance**

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

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

## 9.2 Additional information:

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

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

## 9.3 Location and Impact of Activity

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

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

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

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

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

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**APPENDIX 1C (cont)**

- 9.4.1 Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the highway. It may be exacerbated by patrons being noisy when leaving, leaving litter or taking up on-street car parking space needed by residents. The impact of noise generated by these activities, especially patrons departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.
- 9.4.2 Parts of this Borough are very sensitive to the impact of licensed activities because they are either residential in character or close to residential areas. Many shopping areas are close to residential areas, including housing above commercial premises. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of patrons arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents being prevented from parking close to their homes and by increasing the danger from traffic in residential streets.
- 9.4.3 However, some commercial areas in the Borough, particularly the Town Centre may be more suitable locations for licensed activities, especially those with late opening hours or which attract significant numbers of people. In the Town Centre, more patrons are likely to travel by public transport and licensable activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening particularly when compared with residential areas so that additional noise may be less of a problem.

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

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

## 9.5 **Additional information:**

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

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

**NOISE NUISANCE**

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

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

- 9.8.1 In addition, residents are frequently disturbed when patrons leave entertainment venues in the early hours of the morning. While licence holders cannot be held solely responsible for the behaviour of their patrons after they have left the premises, they have a duty to put in place such measures that will assist in the quieter exiting and dispersal of such patrons.

This is because people leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem. Patrons may be less inhibited about their behaviour and may be unaware of the noise they are creating. This is particularly the case when patrons have been exposed to high levels of sound within the premises, causing them to shout to be heard. Upon leaving the premises there may be then a tendency to continue to shout and this may cause more disturbance, in particular, to local residents.

9.8.2 **Additional information:**

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

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

The Licensing Authority will expect popular venues, which attract queues, to formulate a system to avoid disturbance to residents. This can sometimes be achieved by simply ensuring

that the direction of the queue is away from any residential accommodation.

- 9.8.3 Excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. This action can also help stop drug dealers from passing on drugs during the queuing process but the prime purpose is to prevent noise and disturbance. Door Supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities – where necessary they should be adequately supervised.
- 9.8.4 In terms of patrons leaving the premises particularly late at night or early in the morning the Licensing Authority will expect the applicant to have considered including in the operating schedule such practical steps as:
- a) Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors.
  - b) At appropriate times making loudspeaker announcements to the same effect.
  - c) Instructing door staff to ask customers leaving the premises to leave the area quietly.
  - d) Reducing the volume of music towards the end of the evening and having in place arrangements for playing quieter, more soothing music as the evening winds down.
  - e) Availability of licensed taxis, private hire vehicles or public transport to take patrons from the premises.
  - f) In appropriate cases, requiring Door Supervisors or a Manager to patrol nearby streets to assess for themselves whether there is a problem and how best to deal with it.
  - g) Banning from the premises people who often leave in a noisy fashion.
  - h) Increasing outside lighting levels without causing collateral intrusion.
  - i) Installing outside CCTV systems.
  - j) Where there is a private forecourt, preventing patrons from using it for eating and drinking etc after a specified time.

NB this list is not exhaustive

## 10.0 PUBLIC SAFETY

- 10.1 **Policy:** The Licensing Authority will expect the premises to be constructed and maintained to the highest possible standards of safety. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and, where appropriate, the Technical Standards published by the District Surveyors Association. In particular the Licensing Authority will expect compliance with Fire Safety Legislation in relation to upholstery, curtains and other hanging materials.

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

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

- a) The occupancy capacity of the premises.
  - b) The age, design and layout of the premises, including means of escape in the event of a fire.
  - c) The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature.
  - d) The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different).
  - e) Customer profile (e.g. age, disability).
  - f) The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- 10.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:
- a) Suitable and sufficient risk assessments.
  - b) Effective and responsible management of premises.
  - c) Provision of a sufficient number of people employed or engaged to secure the safety of the patrons and the premises.
  - d) Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons.
  - e) Adoption of best practice guidance (eg Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA).
  - f) Provision of effective digital CCTV in and around premises.
  - g) Provision of toughened or plastic drinking vessels.
  - h) Implementation of crowd management measures.
  - i) Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety.

## 11.0 CRIME AND DISORDER

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

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

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

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**APPENDIX 1C (cont)**

- 11.3.1 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:
- a) Effective and responsible management of premises.
  - b) Training and supervision of staff.
  - c) Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other Voluntary Codes of Practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA).
  - d) Acceptance of accredited means of age identification eg DVLA photo driving licence or 'proof of age' cards.
  - e) Provision of effective digital CCTV in and around premises.
  - f) Employment of Security Industry Authority licensed door-staff.
  - g) Provision of plastic or shatter resistant glasses.
  - h) Provision of secure, deposit boxes for confiscated items.
  - i) Procedures for assessing risk associated with promotions and events such as "happy hours" for the potential to cause crime and disorder, and plans for minimising such risks.
  - j) Measures to prevent the use or supply of illegal drugs.
  - k) Employment of licensed door supervisors and other appropriately trained staff.
  - l) Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with bottles or glasses (on licence sales).
  - m) Provision of litterbins and other security measures, such as lighting, outside premises.
  - n) Membership of Darlington 'Pub Watch' scheme.
- 11.4 The Licensing Authority will expect the operating plan to include a risk assessment into the use of door-staff, in terms of the actual need for such a service and also the ratio of such personnel to patrons based on capacity of the premises.

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

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**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.

### TEMPORARY EVENT NOTICES (TENs)

- 7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to

sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing).

- 7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded

### **Late temporary event notices**

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing conditions

## **APPLICATIONS FOR PREMISES LICENCES**

### **Responsible authorities**

- 8.6 –“responsible authorities”– are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must still be considered ‘relevant’ by the licensing authority and relate to one or more of the licensing objectives. For all premises, responsible authorities include:
- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated;
  - the chief officer of police;
  - the local fire and rescue authority;
  - the relevant enforcing authority under the Health and Safety at Work etc Act 1974
  - the local authority with responsibility for environmental health;
  - • the local planning authority;

- • a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- • each local authority's Director of Public Health (DPH) in England<sup>4</sup> and Local Health Boards (in Wales); and
- • the local weights and measures authority (trading standards)

### **Requirement to copy application to responsible authorities**

8.23 The licensing authority must copy electronic applications, made via GOV.UK or its own facility, to responsible authorities no later than the first working day after the application is given. However, if an applicant submits any part of their application in writing, the applicant will remain responsible for copying it to responsible authorities.

## **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.

### **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. Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

### **The role of responsible authorities**

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

### **Representations from the police**

9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area<sup>5</sup>. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing

### **Hearings**

9.30 Regulations governing hearings may be found on the [www.legislation.gov.uk](http://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.

**APPENDIX 1D (CONT)**

- 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.
- 9.36 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.

### **Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)**

10.23 Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.

10.24 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

### **Designated premises supervisor**

10.28 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.

10.29 The main purpose of the ‘designated premises supervisor’ as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by

the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).

10.30 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

## TYPES OF REGULATED ENTERTAINMENT

15.1 Schedule 1 to the 2003 Act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable and those activities which are not and therefore exempt from the regulated entertainment regime.

15.2 The descriptions of entertainment activities licensable under the 2003 Act are:

- a performance of a play;
- an exhibition of a film;
- an indoor sporting event;
- a boxing or wrestling entertainment;
- a performance of live music;
- any playing of recorded music;
- a performance of dance; and
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

15.3 To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:

- take place in the presence of a public audience, or
- where that activity takes place in private, be the subject of a charge made with a view to profit.

### General circumstances in which entertainment activities are licensable

15.10 An authorisation for regulated entertainment is always required for entertainment activities that take place before 08.00 or after 23.00, unless exempted under any other provision of the 2003 Act, as amended.

### Audience

15.11 For the purposes of regulated entertainment, the term “audience” refers to any person for whose entertainment (at least in part) any licensable activities are provided. An audience member need not be, or want to be, entertained: what matters is that an audience is

present and that the purpose of the licensable activity is (at least in part) intended to entertain any person present. The audience will not include performers, together with any person who contributes technical skills in substantial support of a performer (for example, a sound engineer or stage technician), during any associated activities. This includes setting up before the entertainment, reasonable breaks (including intervals) between activities and packing up thereafter. Similarly, security staff and bar workers will not form part of the audience while undertaking their duties.

- 15.12 More than one entertainment activity (or for a single activity, more than one performance or event) can be held concurrently, provided that the audience for each such performance or event does not exceed the threshold at which such a performance or event becomes licensable. In some circumstances, there will be a clear distinction between performances or events; for example, their taking place in separate rooms or on separate floors. However, organisers will have to ensure that audiences do not grow or migrate, so that the audience exceeds the relevant limit for any one performance or event at any time. If there is the possibility of audience migration, it might be easier and more flexible to secure an appropriate authorisation.

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

Date of Notification: 28 April 2016

Type of Hearing: Application to Vary a Premises Licence

Premises: BIJOU  
10 CROWN STREET  
DARLINGTON DL1 1LU

Hearing Details: 09.00 am Wednesday 18 May 2016

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

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Copy of notice sent to: Cameron's Brewery Ltd (Applicant Company)  
Durham Constabulary (Responsible Authority)

**Attendance:** All parties may attend this hearing. You may find it useful to be accompanied by your legal representative(s) or any other person who may be able to assist you. Please complete the attached form at **Appendix 2A** and return to the Licensing Section **no later than 12 noon on Wednesday 11 May 2016**

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

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

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

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

**Points for Clarification:**

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

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

- An explanation of why the premise has not been compliant with its licence conditions and what has been done to address this.
- Details of the type of training provided/to be provided to staff with relevant timescales
- Details of the dispersal policy for the premises
- Details of the management controls in place to reduce antisocial behaviour at or in the vicinity of the premises both during licensed hours and as licensed hours terminate.

The **Police** have been asked to provide:

- Any update in respect of incidents at the premises



Block D, Town Hall  
Darlington DL1 5QT  
Tel: 01325 405888  
Fax: 01325 388555  
Email: [licensing@darlington.gov.uk](mailto: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:** 09.00 am Wednesday 18 May 2016

**NAME OF PREMISES:** BIJOU  
10 CROWN STREET  
DARLINGTON DL1 1LU

**YOUR NAME:** .....

**I WILL\*/ WILL NOT\* BE ATTENDING THE HEARING**

**I WILL\*/ WILL NOT\* BE LEGALLY REPRESENTED**

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

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

(\*delete as appropriate)

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

**Name:** .....

**Details:** .....  
.....

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

## LICENSING SUB COMMITTEES

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

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

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

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

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

1. The Licensing Manager will outline the application - Members may ask questions of the Licensing Manager
2. **THE APPLICANT'S CASE**
  - [1] The Applicant or his/her representative will present his/her application for a licence
  - [2] The Applicant or his/her representative will then call any witnesses and/or give
  - [4] The Chair or any Member of the Licensing Sub-Committee (and Officers) through the Chair will ask questions of the Applicant and any witnesses.
  - [3] The Representor(s) may then question the Applicant if he/she has given evidence and any witnesses.(NB questions only – must not start presenting their case)
  - [5] The Applicant or his/her representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.
3. **THE REPRESENTOR'S CASE (Responsible Authorities first, then Councillors, then "Other Persons")**

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



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

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

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

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

## 5. **CLOSING STATEMENT OR SUMMARY**

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

## 6. **CONCLUSION**

### **All decisions will be made in private**

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

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

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