



DARLINGTON

Borough Council

Licensing Act 2003 Sub Committee Agenda

10.00 am, Wednesday, 15 November 2023
Council Chamber, Town Hall, Darlington

Members of the Public are welcome to attend this Meeting.

1. Election of Chair
2. Introductions/Attendance at Meeting
3. Declarations of Interest
4. Application to Review Premises Licence on the grounds of the Prevention of Crime and Disorder – Report of the Group Director of Services
(Pages 3 - 42)

Luke Swinhoe
Assistant Director Law and Governance

Tuesday, 7 November 2023

**Town Hall
Darlington.**

Membership

Councillors Dulston, Kane and K Nicholson.

If you need this information in a different language or format or you have any other queries on this agenda please contact Paul Dalton, Democratic and Elections Officer, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays Email: paul.dalton@darlington.gov.uk or telephone 01325 405805

FOR CHAIR AND MEMBERS
OF THE LICENSING ACT 2003 SUB COMMITTEE
15 NOVEMBER 2023

APPLICATION TO REVIEW PREMISES LICENCE ON THE GROUNDS OF THE PREVENTATION OF CRIME AND DISORDER

Licence holder	Lyall Events and Entertainment Ltd	Ref No: LAPREM00208
Premises:	Majestic 80 Bondgate, Darlington, DL3 7JT	
Licensable Activities:	1. Sale of Alcohol for consumption ON & OFF the Premises 2. Regulated Entertainment 3. Late Night Refreshment	
Current Hours:	Sale of Alcohol:	09:00 to 03.00 Every Day
	All Regulated Entertainment:	09:00 to 00.00 Every Day
	Late Night Refreshment:	23.00 to 03.00 Every Day
Premises opening Times	09.00 to 03.00	Every Day
Police Application	Summary Review of Premises Licence on the grounds of Crime and Disorder	

Notification to Responsible Authorities/Other Persons:

Notice of this application to the following subject to a 10 day consultation period:

Environmental Health	Chief Fire Officer
Durham Constabulary	Trading Standards
Planning	Public Health
The Licence Holder	The Licensing Authority
Darlington Safeguarding Partnership	

Information on the Premises 24 October 2023

Information on Council's web site: 24 October 2023

LEGISLATION:

1. 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 Majestic Review

- The Protection of Children from Harm
- 2. The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State, which was last revised in August 2023. 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

3. When the premises licence application was originally made the applicant described the premises as follows:

"Theatre, Bar and Lounge"

PURPOSE OF REPORT

4. To invite Members to consider an application for a summary review of the premises licence submitted by Durham Constabulary brought under Section 53A of the Licensing Act 2003, based on the grounds that it undermines the prevention of crime and disorder objective relating to serious crime and disorder associated with the premises.
5. Members are requested to consider any appropriate action, which may include the revocation of the licence.

BACKGROUND OF THE PREMISES

6. This premises was a former art deco Odeon Cinema that became a snooker club in 1986. Since then it has had various names such as Rileys, Bentleys Snooker Club and Power Play Snooker.
7. In 2014 the premises closed its snooker facilities, concentrating as a restaurant and bar with children's play facilities called Bing Bong. This later became known as Magic and Mayhem before the last change of name in 2015 to the Majestic.
8. On 28 April 2018 the licence was transferred to Lyall Events and Entertainment Ltd who remain the licence holders. This company was incorporated on 17 April 2018 and has three directors.
9. A copy of the current licence and plan is at **Appendix 1**.

APPLICATION TO REVIEW THE PREMISES LICENCE

10. On 23 October 2023 an application was made by Durham Constabulary to review this premises licence under Section 53A of the Licensing Act 2003, which is at **Appendix 2**. An application can be made under this section where a senior police officer issues a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both). This review is often referred to as a summary review or an expedited review and provides a fast track process for serious incidents.

The Majestic Review

11. On receipt of this application and certificate signed by Superintendent Martin (**Appendix 3**), the licensing authority were required to consider whether it was necessary to take interim steps within 48 hours of the time of its receipt, pending determination of the review, which must take place within 28 days after the day of receipt of the application.
12. In summary, this application relates to an incident of violent disorder that took place on Saturday 21 October 2023 involving a number of people connected to an unlicensed boxing event at the premises, where a serious assault took place resulting in life changing injuries for the victim. During this disorder the victim had three quarters of his ear bitten off by a male assailant who was later arrested. The investigation into this assault and the associated disorder is still on-going by Durham Constabulary.
13. The application is deemed relevant by the Licensing Authority and has been advertised in accordance with the regulations.
14. On Wednesday 25 October 2023 and within the required 48 hour time-scale a Licensing Sub-committee was convened to determine if it was necessary to take any interim steps pending the full review. This was an in-person meeting and the following people were present:
 - Insp Matt Plumb – Police
 - Sgt Charlotte Martin – Police
 - PC Alan Newcombe - Police
 - PCSO Mandy McAllister – Police
 - Kayley Scaife – Police Solicitor
 - Colin Dobson – Licensing Manager
 - Brian Murray – Assistant Licensing Manager
 - Hayley Warters – Premises Licence Holder (Director)
 - Paul Dalton – Democratic Officer
 - Bethany Symonds – DBC Solicitor
15. Members were given an account of this incident from police and also heard from Hayley Warters, a company director for the premises licence holder. During the meeting Members were also shown CCTV footage of the incident.
16. After deliberation, Members put in place the following interim measures with immediate effect pending a full review before 20 November 2023.
 - Premises licence suspended
 - Mr John Lyall Thompson to be removed as Designated Premises Supervisor (DPS)
17. This decision was pursuant to Section 53B of the Licensing Act 2003, and the reason for the decision was that with the information presented to the Sub-committee by police, Members felt it was necessary for these steps in order to promote the licensing objectives of ensuring public safety and preventing crime and disorder following the incident that took place at the venue on the 21 October 2023. This was confirmed in writing to the premises licence holder, the DPS and police.

The Majestic Review

18. Following the implementation of interim measures, police have been working closely with the premises licence holder and will present a number of potential conditions that if agreed are necessary, will be proportionate to promote the licensing objectives.

FULL HEARING

19. The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). They apply to final hearings under section 53A(2)(b) in a similar way to hearings following closure orders under section 167 of the 2003 Act in that a review must take place within 28 days. It should however be emphasised that the truncated version of the hearings only applies to interim measures.
20. The issues they address include who can make representations and what those representations can be about. It is therefore possible for responsible authorities or any other persons to make representations for this hearing in relation to any of the licensing objectives, not just crime and disorder. Notice of this review was submitted to all responsible authorities within the required timescales and no further representations were made.
21. On 3 November 2023 a full hearing review notice was sent to the premises licence holder and police, which included the procedure for Licensing Sub-committees reviews. This is at **Appendix 4**.

THE LICENSING POLICY

22. Members are referred to the following relevant sections of the Council's Licensing Policy which are reproduced at **Appendix 5**.

Section 1.2 – 1.3	Purpose
Section 6 – 7.3	Premises licence and impact of licensable activities
Section 11.3 to 11.5	Steps to address Crime and Disorder

THE GUIDANCE

23. Members are referred to the Secretary of State's Guidance (Section 182 of the Licensing Act 2003) in relation to the prevention of crime and disorder and the review process. This was last amended in August 2023 and the relevant sections of the Guidance are provided in this review pack at **Appendix 6**.

MEMBERS' OPTIONS

24. At the hearing, the licensing authority must:
- consider what steps it considers appropriate for the promotion of the licensing objectives; and
 - decide which interim steps cease to have effect altogether or become the subject of any steps which it considers are appropriate when making its determination on the review.

The Majestic Review

25. The steps the licensing authority can take are:

- modification of the conditions of the premises licence;
- exclusion of a licensable activity from the scope of the licence;
- removal of the designated premises supervisor from the licence;
- suspension of the licence for a period not exceeding 3 months; and
- revocation of the licence.

26. Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

27. If Members are minded to add additional conditions, they must be appropriate to promote the licensing objectives outlined earlier. Members are reminded that any such conditions should not duplicate existing legislation.

28. Members are further reminded that any party to the review who is aggrieved at the decision of the Licensing Sub Committee (i.e. Premises Licence Holder or Police) may appeal the decision to the Magistrates Courts. In the event of such appeal any determination by the Sub-committee will not take effect until the appeal is disposed of.

RECCOMENDATION

29. The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives, giving appropriate weight to:

- a) The representations (including supporting information) presented by all parties;
- b) DBC's Statement of Licensing Policy;
- c) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003.

Contact Officer: Colin Dobson x 5988

Dave Winstanley

Director of Group Services

The Majestic Review

For admin use only:

Date of Sub Committee:

Sub Committee Decision:

Reasons:



Licensing Act 2003 – Part A

PREMISES LICENCE – LAPREM00208

Premise Details:

Majestic

80 Bondgate DARLINGTON DL3 7JT

Date Granted: 13 August 2019

Duration of Licence:

Not Time Limited

Licensable Activities

Activity	Days of Week	Open	Close
Sale by Retail of Alcohol For consumption ON & OFF premises	Every Day	09:00	03:00
Films, Indoor Sporting Events, Plays, Live Music, Performance of Dance and anything of a similar description	Every Day	09:00	00:00
Late Night Refreshment	Every Day	23:00	03:00
Playing of Recorded Music	Every Day	09:00	03:00
Opening Hours	Every Day	09:00	03:00

Non Standard Times

Magic and Mayhem (Ground Floor) - All licensable activities shall cease at 21.00 hours

The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.

Premises Licence Holder:

Lyall Events And Entertainment Limited

Majestic Theatre 78 - 80 Bondgate DARLINGTON DL3 7JT

Details of designated premises supervisor where the premises licence authorises for the supply of alcohol

Name and Address:	Mr John Lyall Thompson
Licence Number:	RDC332
Licensing Authority:	Richmondshire District Council

Annex 1 – Mandatory Conditions

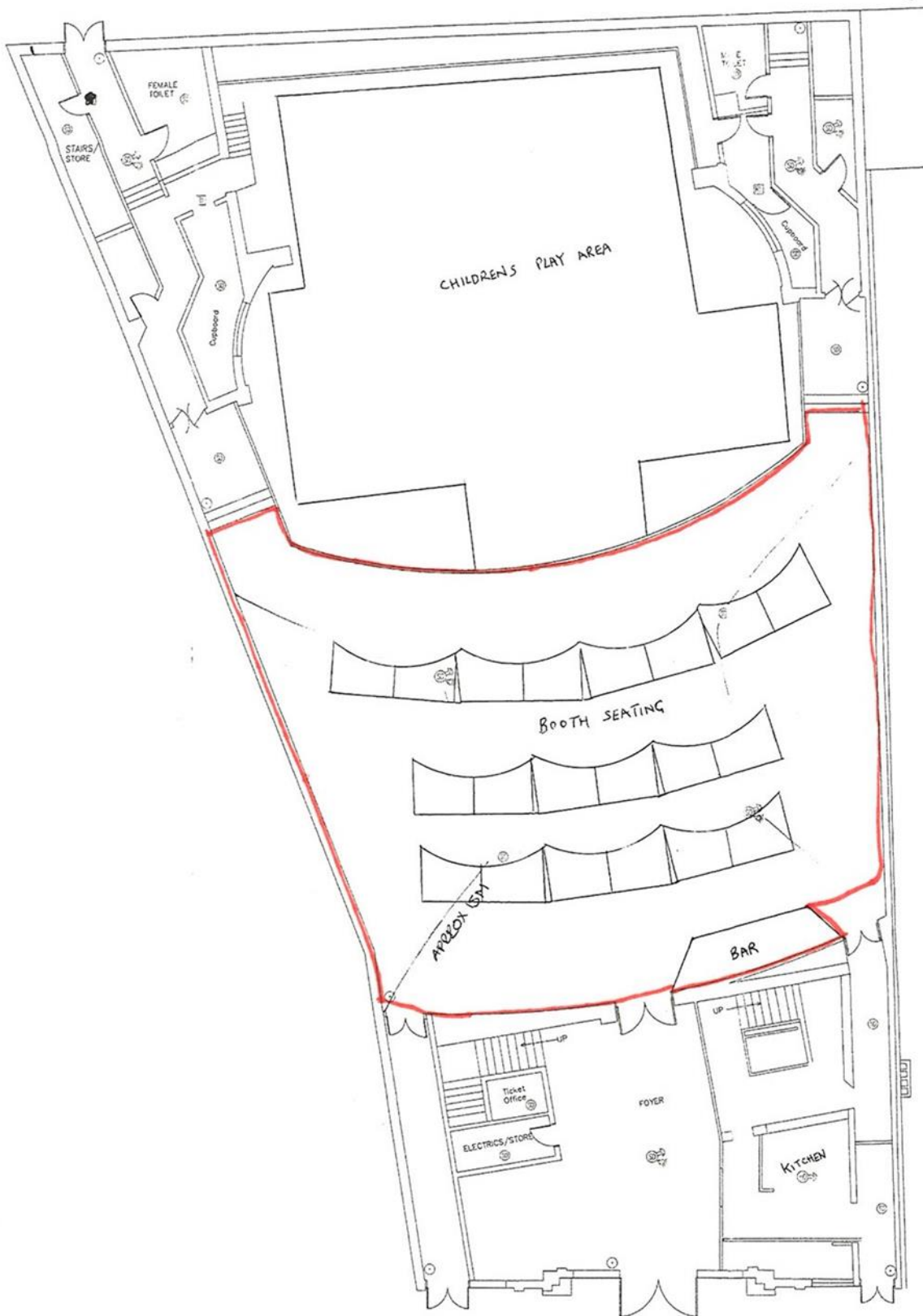
1. Every Supply of alcohol under the premises licence must be made by or authorised by a person who holds a personal licence.
2. No supply of alcohol may be made under the premises licence:-
 - (a) at a time when there is no Designated Premises Supervisor in respect of the premises licence or
 - (b)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

- available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available
7. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
8. For the purposes of the condition set out at 7 —
- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
- b) “permitted price” is the price found by applying the formula—
- $$P = D + (D \times V) \text{ where—}$$
- i) P is the permitted price,
- ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
- i) the holder of the premises licence,
- ii) the designated premises supervisor (if any) in respect of such a licence, or
- iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
9. Where the permitted price given by Paragraph (b) of paragraph 8 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
10. Any person acting in the capacity of a Door Supervisor must be registered in accordance with the requirements of the Security Industry Authority.

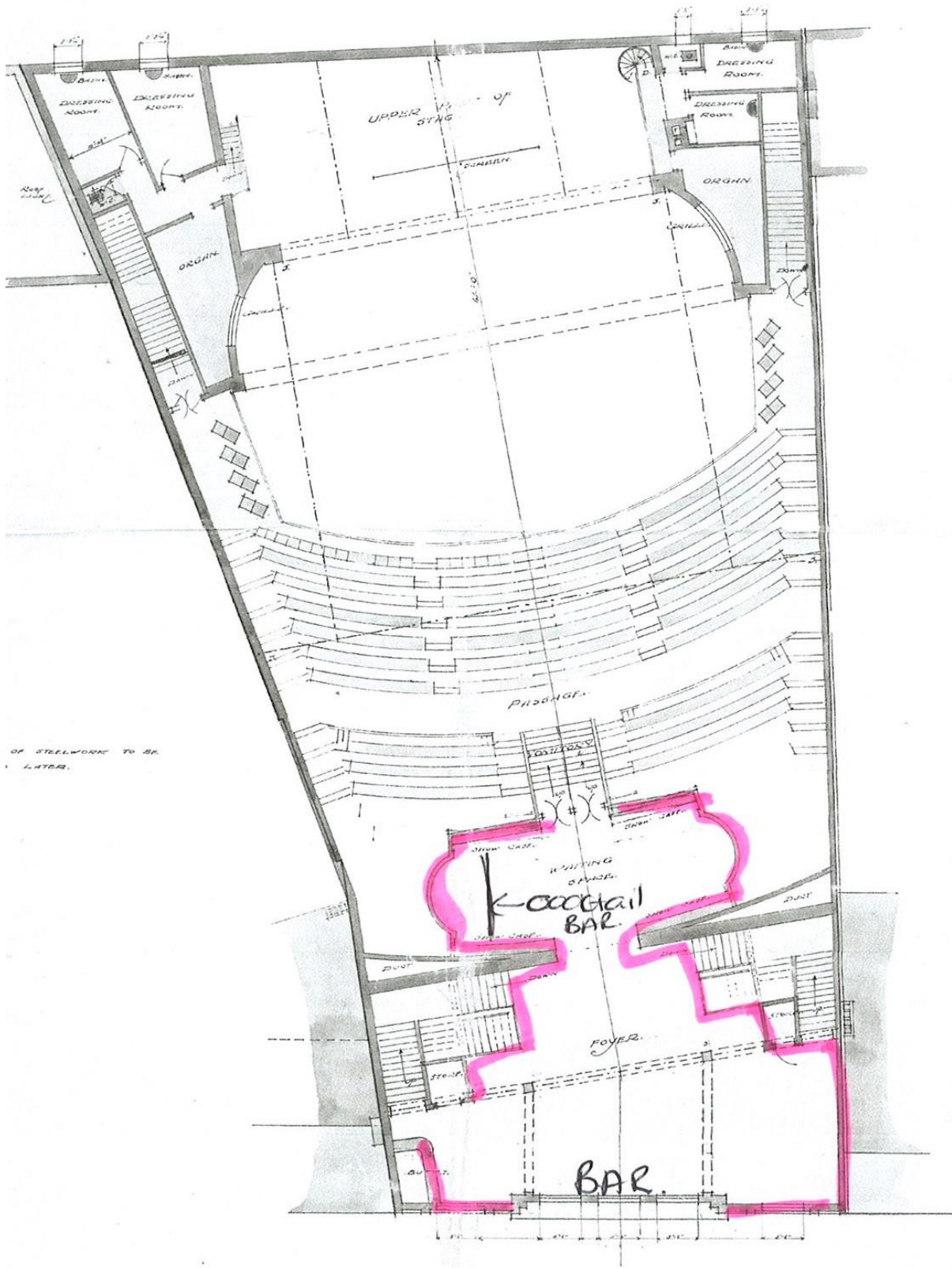
The admission of children to film exhibitions must be limited to those films classified as suitable for children by the film classification body. Where no classification has been made the licence holder must approach the Licensing Authority who will then classify the film. The same restriction will then apply

Annex 2 – Conditions consistent with the operating schedule

- 1. The entire premises shall be covered by colour, digital CCTV which shall be operational at all times the premises are open for licensable activities. All recordings to be retained for a minimum of 28 days and to be made available to the police or licensing authority within 7 days of request.**
- 2. The premise licence holder and/or DPS must report any technical failures/ faults of the CCTV system to Darlington alcohol harm reduction unit along with the details of steps taken to remedy the faults, within 24 hours of the fault occurring.**
- 3. An incident book shall be kept with details of all issues of concern in respect of each operational floor within the premises. All staff shall be trained in the use of this incident book. This book shall be produced to the police and licensing authority on request.**
- 4. The Challenge 21 Proof of Age scheme shall be implemented requiring specific photographic proof of age from any person who attempts to purchase alcohol and appears to be under 21 years of age.**
- 5. A refusals register shall be maintained in respect of each licensed floor. All staff shall be trained in its use and such training shall be documented. This book shall be produced to the police and licensing authority on request.**
- 6. Staff at the premises involved in the retail sale of alcohol shall receive induction and refresher training, relating to underage sales, drug policies, operating procedure and the times and conditions of the premises licence. This training shall be provided to all new staff members and refresher training provided on an annual basis. These records shall be made available to the Police and/or Local Authority upon request and shall be kept for at least one year.**
- 7. There shall be clear and legible signage displayed at exit points requesting that patrons leave quietly and show due consideration to local residents.**
- 8. Patrons shall not be permitted to take glassware of any kind outside of the premises.**
- 9. One door supervisor shall be stationed on each of the upper floors from 21:00hrs when regulated entertainment consisting of Live and Recorded Music and Dancing is taking place.**
- 10. Children under the age of 18 years of age shall only be permitted access to the Cocktail Bar and Main Bar until 21.00 hours providing they are accompanied by an adult. This restriction shall not apply to accompanied children attending a pre-arranged function.**
- 11. All drinks to be consumed of The Terrace shall be served in polycarbonate or toughened glass.**
- 12. Staff shall clear all polycarbonate glasses, and carafes from The Terrace promptly**



PLAN OF GROUND FLOOR



FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Darlington Borough Council, Licensing Services

Town Hall,

Darlington. DL1 5QT

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I Sgt 2722 Charlotte Martin [on behalf of] the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**The Majestic
Bondgate**

Post town: Darlington

Post code (if known): **DL3 7JT**

2. Premises licence details:

Name of premises licence holder (if known): LYALL EVENTS AND ENTERTAINMENT LIMITED

Number of premises licence holder (if known): DL16/00704

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

On the evening of Saturday 21st October 2023, a large scale disturbance took place at the Majestic licensed premises, Bondgate, Darlington. Police Control Room were contacted by a medic named Kelly Storey. She stated that a male at the Majestic had had his ear bitten off whilst at a boxing event at the premises.

The assault took place in the cocktail bar area of the premises. There were both males and females in attendance along with some children.

On Police attendance, both witnesses and the victim were spoken to. The suspect was identified and efforts were made to arrest the male.

CCTV was reviewed at the premises and copies were provided to Police which covered the incident and shows the following. At 10:18pm, there were approximately 30 persons within the cocktail bar area of the premises. Male 1 enters the the room from the main bar. Male 2 appears to make a comment directed at Male 1 and then punches Male 1 in the face. Male 1 reacts to this and is then held back from getting to Male 2. Male 3 then enters the room from the bar and proceeds directly to Male 2. He immediately assaults Male 2 by punching him to the head and body causing Male 2 to fall to the floor; a female is also punched to the face and falls to the ground. Male 3 is pulled away in to the centre of the room where he continues to fight and throw punches. Male 4 then approaches the group in an apparent effort to break up the fight. Male 4 is dragged into the disturbance and within reach of Male 3. Male 4 is then seen to be underneath Male 3's head and when eventually pulled away by others, it is discovered that Male 4 has had 3/4 of his right ear bitten off. One door staff member eventually escorts Male 3 out of the premises.

During the incident, there are approximately 15 persons directly involved in the disturbance, throwing punches and trying to pull people back from the fighting. Two female adults can be seen being punched and fall to the ground during the incident. In addition, a female child, who appears to be aged 8-9 years old, can be seen in the cocktail bar just 16 seconds before the incident begins. She is with an adult and they walk through the group who begin to fight and into the main bar area.

The incident shows a clear Section 20 Assault which is Greivous Bodily Harm, in addition to other public order and violence offences. Male 4 has been left with life changing injuries - a deformity of his right ear.

The Premises Licence for the Majestic shows that the premises does not have a Licence to show any boxing or wrestling events. Further scrutiny of our records show that no Temporary Event Notice had been submitted prior to the event. Due to this event going ahead, neither Durham Constabulary or

Darlington Borough Council were aware of the event or what measures were put in place to prevent incidents of crime and disorder occurring.

The footage of the disturbance is indeed shocking and it is fortunate that no one else was seriously hurt.

Durham Constabulary have significant concerns relating to the organising and running of this event by the Designated Premises Supervisor and as such seek the removal of the Designated Premises Supervisor and suspension of the Premises Licence.

Durham Constabulary feel that the Crime and Disorder Licensing Objective has been significantly undermined and request a Summary Review of the Premises Licence.

Signature of applicant: Charlotte Martin

Date: 23/10/2023

Capacity: Licensing Sgt

Contact details for matters concerning this application:

**Address: Durham County Council, Licensing Services
St Johns Road North, Meadowfield,
DH7 8RS**

Telephone number(s): 0191 3752351

Email: charlotte.martin@durham.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be

expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

Appendix 1

DURHAM CONSTABULARY

FORCE HQ

AYKLEY HEADS

Durham County Council

DHI 5TT

CERTIFICATE UNDER SECTION OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with both serious crime and serious disorder.

Premises: The

Majestic Bar,

Bondgate,

Darlington.

DL3 7JT

Premises Licence number (if known): DL16/00704 Name of

Premises Supervisor (if known): JOHN LYALL THOMPSON

I am a Superintendent in Durham Constabulary.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, and that it is proportionate in the circumstances.

There has been an incident at the above-named premises where a charity boxing event was taking place. The Premises Licence for that venue does not allow a boxing event to take place at any time unless it was granted as part of a Temporary Event Notice. I am aware that no such TEN notice was applied for or granted for the event. Due to this event going ahead, neither Durham Constabulary or Darlington Borough Council were aware of the event or what measures were put in place to prevent incidents of crime and disorder occurring.

At 10:29pm on Saturday 21st October 2023, Durham Constabulary were made aware of an incident in the cocktail bar of the premises where a violent disturbance occurred, and a male victim was assaulted and had ¼ of his right ear bitten off by another male at the event. Several persons not directly involved in the disturbance, were knocked to the floor and assaulted throughout, including women. Children were also present in the immediate vicinity at the time.

The male victim has sustained a serious life changing injury with a deformity to his ear. An investigation has commenced, and a suspect has been identified and arrested. Enquiries are ongoing for the offence of Sec 20 Grievous Bodily Harm.

This requires immediate action via an expedited review to prevent any further serious repercussions associated with any potential future event held at the premises. The expedited process would enable the Police and Licencing Authority to seek the removal of the DPS and the suspension of the Premises

Licence whilst the criminal investigation is ongoing and to fully determine the suitability of such persons to be involved in the ongoing running of this premises. This is the only proportionate action available at this time.

SIGNED:

.....
SIGNED: 

DATED: 23.10.23

DATED:

PRINT NAME: KELLY MARTIN
TITLE:

TITLE: SUPERINTENDENT.

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

Date of Notification: 3 November 2023

Type of Hearing: Application for a Premises Licence Review

Premises: Majestic
80 Bondgate
DARLINGTON
DL3 7JT

Hearing Details: Wednesday 15 November 2023

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

Copy of notice sent to: Lyall Events and Entertainment Ltd
(Premise Licence Holder)
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 and return to the Licensing Section **no later than 8 November 2023**.

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, 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.



Services Group
Licensing
Town Hall
Darlington DL1 5QT
Tel: 01325 405888
Email: licensing@darlington.gov.uk

**NOTICE OF ATTENDANCE
APPLICATION FOR A PREMISE LICENCE REVIEW**

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

DATE OF HEARING: Wednesday 15 November 2023 at 10.00
NAME OF PREMISES: Majestic
80 Bondgate
DARLINGTON DL3 7JT

YOUR NAME:

I will* will not* be attending the meeting

I will* will not* be legally represented

NAME OF LEGAL REPRESENTATIVE
(IF APPROPRIATE):

(*please ✓ where 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: Licensing
Darlington Borough Council
Block D, Town Hall
Feethams
DARLINGTON
DL1 5QT

Or email brian.murray@darlington.gov.uk and licensing@darlington.gov.uk

LICENSING SUB COMMITTEES

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

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

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

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

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

The Licensing Manager will outline the application.

2. **The Representor's Case**

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

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

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

3. **The Applicant's Case**

- [1] The Applicant or his/her representative presents his/her application for a licence.
- [2] The Applicant or his/her representative will then call any witnesses and/or give evidence in support of his/her application.
- [3] The Representor(s) may then question the Applicant if they have given evidence and any witnesses.
- [4] The Chair or any Member of the Licensing Sub Committee through the Chair will ask questions of the Applicant and any witnesses.
- [5] The Applicant or his/her representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

4. The Applicant will be asked by the Chair of the Sub Committee whether, in the light of the information heard in relation to the application, they wish 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 they are prepared for Members to consider an amended application if they are minded to refuse the original application, the Objectors will be given the opportunity to comment on the amended application.

5. **Closing Statement or Summary**

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

6. **Conclusion**

All decisions will be made in private.

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

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

If the Licensing Sub-Committee has excluded the public, once a decision has been reached, the press and public will be re-admitted to the meeting together with the

Applicant, Responsible Authorities and Other Persons. At this stage, the Chair will announce the Sub Committee's decision, will give reasons for the decision and advise all parties of rights of appeal. The decision will subsequently be formally notified to the Applicant(s), Responsible Authorities and Other Persons in writing, including their rights of appeal as soon as possible after the Hearing.

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EXTRACTS FROM DARLINGTON COUNCIL'S LICENSING POLICY

(Effective FROM 01 January 2021)

1.2 The Licensing Act 2003 supports a number of other key aims and purposes.

These include:

- a) Providing the Police and the Council with powers to effectively manage and police the night-time economy and take action against any premises that are causing problems.
- b) Protecting local residents and visitors to Darlington from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.
- c) Recognising the important role which pubs and other licensed premises play in the local economy by reducing, where possible the regulatory burden on businesses and supporting responsible premises.
- d) Providing a regulatory framework for alcohol which enables the Council to make and enforce appropriate decisions about the most appropriate licensing strategies for the borough of Darlington; and
- e) Encouraging greater involvement in licensing decisions by local residents the opportunity in respect of licensing decisions which may affect them.

1.3 In addition this Policy also aims to:

- promote more responsible attitudes to alcohol and responsible drinking.
- raise awareness of the level of alcohol related health problems.
- protect children and residents from the negative impact of alcohol.
- reduce the rate of alcohol related crime and disorder and anti-social behaviour.
- promote a responsible licensed trade.

6.0 PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

NB This Policy concentrates on premises that provide multiple licensable activities. Further information is provided at Section 12.7 - 12.8 in respect of premises to which many parts of this Policy do not fully apply.

In many cases it may be helpful to all concerned for applicants and/or their advisers to discuss with Licensing Authority Officers the draft-operating schedule before it is formally submitted. This will help to ensure it properly addresses all issues of concern to the Licensing Authority (see glossary of terms in respect of “grandfather rights” for current licensees).

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.

Reason: To comply with the legislative requirements of the Licensing Act 2003.

7.0 THE IMPACT OF LICENSABLE ACTIVITIES

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

Applicants should therefore consider the following when making an application:

- a) The proposed hours and days of operation and how often an activity occurs.**
- b) The location of the premises, particularly in relation to residential properties and such places as hospitals, hospices and places of worship.**
- c) The number and type of current and future customers.**
- d) The means of access and egress to the premises which should have public access on principal pedestrian routes.**

- e) **The availability of public transport for patrons arriving at and leaving the premises compared to the anticipated level of private transport usage.**
- f) **The likely effect of car parking demand on both principal roads and residential streets and the impact this may have on local residents and emergency access.**
- g) **The need for provision of portable toilet facilities outside of the premises.**
- h) **The cumulative impact of licensed premises within the area and the scope for mitigating such impact.**
- i) **Waste disposal arrangements including bin storage and the collection and containment of litter from the vicinity of the premises.**
- j) **Public nuisance caused by unauthorised advertising and fly-posting**

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

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

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

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

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

7.3 **Additional Information:**

The Licensing Authority will focus on matters within the control of the individual licensee and the steps they can take to achieve the licensing objectives.

In making its decisions the Licensing Authority accepts the difficulties that licence holders face in preventing anti-social behaviour once patrons are beyond the direct control of the licensee. However, the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly behave in an anti-social way which impacts on local residents and/or businesses.

The Licensing Authority recognises a 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.

11.3 Steps to be taken by Licensees to Address Crime and Disorder Issues

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

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

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

11.3 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) Effective and responsible management of premises.
- b) Training and supervision of staff.
- c) Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other Voluntary Codes of Practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA).
- d) Acceptance of accredited means of age identification eg DVLA photo driving licence or 'proof of age' cards.
- e) Provision of effective digital CCTV in and around premises.
- f) Employment of Security Industry Authority licensed door-staff.
- g) Provision of plastic or shatter resistant glasses.
- h) Provision of secure, deposit boxes for confiscated items.
- i) Procedures for assessing risk associated with promotions and events such as "happy hours" for the potential to cause crime and disorder and plans for minimising such risks.
- j) Measures to prevent the use or supply of illegal drugs.
- k) Employment of licensed door supervisors and other appropriately trained staff.
- l) Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with bottles or glasses (on licence sales).
- m) Provision of litterbins and other security measures, such as lighting, outside premises.
- n) Membership of Darlington 'PubWatch' scheme.

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

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

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

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003
(REVISED APRIL 2018)**

PURPOSE

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

Legal status

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

Licence conditions – general principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives.
 - must be precise and enforceable.
 - must be unambiguous and clear in what they intend to achieve.

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

Each application on its own merits

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

Other relevant legislation

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

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).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). 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.

- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement as well as the police, in respect of these matters. **Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.**

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

- 11.3 An application for review may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority.

For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the

licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.

11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is

appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

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

trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

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

- for prostitution or the sale of unlawful pornography.
- by organised groups of paedophiles to groom children.
- **as the base for the organisation of criminal activity, particularly by gangs.**
- for the organisation of racist activity or the promotion of racist attacks.
- for employing a person who is disqualified from that work by reason of their immigration status in the UK.
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

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