
APPLICATION TO VARY PREMISE LICENCE UNDER LICENSING ACT 2003

PURPOSE OF REPORT

1. To invite Members to consider an application to vary a premise licence to
 - Add the provision of Late Night Refreshment as a licensable activity
 - Vary the permitted hours when alcohol may be sold
 - Vary the opening hours of the premises

LEGISLATION

2. 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
3. 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.

APPLICATION DETAILS

4. An application has been received to vary the premise licence in respect of the Brinkburn Public House on Lady Kathryn Grove, Darlington, DL3 0YR. The application seeks to add late night refreshment as a licensable activity and to vary the hours when alcohol can be sold. **A copy of the application is attached at Appendix 1 and a copy of the current premise licence is attached at Appendix 2.**
5. The proposed hours of operation are:-
 - Late Night Refreshment Friday and Saturday 23.00 to 00.00.
 - Sale of Alcohol Sunday to Thursday 11.00 to 23.00 and
Friday and Saturday 11.00 to 00.00
 - Opening Hours Sunday to Thursday 11.00 to 23.00 and
Friday and Saturday 11.00 to 00.30.

6. The Premise Licence Holder for these premises is The Spirit Pub Company (Services) Limited of Westgate Brewery Bury St Edmonds.
7. The Premise Licence Holder applied for the grant of a premise licence on 19 August 2005 and following the receipt of representations, Members considered the application at their meeting on 11 October 2005, and after due deliberation Members granted the application in part and restricted the hours when alcohol could be sold and also the provision of regulated entertainment. This decision was appealed to the Magistrates Court and was heard on 3 February 2006 by South Durham Magistrates Court.
8. The Magistrates upheld the Council's decision and the premise licence was granted as follows:-
 - Sale of Alcohol for consumption on and off the premises from 11.00 to 23.00 every day
 - Regulated entertainment from 11.00 to 23.00 every day
 - Opening Hours from 11.00 to 23.30 every day

A copy of the Licensing Sub Committee minutes ref LS56 is attached at Appendix 3

9. On 14 February 2008, the Premise Licence Holder submitted an application for the grant of a premise licence which mirrored their current licence with the addition of the provision of facilities for dancing between the hours of 11.00 to 23,00 every day. The application was unopposed and was granted on 23 May 2008.
10. The current Designated Premises Supervisor for the premises is Karen Josephine Davies. Ms Davies has been the Designated Premises Supervisor for these premises since 24 August 2016.
11. The Licensing Section consulted on the application with the Responsible Authorities and the application was placed on the Councils website and advertised in a local newspaper.
12. On 2 October 2018, the Council's Planning Section advised that they had no objections to the application, and on 3 October 2018, Environmental Health advised that they did not have any objections to the application.
13. The Chief Fire Officer responded on 5 October 2018 to advise that the Fire Officer had no objections to the application and on 10 October 2018, the Chief Constable also advised that the police had no objection to the application.
14. In response to the application, Licensing received 5 objections to the application and 1 letter of support for the application. The comments are attached at **Appendix 4**.
15. Members are referred to the relevant sections of the Council's Licensing Policy which are reproduced at **Appendix 5** and also to the Secretary of State's Guidance and this has been reproduced at **Appendix 6**.

MEMBERS OPTIONS

16. Members may consider the following options in relation to this application
 - Grant the licence in accordance with the application
 - Grant the licence and add, alter or amend any licence condition as you may consider necessary for the promotion of the four licensing objectives
 - Reject the whole or part of the application
17. Members are aware that any aggrieved party to the application may appeal any decision of the Licensing Sub Committee to the Magistrates Court.

IAN WILLIAMS

DIRECTOR OF ECONOMIC GROWTH AND NEIGHBOURHOOD SERVICES

Julie Richings - Licensing Manager ext 6391

APPENDICES

APPENDIX 1	Application Form
APPENDIX 2	Current Premise Licence
APPENDIX 3	Minute LS56/2005
APPENDIX 4	Representations
APPENDIX 5	Extracts from Council's Licensing Policy
APPENDIX 6	Extracts from Secretary of State's Guidance

Application to vary a premises licence under the Licensing Act 2003

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 this 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.

You may wish to keep a copy of the completed form for your records.

LICENSING
CERTIFIED COPY

- 1 OCT 2018

I/We Spirit Pub Company (Services) Ltd

BY: POST

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number DL16/01335/VARDPS

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description Brinkburn Lady Kathryn Grove Darlington			
Post town	Darlington	Postcode	DL3 0YR

Telephone number at premises (if any)	01325 464309
Non-domestic rateable value of premises	£92,000

Part 2 – Applicant details

Daytime contact telephone number	01284 763222		
E-mail address (optional)	licensing@greeneking.co.uk		
Current postal address if different from premises address	Spirit Pub Company (Services) Ltd Westgate Brewery		
Post town	Bury St Edmunds	Postcode	IP33 1QT

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?

Yes

No

If not, from what date do you want the variation to take effect?

DD MM YYYY
| | | | | | | | | |

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1) Yes No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

To vary the following:

Provision of late night refreshment
Friday to Saturday 23:00 to 00:00

Sale of alcohol by retail
Sunday to Thursday 11:00 to 23:00
Friday to Saturday 11:00 to 00:00

Hours open to the public:
Sunday to Thursday 11:00 to 23:30
Friday to Saturday 11:00 to 00:30

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment (Please see guidance note 3) Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)

Supply of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 8)			Please give further details (please read guidance note 5)
Day	Start	Finish	
Mon			State any seasonal variations for indoor sporting events (please read guidance note 6)
Tue			
Wed			
Thur			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 7)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 5)		
Tue			State any seasonal variations for boxing or wrestling entertainment (please read guidance note 6)		
Wed					
Thur					
Fri			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place <u>indoors or outdoors or both</u> – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the performance of live music (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place <u>indoors or outdoors or both</u> – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for the playing of recorded music (please read guidance note 6)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 8)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 4)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish				
Mon			Please give further details here (please read guidance note 5)			
Tue						
Wed			State any seasonal variations for the performance of dance (please read guidance note 6)			
Thur						
Fri			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 7)			
Sat						
Sun						

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing			
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both – please tick (please read guidance note 4)		Indoors	<input type="checkbox"/>
Mon					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Tue			Please give further details here (please read guidance note 5)			
Wed						
Thur			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 6)			
Fri						
Sat			Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 7)			
Sun						

I

Late night refreshment Standard days and timings (please read guidance note 8)			<u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 6) As per premises licence granted		
Thur					
Fri	23:00	00:00	<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 7) As per premises licence granted		
Sat	23:00	00:00			
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption – please tick (please read guidance note 9)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 6) As per premises licence granted		
Mon	11:00	23:00			
Tue	11:00	23:00			
Wed	11:00	23:00			
Thur	11:00	23:00			
Fri	11:00	00:00			
Sat	11:00	00:00			
Sun	11:00	23:00			
			<u>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 7) As per premises licence granted		

K

<p>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 10).</p>
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L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6) As per premises licence granted
Day	Start	Finish	
Mon	11:00	23:30	
Tue	11:00	23:30	
Wed	11:00	23:30	
Thur	11:00	23:30	
Fri	11:00	00:30	
Sat	11:00	00:30	
Sun	11:00	23:30	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

No changes to the licensing plans currently deposited with the licensing authority.

M Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)

As per premises licence granted

b) The prevention of crime and disorder

As per premises licence granted

c) Public safety

As per premises licence granted

d) The prevention of public nuisance

As per premises licence granted

e) The protection of children from harm

As per premises licence granted

Checklist:

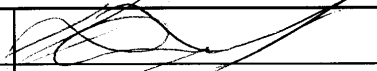
Please tick to indicate agreement

- I have made or enclosed payment of the fee; or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 5 – Signatures (please read guidance note 12)

Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	28 th September 2018
Capacity	Licensing Manager

Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent (please read guidance note 14). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)

Hannah Loynds
Greene King
Westgate Brewery

Post town	Bury St Edmunds	Post code	IP33 1QT
Telephone number (if any)	01284 714140		



Licensing

Town Hall, Feethams, Darlington. DL1 5QT
Tel: (01325) 405888

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

PART A

Licensing Act 2003 Premise Licence **The Brinkburn**

Premises Licence Number	DL16/01335/VARDPS
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PART 1 – PREMISES DETAILS

Premises Details:	BRINKBURN Lady Kathryn Grove, Darlington, DL3 0YR
Telephone number:	01283 545320

Licence effective from:	24 August 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)	11:00 - 23:00	Every Day
Regulated Entertainment: Live Music, Recorded Music, Provision of Facilities for Dancing and Provision of Facilities for entertainment similar to dancing	11:00 - 23:00	Every Day

Premises Opening Hours:	11:00 - 23:30	Every Day
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Non-standard/seasonal timings:

The licensable activities specified in this licence may be provided from the start of permitted hours New Year's Eve until the end of permitted hours New Year's Day.

PART 2

Premises Licence Holder:	Spirit Pub Company (Services) Limited, Westgate Brewery, Bury St Edmunds Suffolk IP33 1QT
Telephone Number:	01284 763222
Designated Premises Supervisor:	Karen Josephine Davies, The Brinkburn, Lady Kathryn Grove, Darlington,
Personal Licence No:	DL06/00092/PERSON
Issuing Authority:	Darlington Borough Council

Annex 1 Mandatory Conditions:

- 1. Every Supply of alcohol under the premises licence must be made by or authorised by a person who holds a personal licence.**
- 2. No supply of alcohol may be made under the premises licence:-**
 - (a) at a time when there is no Designated Premises Supervisor in respect of the premises licence or**
 - (b) at a time when the designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.**
- 3. (1) The 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.

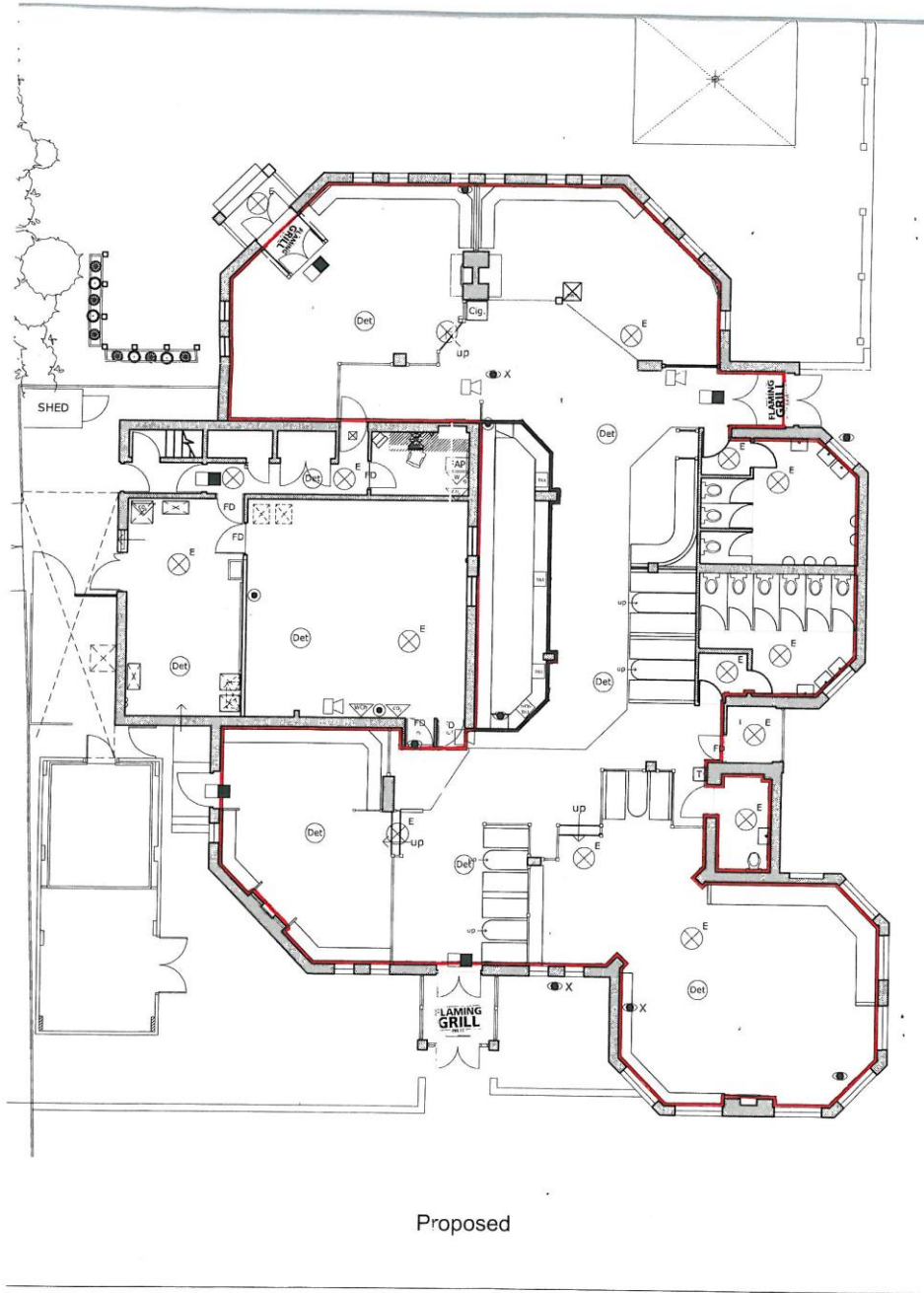
Annex 2 Conditions consistent with the Operating Schedule and/or converted from the Original Licence(s):

- 1. The CCTV system (internal and external) shall be maintained in proper working order, all recordings shall be properly stored and retained for a minimum of 28 days and produced on request to the Police and Authorised Officers of the Council.**
- 2. Clear and legible signage will be prominently displayed within the premises at each exit requesting that patrons leave the establishment in a quiet and orderly manner. Announcements are to be made to this effect from 11pm onwards.**
- 3. All windows and doors to the premises will remain closed (except for normal ingress and egress) when regulated entertainment is offered within the premises.**
- 4. Staff will check the outside of the premises every hour when entertainment is taking place to ensure that noise levels do not disturb local residents.**
- 5. Regular staff training is provided for all staff members in health and safety, licensing and all other relevant legislation and that such training is to be documented.**
- 6. There will not be any irresponsible drinks promotions including “all you can drink” for an admission fee, ‘2 for the price of one’, low priced offers or similar promotions and that the premises will sign up on an annual basis to Darlington Borough Council’s Responsible Drinking Code.**
- 7. There will be in place a Drugs Policy approved by the Licensing Authority and Durham Constabulary, which will be complied with by all staff and patrons.**
- 8. An incident logbook must be kept and all incidents entered immediately after the event. This book is to be produced on request of a Police Officer or Authorised Officer of the Council.**
- 9. No adult entertainment of any type will be offered.**
- 10. Any person who appears to be under the age of 21 will be required to produce photographic evidence of identity (passport or DVLA driving licence) at the point of sale of alcoholic beverages.**
- 11. Persons under the age of 18 years will not be permitted into any part of the premises unless accompanied by an adult and at all times supervised by an adult.**
- 12. All children under the age of 18 years will be required to leave the premises at 9.00 pm.**

Annex 3 Conditions attached after Licensing Authority Hearing:

None

Annex 4 Premise Plan



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

.....
Authorised Officer
Date of Issue: 5 September 2016

LICENSING SUB-COMMITTEE
11th October, 2005

PRESENT – Councillors Flowers, Hartley and Maybrey. (3)

APOLOGIES – Councillor Newall.

ALSO IN ATTENDANCE – Councillor Foster. (1)

LS54. ELECTION OF CHAIR – RESOLVED – That Councillor Hartley be appointed Chair for this meeting only.

LS55. DECLARATIONS OF INTEREST – There were no declarations of interest reported at the meeting.

LS56. PREMISES LICENCE APPLICATION – GRANT – THE BRINKBURN - The Director of Development and Environment submitted a report (previously circulated) giving details of a contested application from Spirit Group Limited in relation to the Brinkburn, Lady Kathryn Grove to grant its Premises Licence.

Mr. Kevin Walker, Business Development Manager of the Spirit Group and Mr. and Mrs. Davies, the Managers of the Brinkburn, represented by their solicitor, Claire Johnston, addressed the meeting and responded to Members' questions. The applicant's representatives also responded to the 'points of clarification' highlighted in the submitted report.

The applicants advised the Licensing Sub-Committee at the commencement of the hearing that they were amending their application from the hours originally requested to the hours of 11.00 a.m. to 11.00 p.m. Sunday to Thursday, and 11.00 a.m. to 12.00 midnight Friday and Saturday for the sale of alcohol on and off the premises.

Mr. Stephen Todd, Environmental Health Manager who made representations addressed the meeting and responded to the 'points of clarification'. There were also a number of representations made from residents of Lady Kathryn Grove and Bawton Grove and Mrs. Taylor, Mr. Gall, Ms. Weston, Mr. Smith, Mr. Pinkney and Mr. Crawley spoke on behalf of the residents and responded to the 'points for clarification' by the interested parties.

In addition, a petition was presented to the Members from residents of Lady Kathryn Grove, Brinkburn Road.

The Sub-Committee considered the views of the objectors and the applicant in accordance with the "Licensing Sub-Committees – Full Hearing Procedure for Applications for Personal Licences Where Representations Have Been Received.

RESOLVED – That the application be granted in part as below :-

- (a) Approved the sale of alcohol on and off the premises as a licensable activity.
- (b) Refused to permit such sales for the hours requested but allow sales (for consumption on and off the premises) from 11.00 a.m. to 11.00 p.m. Mondays to Sundays inclusive.

- (c) Granted the application to provide regulated entertainment (recorded music, live music and anything similar and dancing) between the hours of 11.00 a.m. and 11.00 pm. Monday to Sundays inclusive.

all of the above subject to the following conditions :-

- (i) That the CCTV system (internal and external) shall be maintained in proper working order, all recordings shall be properly stored and retained for a minimum of 28 days and produced on request to the police and Authorised Officers of the Council.
- (ii) That clear and legible signage will be prominently displayed within the premises at each exit requesting that patrons leave the establishment in a quiet and orderly manner. Announcements are to be made to this effect from 11.00 p.m. onwards.
- (iii) That all windows and doors to the premises will remain closed (except for normal ingress and egress) when regulated entertainment is offered within the premises.
- (iv) That staff check the outside of the premises every hour when entertainment is taking place to ensure that noise levels do not disturb local residents.
- (v) That regular staff training is provided for all staff members in health and safety, licensing and all other relevant legislation and that such training is to be documented.
- (vi) That there will not be any irresponsible drinks promotions including "all you can drink" for an admission fee, "2 for the price of one", low priced offers or similar promotions and that the premises will sign up on an annual basis to Darlington Borough Council's Responsible Drinking Code.
- (vii) That there will be in place a drugs policy approved by the Licensing Authority and Durham Constabulary, which will be complied with by all staff and patrons.
- (viii) That an incident log book must be kept and all incidents entered immediately after the event. This book is to be produced on request of a Police Officer or Authorised Officer of the Council.
- (ix) That no adult entertainment of any type will be offered.
- (x) That any person who appears to be under the age of 21 years will be required to produce photographic evidence of identity (passport or DVLA driving licence) at the point of sale of alcoholic beverages.
- (xi) That persons under the age of 18 years will not be permitted onto any part of the premises unless accompanied by an adult and at all times supervised by an adult.

- (xii) That all children under the age of 18 years will be required to leave the premises at 9.00 p.m.

In making its decision the Sub-Committee took into account :-

- (a) The representations made by the Interested Parties particular in relation to the licensing objective concerned with the prevention of Public Nuisance
- (b) Members acknowledged that the premises were not a Town Centre venue and were situated in a residential area.
- (c) Members believed that an 11.00 p.m. terminal hour for licensable activities was reasonable for this type of area.

17 October 2018

The owners of The Brinkburn Pub have applied to vary the premises licence as follows:

Provision of late night refreshment - Friday to Saturday 23:00 to 00:00

Sale of alcohol by retail - Sunday to Thursday 11:00 to 23:00 and Friday to Saturday 11:00 to 00:00

Hours open to the public Sunday to Thursday 11:00 to 23:30 and Friday to Saturday 11:00 to 00:30

Please could you put an objection into the Licensing Manager on my behalf.

The pub's owners failed in a previous attempt to increase regular opening times after many objections from nearby residents. Since that time the pub and residents have co-existed fairly well, indeed it is nice to have it on the doorstep. However this application to increase the hours risks bringing it into conflict with residents yet again. Customers and vehicles exiting the pub later into the night will bring unacceptable noise and disturbance to people in what is a densely populated residential area.

Hello,

I am writing to object to the proposed extension of the licence for "The Brinkburn" Pub. As a parent of 3 young children I find the current noise level late at night barely tolerable as it is. What I'm sure the landlord fails to appreciate is that beyond closing time, there is the long, protracted period of noise as late night drinkers continue their conversations / arguments on the stumble home. This often takes place on the path (Desmond Way) between the houses of Lady Kathryn Grove, Brawton Grove, Mansley Court and Hartington Way, guaranteeing maximum disturbance at the rear of as many properties as possible. If you look at the floor plans of these properties, the rear rooms are predominantly the smaller bedrooms, making it far more likely that the children of the household will be those most affected.

I can only imagine the increase in level of noise and decrease in speed of travel caused by allowing this extended drinking time. Although I understand the desire to maximise profits, this, above all, is a residential area and not a town centre hotspot. I believe it is the council's responsibility to protect families from this kind of permanent permission to cause disturbance and the misery it will potentially cause.

I look forward to your response,

20 October 2018

From

Sent:20 Oct 2018 19:46:29 +0100

To:Licensing

Subject:Brinkburn pub licence application

Dear licensing, I wish to object to the extended hours as a resident in Lady Kathryn grove. It is already ridiculous on a night now with shouting laughing screaming and general noise from the pub. It should be closed if anything.

Sent: 11 Oct 2018 13:34:06 +0000
To: Licensing
Subject: Application by Spirit Pub re Brinkburn ,Brinkburn road.

Dear sir,

I am writing to object to the Application submitted by Spirit Pub Co to extend the opening hours at The Brinkburn pub.

My reasons are:

1. The pub is situated in a predominately residential area ,unsuited for late night opening.
2. There is considerable disturbance, shouting ,swearing , cars revving etc, from customers leaving the pub at its current closing time.
3. By granting later opening hours this disturbance will be moved to well after midnight when most local people are asleep .Why should residents have their quality of sleep disturbed so that the pub can make extra profit?
4. Spirit Pub co have not demonstrated that there is an overwhelming demand from their customers for late night drinking.
5. What customer and residents surveys have they carried out to support this application?
6. When 24 hour drinking was previously introduced the Brinkburn applied to be open 24 hours ,is this a repeat?

I request that the Licencing Committee refuse this this application.

From:
Sent:15 Oct 2018 14:53:06 +0100
To:Licensing
Subject:The Brinkburn late licence

Hi my name is XXXXXXXXXX and the Brinkburn is my local pub. I work away all week and like nothing better than going out for a couple of drinks and maybe something to eat on a Friday night when i get home, sometimes that's not till late. The Brinkburn is a great place to unwind after a hard week but unfortunately just as i start to relax last orders are called. I have been up there when they have an act on and a temporary licence has been issued till 12 oclock and have to say its fantastic. I have heard that the Brinkburn has applied for a permanent licence on a Friday and Saturday, i think this is a great idea. My husband and i enjoy a night out but don't like going down the town as it can get a bit rowdy and we both at the age where we want to enjoy ourselves in a warm and friendly atmosphere. I'm not sure if it is the done thing sending emails about things like this but I find people are always quick to complain and very rarely say when someone is getting it right. The landlady and staff have definitely got this pub right. Buy issuing a late licence more people can enjoy this amazing pub. Thankyou for taking the time to read this.

Kind regards

The Licensing Officer
Darlington Borough Council
The Town Hall
Feethams
Darlington
DL1 5QT

RECEIVED LICENSING
25 OCT 2018
BY: CHARLENE GUGI

23rd October 2018

To Whom it May Concern

Representation for License Variation Application by The Brinkburn Pub

We wish to write to you to present a representation objecting to the license variation application made by The Brinkburn Pub to increase their licensing hours.

As a resident in the street and directly opposite to The Brinkburn Pub on its west side we feel that an increase in licensing hours will have a detrimental effect to our lives, other residents and the local area.

The Brinkburn is in a completely residential area and surrounded by family houses on all sides. We feel very strongly that due to the location of The Brinkburn it should be managed in a manner that attracts families and not late-night entertainment and drinking.

We have two young children who both have bedrooms to the front of our property directly facing The Brinkburn. They already experience disturbances when there is late night entertainment and during the summer children playing outside (within the pub premises) beyond 9pm.

At present we already experience patrons being very loud when either drinking outside the pub, smoking or leaving the premises. During summer the patrons are loud when drinking outside, we have had them playing loud music from their cars, arguments, extremely bad language shouted (which can be heard by my children) and drones flown over our garden. Children are still on the premises after 9pm, kicking footballs around the carpark entrance and sometimes in the street. All this disruption can be heard by my children and ourselves when we are trying to relax at home.

At closing time there is an increase in traffic, often people beep their horns, and I think that it will be greatly unfair as a local resident that we will experience this disruption and noise until 12.30am. The noise levels may be further raised as patrons will have had longer to consume alcohol. My daughter is a competitive swimmer and often has galas on weekends, meaning that we must leave very early on a Saturday or Sunday morning, before 7am. It is vital that she has a good, restful sleep the night before and is not disrupted. One of my biggest concerns is the live music acts that seem to be

happening monthly. At present we are subjected to extremely loud music until 11.30pm and then everyone leaves the pub. This has already woken my children who both have bedrooms to the front of our property. The music could be heard above us watching television and later in our bedrooms. I think it is very unfair that this may consequently play until beyond midnight.

In addition to the noise concerns there are times that broken bottles and glass are in the street and on the road.

We also now experience the noise and pollution presented to us for 5 hours every Monday when the Battle Bus parks in the carpark. It runs a very noisy generator constantly and I do worry about the additional pollution this is creating in a highly populated area.

We fully understand that living opposite a pub will create some additional noise and disruption and at present we tolerate these disturbances (within reason) and accept the current licensing hours. We don't feel that our family should suffer any further disruption and disturbance for the sake of a large company simply adding to their profit margins. A small gain to the Spirit Group would have a large negative impact on our family and potentially other residents.

We would be most grateful for your support in presenting our concerns to the licensing committee.

Yours Sincerely

LICENSING POLICY in relation to THE LICENSING ACT 2003

1.0 INTRODUCTION

1.1 Darlington Borough Council is a Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment. Conditions can be attached to licences only to ensure the following:

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

These are known as the "Licensing Objectives" are the only matters which can be considered when determining an application. The Council's decision making ability is constrained either by the provisions of the Act and/or Regulations made under the Act. The Council is also required to have regard to guidance from the Secretary of State but may, if it considers it appropriate, deviate from the guidance where there are good reasons, which can be justified. The Policy must not ignore or be inconsistent with the provisions of the Licensing Act 2003. In determining its Policy the Council will give appropriate weight to the views of those it has consulted.

1.2 The Licensing Act 2003 also 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;

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.

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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:

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.

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

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entertainment providers should be encouraged to provide a range of entertainment during their operating hours, to promote live music, dancing and theatre for the wider cultural benefit the community.

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

9.3 Location and Impact Of Activity

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

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

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

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

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

9.4.1 Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the highway. It may be exacerbated by patrons being noisy when leaving, leaving litter or taking up on-street car parking space needed by residents. The impact of noise generated by these activities, especially patrons departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

9.4.2 Parts of this Borough are very sensitive to the impact of licensed activities because they are either residential in character or close to residential areas. Many shopping areas are close to residential areas, including housing above commercial premises. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of patrons arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents being prevented from parking close to their homes and by increasing the danger from traffic in residential streets.

- 9.4.3 However, some commercial areas in the Borough, particularly the Town Centre may be more suitable locations for licensed activities, especially those with late opening hours or which attract significant numbers of people. In the Town Centre, more patrons are likely to travel by public transport and licensable activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening

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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

Revised Guidance issued under section 182 of the Licensing Act 2003

Public nuisance

- 2.15** 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.
- 2.16** 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.
- 2.17** 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 16). 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.

- 2.18 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.
- 2.19 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.
- 2.20 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.
- 2.21 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.

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.

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. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. 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. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment 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 is retained at the licensed 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.