

FOR CHAIR AND MEMBERS  
OF THE LICENSING SUB COMMITTEE  
27 DECEMBER 2023

**APPLICATION FOR TEMPORARY EVENT NOTICE (TEN)**

<b>Applicant:</b>	<b>LEWIS METCALFE</b>	<b>Ref No: DL23/011629/TEMP</b>
<b>Premises:</b>	<b>THE OLD DUN COW 6 POST HOUSE WYND DARLINGTON DL3 7LU</b>	
<b>Requested Licensable Activities</b>	<b>SALE OF ALCOHOL FOR CONSUMPTION ON PREMISES; PROVISION OF REGULATED ENTERTAINMENT</b>	
<b>Requested Hours:</b>	<b>23:30 - 04:00, SUNDAY 31 DECEMBER 2023 TO MONDAY 1 JANUARY 2024</b>	
<b>Event times</b>	<b>23:30 - 04:00</b>	

**Notification to Responsible Authorities: 12 DECEMBER 2023**

Police  
Environmental Health

**LEGISLATION:**

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

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

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

**TEMPORARY EVENT NOTICE (TEN)**

The system of permitted temporary activities is intended to be a light touch process where notice is given by the premises user that they intend to carry out specified activities. The Police and Environmental Health Team have three working days to object to the notice on the basis of any of the above four licensing objectives.

## DESCRIPTION OF PREMISES

The applicant has described the premises as:

*'Public House'*.

The nature of the event is described as:

*'Disco and paying bar for New Years Eve closing at 2.30am.'*

## CURRENT PREMISES LICENCE

The Old Dun Cow currently has a premises licence for the sale of alcohol and provision of regulated entertainment with a number of conditions attached. This licence along with the conditions is attached at **Appendix 1**. Licensable activities can take place each Sunday between 11.00 and 23.30. There is no provision on this licence for hours to be extended on New Years Eve, which is on a Sunday this year.

## APPLICATION

On the 12 December 2023 an application was properly made by the applicant Lewis Metcalfe from The Old Dun Cow, Darlington in accordance with Section 100 of the Licensing Act 2003, for the sale by retail of alcohol on the premises, and the provision of regulated entertainment (**Appendix 2**). Police and Environmental Health were consulted as required by the Act.

## THE REPRESENTATIONS

On the 14 December 2023, the Licensing Department received representations from Durham Constabulary that holding this event would undermine the crime and disorder, public safety and public nuisance objectives of the Licensing Act.

In summary, the police state that New Year's Eve is one of the most challenging nights of the year for all the emergency services and is synonymous with high levels of intoxication, along with drink fuelled violence. They would argue that any lengthening of the licencing hours over this period would add greatly to the potential for crime and disorder in the town centre.

The Old Dun Cow has several conditions attached to its licence, which provide some confidence that the premises are upholding the licensing objectives. Allowing a TEN would permit the premises to operate without a requirement for conditions, most worryingly no requirement for door staff or CCTV. These representations are reproduced in full at **Appendix 3**.

On the 19 December 2023 the applicant responded by offering to amend the times from 4am to 2am and offer all the conditions of their licence, including door staff.

As this offer is not legally binding since there is no authority to impose those conditions, police maintained their objection.

Relevant information from Darlington Borough Councils Licensing Policy is at **Appendix 4**.

Relevant information from Section 182 Guidance to the Licensing Act 2003 is at **Appendix 5**.

## **ROLE OF THE LICENSING AUTHORITY**

If the licensing authority receives an objection notice from the police or environmental health it must hold a hearing to consider the objection unless all parties agree that this is unnecessary. The licensing committee may decide to allow the activities to go ahead as stated in the notice.

As this is a notice in connection with activities at a licensed premises, the licensing authority may impose one or more of the existing licence conditions on the TEN (provided such conditions are consistent with the event) if it considers this appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must provide the premises user with a 'statement of conditions' and provide a copy to each relevant party.

The Licensing Act only allows the licensing authority to impose conditions on a TEN from the existing conditions on the premises licence, regardless of the premises user's views or willingness to accept conditions.

The Licensing Committee can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must issue a counter notice.

The applicant and police have been invited to attend this hearing.

## **MEMBERS' OPTIONS**

Members may consider the following options and must make its determination at the conclusion of this hearing:

1. Allow the event to go ahead – with or without conditions
2. Serve a Counter Notice to prevent the event going ahead.

Members are reminded that an aggrieved party may appeal any decision of the Licensing Sub Committee to the Magistrates' Courts.

**Dave Winstanley**  
**Director of Group Services**

Contact Officer: Colin Dobson  
X 5988

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**For admin use only:**  
**Sub Committee Decision:**

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



**Appendix 1** – Premises Licence

**Appendix 2** – Application for TEN

**Appendix 3** – Response Police

**Appendix 4** – DBC Policy extract

**Appendix 5** – Relevant Section 182 guidance

## Appendix 1



**DARLINGTON**  
Borough Council

## Licensing Act 2003 – Part A

PREMISES LICENCE – LAPREM00322

Premise Details:	<b>The Old Dun Cow</b> <b>6 Post House Wynd DARLINGTON DL3 7LU</b>
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Date Granted:	<b>9 March 2023</b>	Duration of Licence:	<b>Not Time Limited</b>
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## Licensable Activities

Activity	Days of Week	Open	Close
Sale of Alcohol for consumption both on and off the Premises	Monday to Wednesday	11:00	00:00
	Thursday to Saturday	11:00	01:00
	Sunday	11:00	23:30
Live Music, Recorded Music, Provision of facilities for Dancing, Provision of facilities similar to dancing	Monday and Wednesday	11:00	00:00
	Thursday to Saturday	11:00	01:00
	Sunday	12:00	00:30
Opening Hours	Every Day	08:00	01:30

Non Standard Times  
N/A

Premises Licence Holder:	<b>LJM Pub Company LTD</b> <b>5 - 7 Post House Wynd DARLINGTON DL3 7LU</b>
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Details of designated premises supervisor where the premises licence authorises for the supply of alcohol

Name:	<b>Mr Steven James Tait</b>
Licence Number:	<b>DL16/01314/PERSON</b>
Licensing Authority:	<b>Darlington Borough Council</b>

## 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.

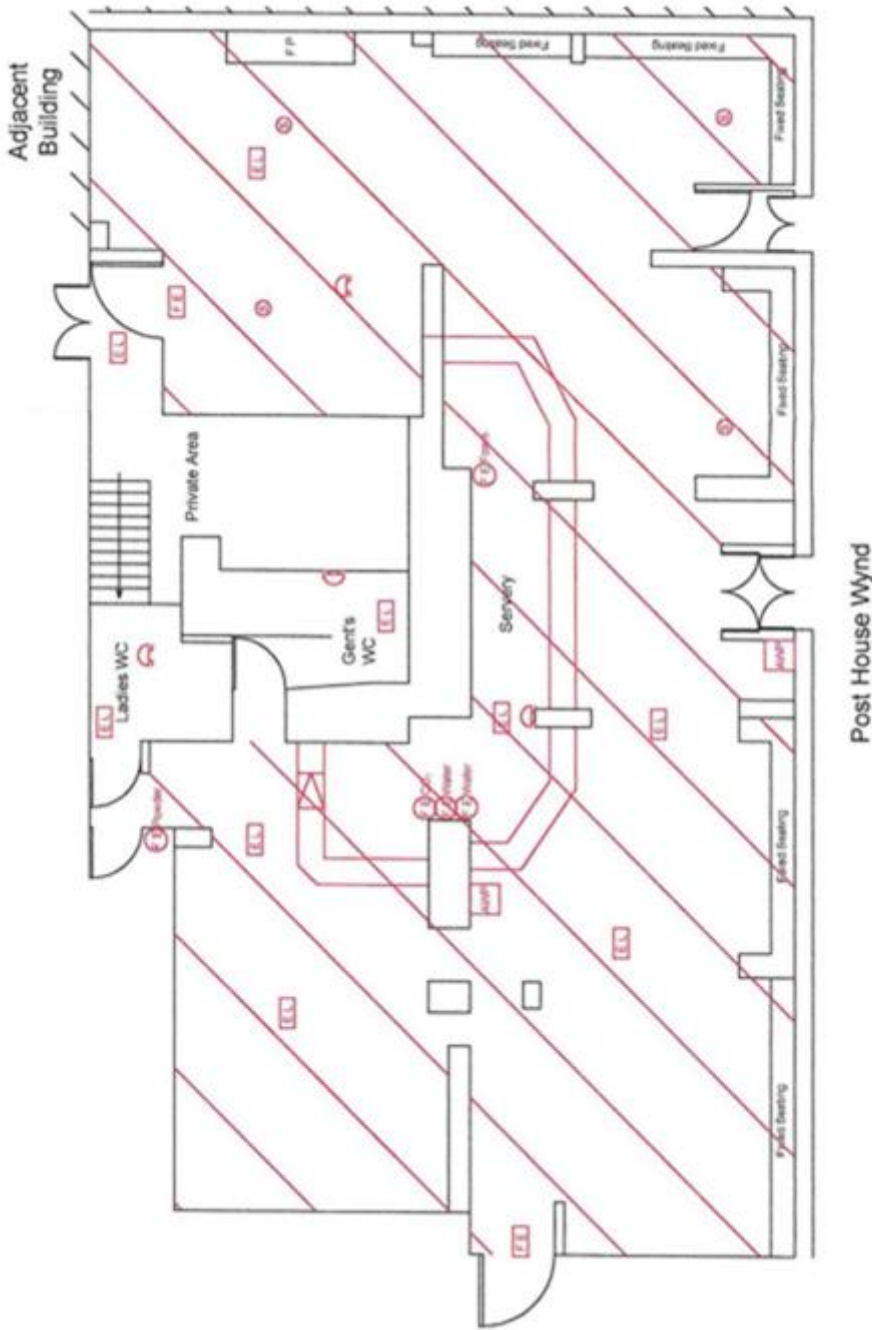
## Annex 2 – Conditions consistent with the operating schedule

1. All staff shall be fully trained to perform their role. They will also be trained in the contents of the premise licence including times of operation, licensable activities and all conditions. Such training will be recorded in a register. The register will be made available to the Police or an authorised officer of the council upon request.
2. The premise shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. The register will be available for immediate inspection by police or authorised officers of the council.
3. The premise shall maintain an incident book, which shall be made available to the Police and authorised officers of the local authority upon request.
4. A CCTV system will be installed and in operation at all times the premises are being used for licensable activity. It must be operated by properly trained staff. All public areas will be covered, including entrances, exits and outside area.
5. Recording will be retained for a minimum of 28 days.
6. The premise will ensure that at least one trained member of staff is available to operate the system at all times the premise is open and download any images requested by an authorised officer and provided within 7 days.
7. No patrons shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle. This condition shall not apply to patrons who have purchased beverages for consumption off the premises with the express consent to the designated premises supervisor or responsible person.
8. The premises will have a drugs policy in place.
9. A minimum of 1 SIA door supervisors shall be on duty at the entrance of the premises from 19.00 until close every Friday and Saturday. At all other times the provision of door staff will be risk assessed by management of the premises.
10. All windows in the premises will remain closed when regulated entertainment is taking place.
11. Children under the age of 16 will not be allowed entry to the premises unless they are accompanied by an adult.
12. Children under the age of 16 years will not be allowed entry to or to remain on the premises after 19:00.
13. For all pre-booked functions at the premises, the DPS shall assess whether a door supervisor is required.

### Annex 3 – Conditions attached after a hearing by the licensing authority

None

## Annex 4 – Plans



Issued in accordance with the application for the transfer of a premise licence

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Authorised Officer

Date of Issue 24 March 2023

## PREMISES LICENCE GUIDANCE

1. Your Premises Licence has been granted and is enclosed.
2. The annual fee is due on the anniversary of its grant, unless you are exempt (e.g. community premises). Please ensure that the annual fee is paid on time.
3. Your Premises Licence has been granted for an unlimited period of time and is subject to the conditions mentioned in the licence.
4. You must ensure that the Premises Licence, or a certified copy of it, is kept at the premises in the custody or under the control of yourself or a person ("the nominated person") who works at the premises and whom you have nominated in writing for these purposes. A person commits an offence if he or she fails, without reasonable excuse, to comply with these requirements. The maximum fine is £500 on conviction.
5. You must ensure that a Summary of the Premises Licence, or a certified copy of that Summary, is prominently displayed at the premises. If you have nominated a person ("the nominated person"), under 4 above, you must prominently display at the premises a notice specifying the position held at the premises by that person. A person commits an offence if he or she fails, without reasonable excuse, to comply with these requirements. The maximum fine is £500 on conviction.
6. A Police Constable or an Authorised Person may require the holder of the Premises Licence or the nominated person to produce the Premises Licence, or a certified copy of it, for examination. A person commits an offence if he or she fails, without reasonable excuse to comply with these requirements. The maximum fine is £500 on conviction.
7. Where a Premises Licence or Summary is lost, stolen, damaged or destroyed, the holder of the licence may apply to the Council for a copy of the licence or Summary. A fee of £10.50 is payable.
8. Subject to reinstatement in certain circumstances, a Premises Licence lapses if the holder the licence dies, becomes mentally incapable, becomes insolvent, or is dissolved.
9. Where the holder of a Premises Licence wishes to surrender their licence they may give the Council notice to that effect. The notice must be accompanied by the Premises Licence or, if that is not practicable, by a statement of the reasons for the failure to provide the licence. The Premises Licence lapses on receipt of the notice by the Council.
10. The holder of a Premises Licence must, as soon as reasonably practicable, notify the Council of any changes in:
  - Name and address
  - Name and address of the Designated Premises Supervisor (unless that Supervisor has already notified the Council)

The notice must be accompanied by the Premises Licence or, if that is not practicable, by a statement of the reasons for the failure to provide the licence. The Premises Licence lapses on receipt of the notice by the Council. A fee of £10.50 is payable.

A person commits an offence if he or she fails, without reasonable excuse, to comply with these requirements. The maximum fine is £500 on conviction.

11. The holder of a Premises Licence may apply to the Council at any time for variation of the licence. Amongst other things, an application form will need to be completed, a fee will need to be paid and the application will need to be advertised and served on the Responsible Authorities. Please contact the Council for an application form and a guidance leaflet on how to apply for a variation. Please note that a Licence may not be varied to extend the period for which a licence has

effect, or to vary substantially the premises to which it relates – in those cases an application for a new Premises Licence will need to be made; please contact the Council for further details.

12. The holder of a Premises Licence may, if the licence authorises the supply of alcohol (or if it is intended to vary a licence so that it authorises the supply of alcohol), apply to vary the licence so as to specify the individual named in the application as the Designated Premises Supervisor. Amongst other things, an application form will need to be completed, a fee will need to be paid and the notice of the application must be given to the Police. It is possible for the applicant to ask for such a variation to have immediate effect on an interim basis. Please contact the Council for an application form and guidance leaflet on how to apply for a variation.
13. The Premises Licence may be transferred following an application made to the Council for a transfer of the Licence. Amongst other things, an application form will need to be completed, a fee will need to be paid and notice of the application must be given to the Police. It is possible for the applicant to ask for a transfer to have immediate effect on an interim basis. Please contact the Council for an application form and a guidance leaflet on how to apply for a transfer.
14. Where a Premises Licence has effect, and Interested Party or a Responsible Authority may apply to the Council for a review of the licence. You will be notified if an application is made to review your Premises Licence and you will have the opportunity to make representations about a review and to attend before the Council's Licensing Committee.
15. Your attention is drawn in particular to Part 7 of the Licensing Act 2003 which concerns offences under the Licensing Act 2003.

