



## *LICENSING SUB COMMITTEE AGENDA*

**Wednesday, 3 April 2024 at 11.00 am in the Bridges Room - Civic Centre**

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From the Chief Executive, Sheena Ramsey

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Item Business

**1 Application for Premises License (Pages 3 - 162)**

Report of Strategic Director, Economy Innovation and Growth

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**TITLE OF REPORT:** **Application for a Premises Licence**  
Asda Express, 6-8 Front Street, Whickham, Newcastle upon Tyne, NE16 4DT

**REPORT OF:** **Strategic Director; Economy Innovation and Growth:**  
Licensing Officer

## 1. PURPOSE OF THE REPORT

The Sub-Committee is asked to consider the application from Gosschalks LLP on behalf of Euro Garages Limited for a premises licence for Asda Express, 6-8 Front Street, Whickham, Newcastle upon Tyne, NE16 4DT.

Representations to the application were received from 11 members of the public, and 1 from Liz Twist MP.

## 2. BACKGROUND

### The Application

The application submitted by Gosschalks LLP on behalf of Euro Garages Limited ('Applicant') for a premises for Asda Express, 6-8 Front Street, Whickham, Newcastle upon Tyne, NE16 4DT is attached at Appendix 1.

The application was seeking:

Supply of alcohol (off the premises only)

Monday- Sunday 00:00- 24:00 hours

Late Night Refreshment

Monday – Sunday 23:00 – 05:00

However following discussion with Northumbria Police and the Licensing Authority, the Applicant has now amended the application as follows:

Supply of alcohol (off the premises only)

Monday- Sunday 06:00- 22:00 hours

The hours applied for now reflect the current opening hours of the premises, as a result the Late Night Refreshment element has been withdrawn completely.

The application was advertised at the premises and in the local press.

The Licensing Authority may attach conditions to any licence which are appropriate for the promotion of the Licensing Objectives. A copy of the Model Pool of Conditions from Gateshead Council's Statement of Licensing Policy is attached as Appendix 1.1 that relate to the application.

### **3. REPRESENTATIONS & MEDIATION**

The following representation was received:

- Liz Twist MP (Appendix 2)
- Tom and Gwen Keating (Appendix 2.1)
- Hilary and Paul Maggiore (Appendix 2.2)
- Brian Joyce (Appendix 2.3)
- Pauline and Ken McKay (Appendix 2.4)
- Joan and John Cowan (Appendix 2.5)
- Clare Ure (Appendix 2.6)
- Catherine Hearne (Appendix 2.7)
- Ann Short (Appendix 2.8)
- Mr and Mrs Bridgewood (Appendix 2.9)
- Frank McCoy (Appendix 2.10)
- Joseph Wheatley (Appendix 2.11)

The Applicant and Northumbria Police agreed a reduction in hours.

### **4. PARTIES**

The Parties to the hearing will be:

- Euro Garages Ltd
- Gosschalks LLP
- Liz Twist MP
- Tom and Gwen Keating
- Hilary and Paul Maggiore
- Brian Joyce
- Pauline and Ken McKay
- Joan and John Cowan
- Clare Ure
- Catherine Hearne
- Ann Short
- Mr and Mrs Bridgewood
- Frank McCoy
- Joseph Wheatley

### **5. FOR CONSIDERATION**

The areas for consideration by the Sub-Committee are:

- The licence application
- The representation; and
- Whether or not the application should be granted.

## **6. THE POLICY & GUIDANCE**

When carrying out its functions the Sub-Committee must have regard to:

- (a) the Statement of Gateshead Council's Licensing Policy, and
- (b) the Amended Guidance (August 2023) issued under Section 182 of the Licensing Act 2003 by the Secretary of State.

Some relevant parts of the Policy and Amended Guidance are reproduced in Appendices 3 and 4. The parties may refer to any part of the Policy and Guidance during the hearing.

An area plan is attached at Appendix 5.

## **7. FOR DECISION**

The Sub-Committee is asked to consider the application, decide whether or not it should be granted, and if relevant, attach such conditions as it deems appropriate for the promotion of the Licensing Objectives.

## APPENDICES

Appendix	1	Application for a Premises Licence
	1.1	Pool of Model Conditions from Gateshead Council's Licensing Policy
Appendix	2	Representation from Liz Twist MP
	2.1	Representation from Tom and Gwen Keating
	2.2	Representation from Hilary and Paul Maggiore
	2.3	Representation from Brian Joyce
	2.4	Representation from Pauline and Ken McKay
	2.5	Representation from Joan and John Cowan
	2.6	Representation from Clare Ure
	2.7	Representation from Catherine Hearne
	2.8	Representation from Ann Short
	2.9	Representation from Mr and Mrs Bridgewood
	2.10	Representation from Frank McCoy
	2.11	Representation from Joseph Wheatley
Appendix	3	Relevant Extracts from Gateshead Council's Licensing Policy
Appendix	4	Relevant Extracts from the Guidance issued under Section 182 of the Licensing Act 2003
Appendix	5	Area Plan

\* required information

**Section 1 of 21**

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

RJT.JB 84773.18604

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes  No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

**Applicant Details**

\* First name

EURO GARAGES LIMITED

\* Family name

EURO GARAGES LIMITED

\* E-mail

[REDACTED]

Main telephone number

01482 324252

Include country code.

Other telephone number

[REDACTED]

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

Applying as a business or organisation, including as a sole trader  
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.

**Applicant Business**

Is the applicant's business registered in the UK with Companies House?

Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number

04246195

Business name

EURO GARAGES LIMITED

If the applicant's business is registered, use its registered name.

VAT number

- [REDACTED]

Put "none" if the applicant is not registered for VAT.

Legal status

Private Limited Company

Continued from previous page...

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Agent Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

**Agent Business**

Is your business registered in the UK with Companies House?  Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status



*Continued from previous page...*

Your position in the business

Home country

The country where the headquarters of your business is located.

**Agent Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 21**

**PREMISES DETAILS**

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

**Premises Address**

Are you able to provide a postal address, OS map reference or description of the premises?

- Address     OS map reference     Description

**Postal Address Of Premises**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Further Details**

Telephone number

Non-domestic rateable value of premises (£)

**Section 3 of 21****APPLICATION DETAILS**

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company / limited liability partnership
- A partnership (other than limited liability)
- An unincorporated association
- Other (for example a statutory corporation)
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales

**Confirm The Following**

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of His Majesty's prerogative

**Section 4 of 21****NON INDIVIDUAL APPLICANTS**

Provide name and registered address of applicant in full. Where appropriate give any registered number. In the case of a partnership or other joint venture (other than a body corporate), give the name and address of each party concerned.

**Non Individual Applicant's Name**

Name

EURO GARAGES LIMITED

**Details**

Registered number (where applicable)

04246195

Description of applicant (for example partnership, company, unincorporated association etc)

Continued from previous page...

COMPANY

**Address**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Contact Details**

E-mail

Telephone number

Other telephone number

\* Date of birth  /  /   
dd mm yyyy

\* Nationality  Documents that demonstrate entitlement to work in the UK

[Add another applicant](#)

**Section 5 of 21**

**OPERATING SCHEDULE**

When do you want the premises licence to start?  /  /   
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end  /  /   
dd mm yyyy

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off- supplies you must include a description of where the place will be and its proximity to the premises.

CONVENIENCE STORE / PETROL FILLING STATION

*Continued from previous page...*

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

**Section 6 of 21**

**PROVISION OF PLAYS**

See guidance on regulated entertainment

Will you be providing plays?

Yes

No

**Section 7 of 21**

**PROVISION OF FILMS**

See guidance on regulated entertainment

Will you be providing films?

Yes

No

**Section 8 of 21**

**PROVISION OF INDOOR SPORTING EVENTS**

See guidance on regulated entertainment

Will you be providing indoor sporting events?

Yes

No

**Section 9 of 21**

**PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS**

See guidance on regulated entertainment

Will you be providing boxing or wrestling entertainments?

Yes

No

**Section 10 of 21**

**PROVISION OF LIVE MUSIC**

See guidance on regulated entertainment

Will you be providing live music?

Yes

No

**Section 11 of 21**

**PROVISION OF RECORDED MUSIC**

See guidance on regulated entertainment

Will you be providing recorded music?

Yes

No

**Section 12 of 21**

**PROVISION OF PERFORMANCES OF DANCE**

See guidance on regulated entertainment

Will you be providing performances of dance?

Continued from previous page...

**Section 13 of 21**

**PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE**

See guidance on regulated entertainment

Will you be providing anything similar to live music, recorded music or performances of dance?

Yes  No

**Section 14 of 21**

**LATE NIGHT REFRESHMENT**

Will you be providing late night refreshment?

Yes  No

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Give timings in 24 hour clock.  
(e.g., 16:00) and only give details for the days  
of the week when you intend the premises  
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Continued from previous page...

Will the provision of late night refreshment take place indoors or outdoors or both?

- Indoors                       Outdoors                       Both

Where taking place in a building or other structure tick as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of late night refreshments at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

### Section 15 of 21

#### SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

- Yes                       No

#### Standard Days And Timings

MONDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

Continued from previous page...

WEDNESDAY

Start  End

Start  End

THURSDAY

Start  End

Start  End

FRIDAY

Start  End

Start  End

SATURDAY

Start  End

Start  End

SUNDAY

Start  End

Start  End

Will the sale of alcohol be for consumption:

- On the premises     Off the premises     Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Continued from previous page...

**Name**

First name

Family name

Date of birth  /  /   
dd mm yyyy

**Enter the contact's address**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Personal Licence number (if known)

Issuing licensing authority (if known)

**PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT**

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

**Section 16 of 21**

**ADULT ENTERTAINMENT**

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

Give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

NONE



Continued from previous page...

**Section 17 of 21**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Give timings in 24 hour clock.  
(e.g., 16:00) and only give details for the days  
of the week when you intend the premises  
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

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**Section 18 of 21**

**LICENSING OBJECTIVES**

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

Staff shall be trained in the premises licence holder's procedures which include liquor licensing and all checkout operators shall have additional training in the sale of alcohol.

All spirits will be displayed behind the counter.

No miniature bottles of spirits of 20cl or below shall be sold from the premises. Please note this does not apply to pre packaged gift packs which may contain a spirit miniature.

b) The prevention of crime and disorder

A CCTV system will be installed and maintained at the premises. Cameras will cover internal areas and the external area immediately in front of the store. The system will be capable of continuously recording and copies of such recordings shall be kept for a period of not less than 31 days and handed to the Police or authorised person upon production of a compliant 'Access Request'.

All spirits will be displayed behind the counter.

c) Public safety

The premise licence holder seeks to comply with the requirements of the health and safety legislation.

d) The prevention of public nuisance

e) The protection of children from harm

The store will have a till prompt system for alcohol products.

When prompted, staff will adopt a Challenge 25 proof of age scheme.

Only recognised forms of photographic identification such as Passport, Photo Driving Licence, 'Proof of Age' card, Military ID or any other form of identification agreed with the police will be accepted as proof of age. If the appropriate proof of age is not produced there will be no sale.

Notices are to be prominently displayed advising customers of the Challenge 25 policy.

**Section 19 of 21**

**NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK**

*Continued from previous page...*

**Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

**Documents which demonstrate entitlement to work in the UK**

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

*Continued from previous page...*

- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - (i) working e.g. employment contract, wage slips, letter from the employer,
    - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
    - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

*Continued from previous page...*

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

#### **Home Office online right to work checking service**

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

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#### **NOTES ON REGULATED ENTERTAINMENT**

*Continued from previous page...*

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08:00 and 23:00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
  - o a performance of unamplified live music between 08:00 and 23:00 on any day, on any premises.
  - o a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08:00 and 23:00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o a performance of amplified live music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - o any playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o any playing of recorded music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o any playing of recorded music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

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- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

## Section 21 of 21

### PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Premises Licence Fees are determined by the non-domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at [http://www.voa.gov.uk/business\\_rates/index.htm](http://www.voa.gov.uk/business_rates/index.htm)

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £87000 £315.00

Band D - £87001 to £125000 £450.00\*

Band E - £125001 and over £635.00\*

\*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £125000 £900.00

Band E - £125001 and over £1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.

Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college.

If you operate a large event you are subject to ADDITIONAL fees based upon the number in attendance at any one time

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

\* Fee amount (£)

190.00

### DECLARATION

**Continued from previous page...**

[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my \* licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15). The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15).

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name	<input type="text" value="GOSSCHALKS LLP"/>
* Capacity	<input type="text" value="SOLICITORS FOR AND ON BEHALF OF THE APPLICANTS"/>
* Date	<input type="text" value="13"/> / <input type="text" value="02"/> / <input type="text" value="2024"/> dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/gateshead/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

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

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED**



**OFFICE USE ONLY**

Applicant reference number	<input type="text" value="RJT.JB 84773.18604"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 Next >

Layout Plan

If you wish to see the layout plan, please contact the licensing authority to arrange an appointment to view this at the Civic Centre.

Tel: 0191 433 4741

Email: [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk)

## APPENDIX 1

### LICENSING ACT 2003 - POOL OF MODEL CONDITIONS

#### CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

1. The Licensee, that is the person in whose name the Premises Licence is issued, shall ensure that at all times when the premises are open for any licensable activity, there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the Licence and for preventing crime and disorder.
2. The Licensee shall ensure that on each day that door supervisors are engaged for duty at the premises, their details (names and licence numbers) are recorded in an appropriate book kept at the premises. In conjunction with this record book, the licensee shall also keep an incident book. This record book and incident book must be available for inspection by the Police or Authorised Officer at all times when the premises are open.
3. Glass bottles containing beverages of any kind shall not be left in the possession of any patrons after service and following the discharge of the contents into an appropriate glass or drinking vessel.
4. Glass bottles containing wine may be sold for consumption with a meal taken at a table, by customers who are seated in an area set aside exclusively for patrons taking table meals.
5. No persons carrying open or sealed glass bottles shall be admitted to the premises at any time that the premises are open for any licensable activity.
6. One pint and half pint capacity drinking glasses, and highball (tumbler) drinking glasses, in which drinks are served, shall be of strengthened glass (tempered glassware) or of a material whereby in the event of breakage, the glass will fragment with no sharp edges being left. Alternatively, drinks may be served in non-glassware drinking vessels (e.g. plastic, polystyrene, waxed paper).  
(Note. Weights and measures legislation requires the use of "stamped glasses" where "meter-measuring equipment" is not in use.)
7. No glass drinking vessels or glass bottles shall be permitted (in the areas described in the attached schedule and delineated on the approved plan.)
8. No patrons shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle, whether empty or containing any beverage.  
(Note. This condition shall not apply to patrons who have purchased beverages for consumption off the premises (within the curtilage of the premises licensed area or in the area covered by a Pavement Café Licence) with the express consent of the Licensee, designated premises supervisor or responsible person.)
9. The Licensee and designated premises supervisor shall ensure that there are effective management arrangements in place to enable them to know how many persons there are in the premises at all times when the premises are open for a licensable activity.

10. The maximum number of persons permitted to assemble on the licensed premises, or relevant part of the licensed premises shall be indicated by a fixed notice bearing the words "Maximum Occupancy" with letters and numbers not less than 20 mm high, conspicuously sited at each relevant part of the premises and at the reception point.
11. All members of staff at the premises including Door Supervisors shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo.
12. A suitably worded sign of sufficient size and clarity shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.
13. A conspicuous notice shall be displayed on or immediately outside the premises adjacent to the entrance to the premises which gives details of times when the premises are permitted to be open for any licensable activity.
14. A conspicuous notice shall be displayed on, or immediately outside the premises, or immediately adjacent to the premises, which gives details of any restrictions relating to the admission of children to the premises.
15. A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing Authority and in consultation with Northumbria Police. Such a system shall:
  - Ensure coverage of all entrances and exits to the Licensed Premises internally and externally,
  - The till area
  - Ensure coverage of such other areas as may be required by the Licensing Authority and Northumbria Police.
  - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (on tape or otherwise) for a period of 28 days, and shall be supplied to the Licensing Authority or a Police Officer on request.
  - Be in operation at all times the premises are in use.
16. The Premises Licence Holder and Designated Premises Supervisor shall co-operate with any reasonable crime prevention initiative which are promoted by the Licensing Officer at Gateshead Police Station from time to time.
17. The Premises Licence Holder and Designated Premises Supervisor shall comply with any reasonable measures required by the Licensing Authority from time to time relating to preventing the sale of alcohol to children.
18. A 'Challenge 25' policy shall be adopted, ensuring that all members of staff at the premises shall refuse to sell alcohol to anyone who appears to be under the age of 25 and who is seeking to purchase alcohol unless that person provides credible photographic proof of age evidence.

19. Implementing and maintaining a 'Challenge 25' policy, including staff training to prevent underage sales, and ensuring that all members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 and who is seeking to purchase cigarettes and/or alcohol. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a 'PASS' logo.
20. Staff are to be made aware of 'proxy sales' and shall refuse sales of alcohol to adults who they suspect are buying alcohol on behalf of children.
21. Staff shall refuse to sell age restricted products to any adult who they suspect to be passing age restricted products to under age children (i.e. proxy sales). Details of these refusals should also be kept in the ledger.
22. Staff are to be given sufficient training agreed with the Licensing Authority in the control of age-restricted products, refresher training for existing staff and training for all new staff.
23. Accurate training records are to be kept for all staff involved in sales of age-restricted products.
24. A refusals ledger shall be maintained, and made available to Local Authority enforcement officers on request. Refusals to be supported by the CCTV cameras.
25. Staff are to be provided with an unobstructed view of the area immediately outside the shop and entrance.
26. Persons under the age of 18 shall only be allowed to enter or remain on the premises prior to 21:00 hours each day, and only when accompanied by a responsible adult, and with the discretion of the Designated Premises Supervisor.
27. No person carrying open or sealed glass bottles shall be admitted to the premises at any time that the premises are open for any licensable activity.
28. There shall be displayed suitably worded signage of sufficient size and clarity at the point of entry to the premises and in a suitable location at any points of sale advising customers that underage sales of alcohol are illegal and that they may be asked to produce evidence of their age.

#### CONDITIONS RELATING TO PUBLIC SAFETY

29. Notices detailing the actions to be taken in the event of fire or other emergency, including how to summon the fire brigade shall be prominently displayed and protected from damage and deterioration.
30. Temporary electrical wiring and distribution systems shall not be provided without notification to the licensing authority at least ten days before commencement of the work and prior inspection by a suitable qualified electrician. Premises shall not be opened to the public until the work is deemed satisfactory by the above parties.

31. Where it is not possible to give ten days notification to the licensing authority of provision of temporary electrical wiring and distribution systems, the work shall be undertaken by competent, qualified persons.
32. All temporary electrical wiring and distribution systems shall be inspected and certified by a competent person before they are put to use.
33. An appropriately qualified medical practitioner shall be present throughout a sports entertainment involving boxing, wrestling, judo, karate or similar.
34. Where a ring is constructed for the purposes of boxing, wrestling or similar sports, it must be constructed by a competent person, and inspected by a Building Control Officer of the Council (at the cost of the applicant). Any material used to form the skirt around the ring must be flame retardant.
35. At any wrestling or other entertainment of a similar nature, members of the public shall not occupy any seat within 2.5 metres of the ring.
36. Any Licensee wishing to hold a 'Total Fighting' event on the licensed premises shall first apply to the Council for a variation of this licence and in the event that such application is granted, shall comply with any additional conditions that may be imposed. The term 'Total Fighting' shall include any 'full contact' martial arts involving the combined codes of judo, karate and ju-jitsu, judo, sombo and Olympic wrestling or any other mixed martial arts.
37. At water sports entertainments, staff adequately trained in rescue and life safety procedures shall be stationed and remain within the vicinity of the water at all material times.

#### CONDITIONS RELATING TO PUBLIC SAFETY IN THEATRES, CINEMAS, CONCERT HALLS AND SIMILAR PLACES

38. The number of attendants on each floor in a closely seated auditorium shall be as set out on the table below:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1	One
101	Two
251	Three
501	Four
751	Five
And one additional attendant for each additional 250 persons (or part thereof)	

39. Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
40. All attendants shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
41. The premises shall not be used for a closely seated audience except in accordance with a seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
42. No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
43. A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.
44. Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
45. Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
46. In no circumstances shall anyone be permitted to:
  - sit in any gangway;
  - stand or sit in front of any exit; or
  - stand or sit on any staircase including any landings.
47. Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to, or be consumed by a closely seated audience except in plastic and paper containers.
48. Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.
49. Any special effects or mechanical installation shall be arranged and stored to minimise any risk to the safety of the audience, the performers and staff.
50. Except with the prior written approval of the Council and subject to any conditions, which may be attached to such approval no special effects shall be used on the premises.

Special effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;

- strobe lighting;
- lasers (see HSE Guide 'The Radiation Safety of Lasers used for display purposes' [HS(G)95] and BS EN 60825: 'Safety of laser products');
- explosives and highly flammable substances.

51. Where premises used for film exhibitions are equipped with a staff alerting system the number of attendants present shall be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 - 500	Two	One
501 - 1000	Three	Two
1001 - 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

52. Staff shall not be considered as being available to assist in the event of an emergency if they are:

- the holder of the premises licence or the manager on duty at the premises; or
- a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
- a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.

53. Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.

54. The staff alerting system shall be maintained in working order and be in operation at all times the premises are in use.

55. The level of lighting in the auditorium shall be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).



## CONDITIONS RELATING TO PUBLIC NUISANCE

56. Windows, doors and fire escapes shall remain closed during proposed entertainment events within the premises
57. Noise generated by amplified music shall be controlled by a noise limiting device set at a level determined by the Local Authority Environmental Health Officer, such level being confirmed in writing to the Licensee.
58. Noise limiting devices, once set, cannot be reset or adjusted without consultation with the Local Authority Environmental Health Officer.
59. The lobby doors at the premises shall be kept closed except for access and egress. Door staff shall supervise to ensure that the doors are maintained closed as far as possible when public entertainment is taking place.
60. Clear and legible notices shall be displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents. In particular, the need to refrain from shouting, slamming car doors and the sounding of car horns shall be emphasised.
61. The premises personal licence holder, designated premise supervisor and door supervisor shall monitor the activity of persons leaving the premises and remind them of their public responsibilities where necessary.
62. Noise and vibration from regulated entertainment shall not be audible at the nearest noise sensitive premises
63. There shall be provided at sufficient regular intervals throughout the premises and grounds, litter bins which shall be emptied and waste removed on a frequent basis, and staff and attendants shall as far as reasonably practicable ensure that the public, members and guests do not litter.

## CONDITIONS RELATING TO THE PREVENTION OF HARM TO CHILDREN

64. Children under 18 years will not be allowed access to the premises.
65. The club premises certificate holder shall ensure that all attendants (including volunteers and staff) who are to supervise children have been properly vetted (by an enhanced DBS check) and have no convictions that would make them unsuitable to supervise children.
66. There shall be child protection policies agreed with the Licensing Authority and actioned accordingly.

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Objection from Liz Twist MP in relation to the Euro Garage, Whickham application:

I note that the original application has been amended and that Euro Garage have amended their application to the sale of alcohol from 24 hours to 6am-11pm.

Having met with residents, they have expressed to me that they are concerned with the premises selling alcohol at **any time** due to the proximity of houses and also the local school. They remain unhappy with the application.

On the basis of the information provided, which has been taken from the statement of Licensing Policy, the licensing application for Euro Garage Ltd should not be granted.

After meeting with local residents and visiting the site, I am of the belief that this premises cannot put measures in place to minimise disruption to local residents.

As stated in paragraph 9.1 of the Licensing Policy, the opening hours beyond 11pm would be more acceptable in commercial or tourist area, which this is not. There is no public transport provision after midnight until approximately 6am.

This brings in to question how customers, wishing to purchase alcohol will travel to the premises. I am concerned that this will lead to an increase in the number of cars being driven by those already under the influence of alcohol.

Whilst the application has been amended, I am still minded to put forward

**9.1** Opening hours beyond 11pm will generally be considered to be more acceptable for premises in commercial or tourist areas with higher levels of public transport availability, rather than premises in predominately residential areas.

This premise is surrounded by residential properties and whilst this is also on a main bus route, the public transport availability is not high, in fact it is reduced after 9pm – on this basis alone the application should not be granted.

**9.2** When considering application, the following should be considered:

Whether the premises is located predominately in a retail or entertainment area – this premises is in a predominately residential area.

Whether the licensed activities are likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it. There will be no measures that can be put in place as the premises is in such close proximity to residential properties.

**3.18** of Gateshead Council Licencing Policy, 7 January 2016 – 6 January 2026, the physical environment, such as school walking routes and residential proximity should be taken into account.

**5.9** states that a reduction of crime and disorder is integral to the council's approach to the Licensing Act. Across the road from the premises is Chase Park, which already has an issue with anti-social behaviour and vandalism.

**5.11** refers to putting public health and community safety at the forefront of public policy making about alcohol. It can be argued that there are already retail stores within the local area which sell alcohol, such as Tesco, which sells alcohol until 11pm.

**5.14** states that Whickham is an alcohol exclusion area. The availability of alcohol should be reduced not increased.

**7.10** a factor to be considered is the impact of opening hours between 11pm-7am. The premises has a number of residential properties within close proximity. There have been occasions where the external lights have been left on all night and this causes a nuisance to the properties across the road and those who live directly next door to the garage.

The lights are bright and intrusive. The ASDA sign gives a green hue throughout the night and causes a nuisance to the neighbours.

**7.11** as above, this section also refers to the siting of external, including security lighting. The current lighting is already causing a nuisance to the residents.

**8.21** The Licensing Act prohibits the sale of supply of alcohol from a premises used primarily as a garage. Section 182 guidance states that the premises are primarily used as a garage if they are used for one or more of the following:

- Retailing of petrol
- Retailing of diesel
- The sale of motor vehicles; and
- The maintenance of motor vehicles.

As the premises is used primarily for the retailing of petrol and diesel, the premise automatically is prohibited from supplying alcohol.

**9.1** Applicants wishing to operate beyond 11pm, will need to demonstrate to the satisfaction of the Licensing Authority, in their operating schedule, that there will be no significant disturbance to members of the public living, working or otherwise engaged in normal activity around the premise concerned.

Local residents have raised concerns about disturbances. The property nearest the garage has advised that they can hear car doors slamming, especially late at night.

**9.2** When considering application, the following should be considered:

Whether the premises is located predominately in a retail or entertainment area – **this premises is in a predominately residential area.**

Whether the licensed activities are likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it. **There will be no measures that can be put in place as the premises is in such close proximity to residential properties.**

**TO:** Licensing Section, Gateshead Council, Civic Centre, Gateshead, NE8 1HH.

**FROM:** MR & MRS KEATING, [REDACTED]

**REF:** Application for Premises Licence Asda Express at Esso Garage, 6-8 Front Street Whickham,

20<sup>th</sup> February, 2024.

**WE WISH TO OBJECT TO THE APPLICATION IN RELATION TO THE FOLLOWING LICENSING OBJECTIVES.**

1. The Prevention of crime and disorder
2. Public Safety
3. The Prevention of Public nuisance
4. The Protection of Children From Harm

**OUR OBJECTIONS ARE AS FOLLOWS:**

We are immediate neighbours of the garage. Our gable end wall adjoins the garage forecourt and we have four windows facing the garage, one a bedroom. We are directly affected by everything going on at the garage. This part of Whickham is residential, in a conservation area and our property, number [REDACTED] is a listed building.

**Our main objections are** the introduction of extended opening hours to 24hours to include alcohol sales and also extended refreshment sales after 11pm till 5am.

The current garage trading hours are restricted through planning applications to protect the residents and the area. For example – through restricted opening hours. The garage is always closed by 10.30pm.

Through control of lighting outside of hours, everything should be switched off except for the internal shop security light.

If 24hr opening is allowed then current lighting restrictions would be ignored.

Other restrictions include - Garage colouring eg the roof banner surround is coloured grey,

the pumps are also colour restricted and the external sign at the edge of the footpath is also restricted.

These do not relate to the licence application but Planning enforcement need to be aware to protect these.

However, the colours of the Asda Express Fascia is a change and is also now brightly illuminated. The old shop fascia was not lit. This is against what was originally permitted.

**Our main concern** is that with extended hours effectively becoming 24hours, with the addition of alcohol and additional overnight refreshments we are genuinely concerned this will add further to existing problems in Whickham, in the park opposite, in the immediate garage area outside our house, Front Street and other nearby locations. The problems include vandalism, unruly behaviour and disturbance. The problems are well known to the Police. They are current concerns and so will be likely to worsen if licence is granted. We

are concerned that alcohol will be purchased by others for use by children under age, and drinking will exacerbate current problems.

**We are also really concerned** that 24hr licence including alcohol and additional refreshment overnight will be like a magnet for people when other premises are closing down.

All of this we also consider to be an increased fire risk.

The new Asda Express fascia is brightly illuminated. This and the other lighting are already an intrusion into our home affecting us as immediate neighbours, and others nearby also. Additional lighting hours will increase that intrusion into our home lives and raise our own feelings of insecurity.

We ask Gateshead Licensing Authority to consider our views and objections and hope we can be supported by refusal of the licence applied for.

Yours sincerely,

MR & MRS KEATING,  
















## Kirsty Jennings

---

**From:** tom keating [REDACTED]  
**Sent:** 21 February 2024 11:03  
**To:** Kirsty Jennings  
**Subject:** Re: Asda Express at Esso Garage, Front Street, Whickham

You don't often get email from [REDACTED] [Learn why this is important](#)

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Hi Kirsty, and thank you for your reply.

Withdrawal of the application would alleviate our concerns.

Opening hours and other restrictions should remain.

Esso can ensure compliance with that. They have already ignored lighting by installing a huge vaping display continuously lit overnight which make a big difference overnight and lighting up the Asda Express fascia.

Those things are more for the enforcement team in planning, but highlight that Esso do things despite planning restrictions.

A change in shop franchise makes no difference. However, with licensing, even if alcohol was allowed but only sold within existing opening times we still have real concerns it would become a magnet and exacerbate problems already in the area as outlined in our objections. Those problems Asda cannot stop, but withdrawing the application would alleviate our fears.

Many thanks.

TOM & GWEN KEATING.

Sent from [Outlook for Android](#)

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**From:** Kirsty Jennings <KirstyJennings@Gateshead.Gov.UK>  
**Sent:** Wednesday, February 21, 2024 9:57:13 AM  
**To:** [REDACTED]  
**Subject:** FW: Asda Express at Esso Garage, Front Street, Whickham

Dear Mr and Mrs Keating,

I confirm receipt of your objection to the licensing application for Asda Express, Whickham.

Can you please let me know if there is anything the applicant can do to alleviate your concerns? Otherwise I will be in touch closer to the last date for representations which is 12<sup>th</sup> March 2024,

I will forward your concerns in relation to planning to the planning enforcement team,

Kind regards

Kirsty Jennings  
Licensing Officer

**Economy, Innovation and Growth, Gateshead Council**  
Civic Centre, Regent Street, Gateshead, NE8 1HH  
☎ 0191 433 3933 ✉ [kirstyjennings@gateshead.gov.uk](mailto:kirstyjennings@gateshead.gov.uk)

**From:** tom keating [REDACTED]  
**Sent:** Tuesday, February 20, 2024 4:35 PM  
**To:** CE Licensing <Licensing@Gateshead.Gov.UK>  
**Subject:** Asda Express at Esso Garage, Front Street, Whickham

You don't often get email from [REDACTED] [Learn why this is important](#)

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**WE WISH TO OBJECT TO THE LICENCE APPLICATION.**

Please see the attached document with our representations in connection with the application for 24hour opening with alcohol sales and additional refreshment provisions between 11pm and 5am.

I am attaching here also some photographs taken from our house immediately adjacent to the garage forecourt. These may help you to appreciate the impact of additional opening overnight beyond the current restricted times and lighting.

I have some day photos and the same photos at night with the garage lighting.  
I have more images if you need some.

We hope you can look at the application from a residents view.

Yours sincerely,  
MR & MRS KEATING  
[REDACTED] Whickham.

Sent from [Mail](#) for Windows

\*\*\*\*\*

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\*\*\*\*\*

**Kirsty Jennings**

---

**From:** tom keating [REDACTED]  
**Sent:** 07 March 2024 21:45  
**To:** Kirsty Jennings  
**Subject:** Re: Licensing Act 2003 - Asda Express, Front Street, Whickham

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I have been occupied with business meetings this afternoon and missed this email until late.  
If you look at our original objections and additional email to you when you asked how our concerns could be alleviated you will see our objections cover alcohol at any time and 24 hour opening.  
Many thanks.  
TOM & GWEN KEATING

Sent from [Outlook for Android](#)

---

**From:** Kirsty Jennings <KirstyJennings@Gateshead.Gov.UK>  
**Sent:** Thursday, March 7, 2024 2:31:36 PM  
**To:** [REDACTED]  
**Subject:** Licensing Act 2003 - Asda Express, Front Street, Whickham

Dear Mr and Mrs Keating

I am emailing you to inform you that the applicant has now amended the times of the application as below:

- Sale of alcohol:  
06:00 – 23:00 (no longer 24 hours)
- Late Night Refreshment:  
23:00 – 05:00 (No change)

Can you please let me know if you still wish to continue with your objection, or withdraw?

I look forward to hearing from you,

Kind regards

Kirsty Jennings  
Licensing Officer

**Economy, Innovation and Growth, Gateshead Council**  
Civic Centre, Regent Street, Gateshead, NE8 1HH  
☎ 0191 433 3933 📧 [kirstyjennings@gateshead.gov.uk](mailto:kirstyjennings@gateshead.gov.uk)

\*\*\*\*\*

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\*\*\*\*\*



## Kirsty Jennings

---

**From:** tom keating [REDACTED]  
**Sent:** 11 March 2024 16:23  
**To:** Kirsty Jennings  
**Subject:** Re: Licensing Act 2003 - Asda Express, Front Street, Whickham

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FOR THE ATTENTION OF KIRSTY JENNINGS, LICENSING OFFICER, Gateshead Council

FROM MR & MRS KEATING [REDACTED] WHICKHAM

Thank you for your further email.

We wish to retain our objections to the Applications for Sale of Alcohol and 24hr opening at the Asda Express, Esso Garage, 6-8 Front Street.

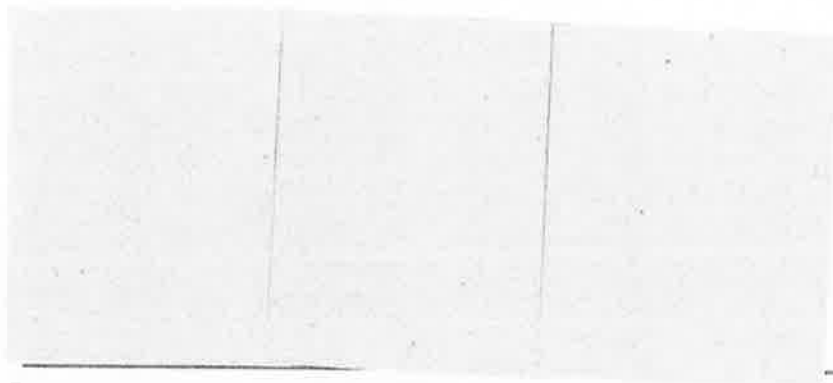
Our email and letter of 20th February outlined our concerns and objections, as requested.

We also wrote on 21<sup>st</sup> Feb saying only withdrawal of the applications would alleviate our concerns. We stressed that even if alcohol was allowed but only sold within existing shop hours our fears and concerns would remain and existing problems in the area would be made worse.

The meeting with neighbours and concerned residents at our house on Friday 8<sup>th</sup> March, attended by our MP Liz Twist, showed real depth of concerns at the application if granted. Concerns over sale of alcohol were expressed, particularly fears of an increase in antisocial behaviour already existing in the area and then further problems with littering, noise disturbance and alcohol related crime activities. Real concerns by residents who wish to see our Council respect our residential area, designated as a conservation area which should have special protections. All in attendance were agreed that any objections would be maintained and would not be withdrawn. There was a feeling of being pushed, bullied and even threatened by this.

We wish to confirm that our objections remain.

Yours sincerely,  
TOM & GWEN KEATING [REDACTED]



---

**From:** Kirsty Jennings <KirstyJennings@Gateshead.Gov.UK>  
**Sent:** 07 March 2024 19:11

To: [REDACTED]

Subject: FW: Licensing Act 2003 - Asda Express, Front Street, Whickham

Dear Mr and Mrs Keating

Following further discussion with between the applicant's solicitor and Licensing, I can confirm they have now amended their application as below:

*To amend the application to seek opening hours and alcohol sales hours of 0600-2200 if this means that the representations are withdrawn. These are the hours that the premises currently open. The request for late night refreshment would be withdrawn altogether.*

Can you please let me know if you still wish to continue with your objection, or withdraw?

Kind regards

Kirsty Jennings  
Licensing Officer

**Economy, Innovation and Growth, Gateshead Council**  
Civic Centre, Regent Street, Gateshead, NE8 1HH  
☎ 0191 433 3933 ✉ [kirstyjennings@gateshead.gov.uk](mailto:kirstyjennings@gateshead.gov.uk)

From: Kirsty Jennings  
Sent: Thursday, March 7, 2024 2:32 PM  
To: [REDACTED]  
Subject: Licensing Act 2003 - Asda Express, Front Street, Whickham

Dear Mr and Mrs Keating

I am emailing you to inform you that the applicant has now amended the times of the application as below:

- Sale of alcohol:  
06:00 – 23:00 (no longer 24 hours)
- Late Night Refreshment:  
23:00 – 05:00 (No change)

Can you please let me know if you still wish to continue with your objection, or withdraw?

I look forward to hearing from you,

Kind regards

Kirsty Jennings  
Licensing Officer

**Economy, Innovation and Growth, Gateshead Council**  
Civic Centre, Regent Street, Gateshead, NE8 1HH  
☎ 0191 433 3933 ✉ [kirstyjennings@gateshead.gov.uk](mailto:kirstyjennings@gateshead.gov.uk)

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4 March 2024

Licensing Section  
Gateshead Council  
Civic Centre  
Regent Street  
Gateshead  
NE8 1HH

Dear Sirs

**Re: Asda Express, 6-8 Front Street, Whickham NE16 4DT**

**1. NOISE NUISANCE**

Currently the Premises open at 6.00 am and close at 10.00 pm. A recent application for 24 hours opening of the Premises was rejected following objections. After the evening rush hour, the traffic flow drops significantly and after 11.00 pm is negligible. The background noise diminishes, but the resulting silence is disturbed by any activity under the garage forecourt roof, which acts as a sounding board and directs the enhanced sounds towards houses on all sides. We have experience of this, particularly during the summer months when young people and sometimes raucous drunks, congregate under the roof when every word uttered is heard clearly. If these applications are allowed, they will have an adverse effect on the use and enjoyment of all neighbouring residences for even if all due care and attention is given by customers to parking their vehicles, opening and closing car doors, starting their engines and departing, and speaking as quietly as possible, all these noises will be easily heard and every word of conversation understood - leading inevitably to a night of regular broken sleep. But of course, all due care and attention will not always be applied as people who have already drunk alcohol tend to be a bit more ebullient and noisy. Alcohol sales at night i.e. from 10.00 pm and provision of refreshments will have a deleterious effect on this residential area.

**2. LIGHT NUISANCE**

The garage forecourt is well lit as is the drive through car wash. There is also a high intensity advertising screen on the front of the shop, which (currently goes off at 11.00 pm), changes colour and intensity regularly and is easily seen through our closed curtains! If this lighting remained on day and night it would be unduly intrusive and disturbing. Sleep does come easily with a high intensity flashing light onto a bedroom window.

2.

### **3. INAPPROPRIATE**

The Premises are not on a motorway, a major highway, in the centre of a town/city or an industrial/retail park or discretely sited away from residences, but situated in a village some 200 metres from the shopping centre and entirely surrounded by residential properties. After pub closing time the village goes quiet and the Tesco mini store (which has an off licence), closes at 11.00 pm. A successful application will encourage people from within and outside Wickham to seek out alcohol and refreshments during the dead of night, leading to the inevitable prospect of disturbance, nuisance and even crime. Surely residents are entitled to a period of restorative sleep at night as nature intended?

These applications if granted, would be an incongruous and non-conforming development for a residential part of the village.

Yours faithfully

**Hilary J Maggiore**  
**Paul L Maggiore**

Cc: hard copy and by email

## Kirsty Jennings

---

**From:** Jean Maggiore [REDACTED] >  
**Sent:** 11 March 2024 14:49  
**To:** Kirsty Jennings  
**Subject:** Licensing Act 2003 - Asda Express, Front Street, Whickham

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Dear Ms Jennings

Further to your e.mail of 7 March and the applicant's amended proposal, we are not minded to withdraw our objections and shall be obliged if you will add the further points raised in this e.mail to our formal objections.

Gateshead Council's Statement of Licensing Policy 7 January 2016 - 6 January 2021 - among other things says at:-

- 3.18 physical environment (including transport, school walking routes...residential proximity.) The Premises are within 100 metres and 400 metres of two primary schools in Whickham; within 25 metres of two bus stops where pupils get on and off for secondary schools like Emmanuel College and schools in Blaydon and descend onto the shop at the Premises daily for drinks and snacks; 400 metres of five public houses and one off licence premises and are in a conservation zone
- 5.9 the reduction of crime and disorder is integral to Gateshead's approach to the Licensing Act 2003
- 5.11 Gateshead has signed the Local Government Declaration on alcohol and is committed to:-

promoting the introduction of greater regulation around price, promotion and **availability** of alcohol according to local requirements. We assert Whickham is well served by existing outlets.

- 7.8 Prevention of "public nuisance" is taken to include such issues as noise, light, odour, litter and anti-social behaviour. We have already commented on this in our initial objections.
- 7.9 stricter controls required where premises are in residential areas
- 7.10 burden is on the applicant to demonstrate its consideration of .....
- location of the Premises
- proximity to residential and other noise sensitive premises
- opening hours particularly between 23.00 pm - 7.00 am
- the design, layout of the premises particularly the presence of noise limiting features.

We have already commented on the sound enhancing garage roof.

We submit these safeguarding criteria cannot be met, particularly at night no matter what care and attention is given by customers and during the day the licence, if granted, will be an added risk for children and make the Premises busier causing tail backs at an already busy traffic light junction,

increasing noise and pollution to this residential end of Whickham. Incremental developments at the Premises inevitably come with incremental detriment to this area and to the occupants.

Yours

**H J Maggiore**

**P L Maggiore**



**Kirsty Jennings**

---

**From:** CE Licensing  
**Sent:** 04 March 2024 08:28  
**To:** Kirsty Jennings  
**Subject:** FW: Asda Express - Front Street Whickham - Objection to Application  
**Attachments:** Asda Express.pages

@Kirsty Jennings

Dawn Brown  
Senior Licensing Support Assistant

**Economy, Innovation and Growth,**  
Gateshead Council Civic Centre, Regent Street, Gateshead, NE8 1HH

Tel No: 4334741  
E-mail [dawnbrown@gateshead.gov.uk](mailto:dawnbrown@gateshead.gov.uk)  
Website: [www.gateshead.gov.uk](http://www.gateshead.gov.uk)

---

**From:** Brian Joyce [REDACTED]  
**Sent:** Sunday, March 3, 2024 10:47 AM  
**To:** CE Licensing <[Licensing@Gateshead.Gov.UK](mailto:Licensing@Gateshead.Gov.UK)>  
**Subject:** Fwd: Asda Express - Front Street Whickham - Objection to Application

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**Subject: Asda Express - Front Street Whickham - Objection to Application**

**Application for a premises Licence under Section 7**  
**Asda Express PFS Whickham, 6-8 Front Street, Whickham, Newcastle upon Tyne, NE16 4DT**

Representation from Brian Joyce, [REDACTED]

I live directly behind the premises and obviously could not help but notice the noise and recent work to transfer the local garage from a Spar retail outlet to an Asda Express. I have also recently noticed the sign displayed which notifies of the above application.

As a Spar, the garage traded between 6am to 10pm. From the Asda website I see that they are currently maintaining these trading hours, although clearly the Asda application that has been displayed is seeking to dramatically change this. I object to this application and would urge Gateshead Council to reject this.

There are numerous retail provisions, licensed premises which serve the community during normal daytime and evening hours. As a residential area I do not believe that a facility should be allowed to trade throughout the night, including fast food and alcohol.

I foresee a multitude of issues that will arise if Gateshead Council allow this Application to proceed which are all inter-linked including:

- a. Significant noise and disruption throughout the night
- b. Anti-social behaviour at the garage and all surrounding areas including my own street.
- c. Alcohol relating crime activities
- d. Increase in litter: food / packaging / bottles and cans in the surrounding areas.
- e. Increase in youths attending garage in night
- f. It will lead to increase in night time drinking and groups socialising within Chase Park throughout the night
- g. The garage will be become a stop-off venue for people after pubs and clubs have closed.
- h. The garage will encourage the night-time economy in what it a quiet residential area.

I consider it fundamentally important for the Council to recognise that the garage is located in a conservation area, where it has been defined as an area of special architectural or historic interest, the character of which is desirable to preserve or enhance. The character cannot just be determined by the architecture or history, it must be reflected in the businesses and activities supported or encouraged within the area - I do not believe that a local convenience store for nighttime alcohol and fast food is in keeping with this designation. The garage is located in the heart of a residential area, where residents are entitled to enjoy a reasonable degree of quiet throughout the night. I consider that this application, if approved by Gateshead would completely destroy the character of the area and would seriously impact the quality of life for residents during night time hours.

It is hugely disappointing that Asda has sought to make this dramatic change without consultation or consideration with residents. Asda already has a significant trading facility that is generally open 24hours / day which is less than 1.3miles from Whickham Front Street, located in a non-residential area and minimal impact to the community.

As noted, I urge Gateshead Council to consider the above and reject this application as unsuitable for the location of 6-8 Front Street.

Thanks  
Brian Joyce

CC: Gateshead Council Head of Planning | Councillors Anderson / Maughan / Ord

## Kirsty Jennings

---

**From:** Brian Joyce [REDACTED] >  
**Sent:** 10 March 2024 20:32  
**To:** Kirsty Jennings  
**Subject:** Re: Licensing Act 2003 - Asda Express, Front Street, Whickham

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Good evening Kirsty,

After considering recent exchanges I can confirm that my objection to the application from Asda Express remains.

Kind regards  
Brian Joyce  
Sent from my iPad

On 7 Mar 2024, at 20:58, Brian Joyce [REDACTED] wrote:

Kirsty,  
I acknowledge both emails issued today.

I am planning to attend a meeting on this matter with neighbours tomorrow and I shall therefore respond over the weekend if my position changes in respect of the Asda application.

Regards  
Brian Joyce  
Sent from my iPad

On 7 Mar 2024, at 19:12, Kirsty Jennings <KirstyJennings@gateshead.gov.uk> wrote:

Dear Mr Joyce

Following further discussion with between the applicant's solicitor and Licensing, I can confirm they have now amended their application as below:

*To amend the application to seek opening hours and alcohol sales hours of 0600-2200 if this means that the representations are withdrawn. These are the hours that the premises currently open. The request for late night refreshment would be withdrawn altogether.*

Can you please let me know if you still wish to continue with your objection, or withdraw?

Kind regards

Kirsty Jennings  
Licensing Officer

**Economy, Innovation and Growth, Gateshead Council**  
Civic Centre, Regent Street, Gateshead, NE8 1HH  
☎ 0191 433 3933 ✉ [kirstyjennings@gateshead.gov.uk](mailto:kirstyjennings@gateshead.gov.uk)

---

**From:** Kirsty Jennings  
**Sent:** Thursday, March 7, 2024 2:33 PM  
**To:** [REDACTED]  
**Subject:** Licensing Act 2003 - Asda Express, Front Street, Whickham

Dear Mr Joyce

I am emailing you to inform you that the applicant has now amended the times of the application as below:

Sale of alcohol:

06:00 – 23:00 (no longer 24 hours)

Late Night Refreshment:

23:00 – 05:00 (No change)

Can you please let me know if you still wish to continue with your objection, or withdraw?

I look forward to hearing from you,

Kind regards

Kirsty Jennings  
Licensing Officer

**Economy, Innovation and Growth, Gateshead Council**  
Civic Centre, Regent Street, Gateshead, NE8 1HH  
☎ 0191 433 3933 ✉ [kirstyjennings@gateshead.gov.uk](mailto:kirstyjennings@gateshead.gov.uk)

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DAULINE AND KEN MCKAY

TO  
LICENSING DEPARTMENT  
CIVIC CENTRE GATESHEAD  
NE8 1HH  
F.A.O. KIRSTY JENNINGS

DATE 10 MARCH 2024  
PLEASE READ WITH  
2 RELATED PLANS

THIS REPLACES LETTER  
OF THE 7 MARCH 2024

DEAR KIRSTY JENNINGS,  
LICENSING APPLICATION, ASDA EXPRESS WHICKHAM FRONT ST.

YOU POINTED OUT, IN RESPONSE TO OUR LETTER OF MARCH THE 7TH, THAT A VALID OBJECTION WOULD HAVE TO RELATE TO FOUR SPECIFIC CATEGORIES. WE LIST THESE AT THE FOOT OF THIS LETTER, TO CLARIFY NUMERICALLY WHERE WE CONSIDER OUR COMMENTS IMPACT ON YOUR LICENSING OBJECTIVES.

1 THE PRECINCTS OF ST. MARYS CHURCH AND DOCKENDALE HAVE AN ABUNDANCE OF SECLUDED PASSAGES, LOW WALLS, STEPS & SEATS. IN THE PAST YOUNG ADULTS HAVE MET FOR DRINKS AND SNACKS. WE HAVE CLEARED UP, KEPT GARAGES LOCKED AND REMOVED OUR LARGE GREENHOUSE FOR SAFETY. WE ARE VERY CONCERNED THAT IF, FOR 16 OR 24 HOURS A DAY ALCOHOL AND FOOD ARE SOLD A FEW METRES AWAY, THERE WILL BE A RESURGENCE OF THIS. WHICKHAM APPEARS BE AN AREA WITH ALCOHOL RESTRICTION & IT WOULD BE BEST NOT TO ALTER ARRANGEMENTS AT THE GARAGE.

2 WHEN 10 WHICKHAM PARK HAD AN ADDITIONAL STOREY ADDED WITH 3 LARGE DORMERS, WE ARRANGED TO DINE AND SLEEP IN THE 2 ROOMS FACING THE GARAGE. IT IS ESPECIALLY IMPORTANT THAT THE QUIET AREA FACING THE GARAGE REMAINS QUIET AND FREE OF THE BRIGHT LIGHTS, WHICH ARE A FEATURE OF THE GARAGE, FOR A REASONABLE PERIOD OF REST. THIS WILL NOT BE THE CASE IF 16 OR 24 HOUR SALE OF ALCOHOL IS TO BE LICENSED. THIS IS A CONSERVATION AREA WITH MANY BEDROOMS OVERLOOKING AND WE OBJECT TO THE PROPOSAL

3 THE ATTACHED GENERAL PLAN SHOWS BEDROOMS CLOSE TO THE PROPOSED LICENSED PREMISES. THE APPLICATION MADE, AND THE AMENDED APPLICATION DRAFTED FOR DISCUSSION, SHOW THE STRONG LIKELIHOOD OF A GREAT DEAL OF NOISE & LIGHT POLLUTION AT TIMES WHICH HAVE HITHERTO BEING QUIET & DARK. NEW SHOP ILLUMINATION AND EXTERIOR ILLUMINATED SIGN AND AREA FLOODLIGHTS HAVE CAUSED A LOT OF STRESS. WE WERE SHAKEN BY THE STRONG REACTION OF VERY CALM NEIGHBOURS. THE SAME NEIGHBOURS WHO TEACH OUR CHILDREN & MANAGE THE CRITICAL CARE WARDS IN ADJACENTS HOSPITALS, THE SAME ALSO AS, WHEN LOCKDOWN STARTED, WROTE A NOTE OFFERING TO SHOP FOR US. THE DECISIONS THE COUNCIL MAKE OUGHT TO REFLECT THE NEEDS AND WISHES OF THIS COMMUNITY. A REALLY GOOD MP IS ASSESSING THIS WHOLE MATTER AND WE ARE HOPING THE STRONG LOCAL FEELINGS HAVE BEEN RECORDED.

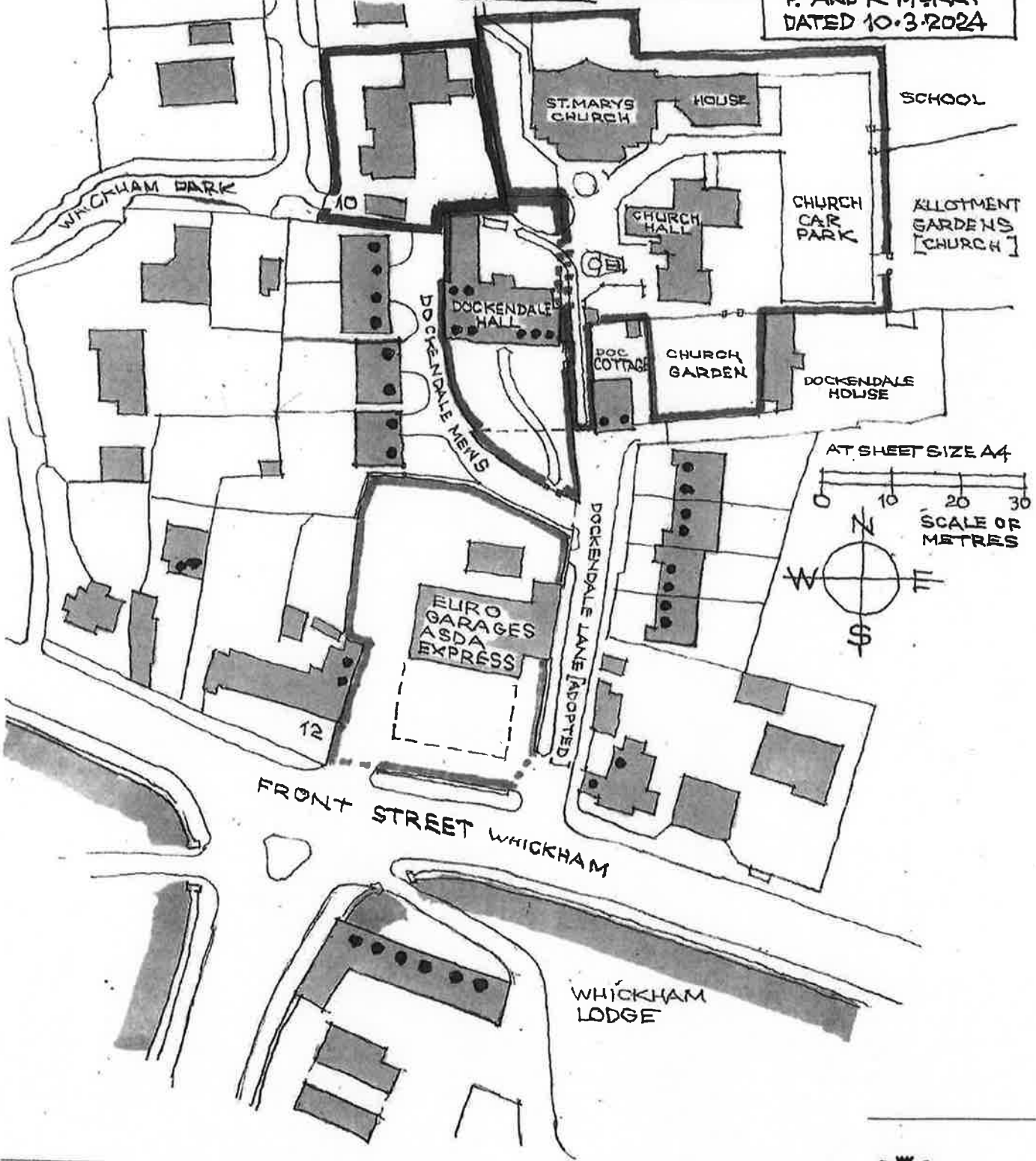
KIND REGARDS DAULINE AND KEN MCKAY

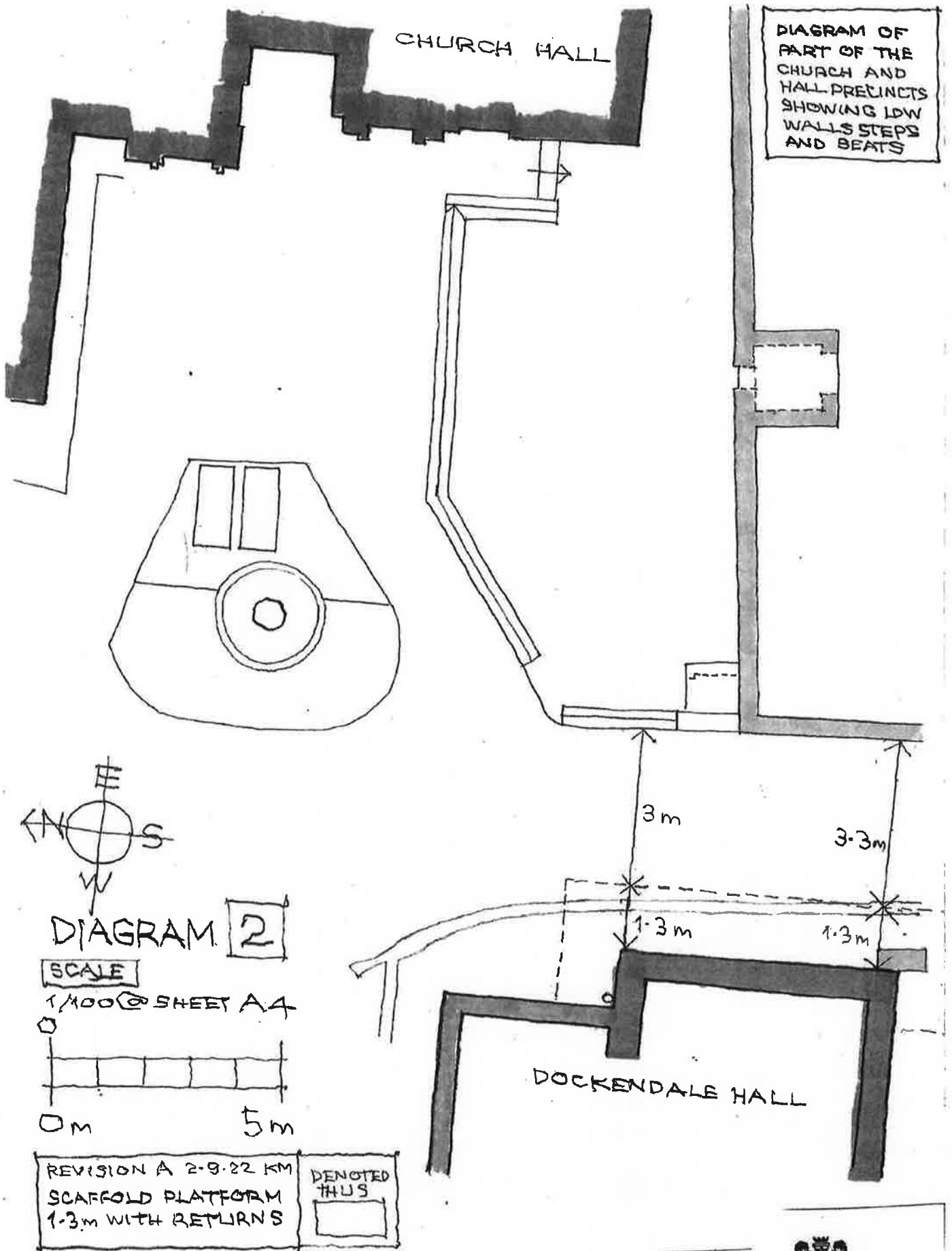
1 THE PREVENTION OF CRIME & DISORDER 2 PUBLIC SAFETY  
3 THE PREVENTION OF PUBLIC NUISANCE  
4 THE PROTECTION OF CHILDREN FROM HARM CATEGORIES REFERRED TO

**KEY TO COLOURS AND SYMBOLS**

-  DOCKENDALE HALL FREE HOLD LTD
-  BEDROOMS WITHIN QUIET ZONE
-  EURO GARAGES ASDA EXPRESS
-  10 WHICKHAM PARK CHURCH LAND
-  CHURCH LAND
-  WHICKHAM LODGE
-  CHASE PARK

DIAGRAM OF IMPLICATIONS OF LICENSING APPLICATION BY EURO GARAGES ASDA EXPRESS REFERRED TO IN LETTER FROM P. AND K MCKAY DATED 10.3.2024





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## Kirsty Jennings

---

**From:** CE Licensing  
**Sent:** 07 March 2024 14:06  
**To:** Kirsty Jennings  
**Subject:** FW: Asda Express 6-8 Front street Whickham

@Kirsty Jennings

-----Original Message-----

**From:** Joan Cowan [REDACTED]  
**Sent:** Thursday, March 7, 2024 1:52 PM  
**To:** CE Licensing <Licensing@Gateshead.Gov.UK>  
**Subject:** Asda Express 6-8 Front street Whickham

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Sent from my iPad

I am writing to object to the application for Asda Express 6-8 Front Street Whickham to obtain a 24 hour alcohol license and a late night refreshment permit between the hours of 23.00 and 5.00.

I cannot understand the reasoning behind this or any good coming from it. There are plenty of businesses selling alcohol in the area and feel that this application may well cause public disorder, upset and a nuisance for residents in the area.

Do we need our children to see alcohol available 24 hours and the behaviour that may arise because of this.

It would be awful for Whickham to turn into a magnet for late night drinking and any disorder this may cause.

Please take this into consideration

Joan Cowan and John Cowan  
[REDACTED]

## Kirsty Jennings

---

**From:** jcowan [REDACTED]  
**Sent:** 08 March 2024 18:13  
**To:** Kirsty Jennings  
**Subject:** Re: Asda Express 6-8 Front street Whickham

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Sent from my iPhone

Dear Kirsty

We are replying to your e-mail regarding the amended application in relation to Asda Express Whickham.

We wish to state that our objections remain the same and not withdrawn.

This is a residential and conservation area of Whickham.

John and Joan Cowan  
[REDACTED]

> On 7 Mar 2024, at 15:22, Kirsty Jennings <KirstyJennings@gateshead.gov.uk> wrote:  
>  
> Dear Mr and Mrs Cowan,  
>  
> I am emailing you to inform you that the applicant has now amended the times of the application as below:  
> Sale of alcohol:  
> 06:00 - 23:00 (no longer 24 hours)  
> Late Night Refreshment:  
> 23:00 - 05:00 (No change)  
>  
> Can you please let me know if you still wish to continue with your objection, or withdraw?  
>  
> I look forward to hearing from you,  
>  
> Kind regards  
>  
> Kirsty Jennings  
> Licensing Officer  
>  
> Economy, Innovation and Growth, Gateshead Council Civic Centre, Regent  
> Street, Gateshead, NE8 1HH  
> C 0191 433 3933 kirstyjennings@gateshead.gov.uk  
>  
> -----Original Message-----  
> From: Joan Cowan [REDACTED]  
> Sent: Thursday, March 7, 2024 1:52 PM  
> To: CE Licensing <Licensing@Gateshead.Gov.UK>  
> Subject: Asda Express 6-8 Front street Whickham  
>  
> [You don't often get email from [REDACTED]. Learn why this  
> is important at <https://aka.ms/LearnAboutSenderIdentification> ]  
>

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>

>

> Sent from my iPad

>

> I am writing to object to the application for Asda Express 6-8 Front Street Whickham to obtain a 24 hour alcohol license and a late night refreshment permit between the hours of 23.00 and 5.00.

> I cannot understand the reasoning behind this or any good coming from it. There are plenty of businesses selling alcohol in the area and feel that this application may well cause public disorder, upset and a nuisance for residents in the area.

> Do we need our children to see alcohol available 24 hours and the behaviour that may arise because of this.

> It would be awful for Whickham to turn into a magnet for late night drinking and any disorder this may cause.

> Please take this into consideration

> Joan Cowan and John Cowan

> [REDACTED]

> \*\*\*\*\*

>

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>

> Please contact the sender if you believe you have received this e-mail in error.

>

>

> \*\*\*\*\*

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## Kirsty Jennings

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**From:** Clare ure [REDACTED]  
**Sent:** 10 March 2024 17:35  
**To:** Kirsty Jennings  
**Subject:** Asda express - Whickham Front Street

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THIS IS MY WRITTEN OBJECTION TO ANY CHANGES AROUND THE LICENSING AND PLANNING OF THE ABOVE MENTIONED SITE.

To whom it may concern

As a resident whose home is directly to the right of the garage [REDACTED] we would like to formally object to ANY changes to the current rules/restrictions Our objections are that 24 hour opening would directly affect us in many ways. This includes noise, lighting(directly into our front bedrooms), increased anti-social behaviour, 24hours car doors slamming. The issue of alcohol being available at any time would only increase the aforementioned issues. The garage and our homes falls in a conservation area and it troubles me that Asda would be granted their request in an area that is already subject to restrictions.

I expect a response to my objection.

Best wishes

Clare Ure and family

Sent from my iPhone

## Kirsty Jennings

---

**From:** Clare ure [REDACTED]  
**Sent:** 11 March 2024 13:11  
**To:** Kirsty Jennings  
**Subject:** Re: Asda express - Whickham Front Street

[You don't often get email from [REDACTED] Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification> ]

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Hello Kirsty.

I'm sorry to say this does not alleviate my concerns at all.

My objections remain firmly in place.

Thank you for your response

Bw

Clare

Sent from my iPhone

> On 11 Mar 2024, at 11:01, Kirsty Jennings <KirstyJennings@gateshead.gov.uk> wrote:

>

> Dear Clare Ure,

>

> I confirm receipt of your objection to the Premises Licence application for Asda Express, 6-8 Front Street, Whickham.

>

> Following discussions between licensing and the applicant, the application has now been amended as follows:

> 1. The hours sought for opening and alcohol sales are further reduced to 0600-2200 (the hours that the premises open)

> 2. The request for late night refreshment is withdrawn

>

> Can you please let me know if this alleviates your concerns or if you would like to continue with your objection?

>

> I look forward to hearing from you,

>

> Kind regards

>

> Kirsty Jennings

> Licensing Officer

>

> Economy, Innovation and Growth, Gateshead Council Civic Centre, Regent

> Street, Gateshead, NE8 1HH

> C 0191 433 3933 kirstyjennings@gateshead.gov.uk

>

> -----Original Message-----

> From: Clare ure [REDACTED]

> Sent: Sunday, March 10, 2024 5:35 PM

> To: Kirsty Jennings <KirstyJennings@Gateshead.Gov.UK>

> Subject: Asda express - Whickham Front Street

>

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> is important at <https://aka.ms/LearnAboutSenderIdentification> ]

>

> Caution: This email originated from outside of the Council network. Do not click links or open attachments unless you recognise the sender and know the content is safe. If in doubt, please contact the IT Service Desk.

>

>

> THIS IS MY WRITTEN OBJECTION TO ANY CHANGES AROUND THE LICENSING AND PLANNING OF THE ABOVE MENTIONED SITE.

>

> To whom it may concern

>

> As a resident whose home is directly to the right of the garage [REDACTED] we would like to formally object to ANY changes to the current rules/restrictions Our objections are that 24 hour opening would directly affect us in many ways. This includes noise, lighting(directly into our front bedrooms), increased anti-social behaviour, 24hours car doors slamming. The issue of alcohol being available at any time would only increase the aforementioned issues.

> The garage and our homes falls in a conservation area and it troubles me that Asda would be granted their request in an area that is already subject to restrictions.

> I expect a response to my objection.

> Best wishes

> Clare Ure and family

> Sent from my iPhone

> \*\*\*\*\*

>

> Important Information

>

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> Please contact the sender if you believe you have received this e-mail in error.

>

>

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## Kirsty Jennings

---

**From:** CE Licensing  
**Sent:** 11 March 2024 08:52  
**To:** Kirsty Jennings  
**Subject:** FW: Eurogarages Whickham

@Kirsty Jennings

Dawn Brown  
Senior Licensing Support Assistant

**Economy, Innovation and Growth,**  
Gateshead Council Civic Centre, Regent Street, Gateshead, NE8 1HH

Tel No: 4334741  
E-mail [dawnbrown@gateshead.gov.uk](mailto:dawnbrown@gateshead.gov.uk)  
Website: [www.gateshead.gov.uk](http://www.gateshead.gov.uk)

---

**From:** [REDACTED]  
**Sent:** Sunday, March 10, 2024 6:52 PM  
**To:** CE Licensing <[Licensing@Gateshead.Gov.UK](mailto:Licensing@Gateshead.Gov.UK)>  
**Cc:** [REDACTED]  
**Subject:** Eurogarages Whickham

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**Caution:** This email originated from outside of the Council network. Do not click links or open attachments unless you recognise the sender and know the content is safe. If in doubt, please contact the IT Service Desk.

Dear Sir/Madam

I would like to object to the current licensing application submitted by Eurogarages for their premises at 6-8 Front Street, Whickham NE16 - the Asda Express Garage.

I object to the application for extended alcohol and food sales on the following grounds:

- **Prevention of Crime and Disorder** - I am not satisfied that cctv is sufficient of a deterrent to crime and disorder. Increasingly you hear of people devising ways of hiding identities which means that cctv is of no use in those circumstances. Day in day out on the news we hear of crime and alcohol being linked to crime - both inside and outside the home. Domestic violence is a huge concern and 24 hour drinking in a residential makes me worry about the impact which sadly might be unseen. Alcohol is a factor in around 39% of all violent crimes in England according to recent figures.
- **Public Safety** The applicant merely says they will comply with H&S regulations with no further detail. This does not fill me with confidence that the applicant or their agent has considered the wider implications of this licence application. 24 hour drinking will encourage "after hours" drinking and drinking to excess. This premises is on a main road meaning that drinking in the street is likely making accidents more likely as drunk people wander in front of cars. The facility is a garage and suggests that people may well be tempted to drink and drive.

- **Prevention of Public Nuisance** Public nuisance is a broad concept, which concerns how the activity of one person (or business) affects the rights of another. It strikes me that the applicant has not considered how they will ensure that 24 hour food and drink sales will impact on nuisance value in this residential area. I object to this application because they have not given due consideration to the increase in noise, odour, litter, waster and street fouling as well as light pollution. These are significant issues for duty staff to deal with and the training outlined in the application does suggest that due thought and consideration has been given by the applicant. Only last week on the local news was there an item about young people hassling shop keepers who were subject to racist abuse and more in their general store which included the sale of alcohol. The staff would have been trained but ended up terrified. In daytime hours there are plenty of people around to make such public nuisance less likely. Overnight it seems to me there is a greater risk of public safety issues with sales of alcohol and food on offer. While local authorities might offer support to business to help them manage such issues as public nuisance this does seem an unnecessary public expense when there are more deserving areas for public expenditure. If we don't have overnight alcohol sales you don't need this kind of expense.
- **Protection of Children from Harm** Alcohol is an age-restricted, toxic substance that causes over 200 health conditions, diseases and injuries. Adolescents are more susceptible to the intoxicating effects of alcohol due to their physical immaturity and lower tolerance levels. Mental wellbeing is particularly affected, with young drinkers experiencing a higher risk of self-harm and suicide attempts. Drinking in adolescence also poses risks to long-term health and wellbeing: it affects important brain development processes which are still taking place up until the age of 25, and establishes drinking patterns that continue into adulthood. For example, those who start drinking at an earlier age have an increased risk of developing alcohol dependence later in life. While the 25+ challenge is a useful tool in the armoury I'm not convinced it's enough in these circumstances to prevent harm to children and young people. 24 hour sales will encourage more alcohol consumption - while previously the bottle might have been finished at home so people would go to bed there's now the easy temptation of popping to Asda for another couple. This will mean additional risks of domestic violence and associated risks to children and young people referenced above. The 25+ challenge doesn't eliminate the risk of 26 year olds buying alcohol and sharing it with their younger friends once outside the premises.

With the above evidence in mind I do think it is unacceptable to grant a licence to this applicant to extend sales of food and alcohol at Asda Eurogarages on Front Street in Whickham.

Catherine Hearne

[REDACTED]

10th March 2024

[REDACTED]

Dear Sir / Madam

- Licensing Act 2003 - New Premises Application -  
ASDA Express, 6-8 Front Street, Whickham NE16 4DT
- Here with find my representations opposing the above licensing application.
- I am a very elderly widow, living alone, closely resident to the premises making application.
- There are various grounds for representation: -
- The premises stands in a residential area of Whickham. The introduction of 24 hr opening with alcohol sales and refreshments after 11pm until 5am would entirely change the nature of the area to the detriment of Whickham itself & the residents, particularly those adjacent to the premises & the court. The purpose of the application is to increase traffic, which must mean the pollution from vehicles, noise, illumination will negatively affect the public of Whickham.

The premises sits in a Conservation Area. Individual trees and surrounding green areas are protected as are some structures of historic interest. The granting of this application would allow for inappropriate

degradation of the public space to the detriment of  
Whickham and the purpose of Conservation.

Children who currently visit the premises as  
they walk to and from St. Mary's School would  
be exposed to alcohol sales and marketing material,  
with its habituating potential, in an unacceptable  
way.

I submit the above as some grounds for  
representation in your adjudication on  
the application which I urge you to reject.

Yours sincerely,

Ann Short

(MRS. ANN SHORT)

9<sup>th</sup> March 2024

Kirsty Jennings  
Licensing Officer  
Economy, Innovation and Growth  
Gateshead Council

Your ref. 24/00177/PREM.

Dear Kirsty Jennings

**Ref: Licensing Act 2003 – New Premises Licence Application –  
Asda Express, 6-8 Front Street Whickham, NE16 4DT.**

With reference to your letter dated 6 March 2024, I wish to make representations regarding the above application on behalf of my wife and myself. We live in a bungalow at the entrance to Whickham Park, which is situated between the Bay Horse public house and the traffic lights at the junction with Broom Lane. Some 30m from the above premises.

Our objections to this application fall within the four headings stated in your letter and are referenced to the Gateshead Council Statement of Licensing Policy 2021/2026.

#### **The Prevention of Public Nuisance**

**Ref: (SoLP21/26 section 8.21, 8.22,8.23)** The premises concerned are surrounded by residential housing in some cases adjacent to and in very close proximity to the houses. The area is a designated conservation area of Whickham and has a long history of being a garage and petrol station.

Parking is limited. Also, additional lighting and noise will be an intrusion on the immediate and surrounding houses.

#### **Ref: (SoLP21/26 section 7.8, 7.9, 7.10)**

Our property fronts onto Front Street and we regularly, for over 40 years, have had to remove cans (beer and soft drinks) and discarded wrapping and other items that people have thrown over our wall. Any increase in opening hours, we fear, will increase this antisocial behaviour.

**Protection Of Children from Harm**

**Ref: (SoLP21/26 section 3.18)**

The premises lie on the main route through the village leading to the commercial centre. This is also the route used by children going to the schools in the village. There is a notice on the shop door at present, that restricts the number of unaccompanied children to 2. This indicates that children cross the garage forecourt to make purchases and are at risk.

**Prevention Of Crime and Disorder**

**Ref: (SoLP21/26 section 3.15)**

The premises are opposite the entrance to Chase Park which, during the summer months is frequented by groups of teenagers, often indulging in anti-social behaviour which we frequently have observed or heard the bad language or accompanying noise. Having an off-licence close by, increases the opportunity for underage dinking and drinking in public.

**Ref: (SoLP21/26 section 5.14)**

Whickham is subject to a Public Space Protection Order.

**Ref: (SoLP21/26 section 9.2)**

We are of the opinion that, based on the statements above, should an alcohol licence and extended hours be granted this will be detrimental to the local residents and have an adverse impact on the local environment and residents' peace. Therefore, we would strongly oppose the granting of an alcohol license and allowing opening hours beyond those that are in force at present.

Yours faithfully

*W. P. Bridgewood*

*M. E. Bridgewood*

Mr W P BRIDGEWOOD

Mrs M E BRIDGEWOOD

7 March 2024

Gateshead MBC  
Licensing Department

Dear Sir/Madam ,

With reference to the current alcohol licensing application by Eurogarages Ltd.,  
application ref:

RJT JB 84773. 18604

I am writing to express my concern about the possible consequences of what I understand to be the application by Eurogarages Ltd to sell alcohol during 24 hours a day from their garage in Front Street, Whickham.

I wish to object to the granting of this licence for the following reasons.

1. This increase in the availability of alcohol for 24 hours will be a possible encouragement to crime and social disorder and could encourage the incidence of drink driving.
2. There is a very likely danger here too for the likelihood of an increase in anti-social behaviour. It needs to be considered that the entrance to Chase Park, which is open 24 hours a day, is just across the road from the said garage. The Park has been in the past a sensitive area for anti-social behaviour and as someone who lives almost inside the park I have had first hand experience of both criminal damage to my property and antisocial behaviour from the Park. I have no wish to see this increase due to the easy availability of alcohol.
3. The dangers of alcohol being available for 24 hours seems to me also to be a possible threat to the safety of children - many of whom remain in the Park during the hours of darkness, especially during the warmer nights. There is therefore the possibility of accidents due to unsupervised, underage consumption of alcohol.

For the above reasons I wish to object to the granting of an alcohol licence for these premises.

Yours sincerely,

  
Frank McCoy

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**Representations on a Current Application for a Grant/Variation/Review of a Premises  
Licence or Club Premises Certificate under The Licensing Act 2003**

**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.

**I/We** *(insert name)*

Wish to make representation about the application for variation/grant for a premises licence/club premises certificate (delete as applicable)

**PART 1 – PREMISES OR CLUB PREMISES DETAILS**

**Postal Address of Premises or Club Premises, or if none, ordnance survey map reference or description**

Euro Garages Ltd

**Post Town** Whickham

**Post Code** NE16 4DT

**Name of premises licence holder or club holding club premises certificate (if known)**

**Number of premises licence or club premise certificate (if known)**

**PART 2 – DETAILS OF PERSON MAKING REPRESENTATION**

- |  |                                     |
|--|-------------------------------------|
|  | Please<br>Tick ✓                    |
| 1) A responsible authority (please complete (C) below)                                   | <input type="checkbox"/>            |
| 2) A member of the club to which this representation relates (please complete (A) below) | <input type="checkbox"/>            |
| 3) Other persons (Please complete (A) or (B) below)                                      | <input checked="" type="checkbox"/> |

**(A) DETAILS OF INDIVIDUAL MAKING REPRESENTATION (fill in as applicable)**

Mr  Mrs  Miss  Ms  Other Title (for example, Rev)

Surname

First Names

I am 18 years old or over Yes  (Please Tick)

Current Address  
  
  
Post Town

Daytime contact telephone number

E-mail address (optional)

**(B) DETAILS OF ORGANISATION**

Name and Address

Telephone Number (if any)  
  
E-Mail address (optional)

**(C) DETAILS OF RESPONDER**

Name and Address

Telephone Number (if any)	<input type="text"/>
E-Mail address (optional)	<input type="text"/>

This representation relates to the following licensing objective(s)

Please  
Tick ✓

- |    |   |                                     |
|----|---|-------------------------------------|
| 1. | <b>The Prevention of Crime and Disorder</b> | <input checked="" type="checkbox"/> |
| 2. | <b>Public Safety</b>                        | <input type="checkbox"/>            |
| 3. | <b>The Prevention of Public Nuisance</b>    | <input checked="" type="checkbox"/> |
| 4. | <b>The Protection of Children From Harm</b> | <input checked="" type="checkbox"/> |

**Please state the ground(s) for representation** (please read guidance note 1)

The proximity of the business to St Mary's Catholic Primary School is a huge concern. The sale of alcohol, especially for 24 hours a day, will invariably encourage potential antisocial behaviour and criminal activity. The school has been victim of antisocial behaviour in the past including underage drinking and substance misuse on/near its grounds in the past which poses significant risk of harm to young children as well as increased risk to of vandalism, trespassing and criminal activity. Dockendale Lane, which leads to St Mary's RC church and it's associated buildings is poorly lit and there are vulnerable residents living in this area. The sale was of alcohol in this near vicinity of a primary school also gives inappropriate messages to young and impressionable children and undermines the education children receive about health and well-being.

**Please provide as much information as possible to support the representation**

(Please read guidance note 2)

Please  
Tick ✓

Have you made any representation relating to these premises before?

If Yes, please state the date of that representation

Day		Month		Year			

If you have made representation before relating to this premises please state what they were and when you made them.

#### **How We Collect And Use Information**

The information collected, on this form and from supporting evidence, by Gateshead Council will be used to process your application. The information may be passed to other Enforcement Agencies as permitted by law.

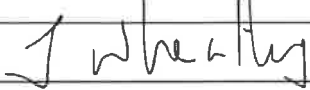
We may check information provided by you, or information about you provided by a third party, with other information held by us. We may also get information from certain third parties, or give information to them to check the accuracy of information, to prevent or detect crime, or to protect public funds in other ways, as permitted by law. These third parties include Government Departments and local authorities.

We will not disclose information about you to anyone outside Gateshead Council nor use information about you for other purposes unless the law permits us to.

Gateshead Council is the Data Controller for the purposes of the Data Protection Act 1998. If you want to know more about what information we have about you, or the way we use your information, you can ask at Civic Centre, Regent Street, Gateshead, NE8 1HH

**Part 3 – Signatures** (Please read guidance note 3)

Signature of representative or representatives solicitor or other duly authorised agent. (See guidance note 4) If signing on behalf of the representative please state in what capacity.

Signature		Date	12.3.24
Capacity	Headteacher, St Mary's Catholic Primary School		

Contact name (where not previously given) and address for correspondence associated with this representation. (Please read guidance note 5)	
Post Town	Post Code

Telephone Number (if any)	
E-mail Address (optional)	

**Notes for Guidance**

1. The ground(s) for representation **must** be based on one or more of the licensing objectives.
2. Please list any additional information or details for example dates of problems, which are included in the grounds for representation, if applicable.
3. The representation form must be signed.
4. A representative's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this representation.
6. For further information about the Licensing Act 2003 please contact: The Licensing Section, Economy, Innovation and Growth, Civic Centre, Regent Street, Gateshead Tyne and Wear NE8 1HH  
Tel: 0191 433 3918 or 0191 433 3178



**STATEMENT OF LICENSING POLICY**

**Licensing Act 2003**

**7 January 2021 - 6 January 2026**

## **1. Foreword by Councillor John McElroy**

- 1.1 The Licensing Act has been in force now for ten years, and has contributed to a significant change in how licensable activities are carried on in the Borough.

In Gateshead, both the licensed trade and its patrons are, on the whole, responsible and sensitive to the needs of the communities in which licensed activities take place.

However, the trend away from drinking in pubs and clubs to consumption of alcohol at home presents a different set of challenges in terms of minimizing the harms that can arise.

There has been an increase in the availability and accessibility of alcohol, and a broadening of the type of premises where it is made available. Consequently, there is now an increased role for the licensing regime to play in safeguarding the most vulnerable members of our society.

The licensing regime is not only about the sale and supply of alcohol – the provision of regulated entertainment and late night refreshment equally present challenges to ensure that crime, disorder and public nuisance are prevented, public safety is promoted and children are protected from harm.

There is no single answer to the challenges we will face in the coming months and years; but the licensing regime is key to giving residents and responsible authorities an opportunity to have their say on important matters that can impact their community, and I would encourage everyone to utilise it to its fullest potential.

## **2. Strategic Context**

- 2.1 The Council's overall vision for Gateshead, as described in Gateshead Strategic Partnership's Community Strategy – Vision 2030 and the Council's Corporate Plan is:

*“Local people realising their full potential, enjoying the best quality of life in a healthy, equal, safe, prosperous and sustainable Gateshead”*

- 2.2 The licensing of premises plays an important role in realising this vision, contributing significantly to the Economy, Environment, and Health areas contained within Priority 1 of the Corporate Plan, in providing safe and accessible venues that promote healthy lifestyles and contribute to economy of the Borough.
- 2.3 This Policy sets out what this Licensing Authority expects of the people that it authorises to carry out licensable activities in the Borough of Gateshead.
- 2.4 Applicants and licensees are of course expected to be familiar with the relevant legislation and the National Guidance issued by the Home Office, but they are also expected to be familiar with the exigencies of the locality that they operate in. This applies to everyone seeking to carry on licensable activities in the Borough, whether they are a large national chain or a small community premises.



- 2.5 The promotion of the licensing objectives underpins every decision that the Licensing Authority makes. How the objectives are best promoted can vary from place to place, and depending on the nature and scale of the activities that are to be carried out. This Policy sets out the issues that are of particular relevance or concern within Gateshead, and the approaches that this Licensing Authority would expect responsible licensees to take into account in their operation.
- 2.6 The Policy links closely with a number of key plans and strategies produced by the Council and its partners, as set out below in the section headed 'Integration with other legislation, policies and guidance'.

### **3. Local context**

- 3.1 Gateshead is located on the southern bank of the river Tyne, opposite Newcastle upon Tyne to the north, and bordering County Durham to the south, Northumberland to the west and South Tyneside/Sunderland to the east. It is a constantly changing borough combining modern facilities with a fascinating heritage. The borough stretches almost 13 miles along the south bank of the river Tyne and covers 55 square miles, making it the largest of the five Tyne and Wear authorities.
- 3.2 Gateshead is a borough of contrasts. It has a large urban hub centred around the main town centre area in Bridges ward and has a number of smaller urban centres and busy employment areas such as Blaydon, Whickham, Felling and Birtley. However, around two thirds of the borough is rural with numerous small settlements such as Kibblesworth, Sunnyside, Chopwell and High Spennings.
- 3.3 Built on traditional industries of mining and heavy engineering, the 1930's saw diversification through the development of the Team Valley Trading Estate (TVTE), the first trading estate of its type in the UK. Centrally located for the region the TVTE has become prominent for transport and distribution activities and is the borough's most prestigious employment centre, attracting the highest number of inward commuters to the borough on a daily basis.
- 3.4 The 1970s saw the decline of many of the region's traditional industries. A high proportion of those who lived in Gateshead worked in these industries, resulting in unemployment and high levels of deprivation and financial/social exclusion, the impact of which is still being felt today. In the 1980's Gateshead saw the development of the MetroCentre, now boasting over two million sq ft of retail and leisure floor space, one of the UK's and Europe's largest shopping centres.
- 3.5 The urban core, shared with Newcastle, is the focus of regeneration, promoting growth through the digital economy, knowledge-based businesses and cultural-led regeneration. Major initiatives such as the Sage Gateshead, BALTIC Centre for Contemporary Art, Gateshead College and the Gateshead Millennium Bridge have all been developed over recent years.
- 3.6 Gateshead has a population of around 200,000 living in 90,600 households. The population has reduced by around 13,000 since the 1980's but has grown over the last decade by around 8,000. This growth has been most significant for older age groups with an 11% increase in 45-64 year olds and an 11% increase in those aged 65 and over. In contrast, the number of 0-24 year olds fell slightly by 0.7% over the decade. Population projections from the Office for National Statistics predict that this

ageing population trend will continue into the future, becoming more pronounced as life expectancy continues to increase.

#### Crime and anti-social behaviour in Gateshead

- 3.7 The number of recorded crimes across the Borough that were linked to alcohol has increased year on year, with 1,386 alcohol-related crimes recorded in 2014/15 which was an 11% increase from 2013/14, compared to a 7% increase in all crime.
- 3.8 More than half the alcohol-related crimes in the Borough in 2014/15 were violence against the person, with significant increases particularly in the number of assaults. It is notable that whilst incidents of the most serious violence are still relatively infrequent, they have more than doubled in the last year. There have also been significant increases in the numbers of alcohol-related sexual offences and burglaries in the Borough in that time.
- 3.9 Temporal profiles show that almost half of all alcohol-related crimes in the Borough are reported on Friday late evenings / Saturday early mornings, Saturday late evenings / Sunday early mornings and (to a lesser extent) Sunday late evenings / Monday early mornings.
- 3.10 Data provided by Northumbria Police enables the Council to identify the most vulnerable locations throughout the Borough in terms of alcohol-related crimes, and to track trends over time. Information about these areas is contained in 'Local Licensing Guidance' documents which are described in further detail below, and will be available from the Council's website and upon request.

#### Public health in Gateshead

- 3.11 In 2012 the Police and Social Responsibility Act 2011 introduced public health as a responsible authority under the Licensing Act 2003.
- 3.12 Public health is "the science and art of promoting and protecting health and well-being, preventing ill-health and prolonging life through the organised efforts of society." The Public Health Outcomes Framework acknowledges that health is influenced not only by lifestyle choices but also by a range of wider determinants, including the physical environment, domestic abuse, violent crime and noise nuisance.
- 3.13 Gateshead Council recognises the impact upon population-level health that alcohol consumption can cause. While the protection of public health is not a discrete licensing objective, it can where appropriate permeate each of the licensing objectives.
- 3.14 Each year Gateshead's Director of Public Health publishes an Annual Report, the most recent at the time of writing being published in October 2014. The report recognises that alcohol is a complex social issue which forms part of our everyday social fabric, is a source of pleasure and enjoyment to many; but is also a potentially addictive substance which is promoted by powerful commercial forces, especially to young people. It highlights the growing evidence of rising alcohol harm on the health of people in Gateshead, and focusses on approaches to tackling alcohol harm.

3.15 The report identifies, for instance, that:

- Around one in 5 secondary school / higher education students in Gateshead admit to drinking alcohol; and
- The number of alcohol specific hospital admissions for secondary school / higher education students in Gateshead is increasing.

3.16 Public health data enables the Council to identify the most vulnerable locations in the Borough in terms of alcohol-related harm, and to track trends over time. This data can be particularly relevant to the protection of children from harm, and may also assist in the prevention of crime and disorder, public nuisance and to public safety.

#### Local Licensing Guidance

3.17 Different localities within the Borough have different characters, and challenges, both of which can change over time depending on a range of factors. To assist applicants and licensees in their understanding of local issues that they should be cognisant of, from time to time the Council publishes and updates 'Local Licensing Guidance' documents on its website.

3.18 The Local Licensing Guidance provides information about the causes of serious and chronic concern in these localities. The areas covered by the guidance can vary depending on the nature of the problems that are identified, so may relate to the whole of a particular Ward or for instance to street level. The guidance can include a wide range of information that is considered to be relevant to those who seek to carry on licensable activities within the area, for instance:

- The physical environment (including transport, school walking routes, blocks of flats, commercial / residential proximity, etc)
- Existing licensed premises
- Health data (such as hospital admissions for under-18s, ambulance calls for alcohol related reasons)
- Crime and disorder hotspots
- Known areas of congregation
- Local initiatives (such as Pubwatch, Offwatch, Community Alcohol Partnerships etc)
- Local concerns about the promotion of the licensing objectives (including from Ward Members, community leaders, GPs, schools, etc)

3.19 The Local Licensing Guidance will be produced by the Council's Public Health team with the input of Responsible Authorities and other stakeholders as appropriate; and presented to and approved by the Council's full Licensing Committee.

3.20 It is recommended that applicants and licensees have regard to these documents when considering their operating schedule. In particular, where the Local Licensing Guidance identifies measures that it is believed will help to promote the licensing objectives in respect of certain licensable activities due to the issues that have been identified, if an applicant or licensee chooses not to adopt those measures this may result in representations being made.

#### **4. Legal Context**

4.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued by the Home Office under Section 182 of the Act.

4.2 The Licensing Authority is responsible for:

- the licensing of licensable activities under the Licensing Act 2003 (The Act)
- ensuring that those who are authorised under the Act comply with the requirements; and
- ensuring that only those who are duly authorised to carry out licensable activities do so.

4.3 This document sets out the Licensing Authority's policy as to how it will fulfil its obligations and achieve its strategic aims in this respect.

4.4 This Policy should be read in conjunction with the Act itself, the Home Office Guidance, and the other policies and guidance that are referred to in this document.

4.5 This Licensing Authority regards each of the Licensing Objective to be of equal importance.

4.6 This document sets out the policies the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions under the Act, and when addressing non-compliance with the Act itself or any authorisations issued under the Act. The Licensing Authority will consider deviating from the policy on a case by case basis, where it believes it to be appropriate and proportionate in all the relevant circumstances.

## **5. Integration with other legislation, policies and guidance**

5.1 Anyone who is or who seeks to be authorised under the Act to carry out licensable activities in the Borough of Gateshead should be aware of the other legislation, policies and guidance that may apply to their business. Failure to comply with other legislation and/or regulatory regimes can indicate that a licensee is irresponsible, which may call into question their ability to adequately promote the Licensing Objectives.

5.2 Although from the perspective of the business proprietor, there may be an element of crossover between licensing and other regimes, they are separate and are treated as such by the Council.

5.3 Applicants and licensees need to be aware of and have regard to:

- Gateshead Strategic Partnership's Community Strategy – Vision 2030
- the Gateshead Local Plan
- Substance Misuse Strategy
- Culture Strategy
- Gateshead Transport Strategy & Tyne & Wear Local Transport Plan
- The Local Government Declaration on Alcohol signed by Gateshead Council in June 2015

- 5.4 The Licensing Authority will seek to achieve integration with relevant strategies and their aims in its decision making.

#### Human Rights

- 5.5 The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 that everyone has the right to respect for their home and private life; and
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their possessions.

#### Equality and Diversity

- 5.6 Applicants and licensees should be aware of their obligations under the Equality Act 2010 and the characteristics protected by the legislation which are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex; and
- Sexual orientation

- 5.7 It is expected that responsible licensees will be sensitive to the needs of their varied customer base and prepared to make reasonable adjustments to accommodate those needs.

- 5.8 The Equality Act 2010 also requires the Licensing Authority to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between people with different protected characteristics. Each application will be considered with this in mind.

#### Crime and disorder

- 5.9 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the Council, Northumbria Police and others to consider crime and disorder reduction in the exercise of all their duties. The reduction of crime and disorder is integral to this Council's approach to the Licensing Act.

#### Data protection

- 5.10 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. The personal details provided by applicants will be held on a database and where the law allows, may be shared with other departments within the Council to update details they hold. The Licensing Authority may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.

#### Local Government Declaration on Alcohol

- 5.11 Gateshead Council has signed the Local Government Declaration on Alcohol, and has committed to:

- Promoting the introduction of greater regulations around the price, promotion and availability of alcohol
- Calling for changes to the Licensing Act in favour of local authorities and communities, to enable greater control on the number, density and availability of alcohol according to local requirements
- Putting public health and community safety at the forefront of public policy-making about alcohol
- Making best use of existing licensing powers to ensure effective management of the night-time economy; and
- Raising awareness of the harm caused by alcohol to individuals and our communities.

- 5.12 It is recognised that the regime under the Licensing Act is only one part of the framework needed to achieve these aims; that in terms of alcohol the Act only regulates its sale and supply – not its consumption; and that the regime cannot be utilised where the Council's aims do not pertain to the objectives set out in the Act.

- 5.13 However the licensing regime has proven to be an effective tool in Gateshead for the control of price, promotion and availability of alcohol:

#### **Price**

The sale / supply of cheap alcohol can lead to its over-consumption which in turn can undermine the licensing objectives particularly in respect of the prevention of crime and disorder and the protection of children from harm. This Licensing Authority has imposed and will continue to impose minimum unit price requirements where appropriate to promote the licensing objectives, and as part of a range of measures to tackle identified concerns. For instance, alcohol can be 'cheap' not only due to its price but also due to its strength. Where appropriate this Licensing Authority will also impose conditions to control the sale of certain types of product, such as 'super strength' ciders, spirits, etc.

#### **Promotion**

The Government has imposed certain mandatory conditions to prohibit irresponsible drinks promotions where the consumption is intended to take place on the premises. This Licensing Authority will impose further conditions on licences where it is appropriate and proportionate to do so, which will depend on the individual circumstances. For instance, conditions can be imposed to prevent promotions which are aimed at young people particularly in the vicinity of schools and other locations attended by children, and promotion of potentially dangerous alcoholic

products such as cocktails containing liquid nitrogen. Gateshead Licensing Authority's expectations with respect to the promotion of alcohol in off licensed premises are set out in 8.18 below.

### **Place**

There are a range of measures that can assist in controlling the availability of alcohol in defined localities where there is appropriate evidence to support the restriction. These include:

- Cumulative impact policies
- Night time levy
- Early morning restriction orders

The evidential basis to consider implementing any of these measures in Gateshead has not yet been put forward, however if evidence supports their implementation in the future this will be duly considered.

### Public Space Protection Orders

5.14 The following locations have been designated as alcohol exclusion areas:

- Gateshead
- at all of the Metro stations in the borough
- Birtley
- Whickham
- Ryton
- Winlaton

5.15 This means that within the exclusion zones it is an offence to refuse to comply with the reasonable request of a Police Constable or authorised officer to stop consuming alcohol or to hand over alcohol for confiscation. Licensed premises (and their curtilages) are excluded from the scope of the Orders while licensable activities are authorised to take place.

### Social Responsibility

5.16 The Portman Group has produced a code of practice on the naming, packaging and promotion of alcoholic drinks. Licensees that sell or supply alcohol are expected to have regard to the code of practice as amended from time to time. [http://www.portmangroup.org.uk/docs/default-source/code-of-practice/7609\\_por02\\_code\\_of\\_practice\\_final.pdf](http://www.portmangroup.org.uk/docs/default-source/code-of-practice/7609_por02_code_of_practice_final.pdf)

### Pubwatch

5.17 A Pubwatch scheme has been in existence in the Borough for some time. It is led by Northumbria Police, and provides a forum for licensees to gain support from the Police, the Council and other licensees to tackle the problems associated with individuals who cause disturbance, disorder, use drugs or use or threaten violence in and around licensed premises. By acting collectively in excluding such people from a number of premises in the area, this means that the problem is not simply moved from one pub to the next. Pubwatch schemes have been found to be effective tools

in tackling anti-social behaviour in many areas where the schemes are well run and there is a significant level of participation by licence holders in the borough. The Gateshead Alcohol Harm Reduction Strategy 2013-2015 recognises the importance of the Pubwatch scheme and envisages it being used to share and develop best practice and as a forum for training.

#### Regional and national working

- 5.18 The Licensing Authority participates in regional working through the North East Strategic Licensing Group, which is comprised of representatives of each of the twelve North East Licensing Authorities, and forms part of the North East Public Protection Partnership.
- 5.19 The Licensing Authority also works closely with Balance – the North East Alcohol Office, to achieve an integrated approach across the region and with key partners such as the Police.
- 5.20 From the national perspective, representatives of the Licensing Authority participate in the Local Government Association’s Licensing Policy Forum, and the Licensing Special Area of Activity for Lawyers in Local Government.

### **6. General Principles of the Policy**

- 6.1 Each application will be determined on its merits having regard to this Policy, Guidance under Section 182 of the Act, the Act itself and supporting Regulations.
- 6.2 The Licensing Authority considers:
- the effective and responsible management of premises
  - instruction, training and supervision of staff; and
  - the adoption of best practice

to be amongst the most important control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority will expect these elements to be specifically considered and addressed within an applicant’s operating schedule.

- 6.3 Applicants who do not clearly demonstrate how they intend to address these issues in their operating schedules should expect their applications to be objected to, including by the Licensing Authority.
- 6.4 Also, licensees whose practice does not meet this expectation may have their licence reviewed, and as above this may be triggered by the Licensing Authority itself.

### **7. Licensing Objectives**

- 7.1 Applicants will need to provide evidence to the Licensing Authority that, in respect of each of the four licensing objectives, suitable and sufficient measures, as detailed in



their Operating Schedule, will be implemented and maintained, and will be relevant to the individual style and characteristics of their premises and events.

#### Prevention of Crime and Disorder

7.2 The Licensing Authority will expect to see evidence that the following specific matters that impact on crime and disorder have been addressed in the Operating Schedule of the premises:

- The capability of the person who is in charge to run the premises during trading hours or when Regulated Entertainment is provided to effectively and responsibly manage and supervise the premises, including associated open areas
- The steps to be taken in the absence of the Designated Premises Supervisor to effectively manage the business.
- The steps taken or to be taken to ensure that appropriate instruction, training and supervision is given to those employed or engaged in the premises to prevent incidents of crime and disorder
- The measures taken or to be taken to raise staff awareness and discourage and prevent the use or supply of illegal drugs on the premises
- The features currently in place or planned for physical security at the premises, such as lighting outside the premises
- The policies that have been determined in respect of adoption of appropriate existing and future best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, etc)
- Any arrangements which the licence holder proposes to work in partnership with the Council, police and other traders in establishing a method of co-ordinating closing times to prevent crowds emerging from premises at the same time and to prevent migration between premises with different closing times
- Any appropriate additional measures taken or to be taken for the prevention of violence or public disorder

7.3 The extent to which the above matters need to be addressed will be dependent on the individual style, characteristics and location of the premises, and proposed events and activities. In general however, the Licensing Authority will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of crime and disorder issues.

7.4 In such premises appropriate additional measures taken or to be taken for the prevention of violence or public disorder may include:

- Provision of effective CCTV both within and around premises

- Employment of SIA licensed door staff
- Provision of toughened or plastic glasses
- Procedures for risk assessing drinks promotions and events such as 'happy hours' for the potential to cause crime and disorder and plans for minimising such risks

7.5 The Licensing Authority will have particular regard to representations from the Police in deciding whether the above issues have been adequately addressed. It will not normally grant an application where representations indicate a potential negative impact on crime and disorder, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these concerns.

#### Public Safety

7.6 The Licensing Authority will expect to see that applicants have considered the impact that the following factors may have on public safety:

- The occupancy capacity of the premises
- The age, design and layout of the premises, including means of escape in the event of fire
- The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- Customer profile (eg age, disability)
- The use of special effects such as lasers, pyrotechnics, smoke machines, etc

7.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of the premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of premises and patrons
- Adoption of best practice guidance (eg Guide to Fire Precautions in Existing Places of Entertainment and like premises, The Event Safety Guide, Safety in

Pubs published by the BBPA, and the Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by Independent Street Arts Network)

- Provision of effective CCTV in and around premises
- Provision of toughened or plastic drinking vessels
- Implementation of crowd management measures
- Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety)

### Prevention of Public Nuisance

- 7.8 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 7.9 The Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas.
- 7.10 The Licensing Authority will expect to see that applicants have considered the impact that the following factors may have on the potential for public nuisance:
- The location of premises and proximity to residential and other noise sensitive premises
  - The hours of opening, particularly between 23:00 and 07:00 hours
  - The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
  - The design and layout of premises and in particular the presence of noise limiting features
  - The occupancy capacity of the premises
  - The availability of public transport
  - 'wind down period' between the end of the licensable activities and closure of the premises, i.e. allowing patrons to remain in the premises for a period after licensable activities have ceased, so that people do not disperse en masse
  - last admission time
- 7.11 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of the premises
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance eg to ensure customers leave quietly
- operating hours for all or parts (eg garden areas) of premises, including such matters as deliveries
- adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics, Licensed Property: Noise, published by BBPA)
- installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- management of people, including staff, and traffic (and resulting queues)
- liaison with public transport providers
- siting of external lighting including security lighting
- management arrangements for collection and disposal of litter
- effective ventilation systems to prevent nuisance from odour

#### Protection of Children from Harm

- 7.12 The protection of children is an important issue and the licensing regime has a fundamental role in achieving this. The protection of children from harm includes moral, psychological and physical harm and applicants are expected to demonstrate that such factors have been considered in their operating schedules.
- 7.13 Applicants should expect to receive objections in respect of the protection of children from harm, and licensees should expect their licence to be reviewed, where:
- there have been convictions for serving alcohol to minors or the premises have a reputation for facilitating underage drinking
  - there is a known association with drug taking or dealing
  - there is a strong element of gambling on the premises
  - entertainment of an adult or sexual nature is commonly provided
- 7.14 Licensees will be expected to prevent children from viewing films that are unsuitable because of the age classification of the film that has been imposed by the British Board of Film Classification or the Licensing Authority.
- 7.15 Anyone intending to provide staff for the supervision of activities for under 18s will be expected to carry out enhanced criminal record checks on all such persons, and to keep a register which should be available to the Police or authorised Council officer

- 8.13 Where the Licensing Authority is requested to classify a film for exhibition within the Licensing Authority's area, it will do so if the film has not been classified by the British Board of Film Classification, or such classification is not pending.
- 8.14 When an applicant submits a film for classification, they should provide a copy of the film to the Licensing Officer, and should indicate the rating that they consider appropriate. The Licensing Officer shall consult with Northumbria Police and the Local Safeguarding Children Board. The applicant should provide the copy of the film at least 28 days in advance of the proposed screening. If the applicant is unable to provide a copy of the film in DVD format or via a website then they should liaise with the Licensing Officer to arrange for a screening of the film for the relevant bodies as above.
- 8.15 The Licensing Authority shall have regard to any representations received from the Local Safeguarding Children Board and Northumbria Police. The Licensing Authority shall have regard to the classification standards applied by the British Board of Film Classification. The Licensing Authority shall also have regard to (but shall not be bound by) any classification given to the film by another Licensing Authority.
- 8.16 Where a relevant representation is received, the classification of the film shall be determined by a hearing of the Licensing Sub Committee.

#### Alcohol sales

- 8.17 It is expected that applicants will set out in their operating schedule the measures they will take to ensure that a written record is kept of all the names and addresses of persons who are authorised to sell or supply alcohol at all times, and that the written record is made available to Police and/or Council officers immediately upon request.
- 8.18 It is expected that premises licensed for the sale of alcohol for consumption off the premises will adopt responsible marketing practices and concern may be heightened where alcohol is promoted in such a way as to encourage people to drink more than they would ordinarily do and in a manner that doesn't promote the licensing objectives, for example quantity based discount promotions and display and promotion of alcohol products in multiple positions in a premises.
- 8.19 It is expected that applicants who intend to sell or supply alcohol by delivery or collection of prepaid orders will include provision in their operating schedules to set out how they will ensure that they do not:
- serve alcohol to a person who appears to be drunk
  - serve alcohol to a person who it is believed will pass it on to persons under 18 years old
  - take payment for the alcohol at the place where it is served – sales should be pre-paid only
- 8.20 It is also expected that applicants will:
- operate an age verification policy of at least a Challenge 25 standard

- only deliver to residential addresses
- only stock delivery vehicles with alcohol that has been pre-ordered
- verify that the person that the alcohol is served to is the person who has ordered it
- only make sales where the purchase price is at least £25 and/or the minimum unit price of the alcohol is not less than £1 per unit

#### Petrol stations / garages

8.21 The Licensing Act prohibits the sale or supply of alcohol from premises used primarily as garages. The Section 182 guidance states that premises are used primarily as a garage if they are used for one or more of the following:

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

8.22 It is expected that applicants for premises licences for premises where any of these activities take place will set out in their operating schedule that they will submit sales data on at least a six monthly basis showing:

- the number of purchases of fuel alone
- the number of purchases of fuel and other goods
- the number of purchases of other goods alone, and
- turnover for each of these type of purchases.

#### Takeaways

8.23 The Licensing Authority will generally not permit the sale of alcohol from 'takeaway' premises that are licensed for late night refreshment, due to the inherent potential for late night alcohol fuelled crime, disorder and anti-social behaviour and the difficulties of addressing such behaviour where the consumption of the alcohol and associated behaviour takes place away from the premises themselves, often in residential areas. Applicants seeking approval to sell alcohol from 'takeaway' premises will need to clearly demonstrate how they will ensure that their activities will not lead to such problems.

#### Outside areas

8.24 Where premises include an outside area it is expected that the operating schedule will set out how the applicant will address:

- The provision of appropriate bins and other receptacles for litter generated by patrons

- Measures to reduce the amount of noise generated by patrons, particularly late at night. This may include door supervision, closure of outside areas after a particular time, restricting re-admission to the premises after a particular time, etc
- Provision and placement of appropriate street furniture to prevent persons 'spilling out' onto public highway in the vicinity of the premises
- Provision of CCTV covering entrances and exits, external areas, and surrounding public highways

## **9. Licensing Hours**

9.1 It is expected that premises whose primary activity is off licence sales will not normally be open between 23:00 and 07:00 hours. Applicants wishing to operate beyond 23:00 hours will need to demonstrate to the satisfaction of the Licensing Authority, in their operating schedule, that there will be no significant disturbance to members of the public living, working or otherwise engaged in normal activity around the premises concerned. Opening hours beyond 23:00 hours will generally be considered to be more acceptable for premises in commercial or tourist areas with high levels of public transport availability, rather than premises in predominately residential areas.

9.2 When considering applications, in respect of hours of operation, the Licensing Authority will take the following into consideration:

- Whether the premises is located in a predominantly retail or entertainment area
- The nature of the proposed activities to be provided in the premises
- Whether there are any arrangements to ensure adequate availability of hackney carriages and private hire vehicles and appropriate places for picking up and setting down passengers
- Whether there is an appropriate amount of car parking, readily accessible to the premises, and in places where the parking and use of vehicles will not cause demonstrable adverse impact to local residents
- Whether the operating schedule agreed with Council Officers indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance
- Whether the licensed activity, particularly if located in areas of the highest levels of recorded crime, may result in a reduction or increase in crime or anti-social behaviour
- Whether the licensed activities are likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it.

- Whether there will be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area
- 9.3 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally expect the hours during which alcohol is sold to match the normal trading hours during which other sales take place, in order to reduce the potential for disturbance or disorder.

## **10. Operating Schedules**

- 10.1 Operating schedules should set out the licensable activities that are intended to be carried out and how it is intended that this happens. Operating schedules should be sufficiently detailed and clear for interested parties and responsible authorities to understand how the applicant or licensee will promote the licensing objectives.
- 10.2 When considering the promotion of the licensing objectives, applicants and licensees should have due regard to the context of the locality that they seek to operate in, and be mindful of any particular concerns that relate to that locality.
- 10.3 For instance, applicants and licensees are expected to have regard to any Local Licensing Guidance in respect of the locality they propose to serve.
- 10.4 Applicants are expected to ensure that their operating schedule enables the Licensing Authority, responsible authorities and interested parties to understand:
- What licensable activities are intended to be carried out
  - When licensable activities will be carried out – i.e. between what hours, on what days and at what times of year
  - When the premises will be open to the public for non-licensed activities
  - Whether alcohol is intended to be sold for consumption off the premises (including where it will be delivered to customers)
  - (Where the sale or supply of alcohol is intended at premises with a Premises Licence) who the Designated Premises Supervisor will be and what his / her address is
  - What steps will be taken to promote the Licensing Objectives.
- 10.5 It is recommended that applicants contact responsible authorities when preparing operating schedules to discuss any relevant concerns.

## **11. Designated Premises Supervisor**

- 11.1 Designated Premises Supervisors have an important role to play in ensuring that the measures to promote the licensing objectives that are set out in an operating schedule are put into practice on a day to day basis.



- 11.2 Where there is a requirement for premises to have a Designated Premises Supervisor, it is expected that the person will be a key person related to the premises, so that matters arising can be dealt with as quickly as possible.
- 11.3 It is expected that a Designated Premises Supervisor will have day to day responsibility for running the premises and will be present at the premises at least 50% of the time in a seven day week that the premises are open for the carrying on of licensable activities.
- 11.4 Where the Designated Premises Supervisor is not available at the premises for whatever reason, the Licensing Authority will expect an individual to be nominated as a point of contact who will have details of where the Designated Premises Supervisor can be contacted.
- 11.5 Where there are problems associated with the running of a premises that stem from the DPS's performance of that role, they may be removed from the role by the Licensing Sub-Committee.

## **12. Conditions**

12.1 Whilst the Licensing Act sets out the regulatory framework that applies to all licensees, conditions can be added to individual licences to prescribe how the licensable activities are to be carried out having regard to all the relevant individual circumstances.

12.2 There are three types of condition:

- mandatory conditions imposed by the Secretary of State – applicants and licensees are expected to comply with the relevant mandatory conditions that apply to the activities they carry out, and to be aware that these mandatory conditions change from time to time. The Home Office issued guidance in respect of these mandatory conditions in October 2014:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/350507/2014-08-29\\_MC\\_Guidance\\_v1\\_0.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350507/2014-08-29_MC_Guidance_v1_0.pdf)

- conditions imposed voluntarily by the applicant / licensee – these conditions will be consistent with the applicant / licensee's operating schedule, although the wording may be amended to ensure clarity and enforceability. Applicants and licensees should note that in line with this Policy, in certain cases the Licensing Authority will assume unless informed otherwise that applicants are volunteering conditions. For instance, as above where an applicant does not indicate an intention to provide adult entertainment by ticking box 'N' on their application form, it will be assumed that they are volunteering a condition not to provide adult entertainment at the premises; and
- conditions imposed at a hearing – the Licensing Sub-Committee may impose conditions on a licence where it considers it appropriate to do so. Any such conditions will be appropriate to the promotion of the licensing objectives and proportionate to the problems that the Sub-Committee find in relation to the premises.

- 12.3 The Licensing Authority does not impose 'standard' conditions on licences, but there are certain factors that most premises that carry out certain licensable activities should take into account. A pool of model conditions is set out in Appendix 1, which applicants should consider when preparing their operating schedule.

### **13. When things go wrong**

#### Complaints about licensed premises

- 13.1 The Licensing Authority will investigate complaints about both licensed premises where licensable activities are taking place but not in accordance with the relevant authorisation; and unlicensed premises where licensable activities are taking place without authorisation.
- 13.2 Complainants will usually, in the first instance, be encouraged to raise the complaint directly with the licensee or business concerned, as this can often be the quickest and most effective way for the person carrying on the licensable activity to understand the negative impact of the activity.
- 13.3 Where appropriate, the Licensing Authority will initially endeavour to seek a resolution through informal means.
- 13.4 Where appropriate, the Licensing Authority may pass any complaint on for investigation by any other statutory agency under whose enforcement responsibility the complaint falls.

#### Failing to comply with the Licensing Act

- 13.5 The Council delivers a wide range of enforcement services, aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The BRDO has published a Regulators' Code, which the Council complies with:

<https://www.gov.uk/government/publications/regulators-code>

The Council will base its enforcement activities around the principles of consistency, transparency and proportionality.

- 13.6 The enforcement policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated administrative offence may be dealt with for example by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety may result in a referral for prosecution.
- 13.7 The Council will seek to work actively with the Police, Fire & Rescue Service, Trading Standards and any other relevant authority to enforce the licensing legislation. This may include carrying out test purchases, inspections of licensed premises, investigating complaints about licensed premises and investigating allegations of unlicensed premises. Such a partnership approach is intended to prevent duplication

of effort, maximise the potential for controlling crime and disorder at premises and to ensure compliance when relevant conditions are appropriate. Gateshead Council has approved the Northumbria Police Joint Enforcement Protocol, which will encourage a consistent approach to enforcement throughout the Licensing Authorities within the Northumbria Police area.

- 13.8 Inspections will take place at the discretion of the Council and its partner agencies and will be concentrated on areas of need. A light touch inspection regime will be employed for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.
- 13.9 Where possible and appropriate, the Licensing Authority and its partner agencies will give early warning to licence holders of any concerns about problems occurring at premises associated with the licensing objectives
- 13.10 The Licensing Authority will carry out its responsibilities for enforcement so as to promote the licensing objectives.

#### Reviews

- 13.11 Interested parties and responsible authorities may seek a review of a premises licence or club premises certificate if they believe that the current operation under the licence or certificate is harmful to one or more of the Licensing Objectives.
- 13.12 Where an application to review a licence or certificate is received by the Licensing Authority, it should be accompanied by any relevant supporting information, documentation, etc. If the application is relevant, and (if made by an interested party) is not frivolous, vexatious or repetitive, a hearing before the Licensing Authority's Sub Committee will be held. Where appropriate the parties may be able to hold discussions with a view to reaching an agreement on steps that can be taken to improve the position.
- 13.13 When a hearing before the Sub Committee takes place, the Sub Committee will consider all relevant information presented to it, and decide what course of action is appropriate for the promotion of the Licensing Objectives. There are a range of responses that are open to the Sub Committee on a review application. The Sub Committee may –
- Take no further action
  - Add or modify conditions on the licence or certificate
  - Exclude a licensable activity from the licence or certificate
  - Remove the designated premises supervisor
  - Suspend the licence or certificate for a period not exceeding three months
  - Revoke the licence or certificate.
- 13.14 The review process is intended to enable the Licensing Authority to take appropriate timely measures to promote the Licensing Objectives in respect of individual premises. A review can take place even if it would be disproportionate to revoke a licence or certificate, as some lesser measure can be taken, as above.
- 13.15 Also, because the review process is intended to address the future conduct of the licence holder, a review can take place regardless of any other measures that may

be open to the interested party or responsible body. For instance, if a licence holder is found to have sold age restricted products to a minor, it is not necessary for a prosecution (or indeed a successful prosecution) to take place in respect of that sale before a review is brought, as the review would consider the steps appropriate to prevent future underage sales.

#### Summary reviews

- 13.16 The Police may request a summary review in serious cases of crime and disorder, and in which case within 48 hours of the application the Licensing Authority will consider whether any interim steps are required pending completion of the review process. This may include immediate suspension of the relevant licence.

### **14. Delegation and Decision Making**

- 14.1 The Council has established a Licensing Committee to administer its functions under the Licensing Act 2003. Powers and functions have also been delegated to Licensing Sub-Committees and officers in order to provide a speedy, efficient and cost effective service to all parties involved in the licensing process.
- 14.2 Many of the decisions and functions are largely administrative in nature such as the grant of non-contentious applications, including for example those licences and certificates where no representations have been made. These will be delegated to Council officers. All such matters dealt with by officers will be reported for information to the next Licensing Committee meeting.
- 14.3 Applications where there are relevant representations will be dealt with by the Licensing Committee/Sub-Committee – unless such representations are considered irrelevant, frivolous or vexatious or unless the Licensing Authority, the applicant and everyone who has made representations agrees that a hearing is not necessary (usually after successful mediation).
- 14.4 The table given below sets out the delegation of decisions and functions of the Licensing Committee, Sub-Committees and officers. The various delegations include delegation to impose appropriate conditions.
- 14.5 This scheme of delegations is without prejudice to the right of relevant parties to refer an application to a Licensing Sub-Committee or the full Licensing Committee if considered appropriate in the circumstances of any particular case.
- 14.6 Unless there are compelling reasons to the contrary, the Licensing Authority will require the Licensing Committee or any of its sub-committees to meet in public – although Members can retire into private session to consider their decision. A public announcement of the decision will be made at the end of the hearing together with clear, cogent reasons for the decision having due regard to the Human Rights Act 1998, the four licensing objectives and all other legislation.
- 14.7 The Licensing Committee will be made up of 15 members and Sub-Committees of three who will hear any relevant representations from authorised persons, responsible authorities and interested parties in the form of a hearing.

14.8 Where a function is delegated to an officer, that officer will be responsible for liaising between the applicant, interested parties and the responsible authorities to ensure that any licence granted is subject to the appropriate conditions. Where objections are made then the officer will once again liaise with the applicant, interested parties and the responsible authorities to see if a 'settlement' is possible to overcome the objections without the need for the matter to go before the Sub-Committee.

14.9 The Sub-Committee will determine each case before it on its individual merits. However, in determining the application the Sub-Committee will consider:

- The case and evidence presented by all parties
- The promotion of the four licensing objectives
- Guidance issued by Central Government
- The Licensing Authority's own statement of Licensing Policy

14.10 Delegation of functions:

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Consideration of reports to the committee	Six monthly		
Approval of new / updated Local Licensing Guidance	Six monthly		
Application for personal licence		If representation is made	If no representation made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence / Club Premises Certificate		If a relevant representation made	If no relevant representation is made
Application for a Provisional Statement		If a relevant representation made	If no relevant representation is made
Application to vary Premises Licence / Club Premises Certificate		If a relevant representation made	If no relevant representation is made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases

Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Application for interim authorities		If a police Objection	All other cases
Application to review Premises Licence / Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to make representation on behalf of Licensing Authority			All cases
Determination of objection to a Temporary Event Notice		All cases	
Classification of films for exhibition where BBFC has not classified		If a relevant representation made	If no relevant representation is made

## 15. Consultation and Review

- 15.1 This Policy will come into effect on 7 January 2016 and will remain in force for not more than five years. During that time it will be subject to periodic reviews and further consultation.

15.2 The Council is required to review its Licensing Policy statement every five years and will, in doing so, take into account the views of:

- Members and relevant officers of the Council
- Northumbria Police, Tyne and Wear Fire & Rescue Service and all of the other Responsible Authorities defined in the Act
- Holders of premises and personal licences and club premises certificates
- Local businesses, residents and representatives
- Individuals and organisations with an interest in the regulations of licensable activities both locally and nationally

15.3 The Council may, however, review the policy at any time within those five years should it consider it appropriate to do so.

15.4 Following consultation, any revisions to this Policy will be published.

## **16. Further information**

16.1 Further information about the Licensing Act 2003 and the Council's Licensing Policy can be obtained from:

Licensing Section,  
Development & Public Protection  
Gateshead Council  
Civic Centre, Regent Street, Gateshead, Tyne and Wear NE8 1HH  
Tel: 0191 4334741  
Email: [licensing@gateshead.gov.uk](mailto:licensing@gateshead.gov.uk)  
Website: [www.gateshead.gov.uk](http://www.gateshead.gov.uk)

16.2 Information is also available from:

Home Office Direct Communications  
Unit, 2 Marsham Street, London, SW1P 4DF  
Tel : 020 7035 4848  
Email : [public.enquiries@homeoffice.gsi.gov.uk](mailto:public.enquiries@homeoffice.gsi.gov.uk)  
Website : <https://www.gov.uk/government/organisations/home-office>

### Public Information

16.3 The Register of Premises Licences and Personal Licence holders will be available for inspection by appointment during normal office hours.

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Home Office

# **Revised Guidance issued under section 182 of the Licensing Act 2003**

August 2023

# 1. Introduction

## The Licensing Act 2003

- 1.1 The Licensing Act 2003 (referred to in this Guidance as the 2003 Act), its explanatory notes and any statutory instruments made under it may be viewed online at [www.legislation.gov.uk](http://www.legislation.gov.uk). The statutory instruments include regulations setting out the content and format of application forms and notices. The Home Office has responsibility for the 2003 Act. However, the Department for Culture, Media and Sport (DCMS) is responsible for regulated entertainment, for which there is provision in Schedule 1 to the 2003 Act (see Chapter 16).

## Licensing objectives and aims

- 1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.
- 1.3 The licensing objectives are:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.
- 1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.
- 1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:
- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
  - giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
  - recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
  - providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
  - encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

## **The guidance**

- 1.6 Section 182 of the 2003 Act provides that the Secretary of State must issue and, from time to time, may revise guidance to licensing authorities on the discharge of their functions under the 2003 Act. This revised guidance takes effect as soon as it is published. Where a licence application was made prior to the publication of the revised guidance, it should be processed in accordance with the guidance in effect at the time at which the application was made; the revised guidance does not apply retrospectively. However, all applications received by the licensing authority on or after the date the revised guidance was published should be processed in accordance with the revised guidance.

## **Purpose**

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

## **Legal status**

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

## **Licensing policies**

- 1.11 Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.
- 1.12 However, determining and publishing a statement of its policy is a licensing function and as such the authority must have regard to this Guidance when taking this step. A licensing authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. But once again, it is important that it should be able to give full reasons for departing from its published statement of licensing policy. Where revisions to this Guidance are issued by the Secretary of State, there may be a period of time when the licensing policy statement is inconsistent with the Guidance (for example, during any consultation by the licensing authority). In these circumstances, the licensing authority should have regard, and give appropriate weight, to this Guidance and its own existing licensing policy statement.

## **Licensable activities**

- 1.13 For the purposes of the 2003 Act, the following are licensable activities:
- The sale by retail of alcohol;
  - The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
  - The provision of regulated entertainment; and
  - The provision of late night refreshment.

Further explanation of these terms is provided in Chapter 3.

## **Authorisations or permissions**

- 1.14 The 2003 Act provides for four different types of authorisation or permission, as follows:
- Premises licence – to use premises for licensable activities.
  - Club premises certificate – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act.
  - Temporary event notice – to carry out licensable activities at a temporary event.
  - Personal licence – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

## **General principles**

- 1.15 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that licence applicants contact responsible authorities when preparing their operating schedules.

## **Licence conditions – general principles**

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

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

## **Each application on its own merits**

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

## **Additional guidance**

1.18 From time to time, the Home Office may issue additional supporting guidance to licensing authorities and other persons on the Gov.uk website. This supporting guidance is good practice guidance and should be viewed as indicative and subject to change. Such supporting guidance will broadly reflect but will not be part of the statutory guidance issued by the Secretary of State under section 182 of the 2003 Act. Licensing authorities may wish to refer to, but are under no statutory duty to have regard to such supporting guidance issued by the Home Office.

## **Other relevant legislation**

1.19 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes:

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work etc. Act 1974
- The Equality Act 2010
- The Immigration Act 2016
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

## 2. The licensing objectives

### Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

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

## **Public safety**

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
  - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
  - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.



- 2.10 Counter terrorism and public safety
- 2.11 Licensing committees may wish to give due consideration to appropriate counter-terrorism measures and advice when considering licence applications, for example at high profile or large premises or events or where there are factors which may increase attractiveness to attacks, and in particular when in receipt of relevant advice from police counter terrorist staff.
- 2.12 It is particularly relevant to consider conditions around health care provision in this regard. Any additional licensing conditions should be appropriate and proportionate to the venue as noted in para 1.16. We recommend that all licensing authorities pay particular attention to terrorist threats when making specific licence conditions in relation to security or health care provision at appropriate premises and events applying for a licence.
- 2.13 As noted in para 2.8 licensing authorities can recommend conditions where appropriate to do so, such as ensuring appropriate access for emergency services and vehicles such as ambulances; good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4); and ensuring the presence of sufficient trained first aiders on the premises and appropriate first aid kits.
- 2.14 However, in some instances, licensing authorities may wish to tailor their approach, depending on the particular nature of the application, and go further when addressing concerns around possible terrorist or other such risks. We have provided an Annex to help inform and support licensing authorities in their decision making with regards to additional licence conditions for premises and events, that may benefit from further security planning and health care provision in the aftermath of a particular type of incident.

## **Ensuring safe departure of those using the premises**

- 2.15 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
  - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

## **Maintenance and repair**

- 2.16 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to

be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

## **Safe capacities**

- 2.17 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.18 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.19 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## **Public nuisance**

- 2.20 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.
- 2.21 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.

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<sup>1</sup> S 177 of the 2003 Act now only applies to performances of dance.

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.

- 2.22 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.
- 2.23 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.
- 2.24 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.
- 2.25 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.
- 2.26 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## Protection of children from harm

- 2.27 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.28 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
  - it is known that unaccompanied children have been allowed access;
  - there is a known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.29 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.30 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.31 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.32 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;

- restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
- restrictions on the parts of the premises to which children may have access;
- age restrictions (below 18);
- restrictions or exclusions when certain activities are taking place;
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

2.33 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

2.34 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

2.35 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

2.36 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

### **Offences relating to the sale and supply of alcohol to children**

2.37 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under

section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

## 3. Licensable activities

### Summary

- 3.1 A premises licence authorises the use of any premises (see Chapter 5) for licensable activities. Licensable activities are defined in section 1 of the 2003 Act, and a fuller description of certain activities is set out in Schedules 1 and 2 to the 2003 Act.
- 3.2 The licensable activities are:
- the sale by retail of alcohol;
  - the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
  - the provision of regulated entertainment; and
  - the provision of late night refreshment.

### Wholesale of alcohol

- 3.3 The sale of alcohol to the general public is licensable under the 2003 Act in accordance with the definition of “sale by retail” in section 192 of the 2003 Act. This section makes it clear that, to be excluded from the meaning of “sale by retail”, a sale must be:
- made from premises owned by the person making the sale, or occupied under a lease with security of tenure; and
  - for consumption off the premises.
- 3.4 In addition, to be excluded, the sales must be sales which are made to:
- a trader for the purpose of his trade;
  - to a club for the purposes of that club;
  - to a holder of a premises licence or a personal licence for the purpose of making sales under a premises licence; or
  - a premises user who has given a temporary event notice, for the purpose of making sales authorised by that notice.
- 3.5 If an employee were buying alcohol as an “agent” for their employer and for the purposes of their employer’s trade (i.e. selling alcohol), this could be treated as a sale to a trader. If, however, an employee were buying for the employee’s own consumption, this would be a retail sale, and would require a licence.
- 3.6 The same considerations apply in the case of caterers who supply alcohol to their customers. Where a caterer purchases alcohol and then sells this alcohol to its customer, an authorisation will be required at the location where the retail sale of the alcohol is made (likely to be the caterer’s own premises). If the customer was proposing to sell the alcohol under an authorisation, it is the customer who would need an authorisation under the 2003 Act. In this case, the exemption under the 2003 Act may apply to the sale made by the caterer.
- 3.7 From 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) will need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN)

## **Vehicles**

- 5.19 Under the 2003 Act, alcohol may not be sold on a moving vehicle and the vehicle may not be licensed for that purpose. However, licensing authorities may consider applications for the sale of alcohol from a parked or stationary vehicle. For example, mobile bars could sell alcohol at special events as long as they were parked. Any permission granted would relate solely to the place where the vehicle is parked and where sales are to take place.
- 5.20 The provision of any entertainment on premises consisting of or forming part of any vehicle while it is in motion and not permanently or temporarily parked is not regulated entertainment for the purposes of the 2003 Act.

## **Trains and aircraft**

- 5.21 Railway vehicles and aircraft engaged on journeys are exempted from the requirement to have an authorisation to carry on licensable activities (although a magistrates' court can make an order to prohibit the sale of alcohol on a railway vehicle if this is appropriate to prevent disorder). Licensing authorities should note that some defunct aircraft and railway carriages remain in a fixed position and are used as restaurants and bars. These premises are subject to the provisions of the 2003 Act.

## **Garages and motorway service areas**

- 5.22 Section 176 of the 2003 Act prohibits the sale or supply of alcohol at motorway service areas (MSAs) and from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:
- the retailing of petrol;
  - the retailing of derv (diesel);
  - the sale of motor vehicles; and
  - the maintenance of motor vehicles.
- 5.23 It is for the licensing authority to decide, based on the licensing objectives, whether it is appropriate for that premises to be granted a licence, taking into account the documents and information listed in section 17(3) and (4) which must accompany the application.
- 5.24 If a licence is granted in respect of a premises and the primary use of that premises subsequently changes (for example, the primary use becomes that of a garage rather than a shop) it would no longer be legal to sell alcohol on that premises. If a relevant representation is made, the licensing authority must decide whether or not the premises are used primarily as a garage. The licensing authority may ask the licence holder to provide further information to help establish what the primary use of the premises is.

## **Large scale time-limited events requiring premises licences**

- 5.25 Licensing authorities should note that a premises licence may be sought for a short, discrete period. The 2003 Act provides that a temporary event notice is subject to various limitations (see Chapter 7 of this Guidance). The temporary provision of licensable activities that fall outside these limits will require the authority of a premises licence if the premises are currently unlicensed for the activities involved.



# 8. Applications for premises licences

## Relevant licensing authority

- 8.1 Premises licences are issued by the licensing authority in which the premises are situated or, in the case of premises straddling an area boundary, the licensing authority where the greater part of the premises is situated. Where the premises is located equally in two or more areas, the applicant may choose but, in these rare cases, it is important that each of the licensing authorities involved maintain close contact.
- 8.2 Section 13 of the 2003 Act defines the parties holding important roles in the context of applications, inspection, monitoring and reviews of premises licences.

## Authorised persons

- 8.3 The first group –“authorised persons”– are bodies empowered by the 2003 Act to carry out inspection and enforcement roles. The police and immigration officers are not included because they are separately empowered by the 2003 Act to carry out their duties.
- 8.4 For all premises, the authorised persons include:
- officers of the licensing authority;
  - fire inspectors;
  - inspectors with responsibility in the licensing authority’s area for the enforcement of the Health and Safety at Work etc Act 1974;
  - officers of the local authority exercising environmental health functions
- 8.5 Local authority officers will most commonly have responsibility for the enforcement of health and safety legislation, but the Health and Safety Executive is responsible for certain premises. In relation to vessels, authorised persons also include an inspector or a surveyor of ships appointed under section 256 of the Merchant Shipping Act 1995. These would normally be officers acting on behalf of the Maritime and Coastguard Agency. The Secretary of State may prescribe other authorised persons by means of regulations, but has not currently prescribed any additional bodies. If any are prescribed, details will be made available on the GOV.UK website.
- 8.6 Where an immigration officer has reason to believe that any premises are being used for a licensable activity, the officer may enter the premises with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the licensable activity.

## Responsible authorities

- 8.7 The second group –“responsible authorities”– are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must still be considered ‘relevant’ by the licensing authority and relate to one or more of the licensing objectives. For all premises, responsible authorities include:
- the relevant licensing authority and any other licensing authority in whose area part of

- the premises is situated;
- the chief officer of police;
- the local fire and rescue authority;
- the relevant enforcing authority under the Health and Safety at Work etc Act 1974;
- the local authority with responsibility for environmental health;
- the local planning authority;
- a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- each local authority's Director of Public Health (DPH) in England<sup>4</sup> and Local Health Boards (in Wales);
- the local weights and measures authority (trading standards); and
- Home Office Immigration Enforcement (on behalf of the Secretary of State).

- 8.8 The licensing authority should indicate in its statement of licensing policy which body it recognises to be competent to advise it on the protection of children from harm. This may be the local authority social services department, the Local Safeguarding Children Board or another competent body. This is important as applications for premises licences have to be copied to the responsible authorities in order for them to make any representations they think are relevant.
- 8.9 In relation to a vessel, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed, or any waters where it is proposed to be navigated when being used for licensable activities; the Environment Agency; the Canal and River Trust; and the Secretary of State (who in practice acts through the Maritime and Coastguard Agency (MCA)). In practice, the Environment Agency and the Canal and River Trust only have responsibility in relation to vessels on waters for which they are the navigation statutory authority.
- 8.10 The MCA is the lead responsible authority for public safety, including fire safety, affecting passenger ships (those carrying more than 12 passengers) wherever they operate and small commercial vessels (carrying no more than 12 passengers) which go to sea. The safety regime for passenger ships is enforced under the Merchant Shipping Acts by the MCA which operates certification schemes for these vessels. Fire and rescue authorities, the Health and Safety Executive and local authority health and safety inspectors should normally be able to make "nil" returns in relation to such vessels and rely on the MCA to make any appropriate representations in respect of this licensing objective.
- 8.11 Merchant Shipping legislation does not, however, apply to permanently moored vessels. So, for example, restaurant ships moored on the Thames Embankment, with permanent shore connections should be considered by the other responsible authorities concerned with public safety, including fire safety. Vessels carrying no more than 12 passengers which do not go to sea are not subject to MCA survey and certification, but may be licensed by the local port or navigation authority.

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<sup>4</sup> This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

- 8.12 The Secretary of State may prescribe other responsible authorities by means of regulations. Any such regulations are published on the Government's legislation website: [www.legislation.gov.uk](http://www.legislation.gov.uk).

## **Other persons**

- 8.13 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous and vexatious representations.
- 8.14 While any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity.

## **Who can apply for a premises licence?**

- 8.15 Any person (if an individual aged 18 or over) who is carrying on or who proposes to carry on a business which involves the use of premises (any place including one in the open air) for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period.
- 8.16 "A person" in this context includes, for example, a business or a partnership. Licensing authorities should not require the nomination of an individual to hold the licence or determine the identity of the most appropriate person to hold the licence.
- 8.17 In considering joint applications (which is likely to be a rare occurrence), it must be stressed that under section 16(1)(a) of the 2003 Act each applicant must be carrying on a business which involves the use of the premises for licensable activities. In the case of public houses, this would be easier for a tenant to demonstrate than for a pub owning company that is not itself carrying on licensable activities. Where licences are to be held by businesses, it is desirable that this should be a single business to avoid any lack of clarity in accountability.
- 8.18 A public house may be owned, or a tenancy held, jointly by a husband and wife, civil partners or other partnerships of a similar nature, and both may be actively involved in carrying on the licensable activities. In these cases, it is entirely possible for the husband and wife or the partners to apply jointly as applicant for the premises licence, even if they are not formally partners in business terms. This is unlikely to lead to the same issues of clouded accountability that could arise where two separate businesses

apply jointly for the licence. If the application is granted, the premises licence would identify the holder as comprising both names and any subsequent applications, for example for a variation of the licence, would need to be made jointly.

- 8.19 A wide range of other individuals and bodies set out in section 16 of the 2003 Act may apply for premises licences. They include, for example, Government Departments, local authorities, hospitals, schools, charities or police forces. In addition to the bodies listed in section 16, the Secretary of State may prescribe by regulations other bodies that may apply and any such regulations are published on the Government's legislation website. There is nothing in the 2003 Act which prevents an application being made for a premises licence at premises where a premises licence is already held.

## **Application forms**

- 8.20 The Provision of Services Regulations 2009 require local authorities to ensure that all procedures relating to access to, or the exercise of, a service activity may be easily completed, at a distance and by electronic means. Electronic application facilities for premises licences may be found either on GOV.UK or the licensing authority's own website. It remains acceptable to make an application in writing.

## **Electronic applications**

- 8.21 Applicants may apply using the licence application forms available on GOV.UK, or will be re-directed from GOV.UK to the licensing authority's own electronic facility if one is available. Applicants may also apply directly to the licensing authority's facility without going through GOV.UK.

## **Electronic applications using forms on gov.uk**

- 8.22 GOV.UK will send a notification to the licensing authority when a completed application form is available for it to download from GOV.UK. This is the day that the application is taken to be 'given' to the licensing authority, even if it is downloaded at a later stage, and the application must be advertised from the day after that day (as for a written application). The licensing authority must acknowledge the application as quickly as possible, specifying the statutory time period and giving details of the appeal procedure.
- 8.23 The period of 28 consecutive days during which the application must be advertised on a notice outside the premises is, effectively, the statutory timescale by which the application must be determined (unless representations are made). This will be published on GOV.UK and must also be published on the licensing authority's own electronic facility if one exists. If no representations are made during this period, the licensing authority must notify the applicant as quickly as possible that the licence has been granted. The licensing authority must send the licence to the applicant as soon as possible after this, but the applicant may start the licensed activity as soon as they have been notified that the application is granted (subject to compliance with the conditions of the licence). The licence may be supplied in electronic or written format as long as the applicant is aware which document constitutes 'the licence'. If representations are made, the guidance in Chapter 9 applies.

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

- 8.24 The licensing authority must copy electronic applications, made via GOV.UK or its own facility, to responsible authorities no later than the first working day after the application

is given. However, if an applicant submits any part of their application in writing, the applicant will remain responsible for copying it to responsible authorities.

### **Applications via the local authority electronic application facility**

8.25 Where applications are made on the licensing authority's own electronic facility, the application will be taken to be 'given' when the applicant has submitted a complete application form and paid the fee. The application is given at the point at which it becomes accessible to the authority by means of the facility. The licensing authority must acknowledge the application as quickly as possible, specifying the statutory time period and giving details of the appeal procedure.

### **'Holding' and 'deferring' electronic applications**

8.26 The Government recommends (as for written applications) that electronic applications should not be returned if they contain obvious and minor errors such as typing mistakes, or small errors that can be rectified with information already in the authority's possession. However, if this is not the case and required information is missing or incorrect, the licensing authority may 'hold' the application until the applicant has supplied all the required information. This effectively resets the 28 day period for determining an application and may be done any number of times until the application form is complete. Licensing authorities must ensure that they notify the applicant as quickly as possible of any missing (or incorrect) information, and explain how this will affect the statutory timescale and advertising requirements.

8.27 If an application has been given at the weekend, the notice advertising the application (where applicable) may already be displayed outside the premises by the time that the licensing authority downloads the application. It is therefore recommended that, if a licensing authority holds an application, it should inform the applicant that the original (or if necessary, amended) notice must be displayed until the end of the revised period. The licensing authority should also advise the applicant that they should not advertise the application in a local newspaper until they have received confirmation from the licensing authority that the application includes all the required information. To ensure clarity for applicants, the Government recommends that licensing authorities include similar advice on their electronic application facilities (where these exist) to ensure that applicants do not incur any unnecessary costs.

8.28 If an applicant persistently fails to supply the required information, the licensing authority may refuse the application and the applicant must submit a new application.

8.29 Licensing authorities may also 'defer' electronic applications once if the application is particularly complicated, for example if representations are received and a hearing is required. This allows the licensing authority to extend the statutory time period for the determination of the application by such time as is necessary, including, if required, arranging and holding a hearing. Licensing authorities must ensure that applicants are informed as quickly as possible of a decision to defer, and the reasons for the deferral, before the original 28 days has expired.

### **Written applications**

8.30 A written application for a premises licence must be made in the prescribed form to the relevant licensing authority and be copied to each of the appropriate responsible authorities. For example, it would not be appropriate to send an application for premises

which was not a vessel to the Maritime and Coastguard Agency. The application must be accompanied by:

- the required fee (details of fees may be viewed on the GOV.UK website);
- an operating schedule (see below);
- a plan of the premises in a prescribed form; and
- if the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor (DPS).

- 8.31 If the application is being made by an individual it should be accompanied by acceptable evidence of entitlement to work in the UK (this includes where the application is submitted electronically), as set out in the application form (see paragraph 4.9)
- 8.32 If the application is being made in respect of a community premises, it may be accompanied by the form of application to apply the alternative licence condition.
- 8.33 Guidance on completing premises licence, club premises certificate and minor variation forms can be found on the GOV.UK website. The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 contain provision about the prescribed form of applications, operating schedules and plans and are published on the [legislation.gov.uk](http://legislation.gov.uk) website.

## Plans

- 8.34 Plans, for written and electronic applications, will not be required to be submitted in any particular scale, but they must be in a format which is “clear and legible in all material respects”, i.e. they must be accessible and provides sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.

## Beer gardens or other outdoor spaces

- 8.35 Applicants will want to consider whether they might want to use a garden or other outdoor space as a location from which alcohol will be consumed. The sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. In scenarios where drink orders are taken by a member of staff in the garden or outdoor space and the member of staff then collects the drinks from the licensed premises and returns to deliver them to the customer this would be treated as an off-sale and any conditions that relate to off-sales would apply.
- 8.36 In such cases it will not be necessary to include the garden or other outdoor space on the plan as part of the area covered by the premises licence. However, it will be necessary for the applicant to include the garden or other outdoor space on the plan as part of the area covered by the premises licence if the intention is to provide a service whereby drinks are available for sale and consumption directly from that area (i.e. the provision of on-sales). This would apply in the case of an outdoor bar or a service whereby a member of staff who is in the garden or outdoor space carries with them drinks that are available for sale (without the need for the staff member to return to the licensed premises to collect them).
- 8.37 If the beer garden or other outdoor area is to be used for the consumption of off-sales only, there is no requirement to show it on the plan of the premises, but the prescribed

application form requires the applicant to provide a description of where the place is and its proximity to the premises.

## **Entitlement to work in the UK**

- 8.38 Individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. Licensing authorities must be satisfied that an individual who applies for a premises licence is entitled to work in the UK. This includes applications made by more than one individual applicant. An application made by an individual without the entitlement to work in the UK must be rejected. This applies to applications which include the sale of alcohol and the provisions of late night refreshment, but does not include applications which apply to regulated entertainment only. For example, a person applying for a licence for a music venue who does not intend to sell alcohol or late night refreshment is not prohibited from applying for a licence on grounds of immigration status. However, they will commit a criminal offence if they work illegally.
- 8.39 An applicant may demonstrate their right to work either by submitting documentation, or by an online right to work check. The documents which may be relied on in support of an application demonstrating an entitlement to work in the UK are the same as for personal licence applicants see paragraph 4.9. Alternatively, as for personal licences, applicants may demonstrate their right to work digitally by providing their share code and date of birth to enable the licensing authority to carry out a check with the Home Office online right to work checking service (available on GOV.UK: <https://www.gov.uk/view-right-to-work>) – see paragraph 4.10. Where there is sufficient evidence that the applicant is not resident in the UK there is no requirement that the applicant has an entitlement to work in the UK. See paragraphs 4.21 to 4.48 in relation to entitlement to work in the UK for EEA citizens from 1 July 2021.
- 8.40 Where an applicant's permission to work in the UK is time-limited the licensing authority may issue a premises licence for an indefinite period, but the licence will become invalid when the immigration permission expires. The individual's entitlement to work in the UK may be extended or made permanent by the Home Office, and granting the licence for an indefinite period prevents the licensee from having to re-apply for a new licence. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as a curtailment or revocation), any licence issued on or after 6 April 2017 which authorises the sale of alcohol or provision of late night refreshment will automatically lapse. As with personal licences, the licensing authority is under no duty to carry out on going immigration checks to see whether a licence holder's permission to be in the UK has been brought to an end. For further details on entitlement to work see paragraphs 4.8 to 4.48.

## **Steps to promote the licensing objectives**

- 8.41 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to

publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.

- 8.42 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:
- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
  - any risk posed to the local area by the applicants' proposed licensable activities; and
  - any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
- 8.43 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact assessment), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.
- 8.44 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.
- 8.45 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:
- the Crime Mapping website;
  - Neighbourhood Statistics websites;
  - websites or publications by local responsible authorities;
  - websites or publications by local voluntary schemes and initiatives; and
  - on-line mapping tools.
- 8.46 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.
- 8.47 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to



promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.

- 8.48 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.
- 8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the consideration given to the licensing objectives and any measures that are proposed to promote them.

## Variations

### Introduction

- 8.50 Where a premises licence holder wishes to amend the licence, the 2003 Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives. Applications to vary can be made electronically via GOV.UK or by means of the licensing authority's own electronic facility following the procedures set out above.

### Simplified processes

- 8.51 There are simplified processes for making applications, or notifying changes, in the following cases:
- a change of the name or address of someone named in the licence (section 33);
  - an application to vary the licence to specify a new individual as the designated premises supervisor (DPS) (section 37);
  - a request to be removed as the designated premises supervisor (section 41);
  - an application by a licence holder in relation to community premises authorised to sell alcohol to remove the usual mandatory conditions set out in sections 19(2) and 19(3) of the 2003 Act concerning the supervision of alcohol sales by a personal licence holder and the need for a DPS who holds a personal licence (sections 25A and 41D); and
  - an application for minor variation of a premises licence (sections 41A to 41C) or club premises certificate (sections 86A to 86C).
- 8.52 If an application to specify a new DPS or to remove the mandatory conditions concerning the supervision of alcohol sales is made electronically via GOV.UK or the licensing authority's own electronic facility, the authority must notify the police no later than the first working day after the application is given.
- 8.53 Where a simplified process requires the applicant (if they are not also the personal licence holder) to copy the application to the licence holder for information, this will apply regardless of whether the application is made in writing or electronically.

## **Licensing conditions**

### **a) Imposed conditions**

8.69 Licensing authorities cannot impose their own conditions on the licence through the minor variations process. If the licensing officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, they should refuse it.

### **b) Volunteered conditions**

8.70 Applicants may volunteer conditions as part of the minor variation process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with responsible authorities or the licensing authority.

8.71 For instance, there may be circumstances when the licence holder and a responsible authority such as the police or environmental health authority, agree that a new condition should be added to the licence (for example, that a nightclub adds the provision of door staff to its licence). Such a change would not normally impact adversely on the licensing objectives and could be expected to promote them by preventing crime and disorder or public nuisance. In these circumstances, the minor variation process may provide a less costly and onerous means of amending the licence than a review, with no risk to the licensing objectives. However, this route should only be used where the agreed variations are minor and the licence holder and the responsible authority have come to a genuine agreement. The licensing authority should be alive to any attempts to pressure licence or certificate holders into agreeing to new conditions where there is no evidence of a problem at the premises and, if there is any doubt, should discuss this with the relevant parties.

### **c) Amending or removing existing conditions**

8.72 However, there may be some circumstances when the minor variation process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, there may be no need for door supervision if a bar has been converted into a restaurant. Equally some embedded conditions may no longer apply.

8.73 Changes in legislation may invalidate certain conditions. Although the conditions do not have to be removed from the licence, licence holders and licensing authorities may agree that this is desirable to clarify the licence holder's legal obligations. There may also be cases where it is appropriate to revise the wording of a condition that is unclear or unenforceable. This would be acceptable as a minor variation as long as the purpose of the condition and its intended effect remain unchanged. Such a change could be expected to promote the licensing objectives by making it easier for the licence holder to understand and comply with the condition and easier for the licensing authority to enforce it.

## **Full variations process**

8.74 Any other changes to the licence or certificate require an application to vary under sections 34 or 84 of the 2003 Act.

8.75 Licensing authorities may wish to consider whether there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an

application to vary in relation to features which are not required to be shown on the plan under section 17 of the 2003 Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes).

8.76 However, it should be noted that a section 34 application cannot be used to vary a licence so as to:

- extend a time limited licence; vary substantially the premises to which the licence relates;
- transfer the licence from one holder to another; or
- transfer the licence from one premises to another.

8.77 If an applicant wishes to make these types of changes to the premises licence, the applicant should make a new premises licence application under section 17 of the 2003 Act; or, to transfer the licence to another holder, an application under section 42 of the 2003 Act.

## **Relaxation of opening hours for local, national and international occasions**

8.78 It should normally be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year – such as bank holidays and St. George's or St. Patrick's Day – and to include appropriate opening hours in their operating schedules. Similarly, temporary event notices should be sufficient to cover other events which take place at premises that do not have a premises licence or club certificate.

8.79 However, exceptional events of local, national or international significance may arise which could not have been anticipated when the application was first made. In these circumstances, the Secretary of State may make a licensing hours order to allow premises to open for specified, generally extended, hours on these special occasions. This avoids the need for large numbers of applications to vary premises licences and club premises certificates. Typical events might include a one-off local festival or a Royal Jubilee.

## **Advertising applications**

8.80 The requirements governing the advertisement of applications for the grant, variation or review of premises licences and club premises certificates are contained in Regulations 25 and 26 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 which are published on the Government's legislation website.

Applicants are required to:

- publish a notice in a local newspaper or, if there is none, in a local newsletter, circular or similar document circulating in the area in which the premises are situated; and
- display a brief summary of the application on an A4 (or larger) size notice, on pale blue paper in a prominent position (or positions) immediately on or outside the premises for at least 28 consecutive days (starting on the day after the day on which the application was given to the relevant licensing authority). The notice must be printed legibly in black ink or typed in black in size 16 font or larger.

- ensure that the above notices contain the name of the applicant, postal addresses of the premises (or if there is no postal address a description of the premises sufficient to enable the location to be identified), relevant licensing authority and the date by which any representations in relation to the application need to be made to the licensing authority. They should also contain a statement of the relevant licensable activities or relevant qualifying club activities that it is proposed will be carried on at the premises, or in the case of an application to vary a premises licence or a club premises certificate the notices shall briefly describe the proposed variation.
- 8.81 It is the responsibility of the applicant for putting the notice up, however licensing authorities should consider where the signs should be placed and advise the applicant where appropriate, to ensure people will see them, in particular if an application is likely to be of interest to the public. As prescribed in regulations, licensing authorities must also place a notice on their website outlining key details of the application as set out in regulations, including:
- the name of the applicant or club;
  - the postal address of the premises or club premises;
  - the postal address and, where applicable, the internet address where the relevant licensing authority's register is kept and where and when the record of the application may be inspected;
  - the date by which representations from responsible authorities or other persons should be received and how these representations should be made; and
  - that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.
- 8.82 The summary of the application should set out matters such as the proposed licensable activities and the proposed hours of opening and should be clearly displayed for the period during which representations may be made, together with information about where the details of the application may be viewed.
- 8.83 Licensing authorities in Wales should consider encouraging applicants to provide details in the alternative language (Welsh or English) to that of the main advertisement itself where the application may be viewed. Therefore, if an applicant publishes a notice in English they should be encouraged to provide a statement in Welsh as to where the application may be viewed, and vice versa. This would allow the reader of the notice to make enquiries to the licensing authority and find out the nature of the application.
- 8.84 Licensing authorities in Wales are also required to publish key information from licence applications in Welsh on their websites.
- 8.85 In the case of applications for premises licences involving internet or mail order sales, notices should be conspicuously displayed at the place where the alcohol is appropriated to the contract.
- 8.86 A vessel which is not permanently moored or berthed is treated as if it were a premises situated in a place where it is usually moored or berthed. The newspaper advertisement notice for such a vessel would need to be in relation to this place (where it is usually moored or berthed) and there is no provision requiring such advertising in other areas, for instance, if the vessel journeys through other licensing authority areas.

8.87 Arrangements should be put in place by the licensing authority for other parties to view a record of the application in the licensing register as described in Schedule 3 to the 2003 Act. Charges made for copies of the register should not exceed the cost of preparing such copies. Licensing authorities may wish to conduct random and unannounced visits to premises to confirm that notices have been clearly displayed and include relevant and accurate information.

## **Applications to change the designated premises supervisors**

8.88 Chapter 4 covers designated premises supervisors and applications to vary a premises licence covering sales of alcohol by specifying a new designated premises supervisor. Chapter 4 covers applications by community premises to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act concerning the authorisation of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence.

## **Provisional statements**

8.89 Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities, investors may be unwilling to commit funds unless they have some assurance that a premises licence covering the desired licensable activities would be granted for the premises when the building work is completed.

8.90 The 2003 Act does not define the words "otherwise altered", but the alteration must relate to the purpose of being used for one or more licensable activities.

8.91 Any person falling within section 16 of the 2003 Act can apply for a premises licence before new premises are constructed, extended or changed. This would be possible where clear plans of the proposed structure exist and the applicant is in a position to complete an operating schedule including details of:

- the activities to take place there;
- the time at which such activities will take place;
- the proposed hours of opening;
- where the applicant wishes the licence to have effect for a limited period, that period;
- the steps to be taken to promote the licensing objectives; and
- where the sale of alcohol is involved, whether supplies are proposed to be for consumption on or off the premises (or both) and the name of the designated premises supervisor the applicant wishes to specify.

8.92 In such cases, the licensing authority would include in the licence the date upon which it would come into effect. A provisional statement will normally only be required when the information described above is not available.

8.93 The 2003 Act therefore provides for a person, if an individual aged 18 or over, who has an interest in the premises to apply for a "provisional statement". This will not be time limited, but the longer the delay before an application for a premises licence is made, the more likely it is that there will be material changes and that the licensing authority will accept representations. "Person" in this context includes a business.

8.94 When a hearing is held, the licensing authority must decide whether, if the premises

# 9. Determining applications

## General

- 9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

## Where no representations are made

- 9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority's officials who may replicate some of the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions. Licensing authorities should not hold hearings for uncontested applications, for example in situations where representations have been made and conditions have subsequently been agreed.

## Where representations are made

- 9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

## Relevant, vexatious and frivolous representations

- 9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to

the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from a responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.
- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

## **The role of responsible authorities**

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

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area<sup>5</sup>. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

### **Licensing authorities acting as responsible authorities**

9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

9.14 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.

9.15 It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having

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<sup>5</sup> Police and Crime Commissioners are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police remains the named responsible authority under the 2003 Act.



## **Home Office Immigration Enforcement acting as a responsible authority**

- 9.25 The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

## **Disclosure of personal details of persons making representations**

- 9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.
- 9.27 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.
- 9.28 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.
- 9.29 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.
- 9.30 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

## **Hearings**

- 9.31 The Licensing Act 2003 (Hearings) Regulations 2005 governing hearings may be found on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, where the applicant and all of the persons who made relevant representations have given notice to the authority that they consider a hearing to be unnecessary. Where this is the case and the authority agrees that a hearing is unnecessary, it must forthwith give notice to the parties that the hearing has been dispensed with. Notwithstanding those regulatory provisions, in cases where the licensing authority believes that a hearing is still necessary, it is recommended that the authority should, as soon as possible, provide the parties with reasons in writing for the need to hold the hearing. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

- 9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. The 2005 Hearings Regulations permit licensing authorities to extend a time limit provided for by those Regulations for a specified period where it considers this to be necessary in the public interest. For example, if the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences. Where the authority has extended a time limit it must forthwith give a notice to the parties involved stating the period of the extension and the reasons for it.
- 9.33 The 2005 Hearings Regulations require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.34 Applicants should be encouraged to contact responsible authorities and others, such as local residents, who may be affected by the application before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.35 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.
- 9.36 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.
- 9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

- 9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to the relevant mandatory conditions and any conditions that are consistent with the operating schedule. Any additional conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.
- 9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.
- 9.41 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

## **Determining actions that are appropriate for the promotion of the licensing objectives**

- 9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is

imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

### **Considering cases where licensing and planning applications are made simultaneously**

- 9.45 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

# 10. Conditions attached to premises licences and club premises certificates

## General

- 10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

## Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention and be appropriate and proportionate for the promotion of the licensing objectives.

## Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must

be clear to the licence holder, club, enforcement officers and the courts.

## **Imposed conditions**

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. 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 evidence of a right to work check, either physical or digital (e.g. copy of any document checked or a clear copy of the online 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.

## **Naming, packing and promotion in retail premises**

- 10.11 The Government acknowledges that the irresponsible naming, packing or promotion of alcoholic drinks may contribute to alcohol related harms. Where there is direct evidence of specific incidents of irresponsible naming, packing or promotion of alcoholic drinks linked to the undermining of one of the licensing objectives, licensing authorities should, in the exercise of their licensing functions (in particular, in relation to an application for the grant, variation or review of a premises licence), consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's Retailer Alert Bulletins. This condition should be considered on a case by case basis and in the context of the promotion of the licensing objectives.
- 10.12 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are

published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until there has been compliance with the decision.

## **Hours of trading**

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

## **The performance of plays**

- 10.16 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play<sup>7</sup> which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

## **Censorship**

- 10.17 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitation should normally be imposed.

## **Major festivals and carnivals**

- 10.18 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for

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<sup>7</sup> See chapter 16 for when a performance of a play is licensable.

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

- 10.23 Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.
- 10.24 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:
- a prescribed capacity;
  - an appropriate ratio of tables and chairs to customers based on the capacity; and
  - a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

## **Mandatory conditions in relation to the supply of alcohol**

- 10.25 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

### **Designated premises supervisor**

- 10.26 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.
- 10.27 The main purpose of the ‘designated premises supervisor’ as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).
- 10.28 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.



## **Authorisation by personal licence holders**

- 10.29 In addition, every premises licence that authorises the sale of alcohol must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. This does not mean that the condition requires the presence of the designated premises supervisor or any other personal licence holder on the premises at all times.
- 10.30 Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales.
- 10.31 "Authorisation" does not imply direct supervision by a personal licence holder of each sale of alcohol. The question arises as to how sales can be authorised. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.
- 10.32 The following factors should be relevant in considering whether or not an authorisation has been given:
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
  - the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
  - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
  - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 10.33 It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period. This would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.
- 10.34 Written authorisation is not a requirement of the 2003 Act and its absence alone could not give rise to enforcement action.
- 10.35 It must be remembered that while the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

## **Arrangements for the mandatory licence conditions**

- 10.36 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a DPS and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.
- 10.37 Whereas the initial mandatory conditions in section 19 of the 2003 Act are set out in Annex 1 of the licence, the additional mandatory conditions made under section 19A of the 2003 Act are treated as if they were included in existing licences and certificates on the date that those conditions came into force.
- 10.38 Following their commencement, the mandatory conditions overrode any pre-existing conditions already included in a licence or certificate insofar as the mandatory conditions were identical to, or inconsistent with or more onerous than, any pre-existing conditions. It is not necessary to record on the face of existing licences and certificates the impact that the introduction of the mandatory conditions has had on pre-existing conditions.

## **Irresponsible promotions**

- 10.39 Under this condition, the “responsible person” (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have ensured that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives.

## **Drinking games**

- 10.40 Drinking games which require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise, are prohibited. For example, this may include organised ‘drink downing’ competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit ‘happy hours’ as long as these are not designed to encourage individuals to drink excessively or rapidly.

## **Age verification**

- 10.46 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.39) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram as their preferred proof of age, while acknowledging that many other forms of identification meet the requirements of the mandatory condition.
- 10.47 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies to the premises.
- 10.48 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.
- 10.49 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.50 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

## **Smaller measures**

- 10.51 The responsible person (see paragraph 10.39) shall ensure that the following drinks, if sold or supplied on the premises, are available in the following measures:
- Beer or cider: ½ pint
  - Gin, rum, vodka or whisky: 25ml or 35ml
  - Still wine in a glass: 125ml

- 10.52 As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures by displaying them on printed materials available to customers on the premises. This can include making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent and conspicuous place in the relevant premises (for example, at the bar). Moreover, staff must make customers aware of the availability of small measures when customers do not request that they be sold alcohol in a particular measure.
- 10.53 This condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the requirement to make it available in 1/2 pints does not apply.
- 10.54 The premises licence holder or club premises certificate holder must ensure that staff are made aware of the application of this condition.

### **Ban on sales of alcohol below the permitted price**

- 10.55 The relevant person (the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, the personal licence holder who makes or authorises a supply of alcohol under such a licence, or any member or officer of a club present on the premises in a capacity which enables the member or officer to prevent the supply in question) 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.
- 10.56 The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. Detailed guidance on how to make this calculation and a calculator to determine permitted prices for each product are available on the GOV.UK website.
- 10.57 Where there is a change to the rate of duty or VAT applying to alcohol (for instance, following a Budget), the relevant person should ensure that the permitted price reflects the new rates within fourteen days of the introduction of the new rate.
- 10.58 It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the GOV.UK website.

### **Exhibition of films**

- 10.59 The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification (BBFC)) or by the licensing authority itself.
- 10.60 The effect of paragraph 5 of Schedule 1 to the 2003 Act is to exempt adverts from the

# 13. Appeals

- 13.1 This chapter provides advice about entitlements to appeal in connection with various decisions made by a licensing authority under the provisions of the 2003 Act. Entitlements to appeal for parties aggrieved by decisions of the licensing authority are set out in Schedule 5 to the 2003 Act.

## General

- 13.2 With the exception of appeals in relation to closure orders, an appeal may be made to any magistrates' court in England or Wales but it is expected that applicants would bring an appeal in a magistrates' court in the area in which they or the premises are situated.
- 13.3 An appeal has to be commenced by the appellant giving a notice of appeal to the designated officer for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.
- 13.4 The licensing authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant, licence holder, club or premises user against the representations of a responsible authority or any other person, or the objections of the chief officer of police, the Home Office (Immigration Enforcement), or local authority exercising environmental health functions, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal, and the person who made the relevant representation or gave the objection will be the appellants.
- 13.5 Where an appeal has been made against a decision of the licensing authority, the licensing authority will in all cases be the respondent to the appeal and may call as a witness a responsible authority or any other person who made representations against the application, if it chooses to do so. For this reason, the licensing authority should consider keeping responsible authorities and others informed of developments in relation to appeals to allow them to consider their position. Provided the court considers it appropriate, the licensing authority may also call as witnesses any individual or body that they feel might assist their response to an appeal.
- 13.6 The court, on hearing any appeal, may review the merits of the decision on the facts and consider points of law or address both.
- 13.7 On determining an appeal, the court may:
- dismiss the appeal;
  - substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
  - remit the case to the licensing authority to dispose of it in accordance with the direction of the court and make such order as to costs as it thinks fit.

All parties should be aware that the court may make an order for one party to pay another party's costs.

On any appeal, the court is not entitled to consider whether the licence holder should have been convicted of an immigration offence or been required to pay an immigration penalty, or whether they should have been granted by the Home Office permission to be in the UK. This is because separate rights exist to appeal these matters or to have an immigration decision administratively reviewed.

## **Licensing policy statements and Section 182 guidance**

- 13.8 In hearing an appeal against any decision made by a licensing authority, the magistrates' court will have regard to that licensing authority's statement of licensing policy and this Guidance. However, the court would be entitled to depart from either the statement of licensing policy or this Guidance if it considered it was justified to do so because of the individual circumstances of any case. In other words, while the court will normally consider the matter as if it were "standing in the shoes" of the licensing authority, it would be entitled to find that the licensing authority should have departed from its own policy or the Guidance because the particular circumstances would have justified such a decision.
- 13.9 In addition, the court is entitled to disregard any part of a licensing policy statement or this Guidance that it holds to be ultra vires the 2003 Act and therefore unlawful. The normal course for challenging a statement of licensing policy or this Guidance should be by way of judicial review, but where it is submitted to an appellate court that a statement of policy is itself ultra vires the 2003 Act and this has a direct bearing on the case before it, it would be inappropriate for the court, on accepting such a submission, to compound the original error by relying on that part of the statement of licensing policy affected.

## **Giving reasons for decisions**

- 13.10 It is important that a licensing authority gives comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.
- 13.11 It is important that licensing authorities also provide all parties who were party to the original hearing, but not involved directly in the appeal, with clear reasons for any subsequent decisions where appeals are settled out of court. Local residents in particular, who have attended a hearing where the decision was subject to an appeal, are likely to expect the final determination to be made by a court.

## **Implementing the determination of the magistrates' courts**

- 13.12 As soon as the decision of the magistrates' court has been promulgated, licensing authorities should implement it without delay. Any attempt to delay implementation will only bring the appeal system into disrepute. Standing orders should therefore be in place that on receipt of the decision, appropriate action should be taken immediately unless ordered by the magistrates' court or a higher court to suspend such action (for example, as a result of an on-going judicial review). Except in the case of closure orders, the 2003 Act does not provide for a further appeal against the decision of the magistrates' courts and normal rules of challenging decisions of magistrates' courts will apply.

## **Provisional statements**

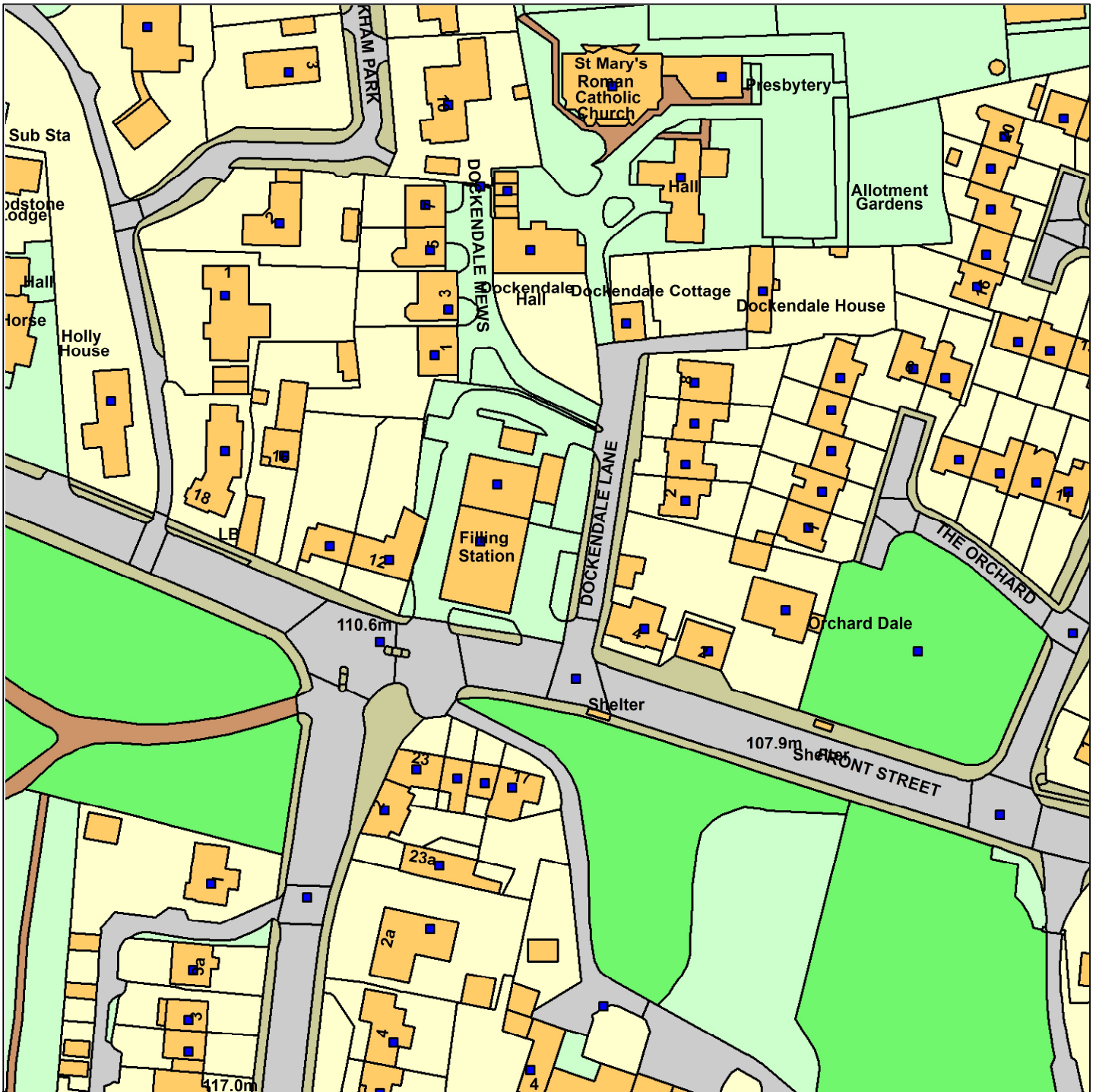
- 13.13 To avoid confusion, it should be noted that a right of appeal only exists in respect of the terms of a provisional statement that is issued rather than one that is refused. This is because the 2003 Act does not empower a licensing authority to refuse to issue a provisional statement. After receiving and considering relevant representations, the licensing authority may only indicate, as part of the statement, that it would consider certain steps to be appropriate for the promotion of the licensing objectives when, and if, an application were made for a premises licence following the issuing of the provisional statement. Accordingly, the applicant or any person who has made relevant representations may appeal against the terms of the statement issued.

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# Appendix 5.0

## Asda Express, Wickham



Scale : 1:1261

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<b>Organisation</b>	Gateshead Council
<b>Department</b>	Development and Public Protection
<b>Comments</b>	Not Set
<b>Date</b>	19 March 2024
<b>SLA Number</b>	SLA

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