

**AGENDA**

Committee Administrator: Democratic Services Officer (01609 767015)

Thursday, 24 August 2017

Dear Councillor

**NOTICE OF MEETING**

Meeting             **LICENSING AND APPEALS HEARINGS PANEL**  
Date                 **Monday, 4 September 2017**  
Time                 **12.30 pm**  
Venue                **Main Committee Room, Civic Centre, Stone Cross, Northallerton**

Yours sincerely

*J. Ives.*

Dr Justin Ives  
Chief Executive

**To:**           Councillors   Councillors  
              M A Barningham                             D Hugill  
              K G Hardisty

Other Members of the Council for information

## **AGENDA**

### **Page No**

1. APOLOGIES FOR ABSENCE
2. APPLICATION FOR THE VARIATION OF A PREMISES LICENCE - ROSE AND CROWN, MAIN STREET, SUTTON ON THE FOREST 3 - 98  
  
Report of the Director of Law and Governance (Monitoring Officer)
3. MATTERS OF URGENCY  
  
Any other business of which not less than 24 hours' prior notice, preferably in writing, has been given to the Chief Executive and which the Chairman decides is urgent.

**HAMBLETON**  
**DISTRICT COUNCIL**

**LICENSING ACT 2003**

**LICENSING AND APPEALS HEARINGS PANEL**

**PROCEDURE**

1. The hearing of matters will be less formal than hearings before, for instance, a Magistrates' Court. In particular, strict rules of evidence are not adhered to and information is not provided under oath. Nevertheless, proceedings before the Panel will observe basic rules of natural justice.
2. At the beginning of the hearing the Chairman shall:-
  - ask those present to introduce themselves;
  - explain the procedure;
  - ask the parties whether they wish permission for another person to appear at the hearing.
3. The Panel will consider whether the public should be excluded from all or any part of the hearing. This will only be done if the Panel considers that the public interest in so doing outweighs the public interest in the hearing taking place in public.
4. The Panel will consider requests for permission for other persons to appear at the hearing. Such permission will not be unreasonably withheld.
5. The Chairman will ask the Principal Licensing Officer to outline the background to the case. The Principal Licensing Officer's role will be to provide factual information to the Panel.
6. The hearing shall take the form of a discussion led by the Panel (through the Chairman) and cross-examination shall not be permitted unless the Panel considers that cross-examination is required for it to consider the matter.
7. The Chairman is likely to ask for the views of the parties in the following order:-

- (a) the applicant/licence holder/Notice giver (including any other persons who have been given permission to participate);
  - (b) any party making representations (including any other persons who have been given permission to participate).
8. The applicant/licence holder/Notice giver will be given the final opportunity to address the Panel.
  9. Each party will be given an equal maximum period of time in which to put forward any additional information requested by the Council, to question other persons (if given permission by the Panel) and address the Panel.
  10. The Panel may exclude disruptive persons in certain circumstances.
  11. The Panel may adjourn the hearing in certain circumstances.
  12. The Panel may ask the parties to withdraw so that it can consider its determination. In considering its determination, the Panel may ask its Legal Advisor to provide it with legal and procedural advice. The nature of this advice will be notified to the parties.
  13. The Panel will make its determination at the end of the hearing and this will be confirmed in writing.

February 2017

## **HAMBLETON DISTRICT COUNCIL**

**Report To:** Licensing and Appeals Hearings Panel  
4 September 2017

**From:** Director of Law and Governance (Monitoring Officer)

**Subject:** **APPLICATION FOR THE VARIATION OF A PREMISES LICENCE  
ROSE AND CROWN, MAIN STREET, SUTTON ON THE FOREST**

Huby Ward

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### **1.0 SUMMARY**

1.1 This report asks the Panel to consider an application for the variation of a premises licence in respect of Rose and Crown, Main Street, Sutton on the Forest, YO61 1DP.

### **2.0 PROCEDURE**

2.1 The procedure for licensing hearings is attached as an Annex to the Agenda.

### **3.0 APPLICATION FOR THE VARIATION OF A PREMISES LICENCE**

3.1 The application for the variation of a premises licence was received by the Licensing Team on 14<sup>th</sup> July 2017 and is attached at **Annex A** along with a plan of the premises.

3.2 Following the application date, a statutory 28-day period commenced, during which any 'responsible authorities' and 'other persons' were entitled to make representations in relation to the application.

3.3 In addition to the statutory responsible authorities, the application was forwarded to Sutton on the Forest Parish Council and the District Councillor for the Huby Ward.

3.4 Statutory advertisements were also placed in the local newspaper and on the premises to which the application relates.

3.5 The current licence authorises:

- the sale of alcohol between the hours of 11am and 11pm on Monday to Saturday and between the hours of 12pm and 10.30pm on Sunday;
- the provision of late night refreshment between the hours of 11pm and 11.30pm every day;

3.6 The application seeks to authorise:

- the performance of plays between the hours of 11am and midnight every day;
- the performance of live music between the hours of 11am and midnight every day;
- the playing of recorded music between the hours of 11am and midnight every day;
- the performance of dance between the hours of 11am and midnight every day;
- entertainment of a similar description between the hours of 11am and midnight every day;
- the provision of late night refreshment between the hours of 11pm and midnight every day;
- the sale of alcohol between the hours of 11am and 1am every day;
- the use of a servery hatch at the rear of the building for the sale of alcohol;

#### **4.0 PROMOTION OF LICENSING OBJECTIVES**

4.1 The four licensing objectives set out in the Licensing Act 2003 are:-

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

4.2 The Panel must carry out its functions with a view to promoting the licensing objectives.

#### **5.0 REPRESENTATIONS**

5.1 One representation has been made by the council's Environmental Health Team and it is attached at **Annex B**. No representations have been made by any of the other responsible authorities.

5.2 13 representations have been made by 'other persons' and these are attached at **Annex C to Annex O**. 2 of the 13 representations are in support of the application and 11 oppose it.

5.3 The representations make reference to the potential adverse effects on all four of the licensing objectives caused by:

- Noise
- Anti-social behaviour
- Traffic congestion
- Light pollution
- Glasses being left on the playing field.

#### **6.0 POLICY CONSIDERATIONS**

6.1 In carrying out its licensing functions the Panel is required to have regard to:-

- its Licensing Statement;
- any guidance issued by the Secretary of State.

6.2 Part 5 of the council's Licensing Act 2003 Policy relates to premises licences and is attached at **Annex P**.

6.3 Pages 48-74 of the Home Office Guidance issued in April 2017 under section 182 of the Licensing Act 2003 are attached at **Annex Q**.

#### **7.0 DETERMINATION BY THE PANEL**

7.1 The Panel must, having had regard to the representations, take such of the steps mentioned in 7.2 as it considers appropriate for the promotion of the licensing objectives.

7.2 The steps are:-

- to grant the licence as applied for (subject to any conditions consistent with the applicant's operating schedule);
- to grant the licence subject to any modified conditions that Members consider appropriate for the promotion of the licensing objectives;
- to reject the whole or part of the application.

7.3 If the Panel decides to grant the licence, it will be subject to any mandatory conditions relevant to alcohol sales (as listed in paragraph 5.20.2 of the council's policy - see Annex C).

**Background papers:** Hambleton District Council's Licensing Act 2003 Policy  
Guidance issued under section 182 of the Licensing Act 2003

**Author ref:** SF

**Contact:** Simon Fisher  
Principal Licensing Officer  
Direct Line No: (01609) 767209



### Application to vary a premises licence under the Licensing Act 2003

#### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You must send the application to the licensing authority (by email to [licensingteam@hambleton.gov.uk](mailto:licensingteam@hambleton.gov.uk) or by post to Licensing Team, Civic Centre, Stone Cross, Northallerton, DL6 2UU). If submitting the application by post, you must also send **additional** copies on the same day to all of the responsible authorities (as detailed on [www.hambleton.gov.uk/premises](http://www.hambleton.gov.uk/premises)).

Payments can be made via telephone on 01609 767079 or 01609 767017.

~~NAME~~ .....CAROL SIMPSON..... (insert name(s) of applicant) being the **premises licence holder**, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises licence number 05\_PREMC\_00857

#### Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description  
ROSE AND CROWN  
MAIN STREET  
SUTTON ON THE FOREST

Post town YORK

Post code YO61 1DP

Telephone number of premises (if any)

01347 811111

Non domestic rateable value of premises

£8400

#### Part 2 – Applicant Details

Daytime contact telephone number

07747651073

Email address (optional)

Carol-temple@live.co.uk

Current postal address if different from premises address

Gillygate House  
25 Gillygate  
York

Post Town

YORK

Postcode

YO81 7WQ



**Part 3 - Variation**

Please tick as appropriate

✓  Do you want the proposed variation to have effect as soon as possible? Yes  No

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

Day		Month		Year			

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1)

Yes  No

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

WE WISH TO SUPPLY LATE NIGHT REFRESHMENTS AND SUPPLY ALCOHOL FOR LATER THAN WE DO AT PRESENT. WE WOULD LIKE TO PROVIDE REGULATED ENTERTAINMENT, AND ALSO TO BE ABLE TO SUPPLY ALCOHOL TO THE BEER GARDEN AND FROM THE SERVERY HATCH LEADING FROM THE PUB TO THE BEER GARDEN.

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

**Part 4 - Operating Schedule**

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

**Please tick all that apply**

**Provision of regulated entertainment**

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

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

**Sale by retail of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

## A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	
Mon	1100	0000	Please give further details here (please read guidance note 5) <b>THEATRE NIGHTS TO BE HELD</b>	Both	
Tue	1100	0000			
Wed	1100	0000	State any seasonal variations for performing play (please read guidance note 6)		
Thur	1100	0000			
Fri	1100	0000	Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 7)		
Sat	1100	0000			
Sun	1100	0000			

## B

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

### C

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

### D

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

## E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	
Day	Start	Finish		Outdoors	
Mon	1100	0000	Please give further details here (please read guidance note 5) <b>BOTH AMPLIFIED AND UNAMPLIFIED LIVE MUSIC TO BE PLAYED INDOORS AND OUTDOORS AT TIMES</b>	Both	<input checked="" type="checkbox"/>
Tue	1100	0000			
Wed	1100	0000	State any seasonal variations for the performance of live music (please read guidance note 6)		
Thur	1100	0000			
Fri	1100	0000	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list. (Please read guidance note 7)		
Sat	1100	0000			
Sun	1100	0000			

## F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	
Day	Start	Finish		Outdoors	
Mon	1100	0000	Please give further details here (please read guidance note 5) <b>RECORDED MUSIC TO BE PLAYED THROUGH A SOUND SYSTEM FOR THE RESTAURANT, BAR AND GARDEN.</b>	Both	<input checked="" type="checkbox"/>
Tue	11100	0000			
Wed	1100	0000	State any seasonal variations for the playing of recorded music (please read guidance note 6)		
Thur	1100	0000			
Fri	1100	0000	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list. (please read guidance note 7)		
Sat	1100	0000			
Sun	1100	0000			

## G

Performance of dance Standard days and timings (please read guidance note 8)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	
Mon	1100	0000	Please give further details here (please read guidance note 5) TO ALLOW DANCE WHEN A THEMED NIGHT IS HELD	Both	
Tue	1100	0000			
Wed	1100	0000	State any seasonal variations for the performance of dance (please read guidance note 6)		
Thur	1100	0000			
Fri	1100	0000	Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list. (please read guidance note 7)		
Sat	1100	0000			
Sun	1100	0000			

## H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing	Indoors	
Day	Start	Finish		Outdoors	
			DISCO AND KAREOKE	Both	<input checked="" type="checkbox"/>
Mon	1100	0000	Please give further details here (please read guidance note 5) DISCO MUSIC AND KAREOKE SINGING TO BE HELD TO AMPLIFIED MUSIC	Outdoors	
Tue	1100	0000			
Wed	1100	0000	State any seasonal variations for the entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 6)		
Thur	1100	0000			
Fri	1100	0000	Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list. (please read guidance note 7)		
Sat	1100	0000			
Sun	1100	0000			

**I**

<b>Late night refreshment</b> Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	
Day	Start	Finish		Outdoors	
Mon	1100	0000	Please give further details here (please read guidance note 5) <b>PARTIES, FUNCTIONS, HOT AND COLD FOOD, SNACKS TO BE SERVED TO CUSTOMERS</b>	Both	<input checked="" type="checkbox"/>
Tue	1100	0000			
Wed	1100	0000	State any seasonal variations for the provision of late night refreshment (please read guidance note 6)		
Thur	1100	0000			
Fri	1100	0000	Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list. (please read guidance note 7)		
Sat	1000	0000			
Sun	1000	0000			

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption on or off the premises or both – please tick (please read guidance note 9)	On the premises	
Day	Start	Finish		Off the premises	
Mon	1100	0100	State any seasonal variations for providing dancing facilities (please read guidance note 6)	Both	<input checked="" type="checkbox"/>
Tue	1100	0100			
Wed	1100	0100	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list. (please read guidance note 7)		
Thur	1100	0100			
Fri	1100	0100			
Sat	1100	0100			
Sun	1100	0100			

# K

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

# L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6)
Day	Start	Finish	
Mon	1100	0130	Non standard timings. Where you intend to open the premises to be open to the public at different times from those listed in the column on the left, please list. (please read guidance note 7)
Tue	1100	0130	
Wed	1100	0130	
Thur	1100	0130	
Fri	1100	0130	
Sat	1100	0130	
Sun	1100	0130	



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

Please tick ✓ yes

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

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

Reasons why I have failed to enclose the premises licence or relevant part of the premises licence

## **M**

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

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

ANY PERSON WHO APPEARS DRUNK WILL NOT BE SERVED OR ALLOWED ON THE PREMISES.  
FREE DRINKING WATER WILL BE AVAILABLE AT ALL TIMES.  
POLITE NOTICES WILL BE DISPLAYED ASKING CUSTOMERS TO LEAVE THE PREMISES QUIETLY.

**b) The prevention of crime and disorder**

JOIN PUBWATCH.  
INSTALL CCTV.  
NO BOTTLES OR GLASSES TO BE TAKEN OFF THE PREMISES.  
NO BINGE DRINKING PROMOTIONS WILL TAKE PLACE.

**c) Public safety**

PROMPT CLEARING OF EMPTY GLASSES WILL TAKE PLACE.  
REGULAR GAS AND ELECTRICAL CHECKS CARRIED OUT BY A COMPETENT PERSON.  
WE WILL FULLY SUPPORT AND DIRECTIVES RECEIVED FROM THE AUTHORITIES.

**d) The prevention of public nuisance**

NO BOTTLES OR GLASSES TO BE TAKEN OFF THE PREMISES.  
ALL CUSTOMERS WILL BE REMINDED TO LEAVE THE PREMISES QUIETLY.

**e) The protection of children from harm**

THE INSTALLATION AND USE OF CHALLENGE 25.  
ALL STAFF TO BE FULLY CONVERSANT WITH THE LICENCING LAWS.

Please tick ✓ Yes

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

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

Part 5 – Signatures (please read guidance note 12)

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

Signature [Handwritten Signature]

Date 08.07.2017

Capacity Premises Licence Holder

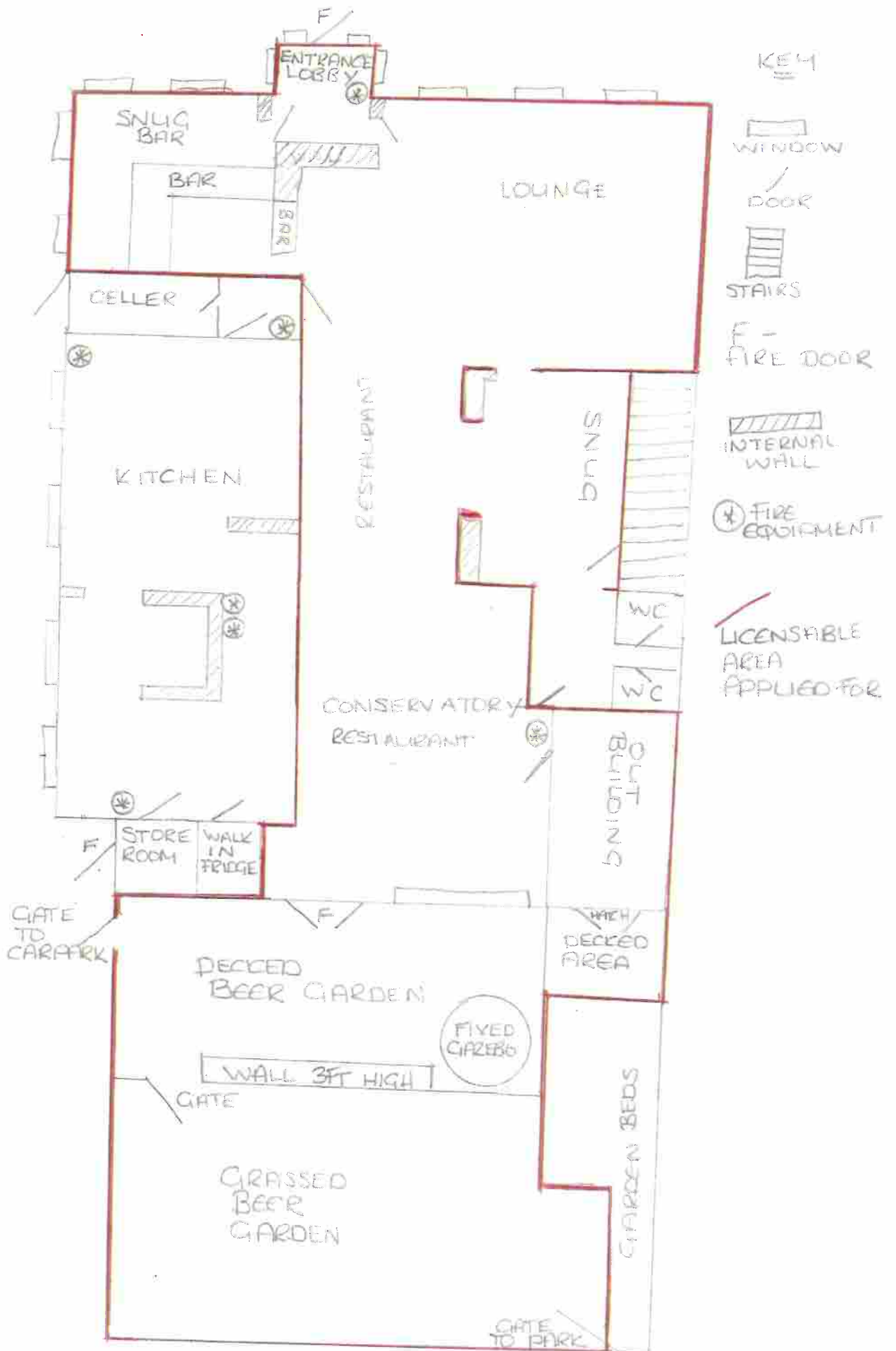
Where the premises licence is jointly held signature of 2<sup>nd</sup> applicant (the current premises licence holder) or 2<sup>nd</sup> applicant’s solicitor or other authorised agent. (please read guidance note 14). If signing on behalf of the applicant please state in what capacity.

Signature .....

Date .....

Capacity .....

Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)	
NEIL WILLETTS 39 SHELLEY GROVE	
Post town <u>YORK</u>	Post code <u>YO30 5SP</u>
Telephone number (if any) <u>07716164825</u>	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	



## Licensing Act 2003 Environmental Health - Representation Response

Premises Address	Rose and Crown		
	Main Street, Sutton On The Forest, YO61 1DP		
Date application received	14/07/2017	Date Returned to Local Authority	07/08/2017

### Environmental Health Service Response.

The Environmental Health would object to the application in its current form for the following reasons:-

Prevention of Crime & Disorder

Prevention of Nuisances

Historically there have been a number complaints of noise from the licensable activities at these premises and I would be concerned that the proposed variation to the premises licence would result in complaint of nuisance to neighbours.

Complaints of noise from licensable activities in the rear garden would be of particular concern and I would object to this area becoming part of the licensable area because of the potential for noise nuisance generated from music being allowed in the outdoor areas.

I would also have concerns over the extension of hours for regulated entertainment to Midnight 7 days a week and would propose that this extension should only be allowed for Friday and Saturday night to protect local residents during the week and be unchanged Sunday to Thursday.

I would have concerns over the proposed extension to the permitted hours for the sale of alcohol to 1:30am 7 days a week with the potential for disturbance to neighbours when customers leave and would propose that the hours for the sale of alcohol should only be extended to 12am on Friday and Saturday and be unchanged Sunday to Thursday.

Protection of Children

Public Safety

These objections can be overcome by amendments to the Operating Schedule as follows:-

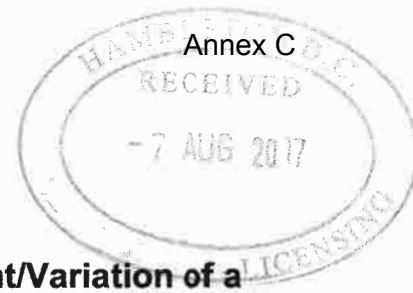
1. Rear beer garden removed from scope of application
2. Permitted hours for licensable activities only increased to 00:00 Friday and Saturday

If these amendments are agreed / approved by the Applicants, the Environmental Health consider there will not be a need for a hearing of the Council's Licensing Committee.

These amendments have been discussed with the applicant and agreed to

Yes  No

Inspecting Officer ...David Armitage..... Date ...07/08/2017



**Representations On A Current Application For A Grant/Variation 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) ANN & AI AN BUTI FR

Wish to make representation about the application in respect of the premises licence or club premises certificate, the details for which are shown below.

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

Postal Address of Premises or Club Premises, or if none, ordnance survey map reference or description  
ROSE & CROWN  
MAIN STREET  
SUTTON-ON-THE-FOREST  
YORK  
YO61 1DP

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

MRS CAROL SIMPSON

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

05\_PREMC\_00857

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

I am:

- A person  (please complete section A below)  
A body representing any other person  (please complete section B below)  
A responsible authority  (please complete section C below)  
A member of the club to which this representation relates  (please complete section A below)

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

I am 18 years old or over

Yes

Please Tick)

Name and Address ANN & ALAN BUTLER, COBBLESTONES, MAIN STREET, SUTTON-ON-THE-FOREST, YORK YO61 1DP	
Daytime contact telephone number	[REDACTED]
E-mail address (optional)	[REDACTED]

**(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g Body or Business)**

Name and Address	
Telephone Number (If any)	
E-Mail address (optional)	

**(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION**

Name and Address	
Telephone Number (If any)	
E-Mail address (optional)	

This representation relates to the following licensing objective(s)

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

Please state the ground(s) for representation. (please read guidance note 1)
Please see enclosed letter

Please provide as much information as possible to support the representation  
(please read guidance note 2)

Please see enclosed photocopy

Have you made any representation relating to these premises before?    No

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.



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

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

Signature		Date	4/8/2017
Capacity			

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 of the licensing objectives.
2. Please list any additional information or details (e.g. 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. Information on the Licensing Act 2003 is available at \_\_\_\_\_ and you are advised to read any relevant guidance leaflets before completing this form.

Please return this form by post to:

The Licensing Team, Hambleton District Council, Civic Centre, Stone Cross, Northallerton  
DL6 2UU

Or by email to:

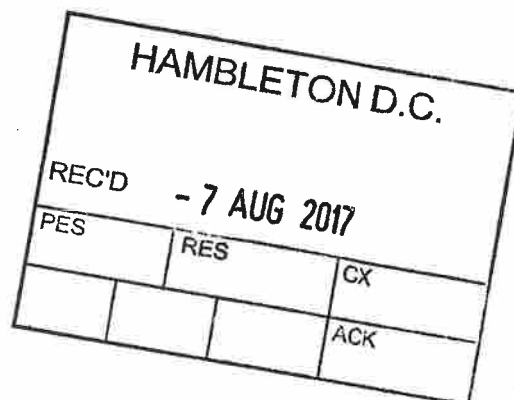
**Cobblestones Sutton-on-the-Forest York YO61 1DP**



The Licensing Team  
Hambleton District Council  
Civic Centre  
Stone Cross  
Northallerton DL6 2UU

3 August 2017

Dear Sir/Madam



Re Premises Licence No 05\_PRTEMC\_00857

My husband and I live on Main Street, Sutton-on-the-Forest three houses away from the Rose & Crown and we are deeply concerned regarding the above application to vary the premises licence by Mrs Carol Simpson.

We are already experiencing problems associated with this public house, late drinking, karaoke and unregulated music, staff and clients smoking in groups creating noise outside the front door onto the main street (regularly seen with a young child) beyond closing time. Private parties (not from our area) celebrating in Sutton's Children's Playing Field (behind the premises) with alcohol (in glasses) causing additional noise more so at weekends. Doors and windows have been left open and no attempt to contain the noise has been made. We have already had a coach unload passengers and there can be no guarantee that this would not happen more often should this permission be granted.

As the car park is small, parking presents a problem causing customers to leave cars on the road outside our houses and often overnight when over the drink limit drivers prefer to travel home by taxi. Last Sunday 30 July mid-day the Main Street was totally blocked for 20 minutes until the owners of the doubled parked cars were found in the Rose and Crown.

Regrettably a mere request to leave quietly does not happen following an evening out.

There is a family with two young children adjoining the pub and I recently read a medical article saying it had been proven that undue noise during the sleeping hours of young children can cause harm to their health.

Sutton-on-the-Forest is an attractive village which is in a conservation area and the residents have striven to preserve the image, therefore everyone is concerned that this application will be damaging. We want our pub to operate successfully and we are anxious not to lose it but fear that the intended application is not the way forward. Many of the villagers have invested in the Rose & Crown and we hoped that as well as bar facilities the restaurant would gain a memorable reputation which would encourage a profitable future for the facility.

In our opinion, the proposed application is not in keeping with a rural village and is more suited to a town centre.

Please take our comments into consideration when looking at this application

Yours faithfully



Ann and Alan Butler



**From:** R&C Friends

**Sent:** 23 July 2017 10:54

**To:** John Lister; [REDACTED]

**Subject:** Rose and Crown Licence Variation

Hi everyone,

As most of you will be aware, the Rose and Crown has applied for a Variation of Licence to enable the pub to remain open until 1.00am and I understand that there is some concern about this application.

First, let me assure you that there is **absolutely no intention** to remain open on a daily basis until 1.00am in the morning. This application is simply for an enabling provision so that the pub can maintain the status quo of operations **legally**.

Secondly, I'd like to explain the background to this application. When Collette Willetts took over the tenancy of the pub she applied to transfer the Designated Premises Supervisor (DPS) Licence from Carol Simpson to herself. Because of minor administrative difficulties this process was not completed but a similar application to transfer the DPS Licence to Neil Willetts has been successful. During the process we learned that the pub only had a licence to serve alcohol until 11pm. However, over the years, it had become common practice to remain open occasionally beyond 11pm when the bar was busy - usually on Friday nights when many customers arrive at the pub fairly late. Christmas Eve is another example. As far as I am aware, no-one has ever complained about this (illegal!) practice.

As explained to Members at the CIC Annual General Meeting on 17 July, the current business is underpinned by bar takings on Friday evenings, restaurant takings on Saturday nights and Sunday lunchtimes and public and private events. Occasionally, these events extend beyond 11pm. New Year's Eve is an obvious example, and a private event such as a wedding is another example.

Neil Willetts needs to grow the business if the pub is to survive. Without this Variation of Licence it would be necessary to apply for individual licence extensions for special occasions and some events but this is expensive.

Villagers have been remarkably generous in supporting the pub through raising over £30,000 but we need to continue to support the pub in every way we can. **Again, let me assure you that this application for a Variation of Licence is simply to enable the pub to operate as it always has done, but legally.**

Kind regards,

John Lister  
Chairman CIC

Bluestone Cottage  
Main Street  
Sutton-on-the-Forest  
YO61 1DP.

The Licensing Team  
Hambleton District Council  
Civic Centre  
Stone Cross  
Northallerton

DL6 2UU

Dear Sirs/Madame,

05-08-17.

HAMBLETON D.C.		
REC'D	- 8 AUG 2017	
PLS	RES	CX
		ACK

I am writing to you with my "objection to the application" of extended hours at 'The Rose Crown', Main Street, Sutton-on-the-Forest, for 365 days p.a. etc.

My reasons are:-

- 1) The noise coming from outside in the Beer Garden & from inside too, I can hear the strap beat from both inside & outside of my cottage and will have difficulty sleeping.
- 2) Parking facilities extending up & down Main Street disturbing more residents.
- 3) Drinks being taken from the Pub garden to the playing fields, it has already been noted that glass was by the childrens play area at times already.
- 4) It will be a "public nuisance" to those nearby unable to have their windows open to sleep & get fresh air.
- 5) 'children', who will find it hard to sleep & have to be up for school the next day. Also 'adults' who need sleep as they have to go to work early and work at York Hospital.

6) I am '87' this month and not wishing to deter functions at 'The Rose & Crown' I can not understand why they can not apply for an "extended licence" when needed and not 365 days ad lib.

7) What control can be implemented to stop the noise other than by the licence??

8) Other Pubs in the area close at normal times so there could be "late night drinking" making noise or the "use of the playing field" prevented unless a locked gate to the field is installed in the Bear Garden, it must be insisted upon for "children's sake".

Sutton-on-the-Forest is a beautiful village, I have lived here 27 years and had no problem with 'The Rose & Crown' & occasional noise all these years so I wish that it could stay the same & that the licence gets an occasional licence when they have special events.

Yours Truly

MRS. A.P.M. WOOD.

**From:** Cllr Christine Cookman  
**Sent:** 07 August 2017 08:59  
**To:** Licensing Team  
**Subject:** Re: Premises Variation - Rose & Crown, Sutton on the Forest

Anita

I should like to object to the proposed changes to the Rose & Crown's licence in Sutton on Forest.

The Rose and Crown remains the sole pub for Sutton on Forest and it's to the credit of local residents that they wish to help maintain this facility and a support group is in place. However, the current changes being requested will go entirely against how a village pub should operate in a residential area.

You will see that immediate and near neighbours have had cause to object over recent events the pub has held, with excessive noise, loud music and serving of drinks after normal licensing hours.

The current request does nothing to give the village residents any confidence that a "normal village pub operation" can and will ensue.

Whilst I'd have no objection to occasional extended hours for specific events, I can't agree to the extended hours application; I see no reason why the area for serving alcohol should be extended and allowing regulated entertainment and music (whether live or recorded) over the specified hours will be most inconsiderate for the local community.

There has been minimal communication between the landlord / tenants for the Rose & Crown and near neighbours (plus the wider village) for some time and nothing for this latest change of pub operation.

Kind regards  
Christine  
Huby Ward member  
Sent from my iPad

Owlcroft  
Main Street  
Sutton on the Forest  
York  
YO61 1DW

02 August 2017

Dear Sirs

**Application to vary premises licence 05\_PREMC\_00857**

We are writing to register our opposition to the application to vary the premises licence (05\_PREMC\_00857) of the Rose and Crown Public House, Main Street, Sutton on the Forest, York, YO61 1DP.

We live directly opposite the Rose and Crown and are therefore affected by activity taking place on and around these premises and from the additional noise and disturbance which will arise if the application to vary its premises licence is granted.

We note that the applicant has requested a variation to be able to play live and recorded music, along with holding discos and karaoke, both inside and outside of the premises up to midnight every day of the week. We are concerned by the impact of this as the Rose and Crown Public House is surrounded entirely by residential premises, including a number of homes occupied by elderly people and by families with young children. The proposed variation of the premises licence will cause a nuisance to the public and residents with unacceptable noise and disturbance generated, especially as the applicant has requested the right to hold these events outside of the premises, every day of the week up to midnight.

On Saturday 08 July 2017 the Rose and Crown played loud music and karaoke throughout the evening until 0005 hrs on Sunday 09 July 2017. Therefore, we have already had an insight as to the nuisance which will be caused if the above variation is permitted – the noise and disturbance caused on 8th and 9th July 2017 was unacceptable; both us and our 10 month old child were unable to sleep.

We are also concerned by the request to supply alcohol inside and outside of the premises up to 0100 hrs every day of the week with the premises remaining open for a further 30 minutes to 0130 hrs. We believe that this variation will cause a public nuisance with noise and disturbance being caused by customers in the beer garden late at night and leaving the premises in the early hours of the morning.

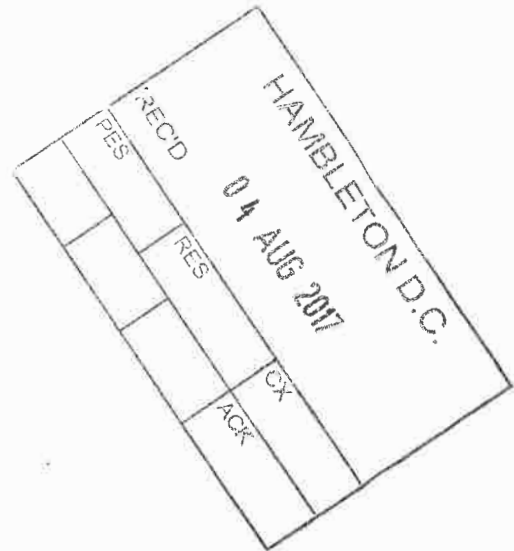
Furthermore, we are of the view that the applicant has not proposed any suitable measures to promote the prevention of public nuisance which will arise if this variation in the premises licence is permitted. The applicant proposes to remind customers to leave the premises quietly, with the display of "polite notices" with this message. This proposal does nothing to eliminate or limit the noise and disturbance generated by the playing of loud music and the holding of karaoke/discos. Also, there is no indication as to where the applicant would display these notices to ensure that they are seen by customers. Finally, we feel that the notices will be inadequate as there is no way of enforcing customers to comply with their message.

Yours faithfully

Mr and Mrs D Brosch

HAMBLETON D.C.		
REC'D - 4 AUG 2017		
PES	RES	CX
Page 29		ACK

Swingletree  
Sutton-on-the-Forest  
York  
YO61 1DW



The Licensing Team  
Hambleton District Council  
Civic Centre  
Stone Cross  
Northallerton  
DL6 2UU

3<sup>rd</sup> August 2017

Dear Sir

My wife and I have been residents of Sutton-on-the Forest for some years. The Rose & Crown has never been a problem to us but we are very concerned at the Licence Variation applied for.

We and all the other residents within close proximity of the pub, 9 octogenarians and several babies and young children have already experienced live music, karaoke and late night revels, leaving late noisily and standing on front step to smoke. There has also been late night transport parked outside, engine running for ¾ hour waiting for late nighters.

We have also witnessed young children 7-8 years old running in and out at 10-11p.m.

If you grant this Licence Variation instead of having a village pub we are going to get premises more suitable for a town centre.

We pay high council tax for being in such a desirable area and would most certainly be looking for a hefty reduction if this goes ahead as it would devalue our property.

We hope the committee dealing with this application will consider all points raised and reject it.

Yours sincerely



Rowland Armitage



**HAMBLETON**  
**DISTRICT COUNCIL**

**Representations On A Current Application For A Grant/Variation 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)

JOHN HARRISON

Wish to make representation about the application in respect of the premises licence or club premises certificate, the details for which are shown below.

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

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

ROSE AND CROWN  
MAIN STREET  
SUTTON ON THE FOLDS  
YO26

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

MRC C. SIMSON

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

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

I am:

- A person  (please complete section A below)  
 A body representing any other person  (please complete section B below)  
 A responsible authority  (please complete section C below)  
 A member of the club to which this representation relates  (please complete section A below)

<b>HAMBLETON D.C.</b>		
REC'D - 4 AUG 2017		
PES	RES	CX
		ACK

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

I am 18 years old or over

Yes  (Please Tick)

Name and Address	BLOTTKION Cottage MAIN STREET. Sutton on the Forest. York YO61 1DW
Daytime contact telephone number	[REDACTED]
E-mail address (optional)	[REDACTED]

**(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g Body or Business)**

Name and Address	
Telephone Number (If any)	
E-Mail address (optional)	

**(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION**

Name and Address	
Telephone Number (If any)	
E-Mail address (optional)	

This representation relates to the following licensing objective(s)

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

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

ATTACHED SHEET

Please provide as much information as possible to support the representation  
(please read guidance note 2)

Have you made any representation relating to these premises before? ~~Yes~~ / No


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.

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

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

Signature		Date	
Capacity		2/8/2017	

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 of the licensing objectives.
2. Please list any additional information or details (e.g. 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. Information on the Licensing Act 2003 is available at [www.hambleton.gov.uk](http://www.hambleton.gov.uk) and you are advised to read any relevant guidance leaflets before completing this form.

Please return this form by post to:

The Licensing Team, Hambleton District Council, Civic Centre, Stone Cross, Northallerton  
DL6 2UU

Or by email to:

[licensingteam@hambleton.gov.uk](mailto:licensingteam@hambleton.gov.uk)

Brotherton Cottage  
Main Street  
Sutton on the Forest  
York YO61 1DW

---

Representation regarding Application for Licence Variation Rose and Crown  
Sutton-on-the- Forest

I live in the Main Street very close to the Rose and Crown.  
I would like to make a number of representations relating to the variation of  
licence for the Rose and Crown

1. The noise from late opening with Disco and Karaoke is not acceptable in a rural village where most neighbours are elderly and live in a quiet rural environment.
2. We are already inconvenienced by noise from clients and staff smoking outside in the Main Street until well past the official closing time.
3. Unsupervised young children are frequenting the premises until late in the evening and hanging about outside, which again adds to the noise outside in the main Street.
4. The current licencing times are already being ignored. This has been confirmed by the chairman of the Community Interest Company associated with the pub who has circulated a letter stating that the Application for a Variation to the current Licence is to regulate late drinking on the premises.
5. The Car Park is inadequate for the pub therefore indiscriminate parking takes place on the Main Street resulting in Congestion on the B class road. A number of accidents have already been witnessed. The parking without lights in a village without any Street lighting is another concern.
6. The patio area at the rear of the pub which is included in the application is already an issue, the fence bordering on the village playing field has been removed. This has allowed drinks being taken on to the playing field and the concern of broken glass in the area used by children.
7. The current licence for the premises is adequate, any addition will only attract clients from an outside the village and encourage late drinking with the attendant noise creating a public nuisance.

I strongly request that the application to vary the licence is rejected based on the above representation.

John Harrison. 2<sup>nd</sup> August 2017

**From:** [REDACTED]  
**Sent:** 07 August 2017 16:09  
**To:** Licensing Team  
**Subject:** Rose & Crown, Sutton on the Forest - Application for Licence Variation  
**Attachments:** LFla.25 - LA2003 Representations Form v2 7 August.doc

Dear Sir

Please find attached representation form in respect of the above application for licence variation.

I should be grateful if you would redact any personal contact details in the event of public disclosure.

Kind regards

Keith Haynes



**Representations On A Current Application For A Grant/Variation 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)

**Keith Haynes & Mary Haynes**

Wish to make representation about the application in respect of the premises licence or club premises certificate, the details for which are shown below.

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

Postal Address of Premises or Club Premises, or if none, ordnance survey map reference or description  
**Rose and Crown,  
Main Street,  
Sutton on the Forest  
York**

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

**Mrs C Simpson**

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

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

I am:

- |   |                                     |                                   |
|---|-------------------------------------|-----------------------------------|
| A person  | <input checked="" type="checkbox"/> | (please complete section A below) |
| A body representing any other person                      | <input type="checkbox"/>            | (please complete section B below) |
| A responsible authority                                   | <input type="checkbox"/>            | (please complete section C below) |
| A member of the club to which this representation relates | <input type="checkbox"/>            | (please complete section A below) |

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

I am 18 years old or over

Yes  (Please Tick)

Name and Address [REDACTED]	
Daytime contact telephone number	[REDACTED]
E-mail address (optional)	[REDACTED]

**(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g Body or Business)**

Name and Address	
Telephone Number (If any)	
E-Mail address (optional)	

**(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION**

Name and Address	
Telephone Number (If any)	
E-Mail address (optional)	

This representation relates to the following licensing objective(s)

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

Please state the ground(s) for representation. (please read guidance note 1)
<b>Please see attached representation.</b>



Please provide as much information as possible to support the representation  
(please read guidance note 2)

**Please see attached representation.**

Have you made any representation relating to these premises before?    No


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

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

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

Signature		Date	07/08/2017
Capacity			

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 of the licensing objectives.
2. Please list any additional information or details (e.g. 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. Information on the Licensing Act 2003 is available at [www.hambleton.gov.uk](http://www.hambleton.gov.uk) and you are advised to read any relevant guidance leaflets before completing this form.

Please return this form by post to:

The Licensing Team, Hambleton District Council, Civic Centre, Stone Cross, Northallerton  
DL6 2UU

Or by email to:

[licensingteam@hambleton.gov.uk](mailto:licensingteam@hambleton.gov.uk)

## Representation regarding Application for Licence Variation – Rose & Crown, Sutton on the Forest

1. We are residents of Main Street, Sutton on the Forest, where we live in the close vicinity of the Rose & Crown Pub.
2. We wish to make a number of representations relating to the Application for Licence Variation made by the owner and licensee (Mrs Carol Simpson) of the Rose & Crown which I set out below.
3. **Licence Variation 1 – An increase in licensable hours to serve alcohol – Monday to Sunday from 11.00 am to 01.00am (with an additional 30 minutes drinking up time to 01.30am), from current licence hours of 11.00pm (Monday – Saturday) and 10.30pm (Sunday).**

### Prevention of Public Nuisance

The extension of licensing hours by two hours each day will severely impact upon the licensing objective to prevent public nuisance. The proposed extension will result in clients leaving the premises up to two hours later than at present and with the prospect of causing disturbance at a time when most local residents will have retired for the night.

As one of the few (and possibly only) pubs with extended opening hours in the local area, it is likely to attract clients from a wider area who wish to partake in late night alcohol consumption. This is likely to increase the number of clients, traffic to the area and disturbance, giving rise to increased public nuisance. Indeed, there would be no point in extending the opening hours and staying open until 1.30am if it is not the intention to increase client footfall.

Clients who have been in the pub until 1.30am are more likely to have drunk alcohol in excess of the drink drive limits (on the basis that they are unlikely to have come out for “last orders” in the early hours of the morning), are less likely to leave the premises quietly and are likely to require forms of alternative transport such as taxis and coaches. There is recent evidence that such alternative forms of transport, which often have to wait for their clients to leave the pub, cause disturbance to residents in the vicinity, particularly by leaving vehicle engines running.

There is also currently an arrangement whereby clients who wish to smoke do so outside the front door of the premises which is directly on Main Street and which already causes disturbance to local residents. An extension of the opening hours will result in further disturbance until 1.30am.

The applicants proposed control to prevent public nuisance will be to remind clients to leave the premises quietly which in itself will be totally inadequate to ensure the prevention of public nuisance.

### **Protection of Children from Harm**

There are two families in the immediate vicinity with young children (one family with a baby, and another with two young girls of primary school age). Already these children are frequently disturbed by the noise from music events at the pub, by clients leaving the premises and by clients smoking outside the pub. There is considerable international medical evidence that disturbance of sleep in children impacts upon their development, health and well-being. An extension of licensing hours will only serve to exacerbate this.

The applicant's proposed control to protect children from harm pays no regard at all to this concern.

### **Disregard for current licensing hours**

Although not a licensing objective, there has been evidence of a disregard of the current licensing hours. Recent "Facebook" postings confirmed the pub's new opening time on Sunday to 11.30pm, until this was corrected following intervention by the Local Authority licensing team. The current licensing hours on Sunday are until 10.30pm.

There has also been a recent email communication from the Chairman of the Community Interest Company associated with the pub in which he explains to its membership that the current application for variation of the licence is being made in order to "maintain the status quo of operations legally", it having "become common practice to remain open occasionally beyond 11.00pm when the bar was busy – usually on Friday nights when many customers arrive at the pub fairly late".

4. **Licence Variation 2 – The addition of regulated entertainment – bands, discos and karaoke to be held to amplified, unamplified and recorded music, both indoors and outdoors of the premises**
- **Monday to Friday from 11.00am to 12.00 midnight**
  - **Saturday & Sunday from 10.00am to 12.00 midnight**

### **Prevention of Public Nuisance**

When music events have been held in the pub it has proved necessary to close all our windows. The most recent evidence of this was when karaoke events were held on Sunday 25 June and Saturday 8 July 2017 which required us to close all of our windows. Although the events were held indoors the pub did not close its windows or outside door to the beer garden. The proposal to hold such events outside can only have an even worse effect upon the residents in the vicinity.

The applicant's proposed control which is to ask clients to leave the premises quietly is completely inadequate. Evidence is available from some local authorities which recommend very specific controls to ensure the prevention of public nuisance

when loud music is being played. One local authority even recommends the restriction of the playing of music in beer gardens. See the following links:

<http://www.southglos.gov.uk/environment-and-planning/pollution/pollution-control-noise/noise-from-pubs-and-other-venues/>

[http://www.royalgreenwich.gov.uk/download/downloads/id/510/entertainment\\_noise\\_from\\_pubs\\_and\\_clubs](http://www.royalgreenwich.gov.uk/download/downloads/id/510/entertainment_noise_from_pubs_and_clubs)

No such measures are proposed by the applicant.

### **Protection of Children from Harm**

The same representations apply as for Licence Variation 1.

5. **Licence Variation 3 – An extension of the current licensable area to enable regulated and unregulated entertainment at the times above and the supply of alcohol from the beer garden and also directly from the servery hatch leading from the pub storeroom to the beer garden.**

### **Prevention of Public Nuisance**

As noted at 4 above, the proposal to enable entertainment in the beer garden will have a significant impact upon residents in the local vicinity. It has already proved necessary to close windows when karaoke entertainment is being held inside the premises, and will almost certainly require such measures if playing of music takes place in the beer garden.

### **Protection of Children from Harm**

The same representations apply as for Licence Variation 1 and 2.

### **Public Safety**

There is already evidence that beer glasses have been taken onto the adjacent playing field with the potential to cause harm through broken glass to children playing in the playing field.

The serving of beer from a servery in the beer garden, will provide the potential for users of the playing field to purchase alcohol which they may then choose to consume in the playing field. This again has the potential to pose a safety risk.

The applicant's control of clearing glasses promptly does not address this risk, and makes no provision to restrict clients from taking glasses on to the playing field.

## 6. Conclusion

The licensing variations requested appear to be more in keeping with licensing arrangements which might be experienced in an inner city area and not a village in a conservation area.

On the basis of the representations made above, we respectfully request that the application to vary the licence be rejected.

KA & LM Haynes  
07/08/2017

## Representation on a Current Application for a Variation of a Premises Licence under the Licensing Act 2003

Premises licence number 05\_PREMC\_00857

Licence holder: Mrs C Simpson

Postal address:

Rose and Crown

Main Street

Sutton on the Forest, YO61 1DP

I, Dr Katarzyna Ellingham, live in Forester's Cottage, Main Street, Sutton on the Forest, YO61 1DP, which is situated immediately next door to Rose and Crown, sharing a long boundary with the pub (a small car park on the side of the kitchen and a whole length of the beer garden).

I wish to make a number of representations relating to the above Application for Licence Variation under the following licensing objectives:

- 1.the prevention of public nuisance
- 2.the protection of children from harm
- 3.public safety

### 1. The Prevention of Public Nuisance

Currently ambient noise from the pub extends not infrequently until after midnight, when the clients leave the pub and garden and get in the cars, which are parked alongside my house - the walking path providing an access is less than 1m away from the walls of the house. My bedroom is on the corner of the road/pub/ garden and any noise from that area is instantly transmitted into it, waking me up from sleep or preventing from falling asleep.

Extending serving alcohol with drinking up time till 1.30am would shift that noise to 2am or even later.

Clients, who choose to drink till 1.30am, are more likely to have consumed larger amounts of alcohol- this in turn will make it difficult to keep the noise down, because alcohol clouds judgement. Clients with those interests may be preferentially attracted to Rose and Crown, as the new arrangements will make the pub stand out "favourably" compared to other pubs in the surrounding villages, which are not opened that late. Providing alternative forms of transport to get home so late at night will significantly add to the noise on the road, outside the house.

When loud music events (karaoke on Saturday 24 June 2017, Saturday 8 July 2017) or large scale events with loud music (Friday 14 July 2017) are held in the pub, **it is not possible to fall asleep in my house, despite all windows closed, until all music has stopped. The noise is too great and vibrations from the music are felt throughout the house.** Light pollution from the outdoor events adds to the disturbance. Allowing to play music, recorded and amplified, both indoors and outdoors

till midnight means no sleep until well after midnight, potentially till 1am, on any day of the year. I work as a doctor and in addition to working Monday till Friday, Saturdays and Sundays can be my normal working days with early starts and late finishes. Sleep deprivation will have an adverse effect on the safety and other aspects of my work, as well as my general health and will make the living conditions unbearable.

Loud music events preclude any enjoyment of the garden and **there is no escape from the noise and vibrations in the house either**. The pub is situated immediately between 2 residential houses and there is nothing that can reduce the impact of the noise on the residents, other than reduction of the noise itself. Granting of the variation of the licence will produce the opposite effect- it will further increase the noise nuisance to intolerable levels.

Serving alcohol directly from the server hatch in the garden and an extension of the current licensable area to allow regulated and unregulated entertainment will increase noise in the garden, which will be directly transmitted to the properties and gardens in the immediate vicinity.

## 2. The protection of children from harm.

There are young children living in the immediate vicinity (a baby opposite and two primary school age children next door to the pub), whose sleep, development and achievements at school are likely to be adversely affected by increased noise from the pub leading to disturbed sleep and reduced wellbeing.

## 3. Public safety

Serving alcohol from the hatch in the garden, which opens onto the village playing fields with a children's playground, bypasses the main building of the pub. This may encourage some clients to take drinks to the playing fields, potentially leaving glasses there, posing a safety risk, particularly to the children. Also, there is the potential for users of the playing fields to purchase alcohol directly from the server hatch, which they may then choose to take to the playing fields to consume.

Conclusion:

On the basis of the representations made above, I respectfully request that the application to vary the licence is rejected.

Dr Katarzyna Ellingham

09/08/2017



## **Application for changes to licence of Rose and Crown, Main Street, Sutton on the Forest**

### **Response from Parish Council**

**Note:-** Four out of six Parish Councillors have declared an interest in the Rose and Crown as they have shares in the Community Interest Company that has provided financial support to the business.

Despite these declarations, the response below has been unanimously agreed by the Parish Council.

We have considered the nature and needs of the village and its residents, the location and structure of the public house and the commercial environment in which it operates.

- Sutton on the Forest is a quiet residential village with a populace that commute to work in York or further afield or have retired after doing so in the past.
- Put simply, there are people in the village who have to get children to bed and get up early to go to work.
- The Rose and Crown is a semi-detached building located in the centre of the residential conservation area. The lounge bar has a party wall with living accommodation in the neighbouring house.
- The majority of residents do wish a pub to continue to operate in the village.

Thus it is necessary to try to strike a balance between maintaining the character and ambience of the village and the amenity of residents and applying licensing conditions that allow the pub to trade successfully.

#### **1.The current licence.**

We understand that under the provisions of the current licence:-

- Alcohol may be served until 11 pm. each evening, and allowing 30 minutes drinking up time, the premises should close at 11.30 pm. seven days a week.
- Under the general rules governing entertainment, music (live, amplified, recorded), disco, Karaoke etc. may be provided from 8 am to 11 pm each day providing the audience numbers do not exceed 500, without obtaining a specific entertainment licence.

These activities are confined to the licensed area of the premises. This basically consists of the public rooms on the ground floor, but not the converted storeroom which contains the servery and hatch.

The garden is not included in the licensed area, but customers may consume alcohol there that has been dispensed within the licensed area even if brought to them by bar staff.

#### **2.Proposed changes to the Licensed Area.**

We have no objection to the inclusion of the servery in the licensed area providing this can be done without licensing the garden.

We strongly object to the garden (decked area, gazebo etc.) being included in the licensed area for the following reasons:-

- This would allow entertainment including live music, disco, Karaoke to be conducted there between 8 am and 11 pm. The garden faces a residential area about 40 metres away across a quiet rural recreation ground and children's play area. We feel that such entertainment is not in keeping with the location and also would cause considerable noise nuisance and loss of amenity not only to the immediate neighbours, but also to a larger number of people over a much wider area.
- There is a pedestrian access gate from the garden into the recreation ground and there is a total ban on taking glasses or bottles onto the field. This is necessary for health and safety reasons to avoid the risk of broken glass causing injury to children using the

recreation/ playground. Events held in the garden would be likely to spill over into the field making it impossible to police the ban.

### **3. Proposed change to Entertainment Hours.**

We oppose the extension of entertainment hours to midnight seven days a week, because we believe that this would cause significant noise nuisance to the occupants of neighbouring properties. However, we are mindful of the commercial needs of the Rose and Crown and feel that an extension to 1130 p.m. on Friday and Saturday would be justified.

### **4. Proposed change to Licensing hours.**

We consider that the proposed extension of service to 1 a.m. for 7 days a week with the premises closing at 1.30 a.m. is totally unacceptable and not in keeping with the character of a commuter village like Sutton on the Forest. We feel that it is unreasonable to expect the immediate neighbouring properties to cope with the noise from a fully functioning pub until this very late hour. In addition, the Rose and Crown has off road parking for only six cars, so that customer's vehicles have to park along Main Street outside residential properties. We note that "polite notices" will be displayed asking for a quiet departure. However, we believe that there will inevitably still be some unavoidable noise and disturbance at closing time and that this would cause significant loss of amenity and nuisance for residents at the very late hour proposed, over a wider area.

However, we are mindful of the commercial needs of the Rose and Crown and feel that an extension of service to 1130 p.m. on Friday and Saturday, with the premises being closed at midnight, would be justified.

The small number of traditional late nights, e.g. New Years Eve, should be covered by special licence applications as these are not expensive.

### **5. Commercial Needs of the Rose and Crown.**

The Rose and Crown is a village pub and as such it competes for business with other similar establishments in the local area. It is not in competition with pubs or clubs in the tourist area of York. The majority of the village pubs operate within opening hours that are the same as, and in some cases less than, those currently in force at the R&C, with the exception of Fridays and Saturdays when some do seem to close at around midnight. Those businesses that provide good quality pub food, and entertainment within the licence exempt conditions, seem to be successful.

Under the circumstances, we do not feel that the needs of the trading environment justify the changes proposed in this application, or the harm that would be done to the village environment and amenity of residents, should it be approved.



## Representations On A Current Application For A Grant/Variation 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.

We (Insert name) **Richard Jackson & Donna Jackson**

Wish to make representation about the application in respect of the premises licence or club premises certificate, the details for which are shown below.

### PART 1 – PREMISES OR CLUB PREMISES DETAILS

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

**Rose and Crown,  
Main Street,  
Sutton on the Forest  
York**

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

**Mrs CA Simpson**

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

Current Premise License: 05\_PREMC\_00857

License Variation Application Ref: 17\_PREM\_00459

### PART 2 – DETAILS OF PERSON MAKING REPRESENTATION

I am:

- |   |                                     |
|---|-------------------------------------|
| A person  | X (please complete section A below) |
| A body representing any other person                      | (please complete section B below)   |
| A responsible authority                                   | (please complete section C below)   |
| A member of the club to which this representation relates | (please complete section A below)   |



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

I am 18 years old or over

Yes



(Please Tick)

Name and Address The Old Village Stores, Main Street, Sutton on the Forest, York, YO61 1DP	
Daytime contact telephone number	[REDACTED]
E-mail address (optional)	[REDACTED]

**(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g. Body or Business)**

Name and Address	
Telephone Number (if any)	
E-Mail address (optional)	

**(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION**

Name and Address	
Telephone Number (if any)	
E-Mail address (optional)	

This representation relates to the following licensing objective(s)

- the prevention of crime and disorder X
- public safety X
- the prevention of public nuisance X
- the protection of children from harm X

Please state the ground(s) for representation. (please read guidance note 1) <b>Please see attached representation.</b>
--

Please provide as much information as possible to support the representation (please read guidance note 2)
---

**Please see attached representation.**

Have you made any representation relating to these premises before?    No

	Day	Month	Year
If Yes, please state the date of that representation			

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

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

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

Signature	RM Jackson & DL Jackson	Date	07/08/17
Capacity			

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 of the licensing objectives.
2. Please list any additional information or details (e.g. 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. Information on the Licensing Act 2003 is available at [www.hambleton.gov.uk](http://www.hambleton.gov.uk) and you are advised to read any relevant guidance leaflets before completing this form.

Please return this form by post to:

The Licensing Team, Hambleton District Council, Civic Centre, Stone Cross, Northallerton  
DL6 2UU

Or by email to:

[licensingteam@hambleton.gov.uk](mailto:licensingteam@hambleton.gov.uk)

**Representation regarding Application for Licence Variation – Rose & Crown, Sutton on the Forest**

1. We are, together with two young children (of primary school age), residents of Main Street, Sutton on the Forest. We live in the close vicinity of the Rose & Crown Pub being adjoined to it and the immediate neighbouring property. We wish to make a number of representations relating to the Application for Licence Variation made by the owner and licensee (Mrs Carol Simpson) of the Rose & Crown which we set out below.

2. **Licence Variation 1 – An increase in licensable hours to serve alcohol – Monday to Sunday from 11.00 am to 01.00am (with an additional 30 minutes drinking up time to 01.30am), from current licence hours of 11.00pm (Monday – Saturday) and 10.30pm (Sunday).**

**Prevention of Public Nuisance**

That the applicant seeks to extend the licensing hours by up to two hours each day will, we believe, severely impact upon the licensing objective to prevent public nuisance. Further, that the applicant's proposed control to prevent public nuisance, "to remind clients to leave the premises quietly..." in itself, will be totally inadequate to ensure the prevention of public nuisance.

The proposed extension will result in customers leaving the premises up to two hours later than at present and is likely to cause significant disturbance to ourselves and other neighbouring residents when they have retired for the night. This is of particular concern to us as adjoining neighbours, given that our bedrooms are situated so closely to the premises and we are more susceptible to being disturbed by patrons and associated business noise and light, coming from the premises late at night and in the early hours of the morning.

We are not aware of any other pubs with extended opening hours in the local vicinity, and as such, we believe it likely that the premises will attract customers from a wider area who wish to partake in late night alcohol consumption after other local and non local establishments have closed. In turn, this will likely increase the number of customers, associated noise and traffic to the area late at night and into the early hours of the morning, giving rise to increased public nuisance. It is fair and reasonable to expect that this would ensue given that the applicant intends to increase customer footfall by way of such a significant variation to the pubs opening times to 01:30am each day.

That there will be an additional requirement for the premises to remain lit at both the front and rear of the premises for the safety of patrons whilst on and off the premises is inevitable. There is currently no street lighting, to either the front or rear of the property, being in a conservation area. With the increased opening hours

proposed this will undoubtedly create a further nuisance to those residents trying to sleep at night, by way of light pollution emanating from the premises. In our own case the external lighting already impacts upon our own bedrooms and downstairs living accommodation through light seepage. The applicant has not sought to address this issue.

The provision for allowing smokers an area to do so has also not been addressed by the applicant. Currently customers who wish to smoke, do so outside the front door of the premises, being directly on Main Street and being to the front of our property. This already causes disturbance to ourselves and other local residents and makes it impossible to leave our bedroom windows open at night due to noise and smoke related pollution. An extension of the opening hours will result in further disturbance until 01.30am and beyond as patrons leave the premises and/or wander along the street whilst smoking. This has already been brought to the attention of the applicant by residents on several occasions and to a succession of subsequent Lessees as being a concern, but to no avail. This continues to be a persistent and pervasive problem which we believe can only be further exacerbated by an extension to opening hours.

Given that the village is not served by adequate public transport after 7.30pm, customers will be reliant upon cars, or private hire taxis and coaches, in order to get to and from the premises late at night and into the early morning. Those customers who are in the premises until 01:30am are more likely to have drunk in excess of the drink drive limits and will be more likely reliant upon these alternative modes of transport. They are less likely to leave the premises quietly and cause disturbance to nearby residents. Recent evidence of this being on Friday 14<sup>th</sup> July 2017, after a particularly noisy private function, when both taxis and a coach, waited for long periods of time for their customers to leave the pub. This caused disturbance to residents in the vicinity, and especially ourselves, as a result of a coach having its engine running for approximately 40 minutes until approximately 12.00 midnight. The applicant does not adequately seek to address this issue.

The number of patrons arriving on foot and being local residents are, in our opinion, insufficient in number to warrant an extension of this type in a local village and could be served more appropriately by the existing TEN system for occasions or events which require late night extensions to be in place for the consumption of alcohol which should instead be considered as an appropriate means to allow the business to operate.

Currently there is limited evidence of strong management controls and effective training of staff, so that they are aware of the premises licence and the requirements to meet the four licensing objectives. Evidence on recent postings on Facebook with regards to the incorrect advertising of operating hours on Sunday evenings attests to this. This lack of awareness has been further exacerbated by the frequency with which lessees have changed over the years. The requirement for each of them to be aware of and comply consistently with the licensing conditions has not, in our opinion, been met by the applicant and associated Lessees of the

premises. We do not believe this requirement will be met, should the current license be extended further.

### **Prevention of Crime and Disorder**

In our opinion, crime including conflict, violence or aggression, in and around the premises has consistently been poorly managed over a number of years by owners/lessees of the Rose & Crown and has not properly addressed the licensing objective. Acts of aggression and anti social behaviour, especially towards ourselves both directly and indirectly have grown steadily worse over the years, especially when customers have been at the premises after permitted hours and intoxicated by alcohol. Such anti-social behaviour conducted over a sustained period of time, prompted us to install CCTV to our property two years ago.

Some evidence of this in recent months has included:

- ⑩ the evening of 9<sup>th</sup> December 2016, when, after permitted hours, a patron was abusive and intimidating towards ourselves on leaving the premises, sticking his fingers up to our CCTV camera;
- ⑩ on 24<sup>th</sup> December 2016 (Christmas Eve), when a customer was left in the road unconscious, in front of our property, having been ejected from the premises for being intoxicated. This was witnessed in full by ourselves and our children, which left them and us extremely distressed. The then Lessee, did little to manage the issue, save refusing to serve the customer more alcohol, and it was left to ourselves and another customer who was in the premises, to attend to the customer's needs and move them to safety;
- ⑩ on Mothering Sunday (26<sup>th</sup> March 2017), when during the day, another incident resulted in a male customer who was leaving the premises shouting obscenities at us, as we watched him damaging our property outside;
- ⑩ on Saturday 22<sup>nd</sup> April/ 23<sup>rd</sup> April 2017 when after a private function that continued after permitted hours, some customers took exception to us asking for the music to be turned off at 11:23pm, beyond the permitted time;
- ⑩ CCTV footage for Friday 2<sup>nd</sup> June 2017, showing a female patron leaving the premises at 23:13 in an extremely intoxicated state to smoke outside the front of our and other neighbouring properties. The patron fell over twice on the pavement, directly outside our property and discarded her cigarette in doing so, before going back into the premises at approximately 23:23 at a time when patrons should have been leaving. The patron was not ejected from the premises on this occasion. The premises did not then close until some time after the current 11:30pm curfew, at 11:43pm onwards, when after this time, some patrons leaving the premises could be heard arguing loudly and drunkenly back down Main Street.

Each of these incidents merely serve to confirm our views expressed above about the failure of staff to ensure compliance with the licensing objectives and which is exacerbated by the frequent changes of lessees. We do not believe therefore that an extension to licensable activities until later will be managed any differently.



### **Disregard for current licensing hours**

Although not a licensing objective, there is both historic and current evidence of a disregard of the current licensing hours. This has been consistently so under successive Owners/Lessees of the premises. More recent "Facebook" postings by the Rose & Crown confirm and attest to this, as well as from an older "Facebook" account that is no longer used by the current Lessee but which gives more historic detail.

Further email communications by the Chairman of the Community Interest Group associated with the pub highlights this point as recently as 4<sup>th</sup> June 2017, that the current application for variation of the licence is being made in order to "maintain the status quo of operations legally", it having "become common practice to remain open occasionally beyond 11.00pm when the bar was busy – usually on Friday nights when many customers arrive at the pub fairly late". Such activities do not promote the licensing objectives at present and would not, we believe, promote them going forwards were the extensions to licensable hours granted. On this experience we are not convinced that there is likely to be any improvement in compliance with the licensing conditions and objectives as a result of the granting of the application.

### **Protection of Children from Harm**

We are one of two families in the immediate vicinity with young children (one family with a baby, and ourselves with two young children of primary school age). Already these children are frequently disturbed by the noise from music events at the pub, by clients leaving the premises and by clients smoking and talking outside the pub late at night and after licensable hours. This is notwithstanding those residents who have visiting children who are disturbed by noise emanating from the premises as recently as June and July of this year. The lack of sleep for our children impacts upon their development, health and well-being. An extension of licensing hours will only serve to exacerbate this. That parents of those children are precluded from sleep also, does not address the protection of children from harm due to the adverse effects of a lack of sleep on a parent/guardians health and well being and their ability to function normally on the following day/s.

The applicant's proposed control to protect children from harm pays no regard at all to this concern. It merely approaches the protection of children as being to check ages of customers who may attempt to purchase alcohol from the premises.

**1. Licence Variation 2 – The addition of regulated entertainment – bands, discos and karaoke to be held to amplified and unamplified music, as well as recorded music, both indoors and outdoors of the premises (Monday to Friday from 11.00am to 12.00 midnight, Saturday & Sunday from 10.00am to 12.00 midnight).**

### **Prevention of Public Nuisance**

When music events have been held in the pub it has proved necessary to close all our windows and this has still not prevented an unacceptable level of noise

seepage into our property. The most recent evidence of this was when several band/karaoke/private events were held in April, May, June and July which required us to close all of our windows on each occasion. Although the events were held inside the premises, the Lessee, did not close windows or outside doors to the beer garden in order to contain noise. The proposal to hold such events outside will have an even worse effect upon the residents in the vicinity and more directly and immediately ourselves. Such events prevent us from the enjoyment of our garden, inside amenity and sleep.

The applicant's proposed control which is to ask clients to leave the premises quietly is completely inadequate in this regard. Specific controls to ensure the prevention of public nuisance when loud music is being played, have over many years not been present at the premises.

### **Protection of Children from Harm**

The same representations apply as for Licence Variation 1.

**2. Licence Variation 3 – An extension of the current licensable area to enable regulated and unregulated entertainment at the times above and the supply of alcohol from the beer garden and also directly from the server hatch leading from the pub storeroom to the beer garden.**

### **Prevention of Public Nuisance**

We do not believe that the applicant has given sufficient consideration to the current structure and layout of the premises and equipment both internally and externally, to ensure that the premises are fit for purpose with regards to entertainment, and noise and light pollution throughout or to mitigate and/or manage this for the purposes of this application. Given that there are currently no sound attenuation measures in place it is fair and reasonable to expect that historical noise problems at the premises will not be prevented from recurring should the premises area be extended beyond what is currently provided. There are currently already no wall linings, acoustic curtains and acoustic treatment to mechanical ventilation or air conditioning systems in place inside, to mitigate noise seepage. In short, we believe that the age and layout of the premises area is not a suitable location for such a variation as that which the applicant proposes. The applicant makes no reference as to how this might be managed.

### **Entertainment**

The proposal to enable entertainment on the decking/gazebo and in the beer garden will further impact upon ourselves and other residents in the local vicinity. That the applicant seeks to install speakers outside for the purposes of playing recorded, amplified and unamplified music until 12.00midnight will only further exacerbate the noise nuisance which we have consistently experienced from the premises. Further, it will make difficult for us to escape the resulting noise from any part of our property both inside and out. It has already proved necessary to close windows and doors when karaoke entertainment/live bands and recorded music are being held or played inside the premises, and will almost certainly require such measures if any playing of music takes place in the beer garden going forwards and

for longer duration. This will, we believe, should the application be granted, become a statutory nuisance to us, as the music is proposed for longer duration and to a wider area until 12.00midnight and potentially beyond as customers continue to drink and then disperse from the area at 01:30am. We are on occasion, unable to hear our own television with doors and windows closed, throughout our property when live music/karaoke is playing inside the premises, being unable to use some rooms, and/or have to turn up the television volume to levels that would ordinarily be considered too loud. Normal conversation and sleep has been impossible on occasion.

Examples of recent events being the following:

- ⑩ the evening of 9<sup>th</sup> December 2016, when, after permitted hours, a patron was abusive and intimidating towards ourselves on leaving the premises, sticking his fingers up to our CCTV camera;
- ⑩ Saturday 22<sup>nd</sup> April/ 23<sup>rd</sup> April 2017 (Private Function/Band/music etc.) music until after 11.20pm
- ⑩ 29<sup>th</sup> May 2017 (BH Monday) Taz Barnes and Karaoke music until after 11.20pm
- ⑩ Saturday 24<sup>th</sup> June 2017 (Paul Moore/Karaoke event) music until after 11.25pm
- ⑩ Saturday 8<sup>th</sup> July 2017 (Karaoke event) until after 11.20pm
- ⑩ Friday 14<sup>th</sup> July 2017 (Military Dinner/event including bagpipes) until late

#### Servery

The proposed extension to include the servery into the licensed area will have a significant and detrimental impact upon ourselves, as our property is directly adjoining this area. The resultant noise from normal business operation and customers using this area will preclude the intrusion of such associated noise at all times of the day and night up to and beyond 01:30am when patrons have left and staff are still on premises clearing away. Currently the servery hatch is not in use and the store room as it currently stands, acts as a partial void to absorb some but not all of the noise between ourselves and the current licensed area. Were this area to be opened to the extent that the applicant seeks, it will bring closer all levels of noise to us including the bedrooms at the rear of our property. That customers are likely to loiter around this area is inevitable and will prove to become a statutory nuisance to us. The applicant does not address this issue.

#### Lighting

The current lighting scheme and provision of it, to the rear of the premises is not sufficient to allow customers to fully utilise this area as proposed, without additional lighting being put in place. Upon the inevitable installation of additional lighting to service this area and for public safety, we will have a further public nuisance from light pollution to all areas of the rear of our property, including bedrooms until late into the evening and early hours of the morning every day. The applicant does not address this issue.

#### Protection of Children from Harm

The same representations apply as for Licence Variation 1 and 2.

#### Public Safety

The serving of beer and other alcoholic beverages from a servery hatch in the beer garden, will provide the potential for an increased risk to public safety. The applicant's control of clearing glasses promptly does not address this risk. Both historically and more recently under the management of Lessees, patrons regularly take glasses onto the playing field behind the licensed premises in order to consume them. This poses a considerable danger to children from broken glass, who regularly play in this area.

### **3. Conclusion**

We do not believe that the variation to licence that the applicant makes to the premises is suitable for a rural village location and conservation area and which is surrounded on all sides, by residential properties. Such premises variations are, we believe, more suited to an inner city area where other such businesses more frequently operate under such licenses. On this basis and the representations made above, we respectfully request that the application to vary the licence is rejected.

Mr Richard Jackson & Mrs Donna Jackson

10/08/2017

**From:** anthony lally

**On Behalf Of** anthony lally

Annex M

**Sent:** 07 August 2017 19:23

**To:** Customer Services Emails

**Subject:** Rose and Crown Licence Application ref 05\_PREMC-00857

Dear Sirs,

I would like to register my objection to the Licence Variation application submitted to you by the owners of the Rose and Crown Public House in Sutton on the Forest

As we live directly opposite the Public House, within 30 metres of their front door, we will be greatly inconvenience by noise and nuisance if a licence is granted for them to operate after 11pm in the evening. The nuisance / noise coming from cars and people leaving the Public House after 11am is totally unacceptable to us.

This Public House is in a quiet residential village where residents value not being disturbed in the late evening.

Can you please officially register our objection to this application

Kind Regards

Mr & Mrs Lally

Chapel House

Sutton on the Forest

Sent from Windows Mail

**From:** publicaccess@hambleton.gov.uk  
**Sent:** 11 August 2017 14:10  
**To:** Licensing Team  
**Subject:** Comments for Licensing Application 17\_PREM\_00459

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 2:09 PM on 11 Aug 2017 from Mr Christopher Jaume.

## Application Summary

**Address:** Main Street Sutton-On-The-Forest York YO61 1DP

**Proposal:** Premise Licence

**Case Officer:** Mrs Anita Huntsman

[Click for further information](#)

## Customer Details

**Name:** Mr Christopher Jaume

**Email:** [REDACTED]

**Address:** Mile End, Stillington Road, Sutton On The Forest, North  
Yorkshire YO61 1EH

## Comments Details

**Commenter Type:** Comment received by public access

**Stance:** Customer made comments in support of the Licensing Application

**Reasons for comment:**

**Comments:** 2:09 PM on 11 Aug 2017 I fully support the Rose and Crown's application to vary their licence.

The pub is an absolute gem, loved by all those I have taken there. I believe approval of their application is key for their survival in these difficult times. With so many small pubs closing across the country, I would love to see this one succeed and continue to hold its place as the social heart of the village.

The new landlords are friendly, considerate, and have the drive and passion to make this project a success. I wish them all the best.

Chris Jaume

**From:** publicaccess@hambleton.gov.uk  
**Sent:** 04 August 2017 22:03  
**To:** Licensing Team  
**Subject:** Comments for Licensing Application 17\_PREM\_00459

Licensing Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 10:02 PM on 04 Aug 2017 from Ms Grace Nodes.

## Application Summary

**Address:** Main Street Sutton-On-The-Forest York YO61 1DP

**Proposal:** Premise Licence

**Case Officer:** Mrs Anita Huntsman

[Click for further information](#)

## Customer Details

**Name:** Ms Grace Nodes

**Email:** [REDACTED]

**Address:** Grasmere, Stillington Road, Sutton On The Forest, North  
Yorkshire YO61 1EJ

## Comments Details

**Commenter Type:** Member of the public

**Stance:** Customer made comments in support of the Licensing Application

### Reasons for comment:

**Comments:** 10:02 PM on 04 Aug 2017 This is our only remaining village amenity, and having been variably closed and open over the last couple of years requires all possible support to remain in business. This variation will serve to enhance the business and regularise the business activities in terms of local drinking habits and occasional events which have taken place in the past and we would like to see again. We have never heard any noise nuisance from the Rose and Crown in the 14 years we have lived in the village.

# **PART 5: PREMISES LICENCES**



## 5.1 INTRODUCTION

5.1.1 A premises licence authorises the use of any premises (any vehicle, vessel or moveable structure or any place or a part of any premises) for licensable activities.

5.1.2 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). Stationary aircraft and railway carriages used as restaurants and bars are subject to the provisions of the 2003 Act.

## 5.2 GRANT OF LICENCE<sup>1</sup>

5.2.1 An application for a premises licence may be made by anyone who carries on or proposes to carry on a business involving licensable activities on premises situated wholly or mainly in the district of Hambleton.

5.2.2 An applicant for a premises licence must be:

- one or more individuals aged 18 years or over;
- a business;
- a partnership;
- a person exercising a statutory function (for example, a local authority);
- a person exercising any function by virtue of the Royal prerogative (for example, a body exercising functions by virtue of a royal charter);
- a recognised club;
- a charity;
- an educational institution;
- a health body in the public and private sector; or
- the police

5.2.3 An application for the grant of a premises licence must be accompanied by:

- the requisite fee;
- an operating schedule (see below);
- a plan of the premises in a prescribed form (see paragraph 5.12); and
- a form of consent from the individual who is to be specified in the licence as the designated premises supervisor (only if the application involves the supply of alcohol).

5.2.4 An application for the grant of a premises licence must be advertised:

- in a local publication on at least one occasion within ten working days of the application date; and
- on the premises for a period of 28 days (see Annex D for more information).

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<sup>1</sup> [Section 17 of the Licensing Act 2003](#)

### **5.3 VARIATION OF LICENCE<sup>2</sup>**

5.3.1 The holder of a premises licence may apply for a variation of the licence. An application for a variation of a premises licence must be accompanied by:

- the requisite fee;
- an operating schedule (see paragraph 5.13);
- the existing premises licence; and
- if the variation relates to any structural alterations, a plan of the premises in a prescribed form (see paragraph 5.12);

5.3.2 An application for the variation of a premises licence must be advertised:

- in a local publication on at least one occasion within ten working days of the application date; and
- on the premises for a period of 28 days (see Annex D for more information).

### **5.4 MINOR VARIATION<sup>3</sup>**

5.4.1 The Act allows for a simplified procedure for varying a licence where the changes cannot have an adverse effect on the licensing objectives.

5.4.2 Changes to the structure of the premises will not fall within the definition of a minor variation if it increases the capacity for drinking on the premises, or if it impedes the effective operation of a noise reduction measure such as an acoustic lobby.

5.4.3 An application for a minor variation of a premises licence must be accompanied by:

- the requisite fee;
- the existing premises licence; and
- if the variation relates to any structural alterations, a plan of the premises in a prescribed form (see paragraph 5.11).

5.4.4 An application for a minor variation of a premises licence must be advertised on the premises for a period of 10 days.

### **5.5 CHANGE OF DPS<sup>4</sup>**

5.5.1 A premises licence may be varied to specify an individual as designated premises supervisor.

5.5.2 The police may object to the designation of a new designated premises supervisor where, in exceptional circumstances, they believe that the appointment would undermine the prevention of crime and disorder objective.

5.5.3 An application to specify an individual as designated premises supervisor must be accompanied by:

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<sup>2</sup> [Section 34 of the Licensing Act 2003](#)

<sup>3</sup> [Section 41A of the Licensing Act 2003](#)

<sup>4</sup> [Section 37 of the Licensing Act 2003](#)

- the requisite fee;
- the existing premises licence; and
- a form of consent from the individual who is to be specified as the designated premises supervisor.

## **5.6 TRANSFER OF LICENCE<sup>5</sup>**

5.6.1 Any person who may apply for the grant of a premises licence (see paragraph 5.2.2) may apply for a premises licence to be transferred to them.

5.6.2 The police may object to the transfer of a premises licence where, in exceptional circumstances, they believe that the transfer would undermine the prevention of crime and disorder objective.

5.6.3 An application for the transfer of a premises licence must be accompanied by:

- the requisite fee;
- the existing premises licence; and
- a form of consent from the existing premises licence holder.

## **5.7 COMMUNITY PREMISES – ALTERNATE MANDATORY CONDITION**

5.7.1 Where the management committee of community premises makes an application for the grant of a premises licence authorising the supply of alcohol, the application may include a request to disapply the mandatory conditions in sections 19(2) and 19(3) of the Act concerning the supervision of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence<sup>6</sup>.

5.7.2 In cases where the mandatory conditions have already been imposed on a community premises licence, the holder of the licence may submit an application to disapply the mandatory conditions in sections 19(2) and 19(3) of the Act concerning the supervision of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence<sup>7</sup>.

5.7.3 An application for the mandatory conditions to be disapplied must be accompanied by:

- the requisite fee;
- the existing premises licence; and
- details of the proposed arrangements to supervise alcohol sales.

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<sup>5</sup> [Section 42 of the Licensing Act 2003](#)

<sup>6</sup> [Section 25A of the Licensing Act 2003](#) as inserted by [article 3 of the Legislative Reform \(Supervision of Alcohol Sales in Church and Village Halls &c.\) Order 2009](#)

<sup>7</sup> [Section 41D of the Licensing Act 2003](#) as inserted by [article 4 of the Legislative Reform \(Supervision of Alcohol Sales in Church and Village Halls &c.\) Order 2009](#)

## **5.8 INTERIM AUTHORITY NOTICE<sup>8</sup>**

- 5.8.1 Where a premises licence lapses due to the death, incapacity or insolvency of the licence holder, but no application for transfer has been received to reinstate the licence under section 50 of the Act, a person who has an interest in the premises may, during the initial 28 day period, give notice to the licensing authority in respect of the licence. A similar notice must also be given to the chief officer of police within this period.
- 5.8.2 Where an interim authority notice is given, the premises licence is reinstated for a maximum period of three months from the day the notice was given to the licensing authority to allow for applications to transfer the licence.

## **5.9 PROVISIONAL STATEMENTS<sup>9</sup>**

- 5.9.1 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.
- 5.9.2 A business or an individual (aged 18 or over) with an interest in any particular premises may therefore apply for a “provisional statement”.
- 5.9.3 An application for a provisional statement must be accompanied by:
- the requisite fee;
  - a statement made by or on behalf of the applicant including particulars of the premises to which the application relates and of the licensable activities for which the premises are to be used; and
  - plans of the work being or about to be done at the premises.
- 5.9.4 An application for a provisional statement must be advertised:
- in a local publication on at least one occasion within ten working days of the application date; and
  - on the premises for a period of 28 days.
- 5.9.5 When a person applies for a premises licence in respect of premises (or part of the premises or premises which are substantially the same) for which a provisional statement has been made, representations by responsible authorities and other persons will be excluded where:
- the application for a licence is in the same form as the licence described in the provisional statement;
  - the work in the schedule of works has been satisfactorily completed;
  - given the information provided in the application for a provisional statement, the responsible authority or other person could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and

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<sup>8</sup> [Section 47 of the Licensing Act 2003](#)

<sup>9</sup> [Section 29 of the Licensing Act 2003](#)

- there has been no material change in the circumstances relating either to the premises or to the area in the proximity of those premises since the provisional statement was made.

## **5.10 CHANGES DURING PERIOD OF LICENCE<sup>10</sup>**

5.10.1 The holder of a premises licence must notify the licensing authority of any changes to his/her name or address or that of the designated premises supervisor.

## **5.11 REVIEWS<sup>11</sup>**

5.11.1 At any stage following the grant of a premises licence, a responsible authority or any other person may apply for a review of the licence in the event of any perceived failure to promote one or more of the licensing objectives.

5.11.2 Although the licensing authority may act in its capacity as a responsible authority to apply for a review of a club premises certificate, it will not normally do so on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review in their own right if they have grounds to do so.

5.11.3 Where the licensing authority does act as a responsible authority and applies for a review, it will make provision for an appropriate separation of responsibilities in order to ensure procedural fairness and eliminate conflicts of interest.

5.11.4 Reviews allow the Licensing and Appeals Hearings Panel, if necessary, to modify the licence conditions, remove the designated premises supervisor or to suspend or revoke all or part of the licence.

## **5.12 PLANS OF PREMISES**

5.12.1 Premises plans are not required to be submitted in any particular scale, but they must be in a format which is “clear and legible in all material respects<sup>12</sup>” (i.e. they must be accessible and provide sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application).

5.12.2 There is no requirement for plans to be professionally drawn as long as they clearly show all of the prescribed information (see Annex B).

## **5.13 OPERATING SCHEDULE**

5.13.1 In completing an operating schedule, applicants must describe the steps that are appropriate for the promotion of the licensing objectives having had regard to this

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<sup>10</sup> [Section 33 of the Licensing Act 2003](#)

<sup>11</sup> [Section 51 of the Licensing Act 2003](#)

<sup>12</sup> [Regulation 23 of the Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005](#) as amended by [regulation 5 of the Licensing Act 2003 \(Premises licences and club premises certificates\) \(Amendment\) \(Electronic Applications etc\) Regulations 2009](#)

policy. Applicants are expected to include positive proposals in their application on how they will manage any potential risks.

5.13.2 While applicants are not required to seek the views of responsible authorities before formally submitting an 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.

## **5.14 SUBMITTING APPLICATIONS**

5.14.1 Applications may be submitted:

- by post using the application forms available on the council's website;
- via email using the application forms available on the council's website; or
- online via [www.gov.uk](http://www.gov.uk)

5.14.2 If an applicant submits any part of their application in writing, the applicant will be responsible for sending copies to each of the appropriate responsible authorities. However, if an application is submitted online or via email, the licensing authority will be responsible for copying it to responsible authorities.

5.14.3 If information is missing or incorrect, the licensing authority may 'hold' the application until the applicant has supplied all of the required information. This effectively resets the time period for determining an application and may be done any number of times until the application form is complete.

## **5.15 DETERMINING UNCONTESTED APPLICATIONS**

5.15.1 In the absence of any representations in respect of any duly made application, a licence will be granted as applied for, subject only to any mandatory conditions and those conditions which form part of the operating schedule.

## **5.16 REPRESENTATIONS**

5.16.1 Responsible authorities and any other persons may make relevant representations in respect of applications for the grant or variation of a premises licence. In these cases, the application will be referred to the Licensing and Appeals Hearings Panel for determination.

5.16.2 The licensing authority will accept all reasonable and proportionate representations made by responsible authorities unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. It remains incumbent on the responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing<sup>13</sup>.

5.16.3 Representations must be made in writing and may be amplified at the subsequent hearing. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

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<sup>13</sup> [9.12 of the Home Office Guidance](#) issued under section 182 of the Licensing Act 2003 (March 2015)

## **5.17 HEARINGS**

5.17.1 The licensing authority must hold a hearing within a prescribed period where relevant representations are made.

5.17.2 Notices will be sent to each party informing them of the date so that they may attend if they wish to give evidence at the hearing.

5.17.3 The procedure for hearings is attached at Annex C.

## **5.18 PERIOD OF VALIDITY<sup>14</sup>**

5.18.1 Unless it has been granted only for a limited period, a premises licence will remain valid until:

- it is suspended;
- it is surrendered;
- it is revoked;
- it lapses where the holder of the licence:
  - dies;
  - lacks capacity to hold a licence within the meaning of the Mental Capacity Act 2005;
  - becomes insolvent;
  - is dissolved, or
  - if it is a club, ceases to be a recognised club.

## **5.19 APPEALS**

5.19.1 Any party aggrieved by the decision of the Licensing and Appeals Hearings Panel can appeal to the Magistrates' Court.

## **5.20 CONDITIONS**

5.20.1 Conditions on premises licences will fall into one of three categories as follows:

- Mandatory conditions;
- Conditions consistent with the applicant's operating schedule; and
- Conditions imposed by the Licensing and Appeals Hearings Panel.

5.20.2 Mandatory conditions are attached to all premises licence, where appropriate, to ensure that:

- No supply of alcohol is made under a premises licence at a time when there is no designated premises supervisor in respect of the premises licence<sup>15</sup>;
- No supply of alcohol is made under a premises licence at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended<sup>16</sup>;

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<sup>14</sup> [Section 26 of the Licensing Act 2003](#)

<sup>15</sup> [Section 19\(2\)\(a\) of the Licensing Act 2003](#)

<sup>16</sup> [Section 19\(2\)\(b\) of the Licensing Act 2003](#)

- Every supply of alcohol under the premises licence is made or authorised by a person who holds a personal licence<sup>17</sup>;
- The admission of children to the exhibition of any film is restricted in accordance with any recommendation by the film classification body or the licensing authority<sup>18</sup>;
- Any individual carrying out a security activity in accordance with a licence condition is authorised under the Private Security Industry Act 2001<sup>19</sup>;
- An age verification policy is adopted and implemented in relation to the sale or supply of alcohol<sup>20</sup>;
- The age verification policy requires individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark or an ultraviolet feature<sup>21</sup>;
- No alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price<sup>22</sup>;
- Staff do not carry out, arrange or participate in any irresponsible promotions in relation to the premises<sup>23</sup>;
- No alcohol is dispensed directly into the mouth of a customer (except when an individual is unable to drink without assistance due to a disability). For example, drinking games such as the 'dentist's chair' are prohibited<sup>24</sup>;
- Free potable water is provided on request to customers where it is reasonably available<sup>25</sup>;
- The following drinks (if sold on the premises) are available in the following measures:
  - beer or cider - half pint
  - gin, rum, vodka or whisky - 25ml or 35ml
  - still wine in a glass - 125ml<sup>26</sup>.

5.20.3 The mandatory conditions are prescribed in legislation and are subject to periodic change. The licensing authority will not necessarily replace licences following every change but the changes will be reflected when any other amendments are made by the licence holder. A full schedule of the current mandatory conditions will be maintained on the council's website.

5.20.4 Licence holders should be aware that mandatory conditions will apply to their licence, even if they are not printed upon it, and as such are encouraged to periodically check for updates to the current conditions.

5.20.5 Proposals put forward by an applicant to promote the licensing objectives may, at the discretion of the licensing authority, be imposed on a licence in the form of clear and enforceable conditions. Any such conditions must be consistent with the applicant's operating schedule. Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule

<sup>17</sup> [Section 19\(3\) of the Licensing Act 2003](#)

<sup>18</sup> [Section 20 of the Licensing Act 2003](#)

<sup>19</sup> [Section 21 of the Licensing Act 2003](#)

<sup>20</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>21</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>22</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2014](#)

<sup>23</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>24</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>25</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

<sup>26</sup> [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)



- 5.20.6 The Licensing and Appeals Hearings Panel may impose additional conditions upon receipt of relevant representations if it is satisfied as a result of a hearing (unless all parties agree that a hearing is not necessary) that it is appropriate in order to promote one or more of the four licensing objectives.
- 5.20.7 The licensing authority will be alive to the indirect costs that can arise as a result of conditions being imposed on premises licences. Conditions may be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. In any case, licensing authorities have a general responsibility to avoid imposing unnecessary regulatory burdens on businesses<sup>27</sup>.

## **5.21 PLANNING PERMISSION**

- 5.21.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency.
- 5.21.2 The planning and licensing regimes involve consideration of different (albeit related) matters. The Licensing and Appeals Hearings Panel is not bound by decisions made by a planning committee and vice versa.
- 5.21.3 There are circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time.
- 5.21.4 Premises operating in breach of their planning permission would be liable to prosecution under planning law.

## **5.22 CUMULATIVE IMPACT**

- 5.22.1 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. It should not, however, be confused with any question of ‘need’ which relates to the commercial demand for a particular type of premises. The issue of ‘need’ is a matter for market forces to influence and for the planning authority to regulate. It is not a matter for the licensing authority to consider in discharging its licensing functions or formulating its statement of licensing policy.
- 5.22.2 The licensing authority recognises that, in accordance with the statutory guidance, it may adopt a special policy in response to a cumulative impact issue in a defined area. Consideration of such a policy may be prompted by submissions from responsible authorities or other persons, evidenced appropriately and linked to one or more of the licensing objectives.
- 5.22.3 The licensing authority will not seek to introduce quotas of licensed premises, nor will it seek to impose general limitations on trading hours in particular areas. Instead, consideration will be given to the individual characteristics of the premises concerned within a given area.

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<sup>27</sup> [Regulators' Code](#) - Better Regulation Delivery Office – April 2014

## 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 the application should be accompanied by acceptable evidence of entitlement to work in the UK, as set out in the application form (see paragraph 4.8).

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.

## Entitlement to work in the UK

8.35 Individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. From 6 April 2017 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.

8.36 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 4.8. Where there is sufficient evidence that the applicant is not resident in the UK there is no requirement that the applicant have an entitlement to work in the UK.

8.37 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 4.18.

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

- 8.38 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.
- 8.39 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.
- 8.40 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 policy), 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.
- 8.41 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.



- 8.42 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.
- 8.43 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.
- 8.44 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.
- 8.45 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.
- 8.46 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 measures that are proposed to promote each of the licensing objectives.

## **Variations**

### **Introduction**

- 8.47 Where a premises licence holder wishes to amend the licence, the 2003 Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives. Applications to vary can be made electronically via GOV.UK or by means of the licensing authority's own electronic facility following the procedures set out in Chapter 8 above.

### **Simplified processes**

- 8.48 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).

8.49 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.

8.50 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. Otherwise the general guidance set out above (paragraphs 8.21 to 8.28) on electronic applications applies.

### **Minor variations process**

8.51 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. In accordance with those regulations, the notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.

8.52 On receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives. It is recommended that decisions on minor variations should be delegated to licensing officers.

8.53 In considering the application, the licensing authority must consult relevant responsible authorities (whether the application is made in writing or electronically) if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision. The application is unlikely to be relevant to all responsible authorities.

8.54 The licensing authority must also consider any relevant representations received from other persons within the time limit referred to below. As stated earlier in this Guidance, representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives; representations must be confined to the subject matter of the variation. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but licensing

authorities must take any representations into account in arriving at a decision.

- 8.55 Other persons have ten working days from the 'initial day', that is to say, the day after the application is received by the licensing authority, to submit representations. The licensing authority must therefore wait until this period has elapsed before determining the application, but must do so at the latest within 15 working days, beginning on the first working day after the authority received the application, with effect either that the minor variation is granted or the application is refused.
- 8.56 If the licensing authority fails to respond to the applicant within 15 working days (see section 193 of the 2003 Act for the definition of working day), the application will be treated as refused and the authority must return the fee to the applicant forthwith. However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application.
- 8.57 Where an application is refused and is then re-submitted through the full variation process, the full 28 day notification period will apply from the date the new application is received and applicants should advertise the application and copy it to all responsible authorities (in accordance with the regulations applicable to full variations).
- 8.58 Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

### **Changes to structure/layout**

- 8.59 Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:
- increasing the capacity for drinking on the premises;
  - affecting access between the public part of the premises and the rest of the premises or the street or public way, for instance, block emergency exits or routes to emergency exits; or
  - impeding the effective operation of a noise reduction measure such as an acoustic lobby.
- 8.60 Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of premises) which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives. This emphasises the importance of having an up-to-date copy of the premises plan available.
- 8.61 An application to remove a licensable activity should normally be approved as a minor variation. Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases.
- 8.62 For other licensable activities, licensing authorities will need to consider each

application on a case by case basis and in light of any licence conditions put forward by the applicant.

## **Licensing hours**

- 8.63 Variations to the following are excluded from the minor variations process and must be treated as full variations in all cases:
- to extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
  - to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.
- 8.64 Applications to reduce licensing hours for the sale or supply of alcohol or, in some cases, to move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.
- 8.65 Applications to vary the time during which other licensable activities take place should be considered on a case-by-case basis with reference to the likely impact on the licensing objectives.

## **Licensing conditions**

### **a) Imposed conditions**

- 8.66 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**

- 8.67 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.
- 8.68 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 late night refreshment to its licence to ensure a longer period of dispersal). 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**

- 8.69 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.

- 8.70 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**

- 8.71 Any other changes to the licence or certificate require an application to vary under sections 34 or 84 of the 2003 Act.
- 8.72 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).
- 8.73 However, it should be noted that a section 34 application cannot be used to vary a licence so as to:
- extend a time limited licence;
  - transfer the licence from one holder to another; or
  - transfer the licence from one premises to another.
- 8.74 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**

- 8.75 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.
- 8.76 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

- 8.77 The requirements governing the advertisement of applications for the grant, variation or review of premises licences and club premises certificates are contained in the regulations made under the 2003 Act which are published on the Government's legislation website.
- 8.78 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 size notice immediately on or outside the premises.
- 8.79 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.
- 8.80 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.
- 8.81 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.
- 8.82 Licensing authorities in Wales are also required to publish key information from licence applications in Welsh on their websites.
- 8.83 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.
- 8.84 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.

- 8.85 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**

- 8.86 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**

- 8.87 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.
- 8.88 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.
- 8.89 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.
- 8.90 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.
- 8.91 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.

8.92 When a hearing is held, the licensing authority must decide whether, if the premises were constructed or altered in the way proposed in the schedule of works and if a premises licence was sought for those premises, it would consider it appropriate for the promotion of the licensing objectives to:

- attach conditions to the licence;
- rule out any of the licensable activities applied for;
- refuse to specify the person nominated as premises supervisor; or
- reject the application.

It will then issue the applicant with a provisional statement setting out the details of that decision together with its reasons.

8.93 The licensing authority must copy the provisional statement to each person who made relevant representations, and the chief officer of police for the area in which the premises is situated. The licensing authority should give full and comprehensive reasons for its decision. This is important in anticipation of an appeal by any aggrieved party.

8.94 When a person applies for a premises licence in respect of premises (or part of the premises or premises which are substantially the same) for which a provisional statement has been made, representations by responsible authorities and other persons will be excluded in certain circumstances. These are where:

- the application for a licence is in the same form as the licence described in the provisional statement;
- the work in the schedule of works has been satisfactorily completed;
- given the information provided in the application for a provisional statement, the responsible authority or other person could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and
- there has been no material change in the circumstances relating either to the premises or to the area in the proximity of those premises since the provisional statement was made.

8.95 Any decision of the licensing authority on an application for a provisional statement will not relieve an applicant of the need to apply for planning permission, building control approval of the building work, or in some cases both planning permission and building control.

8.96 A provisional statement may not be sought or given for a vessel, a vehicle or a moveable structure (see section 189 of the 2003 Act).

## **Transfers of premises licences**

8.97 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police in all cases, and the Home Office (Immigration Enforcement) if the licence authorises the sale of alcohol or provision of late night refreshment. Where it is made electronically via GOV.UK or the licensing authority's electronic facility, the



licensing authority must notify the police and the Home Office (Immigration Enforcement) no later than the first working day after the application is given. However, the responsibility to notify the DPS remains with the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.21 to 8.28 applies.

- 8.98 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police or the Home Office (Immigration Enforcement) raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.
- 8.99 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.
- 8.100 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police or the Home Office (Immigration Enforcement).

## **Interim authorities**

- 8.101 The 2003 Act provides special arrangements for the continuation of permissions under a premises licence when the holder of a licence dies suddenly, becomes bankrupt, mentally incapable or ceases to be entitled to work in the UK. In the normal course of events, the licence would lapse in such circumstances. However, there may also be some time before, for example, the deceased person's estate can be dealt with or an administrative receiver appointed. This could have a damaging effect on those with interests in the premises, such as an owner, lessor or employees working at the premises in question; and could bring unnecessary disruption to customers' plans. The 2003 Act therefore provides for the licence to be capable of being reinstated in a discrete period of time in certain circumstances.
- 8.102 These circumstances arise only where a premises licence has lapsed owing to the death, incapacity or insolvency of the holder or where the holder ceases to be entitled to work in the UK. In such circumstances, an "interim authority" notice may be given to the licensing authority within 28 consecutive days beginning the day after the licence lapsed. Where applications are made in writing, the applicant must give notice of the application to the chief officer of police in all cases, and the Home Office (Immigration Enforcement) if the licence authorises the sale of alcohol or provision of late night

refreshment. If an application is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police and the Home Office (Immigration Enforcement) no later than the first working day after the notice is given.

- 8.103 An interim notice may only be given either by a person with a prescribed interest in the premises as set out in the regulations made under the 2003 Act (which may be viewed on [www.legislation.gov.uk](http://www.legislation.gov.uk), the Government's legislation website); or by a person connected to the former holder of the licence (normally a personal representative of the former holder; or a person with power of attorney; or where someone has become insolvent, that person's insolvency practitioner). The person giving the interim authority notice must be entitled to work in the UK.
- 8.104 The effect of giving the notice is to reinstate the premises licence as if the person giving the notice is the holder of the licence and thereby allow licensable activities to continue to take place pending a formal application for transfer. The maximum period for which an interim authority notice may have effect is three months.
- 8.105 The interim authority notice ceases to have effect unless, by the end of the initial period of 28 consecutive days, a copy of the notice has been given to the chief officer of police and the Home Office (Immigration Enforcement). Within two working days of receiving the copy, and if satisfied that in the exceptional circumstances of the case failure to cancel the interim authority would undermine the crime prevention objective, the police may give a notice to that effect to the licensing authority. Similarly, the Home Office (Immigration Enforcement) may give a notice to the licensing authority if satisfied that the exceptional circumstances of the case are such that failure to cancel the interim authority would undermine the prevention of illegal working in licensed premises. In such circumstances, the licensing authority must hold a hearing to consider the objection notice and cancel the interim authority notice if it decides that it is appropriate to do so for the promotion of the crime prevention objective.
- 8.106 Licensing authorities should be alert to the need to consider the objection quickly. Under section 50 of the 2003 Act, where the premises licence lapses (because of death, incapacity or insolvency of the holder or because the holder is no longer entitled to work in the UK) or by its surrender, but no interim authority notice has effect, a person who may apply for the grant of a premises licence under section 16(1) may apply within 28 consecutive days of the lapse for the transfer of the licence to them with immediate effect pending the determination of the application. This will result in the licence being reinstated from the point at which the transfer application was received by the licensing authority. Where the application is made in writing, the person applying for the transfer must copy their application to the chief officer of police and the Home Office (Immigration Enforcement). If the application is made electronically the licensing authority must copy the application to the police and the Home Office (Immigration Enforcement).

## **Right of freeholders etc to be notified of licensing matters**

- 8.107 A person (which will include a business or company) with a property interest in any premises situated in the licensing authority's area may give notice of their interest to the authority using a prescribed form and on payment of the relevant fee. The application may be made in writing or electronically via GOV.UK or the licensing authority's own

facility, in which case the guidance at paragraphs 8.21 to 8.28 applies. Details of fees and forms are available on the GOV.UK website. It is entirely at the discretion of such persons whether they choose to register or not. It is not a legal requirement. Those who may take advantage of this arrangement include the freeholder or leaseholder, a legal mortgagee in respect of the premises, a person in occupation of the premises or any other person prescribed by the Secretary of State.

- 8.108 The notice will have effect for 12 months but a new notice can be given every year. While the notice has effect, if any change relating to the premises concerned has been made to the licensing register (which the licensing authority has a duty to keep under section 8 of the 2003 Act), the licensing authority must notify the person who registered an interest of the matter to which the change relates. The person will also be notified of their right under section 8 to request a copy of the information contained in any entry in the register. In cases relating to interim authority notices (see above), it is important that such communications are dealt with promptly.

# 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 should replicate 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 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.

## Representations from the police

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

## 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 to wait for representations from other responsible authorities. For example, the licensing

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<sup>5</sup> Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) took place on 15th November 2012. PCCs 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 will remain the named responsible authority under the 2003 Act.

authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.

- 9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.
- 9.18 In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome.
- 9.19 Smaller licensing authorities, where such a separation of responsibilities is more difficult, may wish to involve officials from outside the licensing department to ensure a separation of responsibilities. However, these officials should still be officials employed by the authority.

## **Health bodies acting as responsible authorities**

- 9.20 Where a local authority's Director of Public Health in England (DPH)<sup>6</sup> or Local Health Board (LHB) (in Wales) exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services.
- 9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may

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<sup>6</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.

be used by the health body to make representations in its own right or to support representations by other responsible authorities, such as the police. Such representations can potentially be made on the grounds of all four licensing objectives. Perhaps the most obvious example is where drunkenness leads to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information will often be relevant to the public safety and crime and disorder objectives.

- 9.22 However, health bodies are encouraged to make representations in respect of any of the four licensing objectives without necessarily seeking views from other responsible authorities where they have appropriate evidence to do so. There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well being.
- 9.23 Evidence relating to under 18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. For example, the police could use this data to tackle instances of 'shoulder tapping' (where under 18s approach adults to buy alcohol on their behalf) and to suggest measures which retailers might be able to take to ensure, as far as possible, that they are not knowingly selling alcohol to an adult who is buying on behalf of a person aged under 18. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.
- 9.24 DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.



## 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 Regulations governing hearings may be found on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.
- 9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.33 Regulations made under the 2003 Act require that representations must be withdrawn

24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

- 9.34 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.35 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.
- 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 such conditions that are consistent with the operating schedule.

Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

- 9.40 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 the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

## **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.