

Public Document Pack

AGENDA

Committee Administrator: Democratic Services Officer (01609 767015)

Friday, 22 April 2016

Dear Councillor

NOTICE OF MEETING

Meeting **LICENSING AND APPEALS HEARINGS PANEL**

Date **Tuesday, 3 May 2016**

Time **9.30 am**

Venue **HDC Meeting Room, Civic Centre, Stone Cross, Northallerton**

Yours sincerely

J. Ives.

Dr Justin Ives
Chief Executive

To: Councillors Councillors
 Mrs I Sanderson (Chairman) R Kirk
 D Hugill

Other Members of the Council for information

AGENDA

Page No

1. APOLOGIES FOR ABSENCE
2. APPLICATION FOR NEW PREMISES LICENCE - 4 EMGATE, BEDALE 5 - 50
Report of the Executive Director
3. EXCLUSION OF THE PUBLIC AND PRESS
To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 excluding the press and public from the meeting during consideration of item 4 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A to the Act.
4. CONDUCT OF HACKNEY CARRIAGE AND PRIVATE HIRE DRIVER 51 - 68
Report of the Executive Director
5. 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.



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 consider the public should be excluded from all or part of the hearing;
 - 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 Environmental Health Manager to outline the background to the case. The Environmental Health Manager'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.

January 2005

Revised April 2007

Revised March 2012

Revised May 2014

ANNEX 'A'



HACKNEY CARRIAGE/PRIVATE HIRE LICENSING

LICENSING AND APPEALS HEARINGS PANEL

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 - ask the parties whether they consider the public should be excluded from all or part of the hearing;
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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 Environmental Health Manager to outline the background to the case.

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 (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 will be given the final opportunity to address the Panel.
9. The Panel may exclude disruptive persons.
10. The Panel may adjourn the hearing.
11. 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.
12. The Panel will make its determination at the end of the hearing and this will be confirmed in writing.

January 2005

Revised April 2007

Revised September 2011

Revised March 2012

Revised May 2014

HAMBLETON DISTRICT COUNCIL

Report To: Licensing and Appeals Hearings Panel
3 May 2016

From: Executive Director

**Subject: APPLICATION FOR THE GRANT OF A PREMISES LICENCE
4 EMGATE, BEDALE, DL8 1AL**

Bedale Ward

1.0 SUMMARY

1.1 This report asks the Panel to consider an application for the grant of a premises licence in respect of 4 Emgate, Bedale, DL8 1AL.

2.0 PROCEDURE

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

3.0 APPLICATION FOR THE GRANT OF A PREMISES LICENCE

3.1 The application for the grant of a premises licence was received by the Licensing Team on 23rd February 2016. However, the application was not duly made in accordance with the Licensing Act 2003 until 8th March 2016.

3.2 The application is attached at Annex A and the premises plan is attached at Annex B. A location plan of the premises is attached at Annex C.

3.3 In addition to the statutory responsible authorities, the application was forwarded to Bedale Town Council and the District Councillors for the Bedale Ward.

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

3.5 In summary, the application seeks to authorise:

- the sale of alcohol for consumption on and off the premises between the hours of 12pm and 10.30pm every day;
- the performance of live music indoors from 7pm until 9.30pm on Wednesdays and from 3pm until 7pm on Sundays;
- the playing of recorded music indoors from 12pm until 10pm on Sundays to Thursdays and from 12pm until 11pm on Fridays and Saturdays.

4.0 PROMOTION OF LICENSING OBJECTIVES

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

- 4.1.1 the prevention of crime and disorder;
- 4.1.2 public safety;
- 4.1.3 the prevention of public nuisance;
- 4.1.4 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 No relevant representations are outstanding from any of the responsible authorities. In consultation with the council's Environmental Health Service, the applicant has agreed to adopt three licence conditions intended to prevent public nuisance if the licence is granted. The proposed conditions and the applicant's agreement are attached at Annex D.
- 5.2 Three relevant representation have been made by 'other persons' and these are attached at Annex E.
- 5.3 In general, the representations relate to the potential adverse effects on the prevention of public nuisance objective.

6.0 POLICY CONSIDERATIONS

- 6.1 In carrying out its licensing functions the Panel is required to have regard to:-
- 6.1.1 its Licensing Statement;
 - 6.1.2 any guidance issued by the Secretary of State.
- 6.2 Sections 3 to 7 of the Council's Statement of Licensing Policy are applicable to this application and are attached at Annex F.
- 6.3 Attached at Annex G are relevant extracts from the Home Office Guidance issued in March 2015 under section 182 of the Licensing Act 2003. Pages 55-62 relate specifically to 'Determining Applications'.

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

MICK JEWITT

Background papers: None

Author ref: SF

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

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

**Application for a premises licence to be granted
under the Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I Brendan Buggie.....

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

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
4 Emgate, Bedale, North Yorkshire, DL81AL			
Post town	Bedale	Postcode	DL81AL

Telephone number at premises (if any)	There will be a number present when the business opens
Non-domestic rateable value of premises	£4499

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

- | | | |
|---|-------------------------------------|-----------------------------|
| a) an individual or individuals * | <input checked="" type="checkbox"/> | please complete section (A) |
| b) a person other than an individual * | | |
| i. as a limited company | <input type="checkbox"/> | please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> | please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> | please complete section (B) |
| iv. other (for example a statutory corporation) | <input type="checkbox"/> | please complete section (B) |

- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a statutory function or
 a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	Mr
Surname Buggie			First names Brendan		
I am 18 years old or over				<input checked="" type="checkbox"/>	yes
Current postal address if different from premises address		Flat 6 Ferndale court Parish Ghyll drive Ilkley West Yorkshire			
Post town	Leeds		Postcode	LS299ND	
Daytime contact telephone number			07711843119		
E-mail address (optional)		brendanbuggie@hotmail.co.uk			

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
2	0	03 2016

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY

Please give a general description of the premises (please read guidance note 1)

The premises is a single level terraced building. The floor plan is 36 square meters, with one double door entrance/exit to the front of the property, a single public convenience and a small sink area; we will be adding another sinked area and a glass wash. It has a double windowed frontage on to the main street with signage above the windows and entrance; we will be changing the signage to one that states the business name but it will remain in the same position. The wooden surrounding of the windows and doors will be repainted and repaired. We will be adding a drop down shutter to the front door for security reasons. There will be no cooking equipment on site, there will only be a hot water supply and fridges for drinks. The property will hold around 45 people and will be staffed by 1-3 people according to need.

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

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick any that apply

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

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

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

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 6)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 4)		
Thur					
Fri			<u>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</u> (please read guidance note 5)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)					
Mon								
Tue								
Wed						<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 4)		
Thur								
Fri						<u>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</u> (please read guidance note 5)		
Sat								
Sun								

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Tue			
Wed			
Thur			<u>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</u> (please read guidance note 5)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 4)		
Thur					
Fri			<u>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</u> (please read guidance note 5)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 6)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3) We will be holding low level, acoustic music only, For example acoustic guitar jam sessions. There will be no amplified music.		
Mon					
Tue					
Wed	1900	2130	<u>State any seasonal variations for the performance of live music</u> (please read guidance note 4) We may play acoustic music on occasions like bank holidays, if this is the case the music on the Sunday will be changed to being on the Monday instead.		
Thur					
Fri			<u>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</u> (please read guidance note 5)		
Sat					
Sun	1500	1900			

F

Recorded music Standard days and timings (please read guidance note 6)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> We will be playing background level pre-recorded music only on a small music system. The music level will be assessed regularly and reduced at the time serving is stopped and then turned off when the premises is closing.		
Mon	1200	2200			
Tue	1200	2200			
Wed	1200	2200	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)		
Thur	1200	2200			
Fri	1200	2300			
Sat	1200	2300	<u>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</u> (please read guidance note 5)		
Sun	1200	2200			

G

Performances of dance Standard days and timings (please read guidance note 6)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)					
Mon								
Tue								
Wed						<u>State any seasonal variations for the performance of dance</u> (please read guidance note 4)		
Thur								
Fri						<u>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</u> (please read guidance note 5)		
Sat								
Sun								

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 3)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 4)		
Fri					
Sat			<u>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</u> (please read guidance note 5)		
Sun					

I

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 4)		
Wed					
Thur					
			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri					
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 6)			<u>Will the supply of alcohol be for consumption – please tick</u> (please read guidance note 7) We will be serving alcohol for consumption on the premises and closed off sales only for consumption at the home of the buyer. No area outside the shop front will be used for alcohol consumption and this will be monitored regularly. No glasses will be allowed outside of the bar.	On the premises	<input checked="" type="checkbox"/>	
				Off the premises	<input checked="" type="checkbox"/>	
Day	Start	Finish		Both	<input checked="" type="checkbox"/>	
Mon	1200	2230		<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 4)		
Tue	1200	2230				
Wed	1200	2230				
Thur	1200	2230	<u>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 5)			
Fri	1200	2300				
Sat	1200	2300				
Sun	1200	2230				

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

Name Brendan Buggie	
Address Flat 6 Ferndale court Parish Ghyll Dr Ilkley West Yorkshire I will be moving local to the premises in the weeks that the business is due to open.	
Postcode	LS299ND
Personal licence number (if known) 199791	
Issuing licensing authority (if known) City of Bradford MDC	

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 8).

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			<u>State any seasonal variations</u> (please read guidance note 4) The bar will be shut Christmas day and Boxing day, it will also be shutting at around 2000 on New years eve and closed New Years day. We will also be closed Easter Sunday.
Day	Start	Finish	<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5)
Mon	1200	2230	
Tue	1200	2230	
Wed	1200	2230	
Thur	1200	2230	
Fri	1200	2330	
Sat	1200	2330	
Sun	1200	2230	

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

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)

- No glassware allowed outside of the bar with adequate advertisement of this.
- DPS on site and available out of opening hours
- Well trained staff in all aspects of bar work and bar regulations
- Staff trained in dealing with customers and conflict management and supported by management if these issues do arise.
- Good record keeping of training and all other aspects of the business
- Design of the new bar responsive to crime prevention, public safety and prevention of nuisance
- Good internal and external lighting
- Sharing of information with other local businesses and local council where appropriate
- Good customer dispersal and shutting up procedures i.e increased lighting, reduction of music
- Soft drinks available for non-drinkers and under 18s
- Advertisements discouraging drink driving and alcohol related crimes
- No smoking allowed inside the property or near the entrance with adequate signage for this

b) The prevention of crime and disorder

- Adding security shutters to the front doors and railings over the inner side of the large windows.
- Alarm system fitted and someone able to respond at all times.
- All areas kept locked when not in use
- Clear policies and training on how to prevent, manage and respond to crimes available to staff with local telephone numbers included.
- Regular reviews of security measures
- Zero tolerance of drugs and carrying weapons and appropriate staff training for this
- Lost and found policies with appropriate record keeping
- Regular interfacing with local police and councils on local issues

c) Public safety

- Fire extinguishers on site and easily accessible
- First aid kit, manual and first aider on site
- Good maintenance of all equipment on the premises with all electrical items being PAT tested
- Access and exits clear at all time
- Full risk assessment of layout and possible hazards to customers
- Regular assessment of number of customers present in the property and if need be restricting further customer entry till safe to do, preventing overcrowding.
- Good ventilation and thermal regulation throughout the premises
- Regular glass collections and disposal of empty drinks containers,
- Regular checks of outside areas for breakages and public risks
- Prompt cleaning up of any glass breakages
- Refuse areas away from customers and regularly emptied
- Fire detection systems installed and regularly checked and maintained
- Staff training in fire risks, management and public safety
- Good record keeping of all checks made including safety equipment and hazard perception
- Recording of any accidents to staff or customers
-

d) The prevention of public nuisance

- Notices reminding customers to be courteous to the surrounding residents on leaving
- Serving alcohol within the licensed hours only
- Music being played only at low levels and within the times stated
- Ash trays for smokers readily available in designated smoking areas
- Duty of care policy; Refusal to serve customers who appear overly intoxicated
- Drink aware signage and clear signage of available drinks measures
- Availability of local taxi numbers
- Non serving time before closing of the bar
- Increased lighting and reduced noise levels on last orders
- Noise management policy with fully trained staff on how to respond to excess noise
- Good window and door insulation to minimise noise transfer
- Regular checks of noise levels of those customers outside the premises
- Prevention of loitering outside the bar once serving time has finished
- Commercial deliveries/collections done after 0800 and in an area that will not cause obstruction
- Regular disposal of waste
- Regular cleaning of the outside of the premises including removal of cigarette ends etc
- External lighting turned off when the premises is closed

e) The protection of children from harm

- Challenge 21 with obvious signage about this and full staff training
- Obvious advertisement that it is an offense to serve alcohol to anyone under the age of 18
- No children allowed in the bar after 2000
- Foul/offensive language policy
- Children only admitted to the premises under adult supervision
- Acceptance of only official photographic ID for those challenged
- No advertisements for alcohol that are deemed to be appealing to young persons
- A log of all those refused, which will be available to the police or council if requested

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant’s solicitor or other duly authorised agent (see guidance note 11).
If signing on behalf of the applicant, please state in what capacity.

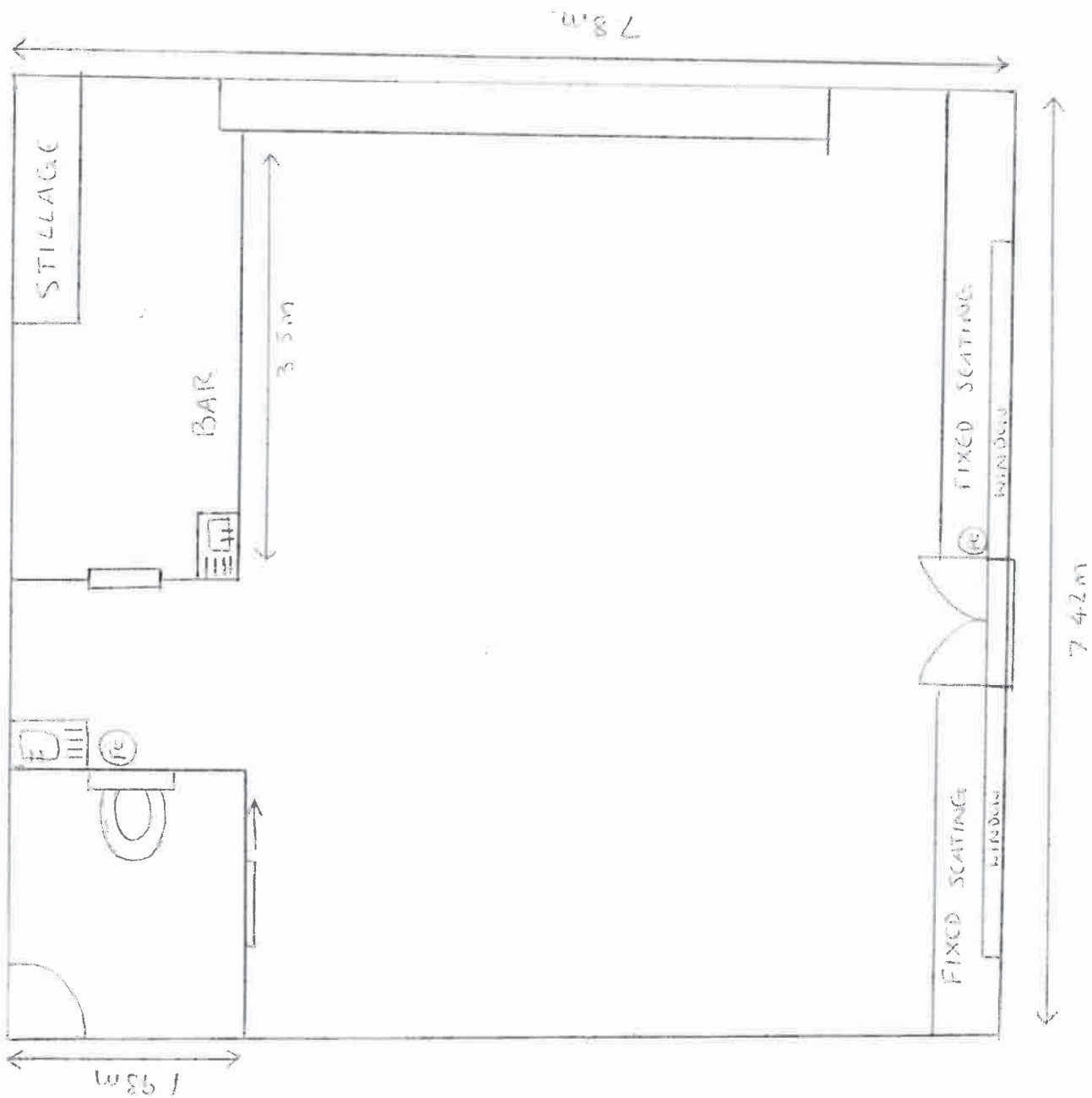
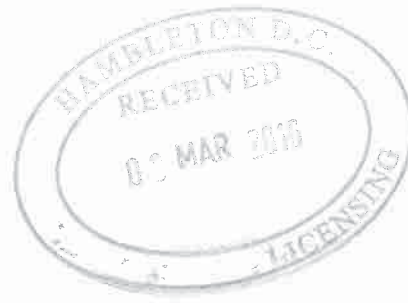
Signature	Brendan Buggie
Date	22/03/16
Capacity	DPS, PERSONAL LISCENCE HOLDER, OWNER OF THE BUSINESS

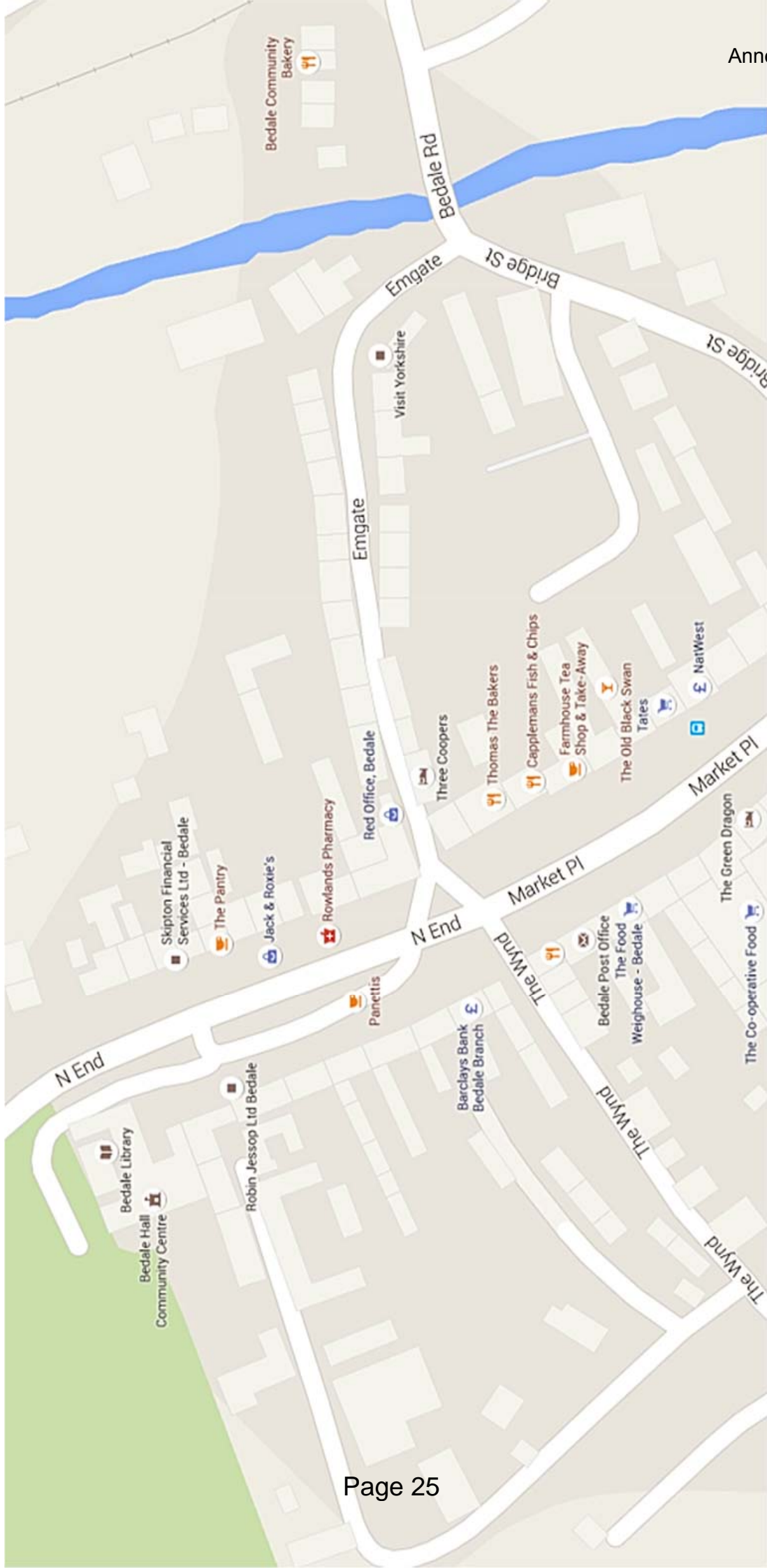
Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)			
Flat 6 Ferndale Court Parish Ghyll Drive Ilkley LS299ND			
I will be moving local to the area in the weeks the business is due to open.			
Post town	Leeds	Postcode	LS299ND
Telephone number (if any)	07711843119		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) brendanbuggie@hotmail.co.uk			

Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, each of the applicant or their respective agent must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

Plan for 4 Gingate
to scale.
1m = 2cm





Anita Huntsman

From: Emma Gallafant
Sent: 23 March 2016 08:42
To: Licensing Team
Subject: FW: Premises Licence application Victoria House, 4 Emgate, Bedale, North Yorkshire, DL8 1AL
Attachments: RL.F.1 Representation response 23.3.16.doc
Categories: Green Category

Emma Gallafant
Environmental Health Officer
Environmental Health
Ext. 8680

From: Brendan Buggie
Sent: 22 March 2016 19:37
To: Emma Gallafant
Subject: RE: Premises Licence application Victoria House, 4 Emgate, Bedale, North Yorkshire, DL8 1AL

Dear Emma,

As discussed in our telephone consultation today, all of the proposals are acceptable and shall be implemented.

Thank you for your time and advice re the application.

Regards,

Brendan

From: Emma.Gallafant@hambleton.gov.uk
To:
Subject: Premises Licence application Victoria House, 4 Emgate, Bedale, North Yorkshire, DL8 1AL
Date: Mon, 21 Mar 2016 16:13:06 +0000

Dear Buggie,

The Environmental Health Department are consultees for some premises licence applications. I have reviewed yours and I have attached my response.

The first page details my concerns over nuisance and the second page details conditions which I feel would address the concerns raised.

If you agree with the conditions please e-mail me to confirm and they will be placed on the licence. Or if you don't agree please suggest an alternative approach/conditions which will address the nuisance

concerns for further discussion. Or if we cannot come to an agreement then the representation will go to the licence committee for them to determine.

I will give you a call tomorrow to discuss if this is ok?

Yours sincerely,

Emma Gallafant
Environmental Health Officer
Environmental Health
Tel: 01609 768680
Email: Emma.Gallafant@hambleton.gov.uk
Website: www.hambleton.gov.uk

Your calls may be recorded for training and quality purposes. The call recording policy is available at www.hambleton.gov.uk



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Hambleton District Council, Civic Centre, Stone Cross, Northallerton, DL6 2UU.

Licensing Act 2003

Environmental Health - Representation Response

Premises Address	Victoria House, 4 Emgate, Bedale, North Yorkshire, DL8 1AL		
Date application received	9 th March 2016	Date Returned to Local Authority	23/3/16

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

This property is in close proximity to a number of residential dwellings and to an existing public house.

This premise has also already gone through the planning process. Planning reference 15/02708/FUL. The Environmental Health Department were involved in this process and various conditions were applied to protect the amenities of local residents including - No deliveries shall take place other than between 0800 hours and 1300 Monday -Saturday with no deliveries on Sundays and Bank Holidays, The use of the premises shall not take place until details of the facilities to be provided for smokers have been submitted to and approved in writing by the Local Planning Authority, There shall be no use of the bottle bins, including emptying, between the hours of 2000 and 0800 on any day.

The application includes the provision of live music, recorded music and the supply of alcohol. The provision of live music will be covered by The Live Music Act 2012.

The true impact from this proposal will depend on how the premise is managed; I have suggested conditions which if correctly applied would protect local residents from nuisances.

Protection of Children

Public Safety

These objections ~~*cannot be overcome/~~*can be overcome by amendments to the Operating Schedule as follows:-

Prevention of Crime & Disorder

Prevention of Nuisances

- Recorded music shall be played as background music only. Between the hours of 12:00-22:00 Mondays – Thursdays and 12:00 – 23:00 on Fridays-Saturdays and 12:00-22:00;
- After 10pm doors and windows to the premises shall remain closed
- Prominent, clear notices shall be displayed at all exits requesting customers to respect the needs of local residents and to leave the premises and area quietly.

Protection of Children

Public Safety

If these amendments are agreed / approved by the Applicants, the Environmental Health considers 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 Emma Gallafant Date 23/3/16



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

I/We (*Insert name*)

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
 4 Emgate, Bedale.

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

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

PART 2 – DETAILS OF PERSON MAKING REPRESENTATION

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	
John Noone 9 Masham Road Bedale DL8 2AF	
Daytime contact telephone number	01677 423086
E-mail address (optional)	Cllr.john.noone@hambleton.gov.uk

(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) The prevention of public nuisance.
--

Please provide as much information as possible to support the representation

(please read guidance note 2)

There needs to be some regulation of the possible noise levels down Emgate. At that point in the Street it is very narrow & mainly residential.

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	JNoone	Date	22/03/2016
Capacity	Local District Council.		

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 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

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)

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
4 Emgate, Bedale DL8 1AL

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

Number of premises licence or club premise certificate (if known)
16.PREM.00104

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	
Pine Lodge, Pinewood Grove, Bedale DL8 2BQ	
Daytime contact telephone number	01677 423507
E-mail address (optional)	Cllr.michael.Barningham@hambleton.gov.uk

(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

<p>Please state the ground(s) for representation. (please read guidance note 1)</p> <p>The building subject to the application is a former betting office and had large single glazed windows fronting onto Emgate. Opposite the premises are residential properties and the width of Emgate at this point is 5-6m. Therefore due to the large areas of glass and double doors entrance to the premises the level of noise emitting through the poorly insulated glazed area will cause a noise nuisance to local residents. This object mainly relates to the live music and recorded music license.</p>

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? 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	M. A. Barningham	Date	16/03/2016
Capacity	Local Councillor		

Contact name (where not previously given) and address for correspondence associated with this representation. (Please read guidance note 5) Michael Barningham Pine Lodge, Pinewood Grove.	
Post Town Bedale	Post Code DL8 2BQ
Telephone Number (if any)	01677 423507
E-mail Address (optional)	Cllr.michael.barningham@hambleton.gov.uk

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 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

Simon Fisher

From: Charlie Hart <assistclerk@bedaletowncouncil.lccnet.co.uk>
Sent: 17 March 2016 12:57
To: Licensing Team
Subject: Bedale Town Council Response - New Premises Licensing - 4 Emgate Bedale

Categories: Red Category, Green Category

Dear Linda

In response to your email dated 9th March 2016 please find below the response from Bedale Town Council to you email.

The Council met on Monday 14th March 2016 and has made the following observation.

The premises in question have a predominantly glass frontage which would mean that noise will not be easily contained within the building and may pose a nuisance to nearby residential properties.

Kind Regards

Charlie Hart

Assistant to the Town Clerk Bedale Town Council

Bedale Town Council

Room 13 Bedale Hall Bedale North Yorkshire DL8 1AA

tel: 01677 427949

Please note that the office is open on Tuesdays and Thursdays 9:30am until 12:30pm

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 area⁵. 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.

⁵ 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.

- 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 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)⁶ 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 be used by the health body to make representations in its own right or to support representations

⁶ 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.

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.

Disclosure of personal details of persons making representations

- 9.25 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.
- 9.26 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.

- 9.27 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.
- 9.28 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.
- 9.29 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

- 9.30 Regulations governing hearings may be found on the 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.
- 9.31 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.
- 9.32 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.
- 9.33 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.
- 9.34 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.

- 9.35 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.
- 9.36 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.
- 9.37 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.
- 9.38 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.
- 9.39 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.
- 9.40 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

- 9.41 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.
- 9.42 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.
- 9.43 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

- 9.44 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.

- the power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

2.5 Requirements for advertising applications for the grant, variation or review of premises licences or club premises certificates are set out in legislation. This includes the applicant's statutory requirements of publishing a notice in a local newspaper and displaying a brief summary of the application on or outside the premises concerned. In addition, the Licensing Authority will place a notice on the Council's website outlining details of the application as set out in legislation. The summary will set out matters such as the proposed licensable activities and the proposed hours of opening and will be displayed for the period during which representations may be made, together with information about where the details of the application may be viewed.

3.0 PREVENTING CRIME AND DISORDER

3.1 The Council will ensure that adequate measures are taken by licensees to reduce the risk of crime and disorder. The appropriate measures will depend on the type, size and location of premises and the activities to be carried out. However, the following are examples of issues that will be considered:-

- effective methods of communication between licensees and the Police (e.g., radio, paper, ringround, ringmaster);
- membership of a Pubwatch or similar scheme and active participation in that scheme;
- use of CCTV systems where appropriate;
- appropriate policies and practices relating to avoidance of underage drinking (e.g., use of ID schemes, referral logs, signage, etc);
- appropriate drugs policies and practices;
- glass and bottle policies and practices (e.g., introducing toughened drinking glasses, prohibiting the taking of glasses from the premises);
- effective control of the premises and record keeping (e.g., trained and registered door staff if appropriate, incident logs, training of staff);
- transport liaison arrangements (e.g., readily available information on access to taxis, public transport, etc).

4.0 FIRE SAFETY:

4.1 The Fire Authority has regulatory powers under the Regulatory Reform (Fire Safety) Order 2005 to enforce and control fire safety matters in licensed premises. The Council will not seek to duplicate these powers.

4.2 However, preventing the crime of arson relates to the Licensing Objectives. Consequently the Council will seek to ensure that adequate measures are taken by licensees to reduce the risk and opportunity for deliberate fire setting. This might be to ensure that the security arrangements of the premises reduce the risk that a fire might be started deliberately by actively controlling access to non-public and external areas. It may also include measures to ensure that the accumulation of and access to waste materials is controlled.

5.0 OTHER PUBLIC SAFETY MATTERS:

- 5.1 The Council will ensure that adequate measures are taken by licensees to reduce the risk to public safety. This may include provisions for restrictions on the number of persons who can attend a premises or part of a premises or a specific entertainment at any one time. It might also include a requirement to carry out or have evidence of certain safety inspections such as those relating to electrical or gas appliances or structural matters.

6.0 PREVENTING PUBLIC NUISANCE:

- 6.1 The Council will ensure that adequate measures are taken by licensees to reduce the risk of public nuisance. In particular, it will look at measures to limit noise nuisance, both from the premises and from customers entering and leaving the premises. Methods of control might include restrictions on hours, particularly late at night, noise limiters on musical equipment and sound insulation of buildings, plant and equipment.
- 6.2 The Council will also expect licensees to adopt measures to avoid problems caused by customers spilling out of premises because they have reached capacity or for other reasons.
- 6.3 The Council will ensure that adequate measures are taken to deal with litter problems created by a licensable use in the immediate vicinity of the premises.

7.0 CHILDREN:

- 7.1 Subject to the licensee's discretion and any conditions included in a Premises Licence or Club Premises Certificate, the 2003 Act does not prohibit children having free access to licensed premises of all kinds, including those selling alcohol for consumption on those premises. The Council recognises the great variety of premises for which licences may be sought. These include theatres, cinemas, restaurants, concert halls, cafés, take-aways and fast food outlets as well as public houses and nightclubs.
- 7.2 The Council will not limit the access of children to such premises unless it is necessary for the prevention of harm to children. General rules on access of children will be avoided. The individual merits of each application will be considered.
- 7.3 The Council will in particular take account of the following situations in respect of premises:-
- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
 - with a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises;
 - where entertainment of an adult or sexual nature is commonly provided;
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

- 7.4 There are a number of options available for limiting the access of children where that is necessary for the prevention of harm to children. The options include:-
- limitations on the parts of premises to which children can have access;
 - limitations on the hours when children may be present;
 - age limitations (below 18);
 - limitations or exclusions when certain activities are taking place;
 - requirements for accompanying adult;
 - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 7.5 The Council will not impose conditions requiring the admission of children to any premises. Where no licensing restriction is necessary, this should remain a matter for the discretion of the individual licensee or club.
- 7.6 In the case of premises giving film exhibitions, the Licensing Authority expects licensees to impose conditions that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Local Authority itself. The Council does not intend to adopt its own system of classification.
- 7.7 There should be at least one member of adult staff at places of public entertainment to control the access and egress of children and to assure their safety.
- 7.8 The Council commends to all licensees in sale and supply of alcohol the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.
- 7.9 The Council recognises the North Yorkshire Area Child Protection Committee as the “responsible authority” in respect of children’s issues. This will therefore be the body to which copies of applications are sent.

8.0 CUMULATIVE IMPACT:

- 8.1 It is possible that the impact on surrounding areas of the behaviour of customers taken together is greater in these cases than the usual impact from customers of individual premises. In these circumstances the Council may receive representations from a responsible authority or others that the cumulative effect of new licences is leading to an area becoming saturated with premises, making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. This might be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. This might lead the Council in turn to consider the question of whether the grant of any further Premises Licences or Club Premises Certificate would undermine one of the licensing objectives. In these circumstances the cumulative impact will be addressed in the context of the individual merits of any application.

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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