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HAMBLETON DISTRICT COUNCIL

AGENDA

Committee Administrator: Democratic Services Officer (01609 767015)

Wednesday, 27 July 2016

Dear Councillor

NOTICE OF MEETING

Meeting	**LICENSING AND APPEALS HEARINGS PANEL**
Date	**Thursday, 4 August 2016**
Time	**10.30 am**
Venue	**Main Committee Room, Civic Centre, Stone Cross, Northallerton**

Yours sincerely

J. Ives.

Dr Justin Ives
Chief Executive

To:

Councillors
Mrs I Sanderson (Chairman)
P Bardon

Councillors
S Watson

Other Members of the Council for information

AGENDA

		Page No
1.	APOLOGIES FOR ABSENCE	
2.	APPLICATION FOR THE GRANT OF A PREMISES LICENCE, ODANA CAFE AND TAKEAWAY, NORTHALLERTON	3 - 68
	Report of the Executive Director	
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 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.

<u>January 2005</u>
Revised April 2007
Revised March 2012
Revised May 2014

HAMBLETON DISTRICT COUNCIL

Report To: Licensing and Appeals Hearings Panel
4 August 2016

From: Executive Director

Subject: **APPLICATION FOR THE GRANT OF A PREMISES LICENCE**
ODANA CAFÉ AND TAKEAWAY, 6 FRIARAGE STREET, NORTHALLERTON

Northallerton South 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 Odana Café and Takeaway, 6 Friarage Street, Northallerton, DL6 1DP.

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 initially received by the Licensing Team on 11th April 2016. However, the application was not duly made in accordance with the Licensing Act 2003 until 14th June 2016.

3.2 The application is attached at Annex A along with the premises plan. A location plan of the premises is attached at Annex B.

3.3 In addition to the statutory responsible authorities, the application was forwarded to Northallerton Town Council and the District Councillors for the Northallerton South 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 provision of late night refreshment between the hours of 11pm and 2am every day.

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 Relevant representations have been made by the following responsible authorities and other persons:

- North Yorkshire Police (representation attached at Annex C);
- Hambleton District Council's Environmental Health Team (representation attached at Annex D); and
- Strutt and Parker on behalf of the Buenaventura Estate (representation attached at Annex E).

5.2 The representations focus on concerns over child protection, public order, anti-social behaviour, noise nuisance and littering.

5.3 Representations may be amplified at the hearing but any additional representations which do not amount to an amplification of the original representation may not be made at the hearing.

6.0 SUPPORTING DOCUMENTATION

6.1 On 18th July 2016, North Yorkshire Police submitted some further information for the Panel's consideration. The information includes a witness statement and it relates to an allegation made against the manager of the premises concerning the unlawful supply of tobacco products to a person under the age of 18 years. The supporting information is attached at Annex F.

6.2 On 26th July 2016, North Yorkshire Police submitted two further witness statements for the Panel's consideration. The statements relate to a test purchase exercise carried out on 23rd July 2016 in which unauthorised licensable activities were allegedly carried out contrary to the Licensing Act 2003. The statements are attached at Annex G.

7.0 POLICY CONSIDERATIONS

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

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

7.2 The Council's Statement of Licensing Policy is attached at Annex H.

7.3 Attached at Annex I 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'.

7.4 Licensing authorities have a general responsibility to avoid imposing unnecessary regulatory burdens on businesses and the Panel should consider the costs that can arise as a result of restrictions or conditions being imposed on premises licences. The only conditions that may be imposed are those which are appropriate for the promotion of the licensing objectives.

7.5 The Panel should note that hot food and hot drink can be provided before 11pm without a licence. Any decision must therefore be based on the likely effect of the licensable activities (the provision of hot food and hot drink between the hours of 11pm and 2am) on the promotion of at least one of the licensing objectives.

8.0 DETERMINATION BY THE PANEL

8.1 The Panel must, having had regard to the representations, take such of the steps mentioned in 8.2 as it considers appropriate for the promotion of the licensing objectives.

8.2 The steps are:-

8.2.1 to grant the licence as applied for (subject to any conditions consistent with the applicant's operating schedule);

8.2.2 to grant the licence subject to any modified conditions that Members consider appropriate for the promotion of the licensing objectives;

8.2.3 to reject the whole or part of the application.

MICK JEWITT

Background papers: Procedure for Licensing Hearings

Author ref: SF

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

Odana Report.docx

To: Licensing Team, Hambleton District Council, Civic Centre, Stone Cross, Northallerton DL6 2UU
Copies to Responsible Authorities

HAMBLETON D.C. RECEIVED 11 APR 2016 LICENSING

HAMBLETON DISTRICT COUNCIL

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/We Ary Mohamed
(Insert name(s) of applicant)

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			
~~6 Friarag~~ Odana cafe and Take away 6 Friargge Street			
Post town	Northallerton	Postcode	DL6 1DP

Telephone number at premises (if any)	01609 777 080
Non-domestic rateable value of premises	£ 4,900

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

Please tick as appropriate

a) an individual or individuals * ☒ please complete section (A)

b) a person other than an individual *

i. as a limited company ☐ please complete section (B)

ii. as a partnership ☐ please complete section (B)

HAMBLETON D.C. RECEIVED 25 MAY 2016 E LICENSING

iii. as an unincorporated association or ☐ please complete section (B)

iv. other (for example a statutory corporation) ☐ 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 ☒	Mrs ☐	Miss ☐	Ms ☐	Other Title (for example, Rev)	
Surname Mohamed				**First names** Ary	
I am 18 years old or over				☒ Please tick yes	
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr ☐	Mrs ☐	Miss ☐	Ms ☐	Other Title (for example, Rev)	
Surname				**First names**	
I am 18 years old or over				☐ Please tick yes	
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

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

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

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)			**Will the performance of a play take place indoors or outdoors or both – please tick** (please read guidance note 2)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 3)		
Tue					
Wed			**State any seasonal variations for performing plays** (please read guidance note 4)		
Thur					
Fri			**Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list** (please read guidance note 5)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			**Will the exhibition of films take place indoors or outdoors or both – please tick** (please read guidance note 2)	Indoors	☐
Day	Start	Finish		Outdoors	☐
				Both	☐
Mon			**Please give further details here** (please read guidance note 3)		
Tue					
Wed			**State any seasonal variations for the exhibition of films** (please read guidance note 4)		
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 5)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			**Please give further details** (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			**State any seasonal variations for indoor sporting events** (please read guidance note 4)
Wed			
Thur			**Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list** (please read guidance note 5)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			**Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick** (please read guidance note 2)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 3)		
Tue					
Wed			**State any seasonal variations for boxing or wrestling entertainment** (please read guidance note 4)		
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 5)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 6)			**Will the performance of live music take place indoors or outdoors or both – please tick** (please read guidance note 2)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 3)		
Tue					
Wed			**State any seasonal variations for the performance of live music** (please read guidance note 4)		
Thur					
Fri			**Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list** (please read guidance note 5)		
Sat					
Sun					

F

Recorded music Standard days and timings (please read guidance note 6)			**Will the playing of recorded music take place indoors or outdoors or both – please tick** (please read guidance note 2)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 3)		
Tue					
Wed			**State any seasonal variations for the playing of recorded music** (please read guidance note 4)		
Thur					
Fri			**Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list** (please read guidance note 5)		
Sat					
Sun					

G

Performances of dance Standard days and timings (please read guidance note 6)			**Will the performance of dance take place indoors or outdoors or both – please tick** (please read guidance note 2)	Indoors	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon			**Please give further details here** (please read guidance note 3)		
Tue					
Wed			**State any seasonal variations for the performance of dance** (please read guidance note 4)		
Thur					
Fri			**Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list** (please read guidance note 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	**Will this entertainment take place indoors or outdoors or both – please tick** (please read guidance note 2) Indoors ☐ Outdoors ☐ Both ☐
Mon			
Tue			**Please give further details here** (please read guidance note 3)
Wed			
Thur			**State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)** (please read guidance note 4)
Fri			
Sat			**Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list** (please read guidance note 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	☐
				Outdoors	☐
Day	Start	Finish		Both	☐
Mon	23.00	02.00	**Please give further details here** (please read guidance note 3)		
Tue	23.00	02.00			
Wed	23.00	02.00	**State any seasonal variations for the provision of late night refreshment** (please read guidance note 4)		
Thur	23.00	02.00			
Fri	23.00	02.00	**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 5)		
Sat	23.00	02.00			
Sun	23.00	02.00			

J

Supply of alcohol Standard days and timings (please read guidance note 6)			**Will the supply of alcohol be for consumption – please tick** (please read guidance note 7)	On the premises	☐
				Off the premises	☐
Day	Start	Finish		Both	☐
Mon			**State any seasonal variations for the supply of alcohol** (please read guidance note 4)		
Tue					
Wed					
Thur			**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 5)		
Fri					
Sat					
Sun					

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

Name	
Address	
Postcode	
Personal licence number (if known)	
Issuing licensing authority (if known)	

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)

Day	Start	Finish
Mon	15.00	02.00
Tue	15.00	02.00
Wed	15.00	02.00
Thur	15.00	02.00
Fri	15.00	02.00
Sat	15.00	02.00
Sun	15.00	02.00

State any seasonal variations (please read guidance note 4)

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 (please read guidance note 5)

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)

We will ensure that where we close we will check to ensure there is no litter left outside the shop

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

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	
Date	11/04/2016
Capacity	Owner

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Part 3 Operating Schedule

When do you want the premises licence to start? DD MM YYYY 11 04 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)

This Premises is a take away where we only do take away food ~~at~~ we do not sell any alcohol. The Premises is a small bussies where we do hot drinks and food

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)	☐

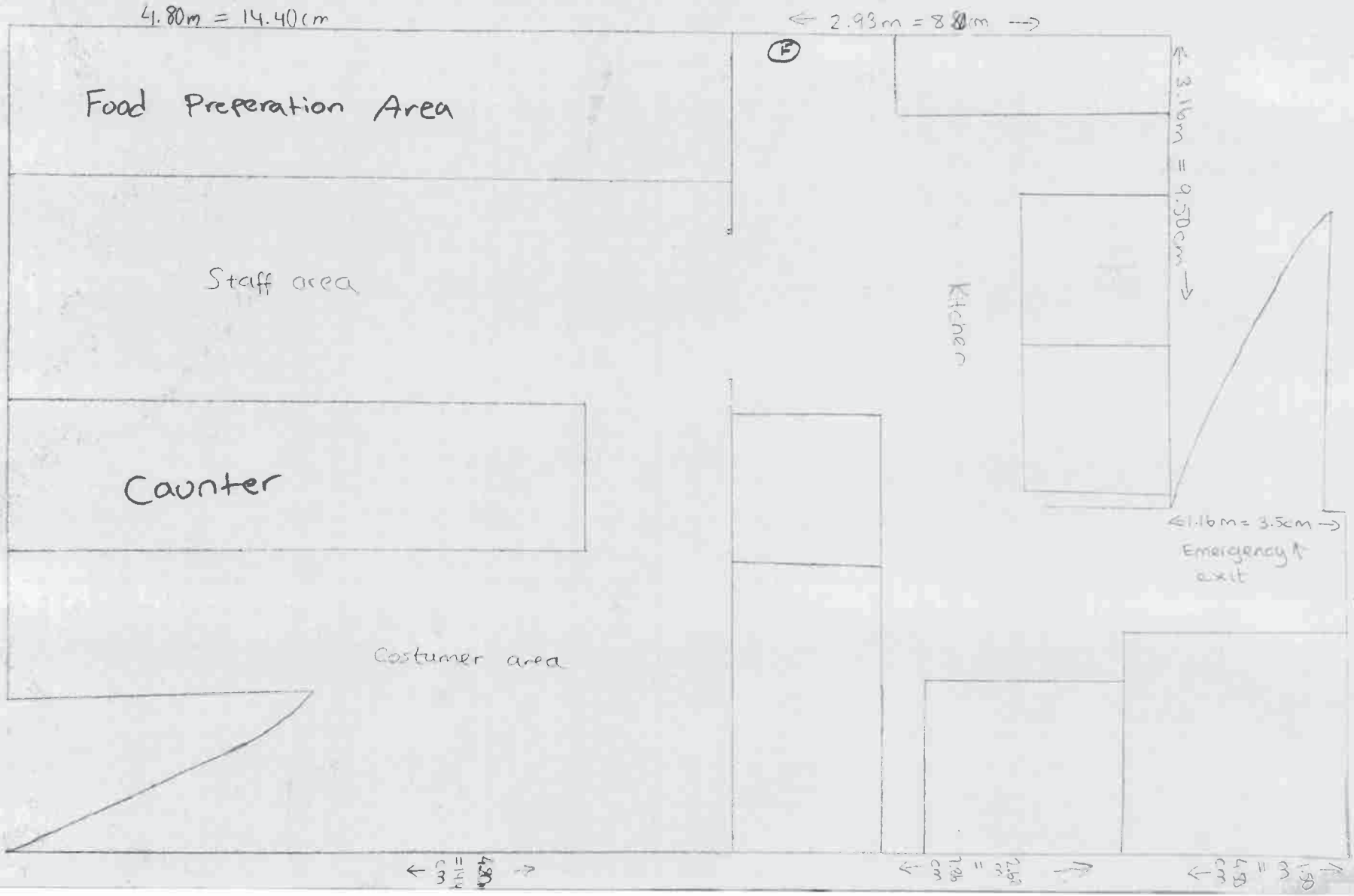
Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)			
Post town		Postcode	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

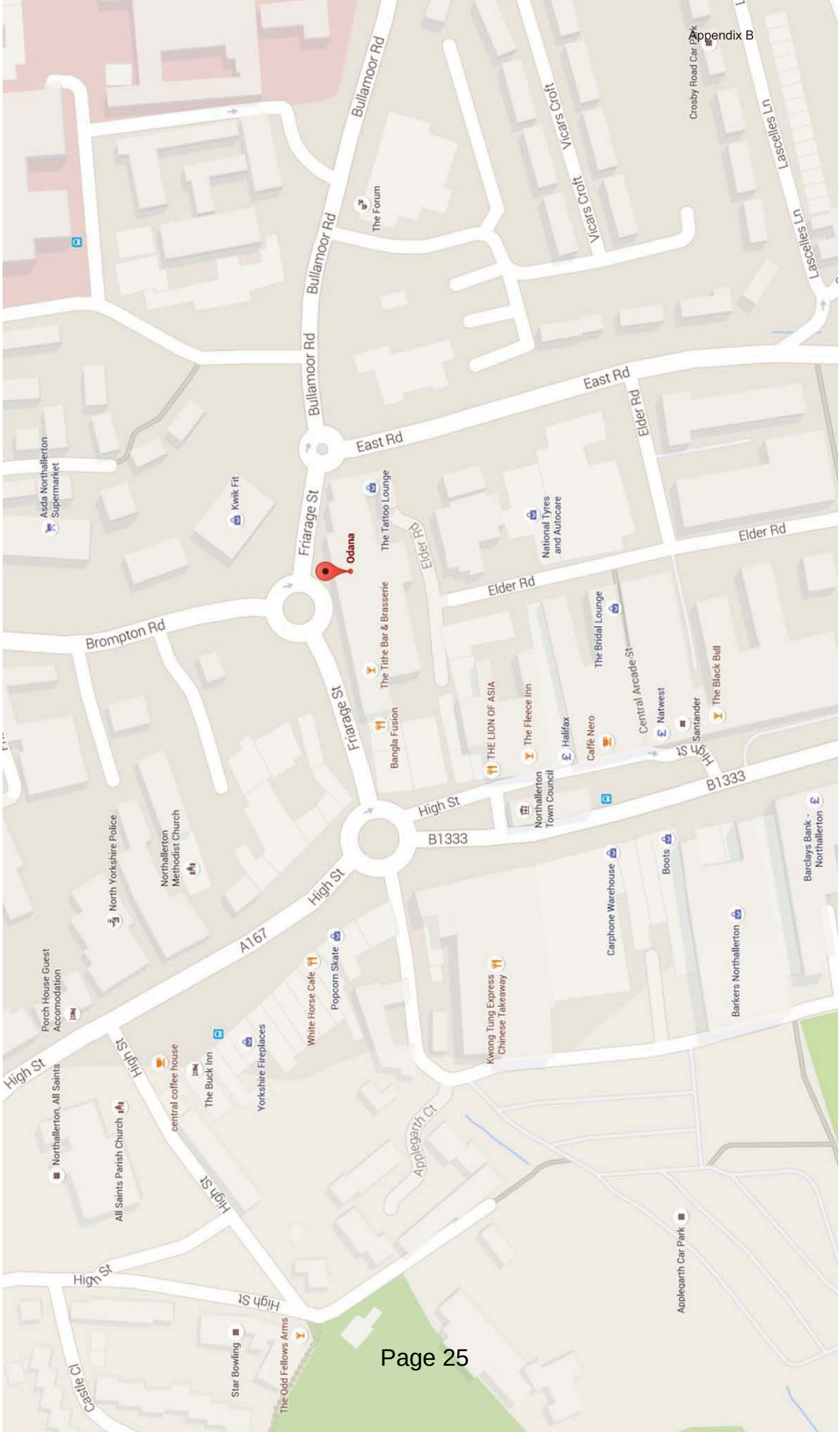
Notes for Guidance

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.

Note: 3cm = 1m.

Ⓕ = Fire extin
Foam

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The Forum
Vicars Croft
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Crosby Road Car Park
Lascelles Ln
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East Rd
East Rd
Elder Rd
Elder Rd
Elder Rd
Asda Northallerton Supermarket
Kwik Fit
Friarage St
Odana
The Tattoo Lounge
National Tyres and Autocare
Brompton Rd
The Tithe Bar & Brasserie
Bangla Fusion
Friarage St
THE LION OF ASIA
The Fleece Inn
Halifax
Caffè Nero
The Bridal Lounge
Central Arcade St
Natwest
Santander
The Black Bull
High St
B1333
High St
B1333
Northallerton Town Council
North Yorkshire Police
Northallerton Methodist Church
High St
A167
Porch House Guest Accomodation
Carphone Warehouse
Boots
Barclays Bank - Northallerton
Barkers Northallerton
White Horse Cafe
Popcorn Skate
Kwong Tung Express Chinese Takeaway
High St
Northallerton, All Saints
All Saints Parish Church
central coffee house
The Buck Inn
Yorkshire Fireplaces
High St
Applegarth Ct
Applegarth Car Park
High St
High St
Star Bowling
The Odd Fellows Arms
Castle Cl

NOT PROTECTIVELY MARKED

NOTICE OF RELEVANT REPRESENTATION FOR A PREMISES LICENCE (New Grant) UNDER THE LICENSING ACT 2003

We:

North Yorkshire Police	x	Name: **Sergeant 905 Matthew France**
Fire Authority	☐	Name: .....
Environmental Health	☐	Name: .....
Health & Safety	☐	Name: .....
Planning Authority	☐	Name: .....
Social Services	☐	Name: .....
Trading Standards	☐	Name: .....
Interested Party	☐	Name: .....

a) a person living in the vicinity of the premises: ☐

b) a body representing persons living in the vicinity of the premises: ☐

c) a person involved in business in the vicinity of the premises: ☐

d) a body representing persons involved in business in the vicinity of the premises: ☐

Maritime Authority	☐	Name: .....

Hereby give notice of objection to the Premises Licence / Club Premises Certificate as listed below:

Postal Address of premises or club premises: **Odana Café and Takeaway** **6 Friarage Street**	
Post town Northallerton	**Post code (if known) DL6 1DP**

NOT PROTECTIVELY MARKED

This Notice of Objection relates to the following licensing objective:

		(Please tick one or more boxes)
1)	**the prevention of crime and disorder**	**X**
2)	**public safety**	**X**
3)	prevention of Public Nuisance	
4)	**the protection of children from harm**	**X**

GROUNDS FOR RELEVANT REPRESENTATION

We hereby give notice that we object to the application for a Premises Licence / Club Premises Certificate on the following grounds:

Odana café and takeaway is a well-established business situated on Friarage Street, Northallerton. Prior to this application it ceased trading before 11pm and therefore sat outside the provisions of the Licensing Act 2003. As it now wishes to trade until 2am, 7 days a week, the premises requires a licence to supply late night refreshment within the night-time economy.

The applicant's risk assessment of the impact that the business would have on people living & socialising in the immediate vicinity whilst trading until 2am daily resulted in applicant offering a single step (condition) to promote the four licensing objectives namely, *"we will ensure that when we close we will check to ensure that there is no litter left outside the shop"*. Based on 'calls for police services' to the premises and recent interventions by the 'Safer Hambleton' partnership, North Yorkshire Police believe that additional steps are both appropriate and necessary to mitigate risks and vulnerabilities posed by this premises operating beyond 11pm.

Please provide as much information as possible to support this relevant representation: *(e.g. please list any additional information, e.g. dates of problems which are included in the grounds for review)*

Sergeant 882 Simon Wilson, Northallerton's Safer Neighbourhood & Partnership Manager, an officer with over 15 years' experience of proactively policing the Northallerton area, has provided a detailed assessment of the current impact that the Odana Takeaway has on the local community. (Appendix A)

These concerns include:-

- children reported missing from home being found at The Odana takeaway
- delivery driver with child passengers in his vehicle involved in a road traffic collision
- reports that staff are giving taxi rides to children
- fights / disputes between parents / partners and staff at the premises
- public order incidents outside the premises
- various reports of alleged damage to premises

On 6 November 2015, as the result of ongoing concerns the Safer Hambleton Partnership wrote to Mr Osman and asked the management to implement a series of positive interventions to mitigate identified risks. (Appendix B) This letter was the precursor to commencing formal Community Protection Notice proceedings should matters not be addressed.

The local policing team already have justifiable concerns that the premises acts as a magnet for local youths. Extending the premises operating hours from 11pm to 2am will simply compound the current situation, increase the risk posed to young vulnerable children later into the night and expose them to the more volatile 'end of night' alcohol related trade.

Suggested Conditions that could be attached to the Licence to address these issues:

If the licensing sub-committee is minded to grant the licence, North Yorkshire Police would seek, as a minimum, the following additional conditions added to the licence in order to provide appropriate safeguards to mitigate the identified risks:-

1(a). A colour digital CCTV system shall be installed at the premises and be operational and recording at all times when licensable activities take place.

(b) The CCTV equipment shall have constant time / date generation which must be checked on a daily basis for accuracy.

(c) CCTV cameras shall be installed to provide adequate coverage of all public areas inside the premises and the frontage immediately outside the premises.

(d) Recordings must be retained for a minimum of 28 days.

(e) North Yorkshire Police or a Responsible Authority (as defined in the Licensing Act 2003) may at any time request a recording. This request should be complied with as soon as possible.

(f) It is the responsibility of the management to ensure that there are sufficient members of staff available during the hours of operation to be able to download evidence from the CCTV system for either the police or a responsible authority.

2. A documented staff training programme shall be provided to every member of staff in respect of the following:-

- Conditions attached to the premises licence
- Understanding of the licensing objectives

With such records being kept for a minimum of one year (for the avoidance of doubt, the one year period relates to each respective entry in the book and runs from the

date of that particular entry).

3. Customers / members of the public shall only be permitted entry to the 'customer waiting area' as defined on the premises plan. Customers / members of the public are prohibited from entering the kitchen, office, staff and any other private areas in the premises.

4. All seating in the 'customer waiting area' shall be fixed non-moveable structures.

5. Customers / members of the public shall not be carried as passengers either in or on vehicles being used by the business for food delivery purposes.

6. No persons under the age of 18 shall work at the premises.

7. The frontage of the premises shall be lit during the hours of darkness (trading hours only).

8. The premises owner is responsible for keeping the frontage of the property clear of waste packaging and discarded takeaway food throughout the hours of trading.

Signature: .....

Date: ..... **8 July 2016**

Contact Name and address for correspondence: **Sgt 905 Matthew France (Force Alcohol Licensing Manager)** **Alcohol Licensing Unit** **York Police Station** **Fulford Road** **York** **YO10 4BY**	
Post town: York	**Post code : YO10 4BY**
Telephone number (if any) dial 101	
If you would prefer us to correspond with you using an e mail address your e mail address: **matthew.france@northyorkshire.pnn.police.uk**	

MG11

NORTH YORKSHIRE POLICE
WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

URN

Statement of: **Simon Mark Wilson**

Age if under 18: o18 (if over 18 insert "OVER 18")

Occupation Police Sergeant 882

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature: SM Wilson Date: 060716

Tick if witness evidence is visually recorded ☐ *(supply witness details on rear)*

I am Police Sergeant 882 of the North Yorkshire Police currently stationed at Northallerton Police Station. Of my 25 years police service, 15 of those years have been spent policing Northallerton as a Constable and Sergeant. My current role involves partnership working, crime prevention, public engagement but primarily looking at ways to reduce crime, the fear of crime and improve the quality of life of the residents of Northallerton.

Part of my crime prevention work is to look at ways of addressing alcohol fuelled crime and anti social behaviour linked to the nightime economy.

Northallerton's nightime economy is primarily focussed on the towns High Street, Elder Road and the surrounding town centre streets including Friarage Street. Located on Friarage Street is a fast food takeaway called The Odana which currently operates until 11pm each evening.

I am aware that The Odana have put an application in to vary its hours of serving and increase its opening hours until 2am.

I have reviewed relevant incidents reported to North Yorkshire Police involving The Odana Takeaway since 1st January 2015 and these are summarised as follows -

22.12hrs 31/01/15 - Young person reported missing found at The Odana

17.23hrs 04/02/15 - 2 males previously banned from the premises have attended and refused to leave

15.27hrs 28/02/15 - Youths at the premises banging on the windows and harassing staff

21.29hrs 15/05/15 - Youths throwing stones at windows of the flat above The Odana

22.36hrs 29/05/15 - Damage caused to CCTV camera outside the takeaway

19.25hrs 08/06/15 - 8 to 10 youths 'kicking off' outside the takeaway

Signature: SM Wilson Signature witnessed by:

Continuation of statement of : Simon Mark Wilson

00.13hrs 16/06/15 - Delivery driver involved in a serious road traffic accident in the takeaway delivery vehicle and in the vehicle at the time were 2 young girls known to frequent the takeaway and part of the group who had previously caused issues at the premises
17.25hrs 30/07/15 - Report of fight at the takeaway involving the delivery driver and one of the parents of one of the youths in the area
20.07hrs 30/07/15 - Report of dispute outside the takeaway between a female and the delivery driver linked to the females child
23.56hrs 11/09/15 - Damage caused to the shop and delivery vehicle by youths
12/09/15 - Victim attends Police Station to report receiving abuse from males at The Odana as he walked past the previous evening
21.37hrs 18/09/15 - report of youths banging on the windows of the takeaway
00.55hrs 26/09/15 - 2 youths seen kicking windows of the premises
07/10/15 - Information received that The Odana staff are giving taxi rides to a vulnerable young girl who regularly goes missing
21.53hrs 05/12/15 - Report of fight between male and member of staff due to comment made by staff member about males girlfriend
19.09hrs 03/02/16 - report of older male meeting younger girls at The Odana and taking them out in his car
23.15hrs 19/05/16 - Vulnerable missing girl found at The Odana and returned home
19.35hrs 20/05/16 - Report of 3 males causing issues at the takeaway

As a result of the number of incidents and the concern the premises was giving to the police and other agencies, representatives from the Northallerton Safer Neighbourhoods Team met with Ary Osman the owner of The Odana on 29/11/14. During this meeting we discussed the situation up to date and possible solutions to address the issues identified. Mr Osman was willing to engage with agencies and help in any way he could. Mr Osman was also informed of the powers available to agencies if he failed to control his premsies or his customers. During that meeting we agreed the following -

1. Issue premises banning letters to a number of youths who were causing issues
2. Carryout an Anti Social Behaviour leaflet drop in the area
3. Highlight the location for extra police patrols
4. Complete an Environmental Visual Audit in the area
5. Look to increase security in and around the premises and the alleyway next door including looking at funding for a gate to restrict access to the alley.

Additionally police met with Broadacres Housing and parents of the youths involved to address their behaviour in the vicinity of The Odana otherwise breaches of their Housing Tenancy could be considered.

Signature: SM Wilson

Signature witnessed by:

Continuation of statement of : Simon Mark Wilson

Subsequently over the coming months information came to the police that the individuals that had been banned from the premises were being allowed back in and incidents were continuing.
As a result of little change at the premises, on 6th November 2015 a meeting was held between members of Northallerton Safer Neighbourhood Team, Gina Allen from Safer Hambleton and Ary Osman. At the meeting we discussed a Community Protection Notice and subsequently recommendations were agreed by all parties to address and reduce the issues identified. The letter detailing the recommendations was served on Mr Osman at this meeting and can now be produced as an exhibit, identification SMW1.
Following the meeting on 4th December 2015 PC Woodcock and I attended The Odana at the request of Mr Osman and briefed his staff about the suggested recommendations and how they could assist in reducing the issues. This was received by all staff present.
On 7th January 2016 officers attended the premises to find 2 members of staff present and 3 youths sat at the table in the customer waiting area. This was in breach of one the suggested recommendations.
On 27th January 2016 a further environmental visual audit took place in the neighbourhood by the police and subsequent recommendations made to the businesses in the area.

As a result of the above partnership work, incidents reported to the police and concerns about the surrounding neighbourhood I would have concerns that increasing the opening and serving hours of this premises will have a negative effect on the quality of life of residents and visitors to Northallerton. I would suggest that at this time the premises is having a negative impact on the neighbourhood and increasing its opening hours will only increase this negative impact. In the area of the premises there are businesses and private residencies and I believe increasing its hours will cause anti social behaviour and crime to increase in this neighbourhood for these residents.
When policing licensed premises at closing times or when patrons leave they can tend to remain in the immediate vicinty of the premsies to talk and socialise. This can often be very vocal and due to being under the influence of alcohol can develop into incidents of confrontation and subsequently violence and injury. Should this extension be granted I can see a re-emergence of problems with customers having a reason to remain in the area, hanging around both inside and outside the premises which gives greater opportunity for typical drunken behaviour to develop into violence and injury. This behaviour and violence will be occurring at a peak time for police when resources are already stretched and this will add to the already increasing burden.
Also from a policing perspective we no longer have the Night Marshalls who use to patrol the town centre. They use to intervene at the earliest opportunity defusing and dispersing problems prior to police involvement being required. This will now fall to police to deal as these patrols no longer take place.
For all of the above reasons including the evidence presented, in order to meet the licensing objective of 'The prevention of crime and disorder' I object to the granting of the proposed licence extension application.

Signature: SM Wilson

Signature witnessed by:

Safer Hambleton
Community Safety Local Delivery Team
Hambleton District Council
Civic Centre
Stone Cross
Northallerton
DL6 2UU

6 November 2015

Dear Mr Osman

Anti-social behaviour, Crime and Policing Act 2014
Re: Repeated anti social issues and incidents related to the Odana cafe

The Safer Hambleton Community Safety Local Delivery Team (LDT) works as a partnership between the Hambleton District Council, North Yorkshire Police, North Yorkshire Fire and Rescue Service and others to reduce anti social behaviour, crime and disorder across Richmondshire.

Through our Multi Agency Problem Solving process, the Safer Hambleton LDT has been made aware of repeated incidents and concerns about the conduct displayed by young people at the Odana Cafe. The Safer Hambleton LDT considers these ongoing issues to be of a serious nature and this letter serves to highlight the potential sanctions you may face if the conduct continues without you voluntarily taking steps to resolve the issues first.

Since 2014, there have been numerous visits to the cafe by the local police team following reported incidents. To assist you, the local Police team have written and issued, on your behalf, banning letters to those causing the concerns but you and your staff have continued to allow them in. You have failed to recognise the responsibilities you have as the owner and operator of the business and have continued to allow issues to occur on your premises.

The conduct of the young people, parents and staff has been witnessed by Police Officers when they have arrived to resolve the issues reported and it is considered that this conduct is having a detrimental effect on others in your area, it is persistent/ongoing and is considered to be unreasonable in nature. These issues have been previously discussed with you on many occasions and yet they continue to occur.

For clarity; under s44 of the Anti Social Behaviour, Crime and Policing Act 2014, "conduct that is on, or affects, a premises is considered to be conduct of the person who owns it"; and because we believe that you can be reasonably expected to affect and/or control that behaviour, this continued anti social behaviour is being considered as being your conduct and responsibility.

Formal sanctions are available to resolve this situation but before these are progressed, I would like to give you a final opportunity to carefully and thoroughly consider these complaints and take the necessary steps to reduce the likelihood of any further complaints being made. Some steps that we advise you to consider carefully include:

- Arrange a meeting for all Odana staff to attend and to be briefed by Police about current issues & concerns.
- Ensure that all Odana staff are aware and adhere to recommendations and advice given by police.
- Only allow two children (under 18) into the shop at any one time. To assist with this place a notice in the shop doorway advising customers of this policy.
- Issue your own banning letters as appropriate and provide Sgt Simon Wilson or PC Julie Woodcock with a copy.
- Fitting of a metal shutter to the shop front to protect windows and door from attack when shop is closed or that is able to be applied if threats are made.
- Keep an ejections and rejections log and make available for police to check when asked.
- Implementation of a Safeguarding Policy to ensure safety of young people, this should include advice on how to deal with young people in your shop or vehicle.

- Fit a security light to the front of the shop to cover outside area and pavement to assist with CCTV coverage.
- Ensure that rear door to the stock room and residential flats (located in the alleyway) is permanently closed by Odana Staff and residents.
- Fit a closure mechanism to the rear door/entrance to flats and stock room to assist with security.
- Liaise with neighbouring landlord re: installation of security features in rear alleyway.

If you choose to ignore the advice within this letter, or if incidents continue, then formal sanctions (as detailed below) will be progressed.

Community Protection Notice: Under s43 of the Anti Social Behaviour, Crime and Policing Act 2014, a Community Protection Notice will be issued following a written warning to stop anti social behaviour that is having a detrimental effect on the quality of life of those in the locality, is persistent/ ongoing and is unreasonable.

The Community Protection Notice will identify the behaviour that is causing the issues and highlight steps that should be undertaken to stop the behaviour from continuing. If the organisation does not comply with the Notice and does not carry out the steps that have been included in the Notice then they will be have committed an offence, taken to the Magistrates court for breach and fined up to £20,000. It is likely that a Community Protection Notice will include the above list for mandatory undertaking by the cafe.

Closure Power: Under s76 of the Anti Social Behaviour, Crime and Policing Act 2014, the council or police can and will close down a premises for up to 48hr in order to stop issues occurring completely with a Closure Notice. This would mean that no one could be at the property apart from the person or people who normally live there. Anyone else found at the property in those 48hr would be arrested. The notice would be granted if the behaviour at the property had or would likely cause a nuisance to others in the area or there was disorder near the premises.

Once the notice had been served, the case would be heard in the Magistrates court within the 48hrs notice period. The Magistrates would consider if the offender had undertaken disorderly, offensive or criminal behaviour at the premises, or if the behaviour at the property had or would likely result in serious nuisance or disorder occurring. If the Magistrates believed this was the case, then they would grant a Closure Order for at least three months (can be extended to six months). The Order would mean that no one could be at the property for the length of the Order and could be arrested if found there and possibly imprisoned. The property would be boarded up. You would still be liable for all bill payments during the order period but would not be able to trade and if anyone lived in the property, they would have to find somewhere else to live. If the café were to be closed for 6 months, you would need to consider what would happen to the trade, staff and the business as a whole.

I am certain, however, that you recognise the importance of trying to resolve these issues before formal powers are required.

Yours Faithfully

Gina Allen
Safer Hambleton; Community Safety Local Delivery Team
01748 901042 / 01609 767196

Acknowledgement of Receipt:

Mr Osman **Owner of Odana**	6 November 2015	
Sgt Simon Wilson **North Yorkshire Police**	6 November 2015	

Licensing Act 2003
Environmental Health - Representation Response

Premises Address	Odana Café and Takeaway.
	6 Friarage Street, Northallerton, North Yorkshire, DL6 1DP

Date application received		Date Returned to Local Authority	7th July 2016

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 The Odana café and takeaway is in close proximity to local residential properties. Three separate flats are positioned to the first floor along the run of shops. Some bedrooms to these flats are front facing overlooking Friarage Street. The application is to extend trading hours from 11.00 until 02.00 Monday to Sunday. This will have a negative impact on these residential properties from noise and activities that come with an extension of hours and becoming a late night venue. After 11pm patrons to the café and takeaway are more likely to come from the surrounding licensed venues. Associated noise from raised voices, shouting to or waiting for friends, singing etc to the area surrounding the café / takeaway will impact on the bedrooms of these flats during times when occupants will be asleep. The front of the café has a standard width pavement which then goes onto Friarage street. As seen in similar situations people may stray onto the road with the added implications of cars / taxis sounding horns to prevent impact – again a noise which would impact on the flats. The café and takeaway also advertise a delivery service. This will have added noise from the works vehicle pulling up outside the venue frequently throughout the proposed hours for the collection and delivery of pizzas.
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 The proposed hours of use within this location are unworkable. I would suggest 11.30pm maximum trading time with additional time for closing down.
Protection of Children
Public Safety

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 ……Joy Swithenbank…… Date ……7th July 2016…….

Joy Swithenbank
Residential Team Lead Officer
Tel 01609 767088
Joy.Swithenbank@hambleton.gov.uk

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)* Fran Barrigan of Strutt & Parker

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

Odana Pizza, 6 Friarage Street, DL6 1DP

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	
Daytime contact telephone number	
E-mail address (optional)	

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

Name and Address Fran Barrigan of Strutt & Parker, Thornfield Business Park, Standard Way, Northallerton, DL6 2XQ On behalf of the Buenaventura Estate	
Telephone Number (If any)	01609 780306
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) Objection is on the grounds of the existing public nuisance and crime associated with the locality and the likely extension of these problems relating to later opening hours.

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

My clients own properties 1a, 1b, 2a, 2b, 3-4 and 5 Friarage Street and 1, 2 and 3 East Road. The majority of these premises are commercial, but there are residential flats above 3-4 Friarage Street, 1 East Road and 2 East Road.

We have serious concerns about the advisability of extending opening hours to 2am in a location where residential properties are already suffering from antisocial behaviour problems.

Tenants of my client's premises have suffered from intimidation, littering and antisocial behaviour in the area around the 6 Friarage Street and the alleyway behind. This has included noise nuisance and illegal drug use/alcohol.

I cannot provide full details of the complaints in a document of public record (due to the need to protect the identity and safety of those who have made us aware of problems) however the police have a full record of the problems including documentary evidence and will be able to advise as to the difficulties faced.

Have you made any representation relating to these premises before? ~~Yes~~ / 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	Redacted by Licensing Team	Date	15/06/16
Capacity	Agent		

Contact name (where not previously given) and address for correspondence associated with this representation. (Please read guidance note 5) *As above*	
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

North Yorkshire County Council

TRADING STANDARDS & PLANNING SERVICES

STATEMENT OF WITNESS

(Criminal Procedure Rules r.16.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s. 5B)

Statement of *(full name)* Susan Jane Airton

Age of witness (if over 18 enter "over 18") Over 18

Occupation of witness Trading Standards Officer

This statement (consisting of 2 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 14th of JULY 2016 SAirton (Signed)

I am a Trading Standards Officer employed by North Yorkshire County Council Trading Standards. Trading Standards contributes to the North Yorkshire County Council Tobacco Control Strategy, which seeks to decrease the prevalence of tobacco consumption across the County. Within this strategy Trading Standards are responsible for the enforcement of legislation in relation to illicit tobacco and underage sales. As a Trading Standards Officer I am authorised for the purposes of the Children and Families Act 2014. Under this Act it is an offence for a person over the age of 18 to buy, or attempt to buy tobacco, cigarette papers or a relevant nicotine product on behalf of an individual under the age of 18.

In March 2016 Trading Standards received information that Hambleton District Council had a CCTV recording allegedly showing underage children asking adults to go into Bargain Booze and buy cigarettes for them. This related to a recording on the 9th March 2016 and the recording began at 20:06. Following enquiries the male was identified as Ary Osman of the Odana Café and Takeaway, 6 Friarage Street, Northallerton.

SAirton

On the 26th May 2016 Mr Osman attended the offices of Trading Standards and reviewed the CCTV footage of the incident on the 9th March 2016, provided by Hambleton District Council CCTV of the High Street Northallerton, at and near to, Bargain Booze, 87 High Street, Northallerton. Mr Osman identified two of the youths and indicated one of them was 18. Mr Osman also identified a third male and indicated he had been asked by this male to buy Amber leaf cigarettes for him and Mr Osman admitted he had bought them. Mr Osman was then informed it was an offence to purchase tobacco products for persons under the age of 18 and was issued with a letter of warning, a copy of which I produce as exhibit SJA/AO/01. Mr Osman was also advised to refuse to buy tobacco products for others, when asked.

SAirton

North Yorkshire County Council

Exhibit referred to in my statement as:
" SJA / A0/01 "
Signed SAirton

Your ref:

Our ref: SA/PS/BB

Ary Osman
6A Finkage St
Northallerton
DL6 1DP

David Bowe
Corporate Director
(Business and Environmental Services)
Unit 4/5, Block B
Thornfield Business Park
Standard Way
Northallerton
North Yorkshire
DL6 2XQ
Tel: 01609 534864
Fax: 01609 771696
E-mail: sue.airton@northyorks.gov.uk
www.northyorks.gov.uk
Contact: Susan Airton

Dear Sir

Licensing Act 2003 Children and Families Act 2014

A complaint has been received by this service that alleging you purchased tobacco products from Bargain Booze 87 High Street, Northallerton. These tobacco products were then suspected to have been supplied to persons under the age of 18.

I am therefore writing to inform you that it is an offence under the Children and Families Act 2014 for a person over the age of 18 to buy or attempt to buy tobacco, cigarette papers or a relevant nicotine product (e-liquids, e-cigarettes), on behalf of a person under the age of 18. For such an offence you could be liable to a *fine of up to £2,500*. In addition in relation to alcohol, it is an offence under the Licensing Act 2003, to buy or attempt to buy alcohol on behalf of an individual under 18. For this offence you could be liable for an *unlimited fine*.

On this occasion we do not propose to take any formal action. However a record of this will be kept on file by North Yorkshire Trading Standards.

Yours faithfully

SAirton

Susan Airton
Trading Standards Officer

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: Phillip James Brette

Age if under 18: Over 18 *(if over 18 insert 'over 18')*

Occupation: Special Constable 2330

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: (witness)

Date: 25/07/2016

I am SC 2330 Brette of North Yorkshire Police, currently stationed at Northallerton Police Station. On Saturday 23rd July 2016, at 21:00 hours, I commenced duty at Northallerton Police Station, whereby I was tasked by the forces alcohol licencing unit to follow up a complaint that a premise's was conducting unauthorised licencing activities. It was requested that between the hours of 23:30 hours and 00:00 hours, I attend ODANA takeaway, 6 Frirage Street, Northallerton in plain clothes to test purchase as they have been selling late night refreshments between the hours of 23:00 and 05:00.

At 23:25 hours, I attended Frirage Street, Northallerton in plain clothes with SC 2113 Wallace and I entered ODANA takeway at 23:30 hours. The door of the premises was open and the shop was open for business.

I entered the premises, there were two customers within in the process of being served, as I walked in, I could see that there was a pizza oven turned on where pizzas were being cooked as well as fat fryer being used to fry chips.

There were four members of staff working in the shop at this time; all MALES were. MALE 1 was slim, around 6'0ft in height wearing a black shirt. MALE 2 was a larger MALE, around 5'8 in height and was wearing a black / gray polo shirt; he was also wearing a black baseball cap on his head. MALE 3 was slim, around 6'0ft in height wearing a blue polo shirt with a yellow collar. I cannot give a physical description of MALE 4 as he had his back to be behind the counter and was preparing food.

Prior to SC 2113 Wallace being served, the pizza shop phone rang; MALE 2 answered the phone and began to take a takeaway order for deliver. I knew this was an order for deliver, as MALE 2 relayed the address back to the recipient on the phone.

At 23:33hrs,MALE 2 served SC 2113 Wallace, SC 2113 Wallace placed an order of for hot food, ordering a 10" Chicken pizza, this cost £5 note. SC Wallace handed over a £10 note and received £5 note in change.

It was as this point that I sat down on the seating area within the premises and waited for the hot food to be prepared. It was at this point I observed MALE 1, MALE 2 and MALE 4 preparing food for the orders that they had received. MALE 3 then placed pizzas into a delivery bag and left the takeaway.

The pizza was handed over to SC 2113 Wallace at 23:40 hours that same day.

Myself and SC 2113 Wallace then left the premises.

Signature:

Signature witnessed by:

Witness contact details	URN				
Name of witness: Phillip James Brette					
Home Address: C/o - Northallerton Police Station	Postcode:				
E-mail address:	Mobile:				
Home Telephone Number: 0	Work Telephone Number:				
Preferred means of contact *(specify details for vulnerable/intimidated victims and witnesses only)*:					
Gender: Male	Date and place of birth: 03/09/1989				
Former name:	Ethnicity Code (16 + 1): W1				
DATES OF WITNESS NON-AVAILABILITY: See Origin					
Witness care					
a) Is the witness willing to attend court? Yes	If 'No', include reason(s) on form **MG6**.				
b) What can be done to ensure attendance?					
c) **Victims Only** – does the victim fall into one of the 3 priority categories who are eligible for enhanced care under the Code of Practice for Victims of Crime? 1) Victims of most serious crimes ☐ 2) Persistently targeted victims ☐ 3) Vulnerable and intimidated ☐. If any of the boxes are checked then Inform CPS at **pre-charge** stage on MG3, and on MG11 at all other stages and/or where necessary MG2					
d) **Witness Only** - Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? ☐ *(youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case)* If they do submit **MG2** with file in anticipated not guilty, contested or indictable only cases.					
e) Does the witness have any particular needs? No If 'Yes' what are they? *(Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?).*					
Witness Consent (for witness completion)					
a) The Victim Personal Statement scheme (victims only) has been explained to me			Yes ☒	No ☐	
b) I have been given the Victim Personal Statement leaflet			Yes ☒	No ☐	
c) I have been given the leaflet "Giving a witness statement to the police..."			Yes ☒	No ☐	
d) I consent to police having access to my medical record(s) in relation to this matter *(obtained in accordance with local practice)*		Yes ☐	No ☐	N/A ☒	
e) I consent to my medical record in relation to this matter being disclosed to the defence		Yes ☐	No ☐	N/A ☒	
f) I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA		Yes ☒	No ☐	N/A ☐	
g) **Child witness cases only.** I have had the provision regarding reporting restrictions explained to me.		Yes ☐	No ☐	N/A ☐	
I would like CPS to apply for reporting restrictions on my behalf.		Yes ☐	No ☐	N/A ☐	
'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.					
Signature of witness: PBrette	PRINT NAME: P BRETTE				
Signature of parent/guardian/appropriate adult:	PRINT NAME:				
Address and telephone number (of parent etc.), if different from above:					
Statement taken by: SC 2330 P Brette Richmond Police Station	Time and place statement taken: 18:42 Hours -				

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: Stephen Wallace

Age if under 18: Over 18 *(if over 18 insert 'over 18')*

Occupation: Special Constable 2113

This statement (consisting of 1 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: (witness)

Date: 23/07/2016

I am Special Constable 2113 Wallace of North Yorkshire Police. I am currently stationed at Northallerton police station. At 21:00Hrs on the 23rd Of July 2016 I commenced a late shift due to finish at 00:00hrs 24th of July 2016. I was in plain clothes in company with SC2330 BRETTE.

I commenced duty at Northallerton Police Station, Whereby I was tasked by the force Alcohol Licensing Unit to follow-up a compliant that the premises was conducting unauthorised licensable activities. It was requested that sometime between the hours of 23:30 and 00:00hrs I attend ODANA takeaway on 6 FRIARAGE STREET, NORTHALLERTON in plain clothes to test purchase as they have been selling late night refreshments between the hours of 2300 and 0500.

At 2330hrs on Saturday 23rd of July 2016 I attended 6 FRIARAGE STREET, NORTHALLERTON in plain clothes along with SC2330 and entered ODANA takeaway. The door to the premises was open and the shop was clearly still opened for business. As I approached the counter I observed 4 members of staff working.

Within the shop was 2 other customers ordering some hot food. I approached the counter to place my order and before I had the chance to order the telephone rang. I observed a large built male wearing a black/grey polo shirt and baseball cap answer the phone and take an order. The male relayed an address for where this order had to be delivered. Whilst I was waiting to place my order I could see that the pizza oven was still in use and chips were being cooked in a fryer.

At 23:33 the male that was on the phone asked me what I wanted and I place an order for hot food ordering a 10" Chicken Pizza the cost being £5. I handed over a £10 note and received a £5 note back as change.

I sat down on the seating area within the premises and waited for my hot food to be prepared. Whilst I was waiting I observed another employee of ODANA wearing a blue polo shirt with a yellow collar, slim built put pizzas in a delivery bag and leave the takeaway in order to deliver them.

At 23:40hrs the pizza that I had ordered was handed over to me and I left the premises. The pizza was hot on receipt.

On return to Northallerton police station I took a picture of the pizza and exhibited it as SW/01.

Signature:

Signature witnessed by:

Witness contact details URN

Name of witness: Stephen Wallace
Home Address: C/O Northallerton Police Station Postcode: DL8 4ES
E-mail address: Mobile:
Stephen.Wallace2113@northyorkshire.pnn.police.uk
Home Telephone Number: Work Telephone Number: 101
Preferred means of contact *(specify details for vulnerable/intimidated victims and witnesses only)*:
Gender: Date and place of birth:
Former name: Ethnicity Code (16 + 1):
DATES OF WITNESS NON-AVAILABILITY:

Witness care

a) Is the witness willing to attend court? YES If 'No', include reason(s) on form **MG6**.
b) What can be done to ensure attendance?
c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? *(youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case)* If 'Yes' submit **MG2** with file in anticipated not guilty, contested or indictable only cases.
d) Does the witness have any particular needs? If 'Yes' what are they? *(Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?).*

Witness Consent (for witness completion)

a)	The Victim Personal Statement scheme (victims only) has been explained to me		Yes ☒	No ☐
b)	I have been given the Victim Personal Statement leaflet		Yes ☐	No ☒
c)	I have been given the leaflet "Giving a witness statement to the police..."		Yes ☐	No ☐
d)	I consent to police having access to my medical record(s) in relation to this matter *(obtained in accordance with local practice)*	Yes ☐	No ☐	N/A ☒
e)	I consent to my medical record in relation to this matter being disclosed to the defence	Yes ☐	No ☐	N/A ☒
f)	I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA	Yes ☐	No ☐	N/A ☒
g)	**Child witness cases only.** I have had the provision regarding reporting restrictions explained to me.	Yes ☐	No ☐	N/A ☒
	I would like CPS to apply for reporting restrictions on my behalf.	Yes ☐	No ☐	N/A ☒

'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.

Signature of witness: PRINT NAME: Stephen Wallace
Signature of parent/guardian/appropriate adult: PRINT NAME:

Address and telephone number (of parent etc.), if different from above:

Statement taken by: Station:

Time and place statement taken:

HAMBLETON
DISTRICT COUNCIL

STATEMENT OF LICENSING POLICY

Version Control

Version No.	*Amended by*	*Date*
1.0	Hambleton District Council	18th December 2007
1.1	Hambleton District Council	21st December 2010
1.2	Licensing & Environmental Protection Committee	26th June 2012

Index to the Statement of Licensing Policy

REVISED STATEMENT OF LICENSING POLICY – LICENSING ACT 2003

1.0 GENERAL

1.1 Licensing under the Licensing Act 2003 is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Licensing Act 2003. Activities which require a licence under the Licensing Act 2003 and covered by this policy include:-

- retail sale of alcohol;
- supply of alcohol to club members;
- provision of entertainment to the public or club members or with a view to making profit, including raising money for charity where the entertainment involves:-
  - a theatrical performance;
  - film exhibition;
  - indoor sporting event;
  - a boxing or wrestling entertainment;
  - live music performance;
  - playing of recorded music;
  - dance performance;
  - provision of facilities for making music;
  - provision of dancing facilities;
  - supply of hot food or drink from a premises from 23.00 to 05.00 hours.

1.2 Section 5 of the Licensing Act 2003 as amended requires a Licensing Authority to prepare and publish a Statement of its Licensing Policy at least every five years. Such a policy must be published before the Authority carries out any function in respect of individual applications made under the terms of the 2003 Act.

1.3 Before determining its policy for any five year period the Licensing Authority must consult the persons listed in Section 5(3) of the 2003 Act. These are:-

(a) the Chief Officer of Police for the area;
(b) the Fire and Rescue Authority;
(c) persons/bodies representative of local holders of Premises Licences;
(d) persons/bodies representative of local holders of Club Premises Certificates;
(e) persons/bodies representative of local holders of Personal Licences;
(f) persons/bodies representative of businesses and residents in its area.

1.4 The views of all these bodies listed will be given proper weight when the policy is determined. In addition, the Council may consult other individuals or bodies with a stake in the licensing of premises covered by the 2003 Act.

1.5 This policy will cover all applications for Premises and Personal Licences and notification of temporary events, together with applications for renewals, transfer and variations of conditions.

2.0 FUNDAMENTAL PRINCIPLES

2.1 In carrying out its licensing functions the Authority will promote the licensing objectives which are:-

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

2.2 An individual may apply under the terms of the Act for a variety of permissions and any such application will be considered on its individual merits. Any person may make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

2.3 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act and the terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being "in the vicinity" of licensed premises or places is ultimately a matter of fact to be decided by the courts in cases of dispute. In addressing applications, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.

2.4 The Council will seek to use other mechanisms that are available for addressing problems caused by a minority of consumers behaving badly and unlawfully once away from licensed premises. For example:-

- planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council and other Local Authorities;
- powers of Local Authorities to designate parts of the Local Authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
- the prosecution of any Personal Licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- the confiscation of alcohol from adults and children in designated areas;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises;

- 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.

8.2 The Council will not impose quotas that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. Nor does the Council feel it is appropriate to adopt a special policy of refusing new licences because any part of its area is already saturated with licensed premises.

8.3 The Council has duties to comply with its obligations under Section 17 of the Crime and Disorder Act 1998 in respect of crime and disorder and to the licensing objectives in the 2003 Act. The Council will consider representations based on the impact on the promotion of the licensing objectives in the Licensing Authority's area generally of the grant of the particular application before them. However, the onus will be on the objector to lay an evidentiary base for the assertion that the addition of the premises in question would produce the cumulative impact claimed. The impact can be expected to be different for premises with different styles and characteristics.

9.0 LICENSING HOURS:

9.1 When dealing with licensing hours, each application will be dealt with on its individual merits. Longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.

9.2 The Council will not set fixed trading hours within designated areas. Stricter conditions with regard to noise control may be demanded in areas which have denser residential accommodation, but this will not limit opening hours without regard to the individual merits of any application.

9.3 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following Police representations in the case of isolated shops known to be a focus of disorder and disturbance because youths gather there.

10.0 INTEGRATING STRATEGIES:

10.1 The Council will secure the proper integration of its licensing function with local crime prevention, planning, transport, tourism and cultural strategies.

10.2 Conditions attached to Premises Licences and Club Premises Certificates will, if appropriate, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras in certain premises.

10.3 Protocols agreed between the local Police and other Licensing Enforcement Officers will provide for them to report to the Local Authority Transport Committees and other relevant bodies so that those bodies may have regard

to the need to disperse people from town centres swiftly and safely to avoid concentrations which produce disorder and disturbance.

10.4 The Licensing and Environmental Protection Committee (the Committee) will receive, where appropriate, reports on the needs of the local tourist economy and the cultural strategy for the area to ensure that these are reflected in their considerations. The Committee will in particular monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing.

10.5 The Committee will keep abreast of the employment situation in the area and the need for new investment and employment where appropriate.

10.6 The Council will ensure that there is a proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing applications will not be a re-run of the planning application and will not cut across decisions taken by the Planning Committee or following appeals against decisions taken by that Committee. The Licensing and Environmental Protection Committee will, where appropriate, provide regular reports to the Planning Committee or Cabinet as appropriate on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This will enable the Planning Committee or the Cabinet to have regard to such matters when taking their decisions and avoid any unnecessary overlap.

11.0 DUPLICATION:

11.1 The Council will avoid duplication with other regulatory regimes so far as possible. For example, legislation governing health and safety at work and fire safety will place a range of general duties on employers and operators of venues, both in respect of employees and of the general public when on the premises in question. Conditions will only be attached to Premises Licences and Club Premises Certificates that are “necessary” for the promotion of the licensing objectives and if already provided for in other legislation, they cannot be considered necessary in the context of licensing law. Such regulations will not, however, always cover the unique circumstances that arise in connection with entertainment. Indeed, certain safety legislation includes exemption because it is assumed that licensing controls will provide the necessary coverage.

12.0 STANDARDISED CONDITIONS:

12.1 A key concept underscoring the 2003 Act is for conditions to be attached to licences and certificates, which are tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions will therefore be avoided and conditions will only be attached where they can be shown to be necessary for the promotion of the licensing objectives in any individual case. However, the pools of conditions from which appropriate and

proportionate conditions may be drawn in particular circumstances are attached in the Annexes to this Policy.

13.0 LIVE MUSIC, DANCING AND THEATRE:

13.1 In considering applications, proper account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the Council will be aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a substantial nature.

14.0 PROMOTION OF RACIAL EQUALITY:

14.1 The Council recognises that the Equality Act 2010 places a general equality duty to have regard to the need to:-

- Eliminate discrimination, harassment and victimization and any other conduct that is prohibited by or under the Act,
- Advance equality of opportunity between people who do not share a relevant protected characteristic and people who do not share it,
- Foster good relations between people who share a relevant protected characteristic and those who do not share it.

The Council will apply these principles in undertaking its licensing function.

15.0 ENFORCEMENT:

15.1 The Council will establish and maintain protocols with the local Police on enforcement issues. This should provide for a more efficient deployment of Local Authority staff and Police Officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises.

15.2 These protocols will in particular provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The 2003 Act does not require inspections to take place, save at the discretion of those charged with this role. The principle of risk assessment and targeting will prevail and inspections will not be undertaken routinely but when and if they are judged necessary.

16.0 ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS:

16.1 The 2003 Act provides that decisions and functions may be taken or carried out by Licensing Committees or delegated Sub-Committees or, in appropriate cases, to officials supporting the Licensing Authority. The principle of delegation is supported in the interests of speed, efficiency and cost-effectiveness.

16.2 The Council will offer a minor variation process that allows applicants to apply for a variation of the licence that will have no adverse effect on the four licensing objectives through a streamlined process.

16.3 Functions under the Licensing Act will be dealt with as shown below:-

Matter to be Dealt with	Licensing Hearings Panel	Officers:
Application for Personal Licence.	If an objection made.	If no objection made.
Application for Personal Licence with unspent convictions.	All cases.	
Application for Premises Licence/Club Premises Certificate.	If a relevant representation made.	If no relevant representation made.
Application for provisional statement.	If a relevant representation made.	If no relevant representation made.
Application to vary Premises Licence/Club Premises Certificate.	If a relevant representation made.	If no relevant representation made.
Application to vary designated Personal Licence holder.	If an objection made.	All other cases.
Request to be removed as designated Personal Licence holder.		All cases.
Application for transfer of Premises Licence	If an objection made.	All other cases.
Applications for Interim Authorities.	If an objection made	All other cases.
Application to review Premises Licence/Club Premises Certificate.	All cases.	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		All cases.
Decision to object when Local Authority is a consultee and not the lead Authority.	All cases.	
Determination of a Police or Environmental Health Service representation to a Temporary Event Notice.	All cases.	
Determination of a Minor Variation application		All cases

Appendix – Pool of Conditions (April 2012)

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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[5]. 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.

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[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.

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