1.0 SUMMARY

1.1 This report asks the Panel to consider an application for the variation of a premises licence in respect of Durham Ox, 157 High Street, Northallerton, DL7 8JX.

1.2 Durham Ox is currently the subject of a premises licence and a copy of the existing licence is attached at Annex A.

1.3 A location plan of the premises is attached at Annex B.

2.0 PROCEDURE

2.1 The procedure for licensing hearings is attached as an annex to the agenda.

3.0 APPLICATION FOR THE VARIATION OF A PREMISES LICENCE

3.1 The application was received by the Licensing Team on 24 March 2015 and is attached at Annex C. A letter accompanying the application is attached at Annex D.

3.2 In addition to the statutory Responsible Authorities, the application was forwarded to Northallerton Town Council and the District Councillors for the Northallerton Broomfield Ward.

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

3.4 In summary, the following variations are sought:

3.4.1 To make alterations to the premises plans to provide a new external area with an external bar and waitress service;
3.4.2 To make the external area available for the sale of alcohol and the provision of late night refreshment in accordance with the existing hours;
3.4.3 To make the external area available for the provision of recorded music until 10pm each day;
3.4.4 To make the external area available for the provision of live music until 10pm (up to four occasions per year);
3.4.5 To amend an existing condition relating to occupancy levels;
3.4.6 To amend the existing conditions relating to doors and windows during regulated entertainment;
3.4.7 To extend the opening hours.

3.5 The existing premises plan is attached at Annex E and the proposed plan is attached at Annex F.

3.6 Members should be aware that, on the premises in question, live or recorded music will not require authorisation between 8am and 11pm provided it is performed or played in front of
an audience of no more than 500 people. Any conditions relating to live or recorded music
during these hours will therefore have no effect.

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 in respect of the application by Northallerton
Town Council, North Yorkshire Police and several local residents.

5.2 In general, the representations relate to concerns that the variation will lead to enhanced
levels of public nuisance.

5.3 The representations are attached at Annex G.

6.0 POLICY CONSIDERATIONS

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

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

6.2 Sections 3 to 7 of the Council's Statement of Licensing Policy are applicable to this
application and are attached at Annex H.

6.3 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'.

7.0 DETERMINATION BY THE PANEL

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

7.2 The steps are:-

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

MICK JEWITT
Background papers: Procedure for Licensing Hearings
Author ref: SF
Contact: Simon Fisher, Principal Licensing Officer
Direct Line No: (01609) 767209
Annex A

HAMBLETON DISTRICT COUNCIL

Licensing Act 2003

Premises Licence

Premises Licence Number 11 PREM 00725

Part 1 Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including
Post Town, Postcode
Durham Ox
157 High Street
Northallerton
DL7 8JX

Telephone Number 01609 780826

Where the licence is time limited the dates

Licensable activities authorised by the licence

B. Films
C. Indoor sporting events
E. Live Music
F. Recorded music
G. Performance of dance
I. Provision of facilities - making music
J. Provision of facilities for dancing
L. Late night refreshment
M. Supply of alcohol

Times the licence authorises the carrying out of licensable activities

B. Films
Wednesday
09:00 - 00:00
B. Films
Thursday
10:00 - 01:30
B. Films
Friday
10:00 - 01:30
B. Films
Saturday
09:00 - 01:30
B. Films
Sunday
11:00 - 00:00
B. Films
Monday to Tuesday
10:00 - 00:00

Television sporting events of national or international interest outside normal opening hours
10:00 New Years Eve to end of permitted opening hours New Years Day

C. Indoor sporting events
Wednesday
09:00 - 00:00
C. Indoor sporting events
Thursday
10:00 - 01:30
C. Indoor sporting events
Friday
10:00 - 01:30
C. Indoor sporting events
Saturday
09:00 - 01:30
C. Indoor sporting events
Sunday
11:00 - 00:00
C. Indoor sporting events
Monday to Tuesday
10:00 - 00:00

Television sporting events of national or international interest outside normal opening hours
10:00 New Years Eve to end of permitted opening hours New Years Day
<table>
<thead>
<tr>
<th>Event Type</th>
<th>Day</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>E. Live Music</td>
<td>Wednesday</td>
<td>09:00 - 00:00</td>
</tr>
<tr>
<td>E. Live Music</td>
<td>Thursday</td>
<td>10:00 - 01:30</td>
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<tr>
<td>E. Live Music</td>
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<td>E. Live Music</td>
<td>Monday to Tuesday</td>
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Television sports events of national or international interest outside normal opening hours
10.00 New Years Eve to end of permitted opening hours New Years Day

<table>
<thead>
<tr>
<th>Event Type</th>
<th>Day</th>
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<tbody>
<tr>
<td>F. Recorded music</td>
<td>Wednesday</td>
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<tr>
<td>F. Recorded music</td>
<td>Thursday</td>
<td>10:00 - 01:30</td>
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<td>Monday to Tuesday</td>
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Television sports events of national or international interest outside normal opening hours
10.00 New Years Eve to end of permitted opening hours New Years Day

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<td>G. Performance of dance</td>
<td>Thursday</td>
<td>10:00 - 01:30</td>
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<td>11:00 - 00:00</td>
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Television sports events of national or international interest outside normal opening hours
10.00 New Years Eve to end of permitted opening hours New Years Day

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<thead>
<tr>
<th>Event Type</th>
<th>Day</th>
<th>Time</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Provision of facilities - making music</td>
<td>Wednesday</td>
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<tr>
<td>I. Provision of facilities - making music</td>
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<tr>
<td>I. Provision of facilities - making music</td>
<td>Monday to Tuesday</td>
<td>10:00 - 00:00</td>
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Television sports events of national or international interest outside normal opening hours
10.00 New Years Eve to end of permitted opening hours New Years Day

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<thead>
<tr>
<th>Event Type</th>
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<tr>
<td>J. Provision of facilities for dancing</td>
<td>Wednesday</td>
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<td>Thursday</td>
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<tr>
<td>J. Provision of facilities for dancing</td>
<td>Monday to Tuesday</td>
<td>10:00 - 00:00</td>
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Television sports events of national or international interest outside normal opening hours
10.00 New Years Eve to end of permitted opening hours New Years Day

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<thead>
<tr>
<th>Event Type</th>
<th>Day</th>
<th>Time</th>
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<tbody>
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<td>L. Late night refreshment</td>
<td>Sunday to Wednesday</td>
<td>23:00 - 00:00</td>
</tr>
<tr>
<td>L. Late night refreshment</td>
<td>Thursday to Saturday</td>
<td>23:00 - 01:30</td>
</tr>
</tbody>
</table>

Television sports events of national or international interest outside normal opening hours
10.00 New Years Eve to end of permitted opening hours New Years Day
M. Supply of alcohol       Wednesday       09:00 - 00:00
M. Supply of alcohol       Thursday       10:00 - 01:30
M. Supply of alcohol       Friday         10:00 - 01:30
M. Supply of alcohol       Saturday       09:00 - 01:30
M. Supply of alcohol       Sunday        11:00 - 00:00
M. Supply of alcohol       Monday to Tuesday 10:00 - 00:00

Television sporting events of national or international interest outside normal opening hours
10.00 New Year's Eve to end of permitted opening hours New Year's Day

The opening hours of the premises

Monday          10:00 - 00:30
Tuesday         10:00 - 00:30
Wednesday       09:00 - 00:30
Thursday        10:00 - 02:00
Friday          10:00 - 02:00
Saturday        09:00 - 02:00
Sunday          11:00 - 00:30

Non standard opening times:-
Television sporting events of national or international interest outside normal opening hours
10.00 New Year's Eve to end of permitted opening hours New Year's Day

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol may be supplied for consumption both on and off the Premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Marston's PLC
Marston's House
Wolverhampton
WV1 4JT

Registered number of holder, for example company number, charity number (where applicable)

Registered Business Number 31461
Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Ms Emma Maxwell
19 The Furlongs
Redcar
Cleveland
TS10 2EB

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence number: TO1V1019TH/4PER0826  Licensing Authority: Redcar & Cleveland
Annex 1 - Mandatory conditions

1 No supply of alcohol shall be made under the Premises Licence:
   (a) at any time when there is no designated Premises Supervisor in respect of the Premises Licence; or
   (b) at any time when the designated Premises Supervisor does not hold a Personal Licence or his / her
   Personal Licence is suspended.

2 Every supply of alcohol under the Premises Licence shall be made or authorised by a person who holds a
   Personal Licence.

3 Admission of children to the exhibition of any film shall be restricted in accordance with any
   recommendation made by the British Board of Film Classification in respect of that film.

4 (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do
   not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

   (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or
   substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for
   consumption on the premises in a manner which carries a significant risk of leading or contributing to
   crime and disorder, prejudice to public safety, public nuisance, or harm to children -

   (a) games or other activities which require or encourage, or are designed to require or encourage,
   individuals to -
   (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the
   premises before the cessation of the period in which the responsible person is authorised to sell or
   supply alcohol), or
   (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

   (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the
   public or to a group defined by a particular characteristic (other than any promotion or discount available
   to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 or the
   Act);

   (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the
   purchase and consumption of alcohol over a period of 24 hours or less;

   (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event,
   where that provision is dependent on -
   (i) the outcome of a race, competition or other event or process, or
   (ii) the likelihood of anything occurring or not occurring;

   (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of,
   the premises which can reasonably be considered to condone, encourage or glamorise anti-social
   behaviour or to refer to the effects of drunkenness in any favourable manner.

5 The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of
   another (other than where that other person is unable to drink without assistance by reason of a
   disability).

6 The responsible person shall ensure that free tap water is provided on request to customers where it is
   reasonably available.

7 (1) The premises licence holder or club premises certificate holder shall ensure that an age verification
   policy applies to the premises in relation to the sale or supply of alcohol.
(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

8 The responsible person shall ensure that -

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

(i) beer or cider: 1/2 pint;
(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.
Annex 2 - Conditions consistent with the Operating Schedule

Pool Conditions

1 Prominent, clear and legible notices shall be displayed at all exits to the Premises requesting the public to respect the needs of local residents and to leave the Premises and the area quietly.

Special Conditions

Maximum number of persons present at any one time 220 If tables and chairs are removed and used
Maximum number of persons present at any one time 146 Lounge / Bar

1 If Door Supervisors are to be used they shall be licensed by the Security Industry Authority. Door Supervisors shall be employed at the discretion of the Designated Premises Supervisor/Premises Licence Holder

2 Door Supervisors shall wear his/her name badge at all times whilst on duty

3 No customers carrying open bottles shall be admitted to the premises at any time the premises are open to the public

4 No drinks shall be allowed to be removed from the Premises in open containers except for the consumption in any external areas provided for that purpose

5 If the premises has a CCTV system operating with recording facilities the recordings shall be retained for a period of 30 days and made available to the Police upon their request

6 No noise or vibration shall emanate from the premises causing a nuisance to near by properties

7 No children under the age of 16 shall be permitted on the Premises after 21.00

8 The noise level emanating from the building shall not be more than 5dB(A) above the background level at LA90T at the external site boundaries of the neighbouring premises, measured as at LAeqT, when T=15 minutes and the meter must be set on fast response.

9 Non standard opening times:
   - Televised sporting events of national or international interest outside normal opening hours
   - 10.00 New Years Eve to end of permitted opening hours New Years Day

10 All regulated entertainment shall take place inside the building and doors and windows shall remain closed while the regulated entertainment is taking place and no noise from the entertainment shall be transmitted outside of the building on the premises
Annex 3 - Conditions attached after a hearing by the licensing authority

1. The noise level emanating from the building shall not be more than 5dB(A) above the background level at LA90T at the external site boundaries of the neighbouring premises, measured as at LAeqT, when T=15 minutes and the meter must be set on fast response.

2. All regulated entertainment shall take place inside the building and doors and windows shall remain closed while the regulated entertainment is taking place and no noise from the entertainment shall be transmitted outside of the building on the premises.
Annex - 4 Plans

None attached
Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

We Marston’s PLC being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises Licence Number
11 PREM 00725

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description
Durham Ox, 157 High Street,

<table>
<thead>
<tr>
<th>Post town</th>
<th>Post code</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northallerton</td>
<td>DL7 8JX</td>
</tr>
</tbody>
</table>

Telephone number of premises (if any) 01609 780836
Non-domestic rateable value of premises £45000

Part 2 – Applicant Details

Daytime contact telephone number c/o 0114 2668664

Email address (optional)

Current postal address if different from premises address
Marston’s House, Brewery Road, Wolverhampton, WV1 4JT

<table>
<thead>
<tr>
<th>Post Town</th>
<th>Postcode</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wolverhampton</td>
<td>WV1 4JT</td>
</tr>
</tbody>
</table>
Part 3 – Variation

Do you want the proposed variation to have effect as soon as possible?
Yes

If not do you want the variation to take effect from

Day
Month
Year

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

Please describe briefly the nature of the proposed variation (please read guidance note 1)
The premises has had the benefit of works undertaken to the exterior of the property and a review of the content of the Premises Licence has been undertaken. Application is therefore made to vary the Premises Licence as follows:-

1. Layout
Application is made to vary the Premises Licence as per drawing E0315/8145/0.1.Externally the former beer garden has been significantly enhanced so as to provide a new external area which will have the benefit of waitress service but also serve directly from the external bar servery which is to be manned at all times of operation. Fixed seating and landscaping has been installed. The area has been significantly enhanced and provides a new amenity for those persons frequenting the premises.

Application is made to license the external area in respect of retail sale of alcohol to the same hours as that currently granted under the Premises Licence.

Application is made to license the external area for late night refreshments to the same hours as under the Premises Licence.

Application is made to permit recorded music externally until 22:00 hours throughout the week.

Application is made to permit live music on four occasions per annum until 22:00 hours on the giving of seven days notice to the Police and Environmental Health Officer.

2. Conditions
A review of the conditions endorsed upon the Licence has been undertaken. It is proposed the following amendments are made.

- Special Conditions – occupancy. It is proposed that the conditions relating to the occupancy of the premises be removed and be replaced by the following condition:

  "The premises occupancy be determined by a fire risk assessment".

- That condition 10 be amended so as to read:

  "All regulated entertainment after 10 p.m. shall take place inside the building and doors and windows shall remain closed while regulated entertainment is taking place and no noise from the entertainment shall be transmitted outside the building of the premises."

- At Annex 3 condition 2 be removed as this duplicates with condition 10 set out above.

3. Hours of operation.
The opening hours of the premises are inconsistent throughout the week. It is therefore proposed that the premises should be permitted to open from 09:00 hours on all days so as to facilitate sales of coffees and breakfasts should this be required.

No application is made to bring forward the time for commencement of licensable activities.
Part 4 Operating Schedule

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

Provision of regulated entertainment

Please tick ✓ yes

a) Plays (if ticking yes, fill in box A)

b) Films (if ticking yes, fill in box B)

c) Indoor sporting events (if ticking yes, fill in box C)

d) Boxing or wrestling entertainment (if ticking yes, fill in box D)

e) Live music (if ticking yes, fill in box E)

f) Recorded music (if ticking yes, fill in box F)

g) Performances of dance (if ticking yes, fill in box G)

h) Anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

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

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

In all cases complete boxes K, L and M
### Plays

**Standard days and timings** (please read guidance note 6)

<table>
<thead>
<tr>
<th>Day</th>
<th>Start</th>
<th>Finish</th>
<th>Will the performance of a play take place indoors or outdoors or both – please tick {Y} (please read guidance note 2).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mon</td>
<td></td>
<td></td>
<td>Please give further details here (please read guidance note 3)</td>
</tr>
<tr>
<td>Tue</td>
<td></td>
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<tr>
<td>Wed</td>
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<td></td>
<td>State any seasonal variations for performing plays (please read guidance note 4)</td>
</tr>
<tr>
<td>Thur</td>
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<tr>
<td>Fri</td>
<td></td>
<td></td>
<td>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)</td>
</tr>
<tr>
<td>Sat</td>
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<tr>
<td>Sun</td>
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### Films

**Standard days and timings** (please read guidance note 6)

<table>
<thead>
<tr>
<th>Day</th>
<th>Start</th>
<th>Finish</th>
<th>Will the exhibition of films take place indoors or outdoors or both – please tick {Y} (please read guidance note 2).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mon</td>
<td>As</td>
<td>As</td>
<td>Please give further details here (please read guidance note 3)</td>
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<td>As</td>
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<td>As</td>
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</tr>
<tr>
<td>Sun</td>
<td>As</td>
<td>As</td>
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</tbody>
</table>
### Indoor sporting events

**Standard days and timings**

*please read guidance note 6*

<table>
<thead>
<tr>
<th>Day</th>
<th>Start</th>
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</tr>
</thead>
<tbody>
<tr>
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<td>As existing</td>
<td>As existing</td>
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<tr>
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*Please give further details* (please read guidance note 3)

*State any seasonal variations for indoor sporting events* (please read guidance note 4)

*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)

---

### Boxing or wrestling entertainment

**Standard days and timings**

*please read guidance note 6*

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*Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (Y)*

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*Please give further details here* (please read guidance note 3)

*State any seasonal variations for boxing or wrestling entertainment* (please read guidance note 4)

*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)
### Live music

**Standard days and timings**
(please read guidance note 6)

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**Will the performance of live music take place indoors or outdoors or both – please tick (Y) (please read guidance note 2).**

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**Please give further details here**
(please read guidance note 3)

**State any seasonal variations for the performance of live music**
(please read guidance note 4)

**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)

**Externally** – to be permitted four times per annum on the provision of 7 days notice to the Police and Environmental Health Officer until 22:00 hours.

### Recorded music

**Standard days and timings**
(please read guidance note 6)

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**Will the playing of recorded music take place indoors or outdoors or both – please tick (Y) (please read guidance note 2).**

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</table>

**Please give further details here**
(please read guidance note 3)

**State any seasonal variations for playing recorded music**
(please read guidance note 4)

**Non standard timings. Where you intend to use the premises for the playing of recorded music entertainment at different times to those listed in the column on the left, please list**
(please read guidance note 5)

**Externally** – to permit recorded music until 22:00 hours.
### Performances of dance

**Standard days and timings** (please read guidance note 6)

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**Will the performance of dance take place indoors or outdoors or both – please tick (Y)** (please read guidance note 2).

- Indoors: 
- Outdoors: 
- Both: 

**Please give further details here** (please read guidance note 3)

**State any seasonal variations for the performance of dance** (please read guidance note 4)

---

### Anything of a similar description to that falling within (e), (f) or (g)

**Standard days and timings** (please read guidance note 6)

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**Please give a description of the type of entertainment you will be providing**

**Will this entertainment take place indoors or outdoors or both – please tick (Y)** (please read guidance note 2).

- Indoors: 
- Outdoors: 
- Both: 

**Please give further details here** (please read guidance note 3)

**State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)** (please read guidance note 4)

**Non standard timings. Where you intend to use the premises for the entertainment of 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)
### Late night refreshment
Standard days and timings (please read guidance note 6)

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Will the provision of late night refreshment take place indoors or outdoors or both – please tick (Y) (please read guidance note 2).
- Indoors
- Outdoors
- Both **✓**

Please give further details here (please read guidance note 3)

State any seasonal variations for the provision of late night refreshment (please read guidance note 4)

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)

### Supply of alcohol
Standard days and timings (please read guidance note 6)

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Will the supply of alcohol be for consumption (Please tick box Y) (please read guidance note 7)
- On the premises
- Off the premises
- Both **✓**

State any seasonal variations for the supply of alcohol (please read guidance note 4)

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)

### 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)
**Hours premises are open to the public**
Standard days and timings (please read guidance note 6)

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**State any seasonal variation** (please read guidance note 4)

**Non standard timings. Where you intend to use 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)

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

**Special Condition - occupancy**
Annex 3 Condition 2 - duplicate

---

Please tick √ yes

I have enclosed the premises licence

I have enclosed the relevant part of the premises licence

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

Reasons why I have failed to enclose the premises licence or relevant part of premises licence
Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

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

A risk assessment has been undertaken with regard to the various elements of the application.

The works to the exterior have significantly enhanced the area and provide improved amenity which is supervised by the provision of additional CCTV cameras and waitress service and manning of the bar servery. Licensable activities to the external area have been considered and hours amended so as to minimise risk of public nuisance particularly in respect of recorded and live music.

Conditions – A review of the conditions have been undertaken so as to reflect the requirements under the fire regulations and need for fire risk assessment and so as to ensure enforceability of those conditions relating to regulated entertainment.

The proposed amendment sufficiently promotes the four licensing objectives.

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

No further conditions are offered.

**c) Public safety**

No further conditions are offered.

**d) The prevention of public nuisance**

No further conditions are offered.

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

No further conditions are offered.
I have made or enclosed payment of the fee

- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO 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 5 – Signatures  (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent. (Please read guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature: John Gaunt & Partners

Date: 23rd March 2015

Capacity: Solicitors

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) 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: John Gaunt & Partners

Date: ..............................................................

Capacity: Solicitors

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)

John Gaunt & Partners
Omega Court
372 Cemetery Road

Post town
Sheffield

Post code
S11 8FT

Telephone number (if any)
0114 256 8664

If you would prefer us to correspond with you by email your email address (optional)
mhazlewood@john-gaunt.co.uk
Notes for Guidance

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence you should make a new premises licence application under section 17 of the Licensing Act 2003.

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 state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
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, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. 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, 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, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.
Dear Sirs

Premises – Durham Ox, 157 High Street, Northallerton, DL7 8JX
Applicant – Marston’s PLC

We act for Marston’s PLC in particular their Retail Division and Emma Maxwell, the Designated Premises Supervisor of the Durham Ox.

Our clients have had the benefit of works to the exterior of the premises and in anticipation for the summer seek application to vary the Premises Licence so as to permit licensable activities outside. This has also given an opportunity to review the conditions upon the Licence and application is made to amend certain conditions.

On our client’s behalf, we enclose by way of service on you:-

1. Notice of Application for variation of the Premises Licence under Section 34 Licensing Act 2003.
2. Copy plan being Drawing No. E0315/8145/0.1 (two copies).
3. The original Premises Licence.
4. Our cheque in your favour in the sum of £315.00 being the fee payable.

Kindly acknowledge safe receipt.

We confirm that we have served copies of the enclosed application and supporting documents on the relevant authorities being the Police, Fire Authority, Local Enforcement of Health & Safety at Work, Environmental Health Authority, Planning Authority, the relevant authority for Protection of Children from Harm and Weights and Measures and the Health Authority.

Please take this letter and enclosures as service on you as Licensing Authority and as a Responsible Authority. If you require a further copy of the documentation, please advise by return.

In essence, our client seek to amend the following:-

1. To approve the inclusion of the external area as per drawing E0315/8145/0.1.
2. For the external area to be licensed in relation to retail sale of alcohol and late night refreshment to the same hours as that permitted pursuant to the Licence.
3. To allow externally recorded music and live music to be limited until 10 p.m. and in respect of live music on four occasions only per annum.
4. To remove a condition in respect of occupancy and replace by reference to the fire risk assessment.
5. To amend Annex 2 condition 10 to reflect use of the external area and remove Annex 3 condition 2 which is a duplicate condition.
6. Application is made to bring forward the opening hours to 09:00 hours throughout the week for the purpose of consistency.
7. Application is also made to correct the address of the Designated Premises Supervisor who resides at the premises and therefore the address should be Durham Ox, 102 High Street, Northallerton. DL7 8JX.

For the avoidance of doubt, all existing licensable activities extend to the internal areas outlined in red. External areas are sought to be licensed for retail sale of alcohol and late night refreshment to the same hours as the Licence with regulated entertainment being restricted as set out above.

Please note that the proposed licensing drawings filed with this application are derived from our client’s working drawings. Insofar as they contain information which is not prescribed under the relevant Regulations, this information should be taken as being illustrative only.

It is considered that the external works will significantly improve the premises and that the amendments to the conditions will promote the four licensing objectives. The Operating Statement has been completed on this basis.

Our client seeks the approval in anticipation of the forthcoming summer.

For completeness, we enclose a copy of our notice being displayed on site. According to our calculations, the consultation period is due to expire on 22nd April 2015. If you have any queries regarding this, please contact us upon receipt.

We should be grateful if you would forward to us any representations as soon as they are received to enable early consultation and discussion to take place.

Should you have any queries, please do not hesitate to telephone us. Please forward all correspondence to this office and quote our reference. In due course, please ensure that any licence issued is forwarded to us.

We thank you for your assistance and look forward to hearing from you.

Yours faithfully

Michelle Hazlewood
John Gaunt & Partners
Email: mhazlewood@john-gaunt.co.uk
Licensing Authority
Hambleton District Council
Civic Centre
Stone Cross
Northallerton
North Yorkshire
DL6 2UU

7th April 2015

Dear Sirs

I am writing to strongly object to the recent application by the Durham Ox Public House to play live and recorded music outside of their building.

My wife and I are residents of 14 Romanby Road our property is only a few feet away from the outside area of the Durham Ox. I am extremely concerned that the amplified music will result in a significant nuisance being created which will dramatically reduce our ability to enjoy our property.

Regrettably I have previously experienced unacceptable noise caused by music being played in the outside rear area at the Durham Ox. This most notably occurred during 2005/2006. The nuisance it caused at the that time, occasioned complaints to the council by myself and other residents. The outcome was the restrictions that are currently imposed upon the license of the Durham Ox relating to outside music.

I am satisfied that since the current restrictions were applied to the license, ensuring music is not permitted outside of the premises, to date no significant issues (as a result of music) have occurred.

However given the events of 2005/06, I have no hesitation in stating that should these changes be approved, the consequences for myself and other residents of the area would be significant. I am concerned that I would be subjected to further nuisance noise on a scale which would undeniably lead to unreasonable, unnecessary and wholly preventable distress and anguish being caused.

I note that the application proposes that music will not be played after 22.00 hours. Based on past experiences in 2005/06, I know that amplified music played outside at any time of day would prove to be a substantial annoyance. I believe that the proposed changes would adversely effect my ability to enjoy my property, particularly the outside areas. Furthermore I am also fearful that this development could lead to an increase in anti-social behaviour in the area.

Thank you for taking time to read this letter. I hope that the decision makers take into account my concerns in this matter and deny the application.

Yours faithfully

Mr & Mrs M. S. Brown
14 Romanby Road
Northallerton
North Yorkshire
DL7 8NB
8th April 2015

Dear Sir
We the under signed would like to object to the proposed application for a license for the Durham Ox to play recorded and live music in their outside area.

We feel this would encroach on our quality of life, all our homes are in close proximity of the Beer Garden and therefore would be affected by the noise.

14 Romanby Road

M. S. Brown
V. J. Brown

16 Romanby Road

Mr & Mrs J. R. Wilson

18 Romanby Road

Andrew Wake

Sara Jane Wake

20 Romanby Road

N. A. Hudson

Andrew Wake

22 Romanby Road

Thomas Hudson

24 Romanby Road

Gillian Stereck

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

We:

<table>
<thead>
<tr>
<th>North Yorkshire Police</th>
<th>x</th>
<th>Name: PC 1520 Samantha Bolland</th>
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<tbody>
<tr>
<td>Fire Authority</td>
<td>□</td>
<td>Name:</td>
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<td>Environmental Health</td>
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<td>Health &amp; Safety</td>
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<td>Interested Party</td>
<td>□</td>
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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: □

NOT PROTECTIVELY MARKED

HAMBLETON D.C. RECEIVED
14 APR 2015
LICENSING
vicinity of the premises:

Maritime Authority ☐ Name: .................................................................

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

<table>
<thead>
<tr>
<th>Postal Address of premises or club premises:</th>
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<tbody>
<tr>
<td>Durham Ox</td>
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<tr>
<td>157 High Street</td>
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<tr>
<td>Northallerton</td>
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</table>

| Post town Northallerton | Post code (if known) DL7 8JX |

This Notice of Objection relates to the following licensing objective:

(Please tick one or more boxes)

1) the prevention of crime and disorder ☒
2) public safety
3) prevention of Public Nuisance
4) the protection of children from harm

**GROUND FOR RELEVANT REPRESENTATION**

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

In principle North Yorkshire Police supports the grant of this variation however we ask that the CCTV condition offered is amended to one outlined below for the purpose of clarity and enforcement.
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)*

The wording of the current condition offered by the applicant is vague and the police would find it difficult to enforce.

North Yorkshire Police would withdraw its representation if the applicant was agreeable to the following change.

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

**Current condition:**

"If the premise has a CCTV system operating with recording facilities the recordings shall be retained for a period of 30 days and made available to the Police upon their request"

**Replace with:**

1. A colour digital CCTV system will be operational at the premises at all times when licensable activities are being carried out and at any other times where members of the public are present on the premises.

2. The CCTV system shall contain the correct time and date stamp information.

3. The CCTV system will cover all areas of the premises occupied by the public, as outlined on the Premises Plan.
4. The CCTV system must be capable of providing quality images of good evidential value. The CCTV system will have sufficient storage retention capacity for a minimum of 28 days continuous footage.

6. The data controller, under the data protection act 1998, who is responsible for any CCTV images captured on cameras on the premises will, on the lawful request of an authorised officer or an officer of North Yorkshire Police, cause any required footage to be downloaded immediately, or where this is not possible, as soon as reasonably practicable, and supplied to the requesting officer. Where the CCTV images are not supplied at the time of the request being made the data controller will ensure that they are secured to prevent any overwriting.

7. The CCTV system will be adequately maintained and be capable of transporting recorded material onto a removable media. The CCTV system replay software must allow an authorised officer or an officer of North Yorkshire Police to search the picture footage effectively and see all the information contained in the picture footage for the purposes of detecting, investigating and preventing crime. It must be possible to replay exported files immediately e.g. no indexing of files or verification checks.

8. No device shall be permitted that could in any way adversely affect or impede the quality of the images recorded by the CCTV system, e.g. smoke or dry ice machines.
Signature:  
Date: ................14/04/2015  

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<th>Contact Name and address for correspondence:</th>
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<tbody>
<tr>
<td>PC 1520 Samantha Bolland</td>
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<tr>
<td>Alcohol Licensing Unit</td>
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<tr>
<td>Police Station</td>
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<tr>
<td>Fulford Road</td>
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<td>North Yorkshire</td>
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<th>If you would prefer us to correspond with you using an e mail address your e mail address:</th>
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<tr>
<td><a href="mailto:Samantha.bolland@northyorkshire.pnn.police.uk">Samantha.bolland@northyorkshire.pnn.police.uk</a></td>
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On behalf of Northallerton Town Council I have been asked to submit our objection to the above variation on the following grounds:

1. Considering the residents have previous history of issues with the licence for music outside, resulting in the current restrictions I believe that it is only proper to respect their concerns and object to the variation.

2. On grounds of excessive noise in a location close to residential development, must follow the comments of those who leave within earshot.

3. Fully support the residents in objecting to the application to play music outside the premises.

4. Cannot see any reason as to why they want to play music outside the premises and would agree with the residents on this point. To our knowledge there are no more public houses that do so in the vicinity.

5. This variation is to the detriment of people living in the area and object to any variation to the licence.

The Town Council wish to see this application refused.

Kay Lambert
Assistant Clerk
Northallerton Town Council

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) Natasha Hudson and Thomas Hudson

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

Durham Ox Pub,
Northallerton

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 Thomas Hudson, 22 Romanby Road, Northallerton, DL7 8NB

Daytime contact telephone number

E-mail address (optional)
(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g. Body or Business)

Name and Address

Telephone Number (If any)

E-Mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION

Name and Address

Telephone Number (If any)

E-Mail address (optional)

This representation relates to the following licensing objective(s)

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

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

The prevention of public nuisance:

- We believe that the factors of public nuisance that these proposals will increase are: (noise, light pollution, litter, general anti social behaviour)
- The pub is situated within very close proximity (over the road) to our row of terraced houses so outside noise of people being in the beer garden and exiting the pub are at a high level already without the introduction of music externally and added noise from having a bar outside. People can use the beer garden till midnight and we already find this is an issue with the level of noise that can be produced on some evenings.
- We have a problem with litter and sometimes glass bottles in our garden and do not want this to get worse with an outside bar/additional people being outside due to music.
- With regards to the live music proposal 4 times a year externally we have real issue with and concern with the noise levels this will produce and even when there is live music indoors (assuming they are following requirements to keep doors and windows shut, which they do not always) this can be heard very clearly in our properties. Unsure of what sound proofing and noise limiting devices they are using for live music indoors or what they are proposing for external entertainment but the building is an old one and was not designed to contain modern levels of sound and amplification so even with the doors closed this is still heard in our properties.
- Concern it could affect the value of the properties in the street if the noise levels and public
nuisance prevents interest in the properties

- We already find as the night progresses with more alcohol consumed and people coming outside to smoke/sit, conversation levels rise and go on usually until midnight which to us has an impact on our evenings. We feel an outside bar and waitress service would worsen this and encourages people to remain outside rather than just coming to smoke and increases the noise levels over a sustained period

- Current levels of noise can be heard from the beer garden in our properties, even with windows closed and we are unable to sleep with windows open in the summer due to current levels of noise on some evenings – bedrooms at the front of the house reach 26 degrees

- Not sure how much signage is outside asking customers to be mindful of nearby properties and also staff encouraging this policy

- We have a small child and concern with increased noise this could have on bedtime/sleeping as we find the noise disruptive during the summer months when the beer garden is used more frequently and by larger groups of people. Sometimes earplugs are used as a measure to reduce the noise levels currently and also turning the television up which in turn could have an impact on our neighbours which we do not want.

- Concern and worry that we will not be able to enjoy peace and quiet in our own home and our quality of life in terms of our home and property will be impacted upon and are directly linked to these proposals if they are implemented

- We have wanted to complain on many previous occasions about the levels of noise from indoor music, noise from the beer garden etc but we were worried to as we didn’t want to feel we were ‘causing a nuisance’

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

**Live Music indoors** – recently on the Easter Bank Holiday Sunday the live band playing indoors had amplified music that could be heard in our property (with windows closed). This has happened on other occasions throughout the year (dates can be provided if required)

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

If Yes, please state the date of that representation

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<th>Day</th>
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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.

<table>
<thead>
<tr>
<th>Signature</th>
<th>Thomas Hudson</th>
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<tbody>
<tr>
<td></td>
<td>Natasha Hudson</td>
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| Date        | 09/04/2015 | 09/04/2015 |

Capacity

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

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<th>Post Town</th>
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<th>E-mail Address (optional)</th>
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### Notes for Guidance

1. The ground(s) for representation must be based on one of the licensing objectives.
2. Please list any additional information or details (e.g. dates of problems which are included in the grounds for representation if applicable).
3. The representation form must be signed.
4. A representative’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address, which we shall use to correspond with you about this representation.
6. Information on the Licensing Act 2003 is available at [www.hambleton.gov.uk](http://www.hambleton.gov.uk) and you are advised to read any relevant guidance leaflets before completing this form.

Please return this form by post to:

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

Or by email to:

licensingteam@hambleton.gov.uk
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.
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. 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

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\(^6\) 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.

58 | Revised Guidance issued under section 182 of the Licensing Act 2003
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.