

## **HAMBLETON DISTRICT COUNCIL**

**Report To:** Licensing and Appeals Hearings Panel  
26 April 2018

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

**Subject:** **APPLICATION FOR THE GRANT OF A PREMISES LICENCE  
UNIT 4, THE ARCADE, HIGH STREET, GREAT AYTON**

Great Ayton Ward

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### **1.0 SUMMARY**

1.1 This report asks the Panel to consider an application for the grant of a premises licence in respect of Unit 4, The Arcade, High Street, Great Ayton.

### **2.0 PROCEDURE**

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

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

3.1 The application for the grant of a premises licence was received by the Licensing Team on 8<sup>th</sup> March 2018 and is attached at **Annex A** along with a plan of the premises.

3.2 In addition to the statutory responsible authorities, the application was forwarded to Great Ayton Parish Council and the District Councillors for the Great Ayton Ward.

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

3.4 Initially, the application sought to authorise the sale of alcohol and the provision of regulated entertainment (live and recorded music). However, on 22<sup>nd</sup> March 2018, the applicant sent an email to the council's Licensing Team to withdraw the entertainment from the scope of his application. The email is attached at **Annex B**.

3.5 In summary, the application now seeks to authorise the sale of alcohol for consumption on and off the premises between the hours of 12pm and 11pm every day. The proposed opening hours are 8am to 11.30pm each day

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

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

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

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

### **5.0 REPRESENTATIONS**

5.1 North Yorkshire Police have made representations against the application and these are attached at **Annex C**. No relevant representations have been made by any of the other responsible authorities.

5.2 Eight relevant representations have been made by 'other persons' and these are attached at **Annex D** to **Annex K**.

5.3 The representations make reference to the potential adverse effects on the public safety, public nuisance and crime and disorder objectives caused by:

- Anti-social behaviour
- Youths congregating
- Litter
- Noise levels
- Parking issues

5.4 Members should note that live and recorded music between the hours of 8am and 11pm does not require authorisation where it is:

- in the presence of an audience of no more than 500 people music; and
- on premises authorised to sell alcohol for consumption on the premises

## **6.0 POLICY CONSIDERATIONS**

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

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

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

6.3 Chapters 8 and 9 of the Home Office Guidance issued in April 2017 under section 182 of the Licensing Act 2003 are attached at **Annex M**.

## **7.0 DETERMINATION BY THE PANEL**

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

7.2 The steps are:-

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

7.3 If the Panel decides to grant the licence, any mandatory conditions listed in paragraph 5.20.2 of the council's policy (see Annex L) must be imposed except where the activity to which the condition relates is not authorised by the licence.

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

**Author ref:** SF

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



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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

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

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

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

**Part 1 – Premises Details**

Postal address of premises or, if none, ordnance survey map reference or description	
UNIT 4 THE ARCADE, HIGH STREET GREAT AYTON	
Post town	Post code
MIDDLESBROUGH	TS9 6BW

Telephone number of premises (if any)	N.A
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Non domestic rateable value of premises	£ NOT KNOWN £8,100 B.
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**Part 2 – Applicant Details**

Please state whether you are applying for a premises licence as:

- Please tick as appropriate
- a) an individual or individuals\*  please complete section (A)
  - b) a person other than an individual\*
    - i. as a limited company/limited liability partnership  please complete section (B)
    - ii. as a partnership (other than limited liability)  please complete section (B)
    - iii. as an unincorporated association or  please complete section (B)
    - iv. other (for example a statutory corporation)  please complete section (B)
  - c) a recognised club  please complete section (B)
  - d) a charity  please complete section (B)



**SECOND INDIVIDUAL APPLICANT** (if applicable)

Mr  Mrs  Miss  Ms  Other title (for example, Rev) \_\_\_\_\_

Surname

First names

Please tick yes

Date of Birth

I am 18 years old or over

Nationality

Current residential address if different from premises address

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

**(B) OTHER APPLICANTS**

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

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

**Part 3 Operating Schedule**

When do you want the premises licence to start?

Day	Month	Year
01	05	2018

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

Day	Month	Year

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

CONVERSION OF SHOP UNIT TO A MICRO PUB/BAR - FOCUS ON CASK + CRAFT BEERS ON + OFF SALES - OPTION FOR CUSTOMERS TO TAKE PRODUCTS HOME.

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

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

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

Please tick  yes

**Provision of regulated entertainment**

- 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) performance of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

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

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

In all cases complete boxes K, L and M

# A

Plays Standard days and timings (please read guidance note 7)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)		
Tue					
Wed			State any seasonal variations for performing play (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

# B

Films Standard days and timings (please read guidance note 7)			Will the exhibition of a films take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)		
Tue					
Wed			State any seasonal variations for the exhibition of films (please read guidance note 5)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat					
Sun					

## C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 7)			Please give further details (please read guidance note 4)
<b>Day</b>	<b>Start</b>	<b>Finish</b>	
Mon			State any seasonal variations for indoor sporting events (please read guidance note 5)
Tue			
Wed			
Thur			
			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list. (please read guidance note 6)
Fri			
Sat			
Sun			

## D

<b>Boxing or wrestling entertainment</b> Standard days and timings (please read guidance note 7)			Will the boxing or wrestling entertainment take place Indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>		Both	<input type="checkbox"/>
Mon			Please give further details here (please read guidance note 4)		
Tue			State any seasonal variations for the boxing or wrestling entertainment (please read guidance note 5)		
Wed					
Thur					
Fri					
Sat					
Sun					

# E

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	12-00	23-00	Please give further details here (please read guidance note 4) <b>UNAMPLIFIED + AMPLIFIED PERFORMANCE</b>	Both	<input type="checkbox"/>
Tue	12-00	23-00			
Wed	12-00	23-00	State any seasonal variations for the performance of live music (please read guidance note 5)		
Thur	12-00	23-00			
Fri	12-00	23-00	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 6)		
Sat	12-00	23-00			
Sun	12-00	23-00			

# F

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	12-00	23-00	Please give further details here (please read guidance note 4) <b>BACKGROUND MUSIC</b>	Both	<input type="checkbox"/>
Tue	12-00	23-00			
Wed	12-00	23-00	State any seasonal variations for the playing of recorded music (please read guidance note 5)		
Thur	12-00	23-00			
Fri	12-00	23-00	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list. (please read guidance note 6)		
Sat	12-00	23-00			
Sun	12-00	23-00			

Removed from application by applicant 220318 - See attached *let*

## G

<b>Performance of dance</b> Standard days and timings (please read guidance note 7)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
<b>Day</b>	<b>Start</b>	<b>Finish</b>	Please give further details here (please read guidance note 4)					
Mon								
Tue								
Wed						State any seasonal variations for the performance of dance (please read guidance note 5)		
Thur								
Fri						Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list. (please read guidance note 6)		
Sat								
Sun								

## H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 7)			<b>Please give a description of the type of entertainment you will be providing</b>					
			Will the entertainment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
<b>Day</b>	<b>Start</b>	<b>Finish</b>	Please give further details here (please read guidance note 4)					
Mon								
Tue								
Wed						State any seasonal variations for the entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 5)		
Thur								
Fri						Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list. (please read guidance note 6)		
Sat								
Sun								

I

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place <b>indoors or outdoors</b> or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 4)		
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 5)		
Thur					
Fri			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 6)		
Sat					
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption on or off the premises or both – please tick (please read guidance note 8)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon	12-00	23-00	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Tue	12-00	23-00			
Wed	12-00	23-00	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 6)		
Thur	12-00	23-00			
Fri	12-00	23-00			
Sat	12-00	23-00			
Sun	12-00	23-00			

State the name and details of the individual whom you wish to specify on the licence as the designated premises supervisor (please see declaration about the entitlement to work in the checklist at the end of the form)

Name JONATHAN BLACKMORE

Address 166 OXFORD RD  
MIDDLES BROUGH

Postcode TS55EJ

Personal licence number (if known) MBRO/PL0265/019480

Issuing licensing authority (if known) MIDDLES BROUGH COUNCIL

**K**

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9)

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	08-00	23-30	Non standard timings. Where you intend to open the premises to be open to the public at different times from those listed in the column on the left, please list. (please read guidance note 6)
Tue	08-00	23-30	
Wed	08-00	23-30	
Thur	08-00	23-30	
Fri	08-00	23-30	
Sat	08-00	23-30	
Sun	08-00	23-30	

## M

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

a) General - all four licensing objectives (b, c, d, e) (please read guidance note 10)

RISK ASSESSMENTS TO BE COMPLETED.  
REGULAR RELEVANT STAFF TRAINING TO BE UNDERTAKEN.  
NO VALUE / CHEAP DRINKS PROMOTIONS TO BE RUN.

b) The prevention of crime and disorder

NO DRINKS TO BE REMOVED FROM THE PREMISES IN OPEN CONTAINERS SAVE FOR CONSUMPTION IN ANY EXTERNAL AREA PROVIDED FOR THAT PURPOSE.  
ALL STAFF TO BE TRAINED WITHIN THE RELEVANT AREAS.

c) Public safety

TO COMPLY REASONABLY WITH ALL STATUTORY AUTHORITIES REQUIREMENTS.

d) The prevention of public nuisance

CLEAR + LEGIBLE NOTICES TO BE DISPLAYED AT EXITS REQUESTING THE PUBLIC RESPECT THE NEEDS OF LOCAL RESIDENTS AND TO LEAVE THE PREMISES AND AREA QUIETLY.  
NOISE SHALL NOT EMANATE FROM THE PREMISES SO AS TO CAUSE A NUISANCE TO NEARBY PROPERTIES.  
DOORS + WINDOWS TO REMAIN SHUT DURING LIVE ENTERTAINMENT

e) The protection of children from harm

CHILDREN UNDER THE AGE OF 16 SHALL NOT BE PERMITTED TO ENTER THE PREMISES AFTER 9 PM.

**Checklist**

Please tick to indicate agreement

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

Applicable to all individual applicants, including those in partnership which is not a limited liability partnership, but not companies or limited liability partnerships

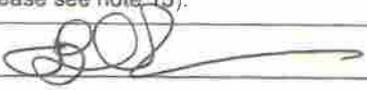
- I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15)

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

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

**Part 4 – Signatures** (please read guidance note 11)

**Signature of applicant or applicant's solicitor or other duty authorised agent.** (See guidance note 12). If signing on behalf of the applicant please state in what capacity.

Declaration	<p>Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership</p> <ul style="list-style-type: none"> <li>• I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</li> <li>• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her proof of entitlement to work, if appropriate (please see note 15).</li> </ul>
Signature	
Date	8 <sup>TH</sup> MARCH 2018
Capacity	PROSPECTIVE BUSINESS OWNER.

**For joint applications signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent.** (please read guidance note 13). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 14)

JONATHAN BLACKMORE  
166 OXFORD RD.

Post town MIDDLESBROUGH | Post code TS55EJ.

Telephone number (if any) 07824536 080

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)

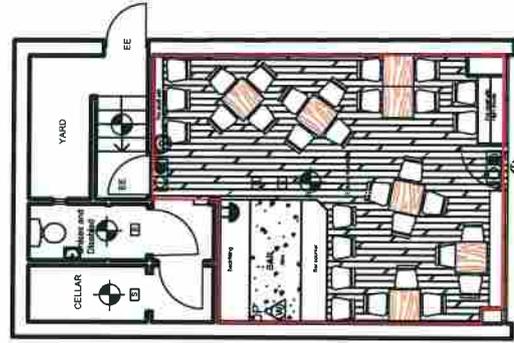
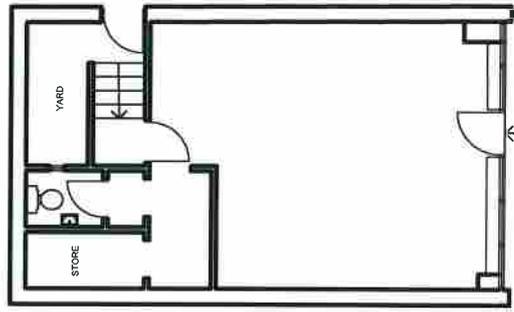
jbdiscs@gmail.com.

#### 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. In terms of specific regulated entertainments please note that:
  - Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
  - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
  - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
  - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
  - Live music: no licence permission is required for:
    - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
    - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
    - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

This drawing has been prepared for information only, and all dimensions must be checked prior to commencement of any works.

Rev.	Date	Init.	Description



- Areas to be covered by emergency lighting.
- Illuminated emergency exit sign.
- PB Push bar type door homogeneity to emergency exit doors.
- A AFFF type fire extinguisher.
- DP Dry powder type fire extinguisher.
- Break glass fire alarm call point.
- Licensed Area
- Heat detector
- Smoke detector
- Water extinguisher
- Sounder

**pm&sm**  
 Planning & Design, Licensed Trade Specialists  
 Regus House  
 4 Admiral Way  
 Bosford Business Pk  
 Sunderland  
 SIE 3RW



Client  
**Mr J Blackmore**  
 Job Title  
**Great Ayton**

Drawing Title  
**Existing and Proposed Plan  
 Licensing**

Status  
**Preliminary**

Scale	Date	Drawn by	Drg. No.	Rev.
1:100	06.02.18	AP	1434.01	

Copyright



**Anita Huntsman**

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**From:** Jonathan Blackmore <jbdiscs@gmail.com>  
**Sent:** 22 March 2018 13:54  
**To:** Licensing Team  
**Subject:** Unit 4, High Street, Great Ayton  
  
**Importance:** High

Good Afternoon Anita

After some deliberation we have decided to remove the following provisions on the licence application:

E - Live Music

F - Recorded Music

Please advise if we are OK to do this at this time during the consultation? If so please proceed.

Many Thanks

Jon Blackmore



Notice of Objection relates to the following licensing objective:

- (Please tick one or more boxes)*
- |  |          |
|--|----------|
| 1) <b>the prevention of crime and disorder</b> | <b>X</b> |
| 2) public safety                               |          |
| 3) <b>prevention of Public Nuisance</b>        | <b>X</b> |
| 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:

This application relates to a new premises license for a Micro Bar and the Retail sale of alcohol operating from 1200hrs to 2300hrs daily.

On 26<sup>th</sup> March 2018, North Yorkshire Police liaised with the applicant, to discuss the content of the application and the operating schedule.

North Yorkshire police seek to ensure that the "Proposed" conditions in the operating schedule submitted by the applicant are amended to ensure that they adhere to the principles as outlined in paragraph 1.16 of the Section 182 Guidance.

If the applicant is agreeable to the suggested amendments North Yorkshire Police would formally withdraw its representation.

**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 premises subject to this application is one of four retail units located on a pedestrian arcade, directly accessed from High Street, Great Ayton. The property is located in the centre of the village and has a number of neighbouring properties, including The Co-operative, Ayton fish and chip shop, as well as various takeaways, and independent retailers. Parking bays are located on the High Street in front of the Arcade, which can be used by members of the public, and customers of local businesses.

The nearest residential property is approximately 25 metres away. The location has been identified as an ASB Hotspot, by the Police, where youths gather, are verbally abusive to persons in the vicinity, play loud music, loiter, climb on vehicles, buildings and throw items including fireworks. The Neighbourhood Police team for the area has worked with the local community to address the issues and are concerned that the addition of a Licensed Premises in the vicinity without robust and enforceable conditions will result in further incidents of disorder and ASB.

The effective management of licensed premises is important in terms of mitigating the potential for public nuisance and crime or disorder by persons attending the premises and the Police would seek the following conditions, to ensure those licensing objectives are promoted.

**Suggested Conditions (in additional to those specified within the proposed operating schedule)**

1. A colour CCTV system shall be maintained and operated at the premises. The CCTV coverage will include the external smoking area. The system shall continually record whilst the premises are open and conducting licensable activities and where members of the public are present on the premises. All recordings shall be stored for a minimum period of 28 days and shall be capable of being easily downloaded. The CCTV equipment shall have constant time/date generation which must be checked on a daily basis for accuracy. Recordings shall be made available upon receipt of a request by an authorised officer of the police or local authority.

2. A documented staff training programme shall be provided to all members of staff at the premises in respect of the:-

- operation of the CCTV system (including the downloading of evidence);
- retail sale of alcohol;
- age verification policy;
- conditions attached to the Premises Licence;
- permitted licensable activities;
- the licensing objectives; and
- opening times for the venue.

with such records being kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in the log book and runs from the date of that particular entry];

3. A Refusal Register and an Incident Report Register shall be maintained at the premises. Such registers will record incidents of staff refusals to under age or drunk people as well as incidents of any anti-social behaviour and ejections from the premises. Such Registers shall be kept for a minimum of one year. [For the avoidance of doubt, the one year period relates to each respective entry in a Register and runs from the date of that particular entry in the Register].

4. The premises shall become a member of the local Pubwatch scheme. The applicant (or someone on his behalf) shall attend all Pubwatch meetings, unless exceptionally prevented from doing so by unexpected circumstances, for eg illness.

5. No open drinking vessels or bottles shall be taken out of the licensed premises onto the pavement or highway.

*(The applicant has offered that no drinks to be removed from the premises in open containers save for consumption in any external area. Whilst consumption is not a licensable activity by ensuring that patrons of the premises cannot purchase drinks in open vessels to drink outside, this condition promotes the licensing objective regarding public nuisance in an area already subject to ASB)*

6. All sales of alcohol for consumption off the premises shall be in sealed containers only and shall not be consumed on the premises.

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

8. The premises will operate a Challenge 25 policy.

9. No persons under the age of 18 are allowed on the premises after 21:00hrs.

10. There will be no adult entertainment at the premises.

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

Signature:



Date: 28<sup>th</sup> March 2018

**Contact Name and address for correspondence:**

**Sgt 133 Jacqueline Booth (Force Licensing Manager)  
Alcohol Licensing Unit  
York Police Station  
Fulford Road**

**Post town: York**

**Post code : YO10 4BY**

**Telephone number (if any) dial 101**

**If you would prefer us to correspond with you using an e mail address your e mail address:**

**Jacqueline.booth@northyorkshire.pnn.police.uk**

**From:** publicaccess@hambleton.gov.uk  
**Sent:** 17 March 2018 18:33  
**To:** Licensing Team  
**Subject:** Comments for Licensing Application 18\_PREM\_00170

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

Comments were submitted at 6:32 PM on 17 Mar 2018 from Mr Raymond Vamplew.

### Application Summary

**Address:** 4 The Arcade High Street Great Ayton North Yorkshire  
TS9 6BW

**Proposal:** Premise Licence

**Case Officer:** Mrs Anita Huntsman

[Click for further information](#)

### Customer Details

**Name:** Mr Raymond Vamplew

**Email:**

**Address:** 2 Park Rise, Great Ayton, North Yorkshire TS9 6ND

### Comments Details

**Commenter Type:** Neighbour observations

**Stance:** Customer objects to the Licensing Application

**Reasons for comment:**

**Comments:** 6:32 PM on 17 Mar 2018 We have lived in Park Rise for 42 years and there has always been a history of vandalism and nuisance caused by people loitering around the arcade area. Alcohol has often been the cause of the trouble but I believe there has also been problems with drugs in the area which could be confirmed with the police. The library car park is a magnet for young people from the larger Middlesbrough area to congregate especially during the summer months. A micropub would increase the attraction. The property is too small to have adequate toilets - the public toilets are not available after 5 pm. It is also too small to seat many people who would end up outside. The arcade is a small area and the clientele would also use the library car park for drinking. Live or recorded music outside until 11 pm would be unacceptable so close to the residents of Park Rise, Rosehill and the High Green. I object to this Application.

Ref 18/0032/FUL

4, Park Rise

Re Licensing Act 2003.

Great Ayton  
TS96ND  
20/3/18

Dear Sir,

Further to our previous letter re application for a Micro-pub at  
4 The Arcade Great Ayton we wish to make further comments.

At the time we were not aware that in addition to selling Alcohol (when we already have two pubs plus the Co-op selling Alcohol ) there is to be Live and Recorded music.

We do not agree to the licence being changed to serve Alcohol in the premises and have no wish to suffer Live and Recorded music within the area which due to the topography of the site sound acts like a parabolic Reflector sending sound up to the houses within the area. We are all to aware of this when cars park in the area to collect a Take-a-Way and leave the radio playing..

Therefore we repeat we are against agreeing to an Alcohol licence in the above premises.

Yours faithfully

Copy to Great Ayton Parish Council

HAMBLETON D.C.			
REC'D 21 MAR 2018			
PES	RES	CX	
			ACK

**From:** publicaccess@hambleton.gov.uk  
**Sent:** 12 March 2018 10:11  
**To:** Licensing Team  
**Subject:** Comments for Licensing Application 18\_PREM\_00170

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

Comments were submitted at 10:10 AM on 12 Mar 2018 from Mrs pamela mary hudson.

### Application Summary

**Address:** 4 The Arcade High Street Great Ayton North Yorkshire  
TS9 6BW

**Proposal:** Premise Licence

**Case Officer:** Mrs Anita Huntsman

[Click for further information](#)

### Customer Details

**Name:** Mrs pamela mary hudson

**Email:**

**Address:** 8 Park Square, Great Ayton, North Yorkshire TS9 6BP

### Comments Details

**Commenter Type:** Member of the public

**Stance:** Customer objects to the Licensing Application

**Reasons for comment:**

**Comments:** 10:10 AM on 12 Mar 2018 Although the address of this venture is 4 High Street, the actual position is at the rear of the "Arcade". It's position is on Park Rise ( leading onto Park Square) which has 12/13 residential properties all within close enough proximity to hear the "live" music late at night. The houses at the rear of these properties (on Rosehill estate), because of their height above the venue, will be similarly vulnerable. The residents are mainly elderly people who will be disturbed by the closing time of 11 p.m.. There is also the disturbance that will be caused by late night revellers leaving the premises. Local residents have suffered many years of unacceptable behaviour from youths congregating in this same area in the Arcade with foul language, late night noise, broken bottles, drugs needles, and cans littering the area. I think that if you check with the police, their register of calls to 101 for Great Ayton will have a majority mentioning the Arcade.

**From:** publicaccess@hambleton.gov.uk  
**Sent:** 11 March 2018 00:49  
**To:** Licensing Team  
**Subject:** Comments for Licensing Application 18\_PREM\_00170

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

Comments were submitted at 12:49 AM on 11 Mar 2018 from Mrs pamela mary hudson.

## Application Summary

**Address:** 4 The Arcade High Street Great Ayton North Yorkshire  
TS9 6BW

**Proposal:** Premise Licence

**Case Officer:** Mrs Anita Huntsman

[Click for further information](#)

## Customer Details

**Name:** Mrs pamela mary hudson

**Email:**

**Address:** 8 Park Square, Great Ayton, North Yorkshire TS9 6BP

## Comments Details

**Commenter Type:** Member of the public

**Stance:** Customer objects to the Licensing Application

**Reasons for comment:**

**Comments:** 12:49 AM on 11 Mar 2018 Although the address of this venture is shown as 4 High St. Great Ayton, the actual position is at the rear of the "Arcade". It's position is on Park Rise (leading to Park Square) which has 12 residential properties all within close enough proximity to be disturbed by the live music going on till 11p.m. (whether the premises windows are open or closed). The houses at the rear of those properties (on Rosehill Estate), because of their height above the venue will be even more vulnerable. The residents are mainly elderly people who will be disturbed by the closing time of 11pm. There will also be the disturbance caused by late night "revellers" leaving the premises (whatever the denials of the applicants that this would "never" happen!).

HAMBLETON D.C.		
REC'D 19 MAR 2018		
PES	RES	CX
		ACK

Park House  
Rosehill,  
Great Ayton  
N Yorks  
TS9 6BH

16/03/2018

### **Objection to Licensing Applications for Unit 4, The Arcade, High Street, Great Ayton, TS9 6BW**

We are writing to express our complete and strenuous opposition to the applications for the sale of alcohol and for the playing of live and recorded music at the proposed "micro-pub" in the Arcade, Great Ayton.

Before proceeding with the details of our objection, we would like to express our dismay that we were not consulted directly about these applications, and that we were left to find out about them through a notice posted on the building. While our house has a Rosehill postal address, our house is to all extents and purposes located on Park Rise and is only some 40 yards from the proposed development.

We cannot imagine a worse use of this building than that which is being facilitated by these licensing applications. Our objections are on two grounds.

Firstly, we believe that successful licensing applications would attract more youngsters and young adults to this area on an even more frequent basis than currently experienced, and that this would consequently lead to an increase in crime, disorder and general anti-social behaviour in the evenings. The building in question is situated in the rear part of "The Arcade", on a paved area and between two parking areas. While there is a significant level of foot and car traffic up and down Park Rise (and through the Arcade) in the day time, this is not the case in the evening. The fact that this area is hidden from the view of evening passers-by on the High Street makes it a frequent focus for disorder and anti-social behaviour – probably the worst such place in this peaceful village. Only this last week there has been a spate of fireworks being let off at 10:30 in the evening (by the sound of it, in the bins). Previously, bins have been set on fire or rolled out into Park Rise, there are frequent spells when groups of young adults hang out around cars playing loud music and, generally, people behave much more anti-socially than they ever would do in a more "public" place (for example, climbing across the roofs of the backs of the shops or chasing each other while screaming at the tops of their voices, as well as littering the area).

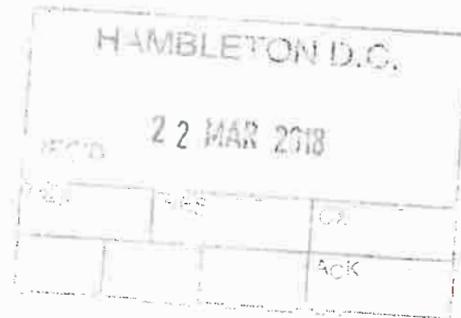
Secondly, we believe that successful licensing applications would lead to a significant increase in public nuisance, which in turn would have a significant detrimental impact on the residential amenity of neighbouring properties. We would like to emphasise that the proposed micro-pub is directly on the edge of a residential area consisting of Park Rise and the end of Rosehill. The detrimental impact will, we believe, arise from both the increased anti-social behaviour described above and also from noise generated by those using the proposed micro-pub and by those leaving it late at night. Great Ayton is an extremely quiet village, and noise travels far, especially in the evenings when there is virtually no background noise from traffic. This is especially true in places like the Arcade and Park Rise where it is

reflected off the sides of buildings. The consumption of alcohol will inevitably lead to more noisy behaviour by a number of people, both in the pub and leaving the pub. We are also concerned that the sound of recorded music will become a nightly problem for us, and that live music (which is invariably far louder than what is usually "background" recorded music) will be a frequent, major disturbance. Either would represent a completely unacceptable impact on our quality of life. Also, the building appears to be of a somewhat flimsy modern construction, so we are concerned that its acoustic absorption capability is extremely limited, especially as the front of the building is mostly single glazed glass. Finally, the building has a single main room with a front door that opens directly out onto the paved area. It seems inevitable that this door will be open a lot, either because of smokers standing outside the door or as people pop backwards and forwards to the adjacent kebab seller.

In summary, we are convinced that, if granted, these applications will lead to an increase in disorder and anti-social activity, and will create a public nuisance that has an adverse effect on the residential amenity of adjacent properties.

Dr Neill Burgess and Tina Burgess

6 Park Rise  
Great Ayton  
Middlesbrough  
TS9 6ND  
16<sup>th</sup> March 2018



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

**Re: Objection to Licensing for Unit 4, The Arcade, High Street, Great Ayton, TS9 6BW**

**Applicant : Jonathan Blackmore**

We write to object to the application for the sale of alcohol and for the playing of live and recorded music at the proposed micro-pub in the former premises of Watkins Wright (formerly The Cut Club) in The Arcade, Great Ayton.

There is an on-going problem in this area with groups of youths and young adults congregating with resultant anti-social behaviour such as shouting, swearing, vandalism of nearby buildings, litter, inconsiderate noise from vehicles and trespass. The police regularly have to attend as they would confirm. The addition of alcohol being available to them would exacerbate this problem.

A successful licensing application would lead to a significant increase in public nuisance resulting in a loss of residential amenity for neighbouring properties. The proposed micro-pub is on the edge of a residential area comprising Park Rise, Rosehill and the High Street. As well as an increase in anti-social behaviour there would be an increase in noise generated within the pub and by customers entering and leaving. The live and recorded music would

create an intolerable level of noise late into the evening, especially as the building is of poor quality with no acoustic insulation. Plus, any noise produced would be amplified by surrounding hard surfaces of surrounding buildings and reflected to residential properties at the rear.

Both the increase in noise and greater levels of anti-social behaviour would have an unacceptable impact on our quality of life. Considered along with the public nuisance aspect of this application there would be a substantial impact on the residential amenity of surrounding properties.

Yours faithfully

M.S. Crombie

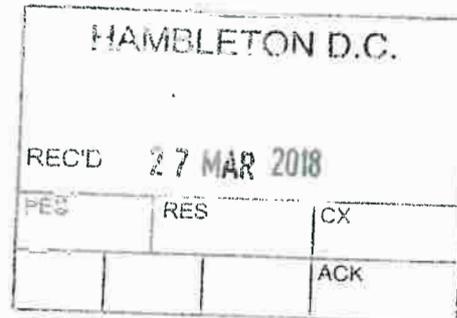
7 Park Rise

Great Ayton

Middlesbrough

TS9 6ND

16<sup>th</sup> March 2018



Licensing Section

Hambleton District Council

Civic Centre

Stone Cross

Northallerton

DL6 2UU

**Re: Objection to Licensing for Unit 4, The Arcade, High Street, Great Ayton, TS9 6BW**

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create an intolerable level of noise late into the evening, especially as the building is of poor quality with no acoustic insulation. Plus, any noise produced would be amplified by surrounding hard surfaces of surrounding buildings and reflected to residential properties at the rear.

Both the increase in noise and greater levels of anti-social behaviour would have an unacceptable impact on our quality of life. Considered along with the public nuisance aspect of this application there would be a substantial impact on the residential amenity of surrounding properties.

Yours faithfully

M. Crombie

Matthew & Nicola Cooper  
 5 Park Rise  
 Great Ayton  
 TS9 6ND

26<sup>th</sup> March 2018

Dear Sirs,

Ref: 18\_PREM\_00170

HAMBLETON D.C.		
REC'D 27 MAR 2018		
PES	RES	CX
		ACK

I am writing to register my objection to the application for a premises license by J Blackmore for 4 The Arcade, High Street, Great Ayton, North Yorkshire TS9 6BW. The basis for this opposition is that granting a license for these premises will not promote the licensing objectives, particularly the prevention of crime, disorder and antisocial behaviour.

The application proposes that alcohol will be sold for consumption off the premises between 12noon and 11.00pm, seven days a week. Granting a license within an area where crime, disorder and public nuisance have already reached problem levels for the local police I feel would be irresponsible. To which I will also add the Police at present are under resourced to deal with current issues.

Residents in this area already suffer noise nuisance and antisocial behaviour at all hours of the day and night. This is mainly juveniles and adults hanging around the pizza shop eating food, talking loud and the frequent coming and going of cars with music blasting out of the windows. So adding another group of people who will be intoxicated and wanting food is only going to add fuel to the fire. There will also be noise disturbance from customers coming and going from the premises and from those who will inevitably be congregating outside of the building to smoke. I also fear that with the number of juveniles who hang around the area in question at night that they could also be exposed to risks from intoxicated adults.

Car parking is also an issue in the area already and a licensed premises will lead to increased cars in the vicinity as well as people leaving cars overnight, which will further add to the current parking problems. This will make it difficult for residents and delivery vans to navigate up and down the street and may even cause people to be blocked in.

The entrance to our property is less than 10m to the building. Park Rise is a loop road off the street where no one should really have the need to go unless visiting residents or making deliveries to the local business's. The area is poorly lit and there are lots of dark corners and entrances to private property, and therefore strongly believe that the introduction of licensed premises in this part of the village will leave the immediate residents exposed to crime, nuisance and antisocial behaviour. It is also felt that this proposal will adversely impact on the mental wellbeing of local residents.

In view of the above, I would urge the Licensing Authority to refuse the application.

Yours faithfully,

Matthew & Nicola Cooper

Gordon Simpson  
Ayton Barber Shop  
3 The Arcade, High St  
Great Ayton  
Middlesbrough  
TS9 6BW



22-03-2018

**Re: Alcohol licences and live & recorded music, 4 The Arcade, High Street, Great Ayton TS9 6BW**

Dear Sir,

I am writing regarding the proposed licences for the above property which I understand is to be a micro pub, I am renting the premises right next door and although I welcome footfall I am concerned that the proposed premises might have groups of men smoking and drinking outside directly in front of my business,

As the majority of my customers are pensioners and families I object to the proposal unless there are some restrictions on drinking outside and loud music played during normal working hours.

Kind Regards

Gordon Simpson

# **PART 5: PREMISES LICENCES**

## **5.1 INTRODUCTION**

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

5.1.2 Railway vehicles and aircraft engaged on journeys are exempted from the requirement to have an authorisation to carry on licensable activities (although a magistrates' court can make an order to prohibit the sale of alcohol on a railway vehicle if this is appropriate to prevent disorder). Stationary aircraft and railway carriages used as restaurants and bars are subject to the provisions of the 2003 Act.

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

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

5.2.2 An applicant for a premises licence must be:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **5.12 PLANS OF PREMISES**

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

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

## **5.13 OPERATING SCHEDULE**

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

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

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

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

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

5.13.2 While applicants are not required to seek the views of responsible authorities before formally submitting an application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application.

## **5.14 SUBMITTING APPLICATIONS**

5.14.1 Applications may be submitted:

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

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

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

## **5.15 DETERMINING UNCONTESTED APPLICATIONS**

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

## **5.16 REPRESENTATIONS**

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

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

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

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

## **5.17 HEARINGS**

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

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

5.17.3 The procedure for hearings is attached at Annex C.

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

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

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

## **5.19 APPEALS**

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

## **5.20 CONDITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **5.21 PLANNING PERMISSION**

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

## **5.22 CUMULATIVE IMPACT**

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

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

## 8. Applications for premises licences

### Relevant licensing authority

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

### Authorised persons

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

### Responsible authorities

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

the premises is situated;

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

8.8 The licensing authority should indicate in its statement of licensing policy which body it recognises to be competent to advise it on the protection of children from harm. This may be the local authority social services department, the Local Safeguarding Children Board or another competent body. This is important as applications for premises licences have to be copied to the responsible authorities in order for them to make any representations they think are relevant.

8.9 In relation to a vessel, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed, or any waters where it is proposed to be navigated when being used for licensable activities; the Environment Agency; the Canal and River Trust; and the Secretary of State (who in practice acts through the Maritime and Coastguard Agency (MCA)). In practice, the Environment Agency and the Canal and River Trust only have responsibility in relation to vessels on waters for which they are the navigation statutory authority.

8.10 The MCA is the lead responsible authority for public safety, including fire safety, affecting passenger ships (those carrying more than 12 passengers) wherever they operate and small commercial vessels (carrying no more than 12 passengers) which go to sea. The safety regime for passenger ships is enforced under the Merchant Shipping Acts by the MCA which operates certification schemes for these vessels. Fire and rescue authorities, the Health and Safety Executive and local authority health and safety inspectors should normally be able to make "nil" returns in relation to such vessels and rely on the MCA to make any appropriate representations in respect of this licensing objective.

8.11 Merchant Shipping legislation does not, however, apply to permanently moored vessels. So, for example, restaurant ships moored on the Thames Embankment, with permanent shore connections should be considered by the other responsible authorities concerned with public safety, including fire safety. Vessels carrying no more than 12 passengers which do not go to sea are not subject to MCA survey and certification, but may be licensed by the local port or navigation authority.

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

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

## Other persons

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

## Who can apply for a premises licence?

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

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

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

## **Application forms**

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

## **Electronic applications**

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Written applications**

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

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

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

- 8.31 If the application is being made by an individual the application should be accompanied by acceptable evidence of entitlement to work in the UK, as set out in the application form (see paragraph 4.8).
- 8.32 If the application is being made in respect of a community premises, it may be accompanied by the form of application to apply the alternative licence condition.
- 8.33 Guidance on completing premises licence, club premises certificate and minor variation forms can be found on the GOV.UK website. The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 contain provision about the prescribed form of applications, operating schedules and plans and are published on the [legislation.gov.uk](http://legislation.gov.uk) website.

## Plans

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

## Entitlement to work in the UK

- 8.35 Individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. From 6 April 2017 licensing authorities must be satisfied that an individual who applies for a premises licence is entitled to work in the UK. This includes applications made by more than one individual applicant. An application made by an individual without the entitlement to work in the UK must be rejected. This applies to applications which include the sale of alcohol and the provisions of late night refreshment, but does not include applications which apply to regulated entertainment only. For example, a person applying for a licence for a music venue who does not intend to sell alcohol or late night refreshment is not prohibited from applying for a licence on grounds of immigration status. However, they will commit a criminal offence if they work illegally.
- 8.36 The documents which may be relied on in support of an application demonstrating an entitlement to work in the UK are the same as for personal licence applicants see paragraph 4.8. Where there is sufficient evidence that the applicant is not resident in the UK there is no requirement that the applicant have an entitlement to work in the UK.
- 8.37 Where an applicant’s permission to work in the UK is time-limited the licensing authority may issue a premises licence for an indefinite period, but the licence will become invalid

when the immigration permission expires. The individual's entitlement to work in the UK may be extended or made permanent by the Home Office, and granting the licence for an indefinite period prevents the licensee from having to re-apply for a new licence. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as a curtailment or revocation), any licence issued on or after 6 April 2017 which authorises the sale of alcohol or provision of late night refreshment will automatically lapse. As with personal licences, the licensing authority is under no duty to carry out on going immigration checks to see whether a licence holder's permission to be in the UK has been brought to an end. For further details on entitlement to work see paragraphs 4.8 to 4.18.

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

- 8.38 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.
- 8.39 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:
- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
  - any risk posed to the local area by the applicants' proposed licensable activities; and
  - any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
- 8.40 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.
- 8.41 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

- 8.42 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:
- the Crime Mapping website;
  - Neighbourhood Statistics websites;
  - websites or publications by local responsible authorities;
  - websites or publications by local voluntary schemes and initiatives; and
  - on-line mapping tools.
- 8.43 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.
- 8.44 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.
- 8.45 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.
- 8.46 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

## **Variations**

### **Introduction**

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

### **Simplified processes**

- 8.48 There are simplified processes for making applications, or notifying changes, in the following cases:
- a change of the name or address of someone named in the licence (section 33);

- an application to vary the licence to specify a new individual as the designated premises supervisor (DPS) (section 37);
- a request to be removed as the designated premises supervisor (section 41);
- an application by a licence holder in relation to community premises authorised to sell alcohol to remove the usual mandatory conditions set out in sections 19(2) and 19(3) of the 2003 Act concerning the supervision of alcohol sales by a personal licence holder and the need for a DPS who holds a personal licence (sections 25A and 41D); and
- an application for minor variation of a premises licence (sections 41A to 41C) or club premises certificate (sections 86A to 86C).

8.49 If an application to specify a new DPS or to remove the mandatory conditions concerning the supervision of alcohol sales is made electronically via GOV.UK or the licensing authority's own electronic facility, the authority must notify the police no later than the first working day after the application is given.

8.50 Where a simplified process requires the applicant (if they are not also the personal licence holder) to copy the application to the licence holder for information, this will apply regardless of whether the application is made in writing or electronically. Otherwise the general guidance set out above (paragraphs 8.21 to 8.28) on electronic applications applies.

### **Minor variations process**

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

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

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

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

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

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

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

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

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

## **Licensing hours**

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

## **Licensing conditions**

### **a) Imposed conditions**

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

### **b) Volunteered conditions**

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

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

- 8.69 However, there may be some circumstances when the minor variation process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, there

may be no need for door supervision if a bar has been converted into a restaurant. Equally some embedded conditions may no longer apply.

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

## **Full variations process**

- 8.71 Any other changes to the licence or certificate require an application to vary under sections 34 or 84 of the 2003 Act.
- 8.72 Licensing authorities may wish to consider whether there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an application to vary in relation to features which are not required to be shown on the plan under section 17 of the 2003 Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes).
- 8.73 However, it should be noted that a section 34 application cannot be used to vary a licence so as to:
- extend a time limited licence;
  - transfer the licence from one holder to another; or
  - transfer the licence from one premises to another.
- 8.74 If an applicant wishes to make these types of changes to the premises licence, the applicant should make a new premises licence application under section 17 of the 2003 Act; or, to transfer the licence to another holder, an application under section 42 of the 2003 Act.

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

- 8.75 It should normally be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year – such as bank holidays and St. George's or St. Patrick's Day – and to include appropriate opening hours in their operating schedules. Similarly, temporary event notices should be sufficient to cover other events which take place at premises that do not have a premises licence or club certificate.
- 8.76 However, exceptional events of local, national or international significance may arise which could not have been anticipated when the application was first made. In these circumstances, the Secretary of State may make a licensing hours order to allow premises to open for specified, generally extended, hours on these special occasions. This avoids the need for large numbers of applications to vary premises licences and

club premises certificates. Typical events might include a one-off local festival or a Royal Jubilee.

## Advertising applications

- 8.77 The requirements governing the advertisement of applications for the grant, variation or review of premises licences and club premises certificates are contained in the regulations made under the 2003 Act which are published on the Government's legislation website.
- 8.78 Applicants are required to:
- publish a notice in a local newspaper or, if there is none, in a local newsletter, circular or similar document circulating in the area in which the premises are situated; and
  - display a brief summary of the application on an A4 size notice immediately on or outside the premises.
- 8.79 As prescribed in regulations, licensing authorities must also place a notice on their website outlining key details of the application as set out in regulations, including:
- the name of the applicant or club;
  - the postal address of the premises or club premises;
  - the postal address and, where applicable, the internet address where the relevant licensing authority's register is kept and where and when the record of the application may be inspected;
  - the date by which representations from responsible authorities or other persons should be received and how these representations should be made; and
  - that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.
- 8.80 The summary of the application should set out matters such as the proposed licensable activities and the proposed hours of opening and should be clearly displayed for the period during which representations may be made, together with information about where the details of the application may be viewed.
- 8.81 Licensing authorities in Wales should consider encouraging applicants to provide details in the alternative language (Welsh or English) to that of the main advertisement itself where the application may be viewed. Therefore, if an applicant publishes a notice in English they should be encouraged to provide a statement in Welsh as to where the application may be viewed, and vice versa. This would allow the reader of the notice to make enquiries to the licensing authority and find out the nature of the application.
- 8.82 Licensing authorities in Wales are also required to publish key information from licence applications in Welsh on their websites.
- 8.83 In the case of applications for premises licences involving internet or mail order sales, notices should be conspicuously displayed at the place where the alcohol is appropriated to the contract.
- 8.84 A vessel which is not permanently moored or berthed is treated as if it were a premises situated in a place where it is usually moored or berthed. The newspaper advertisement notice for such a vessel would need to be in relation to this place (where it is usually

moored or berthed) and there is no provision requiring such advertising in other areas, for instance, if the vessel journeys through other licensing authority areas.

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

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

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

## **Provisional statements**

- 8.87 Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities, investors may be unwilling to commit funds unless they have some assurance that a premises licence covering the desired licensable activities would be granted for the premises when the building work is completed.
- 8.88 The 2003 Act does not define the words “otherwise altered”, but the alteration must relate to the purpose of being used for one or more licensable activities.
- 8.89 Any person falling within section 16 of the 2003 Act can apply for a premises licence before new premises are constructed, extended or changed. This would be possible where clear plans of the proposed structure exist and the applicant is in a position to complete an operating schedule including details of:
- the activities to take place there;
  - the time at which such activities will take place;
  - the proposed hours of opening;
  - where the applicant wishes the licence to have effect for a limited period, that period;
  - the steps to be taken to promote the licensing objectives; and
  - where the sale of alcohol is involved, whether supplies are proposed to be for consumption on or off the premises (or both) and the name of the designated premises supervisor the applicant wishes to specify.
- 8.90 In such cases, the licensing authority would include in the licence the date upon which it would come into effect. A provisional statement will normally only be required when the information described above is not available.
- 8.91 The 2003 Act therefore provides for a person, if an individual aged 18 or over, who has an interest in the premises to apply for a “provisional statement”. This will not be time limited, but the longer the delay before an application for a premises licence is made, the more likely it is that there will be material changes and that the licensing authority

will accept representations. “Person” in this context includes a business.

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

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

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

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

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

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

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

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

## **Transfers of premises licences**

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

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

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

## **Interim authorities**

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

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

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

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

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

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

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

# 9. Determining applications

## General

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

## Where no representations are made

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

## Where representations are made

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

## Relevant, vexatious and frivolous representations

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

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

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

## **The role of responsible authorities**

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

## Representations from the police

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

## Licensing authorities acting as responsible authorities

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

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

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

9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. For example, the licensing

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<sup>5</sup> Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) took place on 15th November 2012. PCCs are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.

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

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

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

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

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<sup>6</sup> This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

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

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

## Home Office Immigration Enforcement acting as a responsible authority

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

## Disclosure of personal details of persons making representations

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

## Hearings

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

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

- 9.34 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.35 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.
- 9.36 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
  - the representations (including supporting information) presented by all the parties;
  - this Guidance;
  - its own statement of licensing policy.
- 9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule.

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

9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

9.41 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

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

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

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

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