

Hambleton District Council

Report To: Licensing and Appeals Hearings Panel

From: Director of Law and Governance (Monitoring Officer)

Date: 5 January 2021

Subject: **Application for the Variation of a Premises Licence
Three Tuns Inn, 9 South End, Osmotherley, DL6 3BN**

Portfolio Holder: Governance
Councillor Mrs I Sanderson

Wards Affected: Osmotherley and Swainby Ward

1.0 Summary

1.1 This report asks the Panel to consider an application for the variation of a premises licence in respect of Three Tuns Inn, 9 South End, Osmotherley

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 On 9 November 2021, Hambleton District Council received an application for the variation of the premises licence granted for Three Tuns Inn, Osmotherley.

3.2 The existing licence authorises the sale of alcohol 11.00am until 11.00pm Monday to Saturday and from 12.00 noon until 10.30pm and late night refreshment from 11pm until 11.30pm Monday to Saturday. A copy of the licence is attached at **Annex A.**

3.3 The application sought to modify the hours for the sale of alcohol to 10.00am until 1.30am every day. The application also sought to authorise the provision of various forms of regulated entertainment 10.00am until 1.30am every day and late night refreshment from 11.00pm until 1.30am. A copy of the application is attached at **Annex B.**

3.4 The application also sought a change to the internal plan attached to the premises licence and a copy of this plan is attached at **Annex C.**

3.5 The application was subsequently forwarded to all statutory responsible authorities along with Osmotherley Parish Council and the District Councillor for Osmotherley & Swainby Ward.

3.6 Applicants are required to publish a notice in a local newspaper and to display a brief summary of the application on an A4 size notice in a prominent position immediately on or outside the premises for at least 28 consecutive days. A record of the application was also published on the Council's website and the full application was made available for inspection at the Council offices.

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 94 relevant representations have been made by interested parties. Copies of the representations are attached at **Annex D (circulated separately)**. The representations express concerns relating to all four licensing objectives.

5.2 No representations have been submitted by any responsible authority. However, the applicant has reached an agreement with North Yorkshire Police and the Council's Environmental Health Service in terms of the additional steps that will be taken in order to promote the licensing objectives. Copies of these agreements are attached at **Annex E** and **Annex F**.

5.3 On 6 December 2021, the applicant contacted the licensing team to withdraw all forms or regulated entertainment from the scope of his application in order to alleviate the concerns of the interested parties. The email is attached at **Annex G**.

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 H**.

6.3 Chapters 8 and 9 of the Home Office Guidance issued in April 2018 under section 182 of the Licensing Act 2003 are attached at **Annex I**.

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

Gary Nelson
Director of Law and Governance

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

Author ref: AH

Contact: Anita Huntsman
Senior Licensing Officer
Direct Line No: (01609) 767109

HAMBLETON DISTRICT COUNCIL

Licensing Act 2003

Premises Licence

Premises Licence Number

05_PREMC_00963

Part 1 Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Postcode

Three Tuns Hotel
9 South End
Osmotherley
Northallerton
North Yorkshire
DL6 3BN

Telephone Number

Where the licence is time limited the dates

-

Licensable activities authorised by the licence

Late night refreshment
Sale of alcohol

Times the licence authorises the carrying out of licensable activities

Late night refreshment	Monday to Saturday	23:00 - 23:30
Sale of alcohol	Sunday	12:00 - 10:30
	Monday to Saturday	11:00 - 23:00
	Christmas Day	12:00 - 15:00
	Christmas Day	19:00 - 22:30
	Good Friday	12:00 - 10:30

New Year's Eve on a Sunday - 12 noon to 10.30pm.

New Year's Eve Monday to Saturday - from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

The opening hours of the premises

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

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

Part 2

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

Ashley Stephen Gavin
7 West End
Osmotherley
Northallerton
North Yorkshire
DL6 3AG
Emailashley-gavin@outlook.com

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

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

Monika Natalia Matyjasek
15 Newsam Crescent
Eaglescliffe
Stockton On Tees
TS16 0EB

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

Personal Licence number: SBC145173
Licensing Authority: Stockton on Tees Borough Council

Annex 1 - Mandatory conditions

1. For the purposes of the following condition, "security activity" means an activity to which paragraph 2(1)(a) of Schedule 2 to the Private Security Industry Act 2001 applies, and which is licensable conduct as defined by section 3(2) of that Act.

If the premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a "security activity", each individual required to carry out such an activity on the premises must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of the Act.
2. If the licence authorises the exhibition of film, the admission of children to any such exhibition shall be restricted in accordance with:
 - (a) the classification of the film by the person or persons designated as the authority under section 4 of the Video Recordings Act 1984, or
 - (b) a notice given by the Licensing Authority under section 20(3) of the Licensing Act 2003.

Access shall not be considered restricted unless the premises or parts thereof are wholly enclosed from neighbouring areas (including external parts) and access can only be gained by means of one or more discrete point(s) of entry.

3. No supply of alcohol shall be made under the Premises Licence:-
 - (a) at any time when there is no designated Premises Supervisor in respect of the Premises Licence; or
 - (b) at any time when the designated Premises Supervisor does not hold a Personal Licence or his / her Personal Licence is suspended.
4. Every supply of alcohol under the Premises Licence shall be made or authorised by a person who holds a Personal Licence.
5. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

An irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
6. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
7. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-

- (a) a holographic mark, or
 - (b) an ultraviolet feature.
8. The responsible person shall ensure that -
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider: 1/2 pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
9. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of this condition:-

- (a) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where:
 - (i) P is the permitted price;
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol; and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:
 - (i) the holder of the premises licence;
 - (ii) the designated premises supervisor (if any) in respect of such a licence; or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price would not be a whole number of pennies, the price shall be rounded up to the nearest penny.

Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the Operating Schedule

1. Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means those hours specified in part 1 of this licence but subject to the conditions below.

The above restrictions do not prohibit:-

(a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(b) the sale of supply to, or consumption by, any person residing in the licensed premises or the taking of alcohol from the premises by a person residing there;

(c) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(d) the sale of alcohol to a trader or club for the purposes of the trade or club;

(e) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

(f) the taking of alcohol from the premises by a person residing there; or

(g) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense,

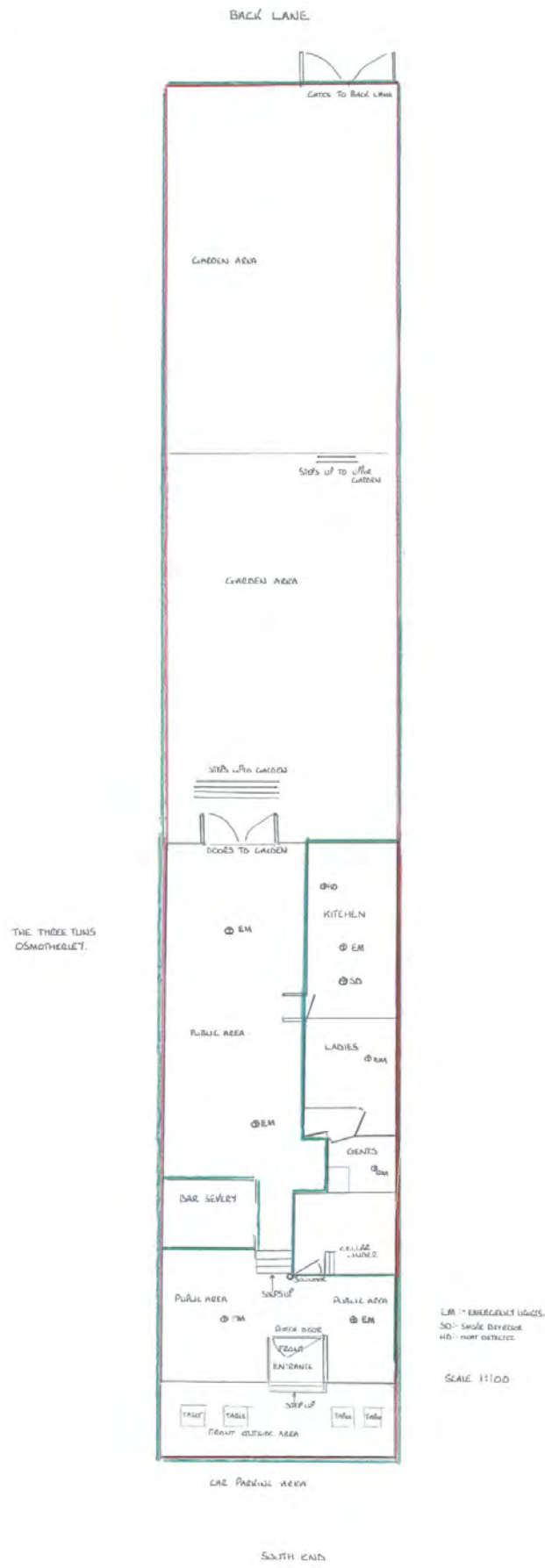
or the consumption of alcohol by persons so supplied; or

(h) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Annex 3 - Conditions attached after a hearing by the licensing authority

None

Annex - 4 Plans



Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You must send the application to the licensing authority (by email to licensingteam@hambleton.gov.uk 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).

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

I/We Ashley Gavin (insert name(s) of applicant)
being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises licence number	05_PREMC_00963
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Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description 9 SOUTH END OSMOTHERLEY DL6 3BN

Post town OSMOTHERLEY	Post code DL6 3BN
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Telephone number of premises (if any)	01609883301
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Non domestic rateable value of premises	£ 22000
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Part 2 – Applicant Details

Daytime contact telephone number	01609883301
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Email address (optional)	
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Current postal address if different from premises address	
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Post Town		Postcode	
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Part 3 - Variation

Please tick as appropriate

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

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

Day		Month		Year			

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1) Yes No

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

Change of opening times
Sunday 10:00 till Midnight
Monday to Saturday 10:00 till 01:00
Christmas Day 10:00 till 00:00
Good Friday 10:00 till 01:00
New Years Eve 10:00 till 02:00
Also the right to dance and perform live and recorded music
We would also like to extend the Bar Area (see accompanying drawing)

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

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Part 4 - Operating Schedule

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

Please tick all that apply

Provision of regulated entertainment

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

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

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

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish			
Mon			Please give further details here (please read guidance note 5)		
Tue					
Wed			State any seasonal variations for performing play (please read guidance note 6)		
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 7)		
Sat					
Sun					

B

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

C

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

D

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

E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	X
Day	Start	Finish		Outdoors	
Mon	10:00	01:30		Both	
Tue	10:00	01:30	Please give further details here (please read guidance note 5)		
Wed	10:00	01:30		State any seasonal variations for the performance of live music (please read guidance note 6)	
Thur	10:00	01:30			
Fri	10:00	01:30		Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list. (Please read guidance note 7)	
Sat	10:00	01:30			
Sun	10:00	01:30			

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	X
Day	Start	Finish		Outdoors	
Mon	10:00	01:30		Both	
Tue	10:00	01:30	Please give further details here (please read guidance note 5)		
Wed	10:00	01:30		State any seasonal variations for the playing of recorded music (please read guidance note 6)	
Thur	10:00	01:30			
Fri	10:00	01:30		Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list. (please read guidance note 7)	
Sat	10:00	01:30			
Sun	10:00	01:30			

G

Performance of dance Standard days and timings (please read guidance note 8)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	X
				Outdoors	
				Both	
Day	Start	Finish	Please give further details here (please read guidance note 5)		
Mon	10:00	01:30			
Tue	10:00	01:30	State any seasonal variations for the performance of dance (please read guidance note 6)		
Wed	10:00	01:30			
Thur	10:00	01:30	Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list. (please read guidance note 7)		
Fri	10:00	01:30			
Sat	10:00	01:30			
Sun	10:00	01:30			

H

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

I

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors							
				Outdoors							
				Both	X						
Day	Start	Finish	Please give further details here (please read guidance note 5)								
Mon	10:00	01:30									
Tue	10:00	01:30									
Wed	10:00	01:30				State any seasonal variations for the provision of late night refreshment (please read guidance note 6)					
Thur	10:00	01:30									
Fri	10:00	01:30				Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list. (please read guidance note 7)					
Sat	10:00	01:30									
Sun	10:00	01:30									

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 9)	On the premises																
				Off the premises																
				Both	x															
Day	Start	Finish	State any seasonal variations for providing dancing facilities (please read guidance note 6)																	
Mon	10:00	01:30																		
Tue	10:00	01:30																		
Wed	10:00	01:30																		
Thur	10:00	01:30				Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list. (please read guidance note 7)														
Fri	10:00	01:30																		
Sat	10:00	01:30																		
Sun	10:00	01:30																		

K

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

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6) Non standard timings. Where you intend to open the premises to be open to the public at different times from those listed in the column on the left, please list. (please read guidance note 7)
Day	Start	Finish	
Mon	10.00	01.30	
Tue	10.00	01.30	
Wed	10.00	01.30	
Thur	10.00	01.30	
Fri	10.00	01.30	
Sat	10.00	01.30	
Sun	10.00	01.30	

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

N/A

Please tick ✓ yes

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

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

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

M

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

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

Comply with local and UK licensing authority guidelines & regulations
Comply with local Policing requirements

b) The prevention of crime and disorder

A - CCTV
B - Signage "Noise on leaving premises after 22.00hrs"
C - Monitoring general public external seated areas noise levels
D - No external music
E - Those suspect of excessive alcohol content refused further alcohol

c) Public safety

See attached Health & Safety
assessment 9360/21/PH

d) The prevention of public nuisance

Covered in section "b"
Covered in building H&S
assessment 9360/21/PH

e) The protection of children from harm

Covered in building H&S
assessment 9360/21/PH

- | | | |
|--|---------------|--------------------------|
| | Please tick ✓ | Yes |
| • I have made or enclosed payment of the fee, or | | <input type="checkbox"/> |
| • I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy | | <input type="checkbox"/> |
| • I have sent copies of this application and the plan to responsible authorities and others where applicable | | <input type="checkbox"/> |
| • I understand that I must now advertise my application | | <input type="checkbox"/> |
| • I have enclosed the premises licence or relevant part of it or explanation | | <input type="checkbox"/> |
| • I understand that if I do not comply with the above requirements my application will be rejected | | <input type="checkbox"/> |

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

Part 5 – Signatures (please read guidance note 12)

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

Signature Ashley Gavin - (Electronic Signature)

Date 8th November 2021

Capacity - Licensee/Proprietor

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

Signature

Date

Capacity

Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)	
Contact Applicant Three Tunns Osmotherley DL6 3BN	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional) ashley_gavin@outlook.com	

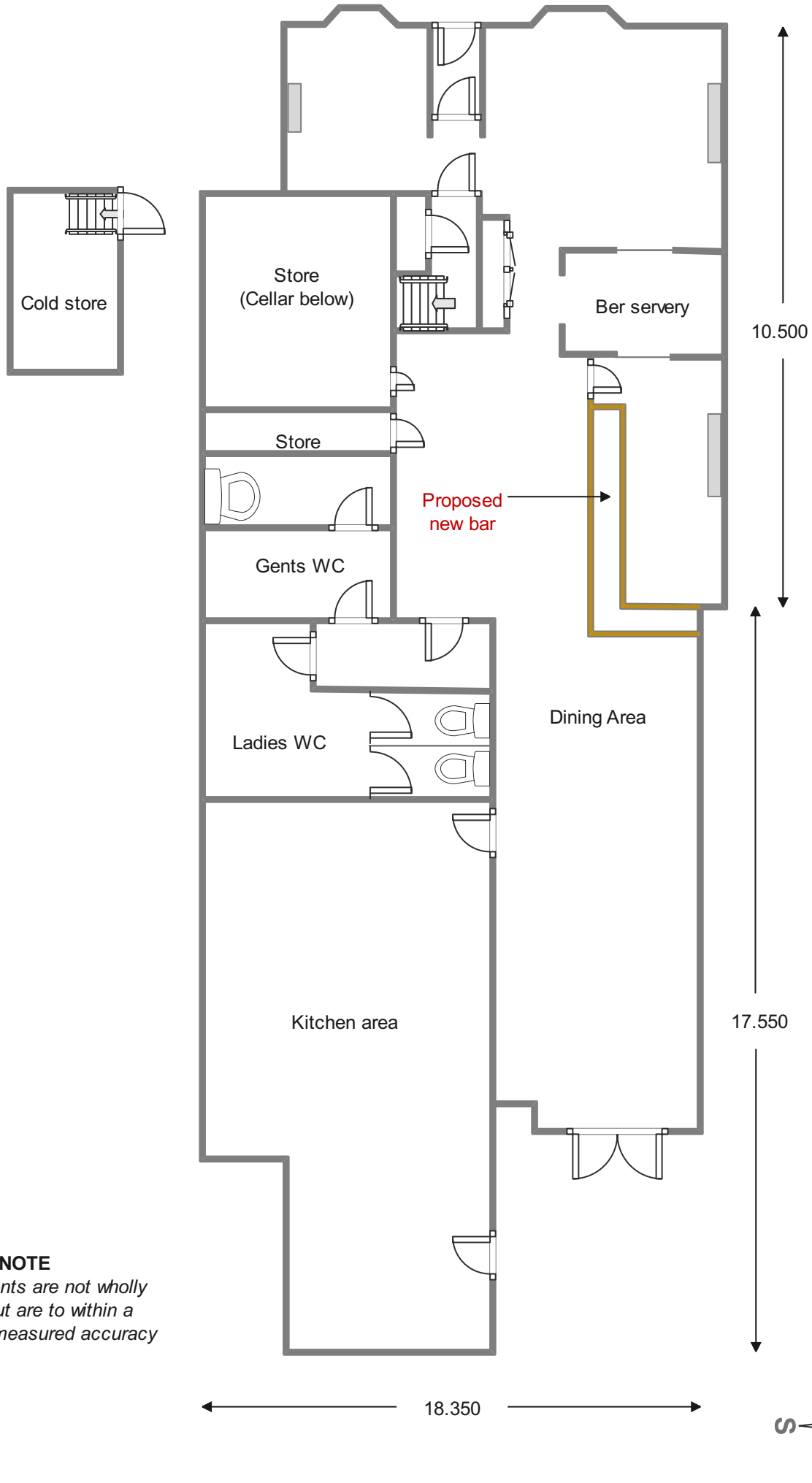
Notes for guidance

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

1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.
2. Give full details of the proposed variation(s): Details should include a description of the proposed variation(s) in terms as precise as possible (e.g. variation to licensable activities/hours; variation to premises plans; removing/amending licence conditions).
3. 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.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
 - Recorded Music: no licence permission is required for:
 - any playing of recorded 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.
 - any playing of recorded 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.

- any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
 - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
 - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
4. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
 5. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
 6. For example (but not exclusively), where the activity will occur on additional days during the summer months.
 7. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
 8. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
 9. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
 10. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
 11. Please list here steps you will take to promote all four licensing objectives together.
 12. The application form must be signed.
 13. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
 14. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
 15. This is the address which we shall use to correspond with you about this application.

SURVEY DRAWING - PROPOSED FLOOR PLAN



NOTE

Measurements are not wholly defined but are to within a tollerane of measured accuracy

NORTH YORKSHIRE POLICE – TERMS & CONDITION TO ALCHOHOL LICENCE (23/11/21)**1. CCTV**

Digital colour CCTV system will be installed to cover all licensable areas.

It will be maintained, working and recording at all times when the premises are open.

The recordings should be of capable of providing clear images to be produced in Court or other such hearing.

Copies of the recordings will be kept available for any Responsible Authority for 28 days. Subject to Data Protection requirements.

Copies of the recordings shall be made available to any Responsible Authority within 48 hrs upon request. Subject to Data Protection requirements.

Copies of the recordings will display the correct time and date of the recording.

It is the responsibility of the management to ensure that there are sufficient members of staff and/or management available during the hours of operation to be able to download evidence from the CCTV system at the request of the police or responsible authority. Subject to Data Protection requirements.

2. Incident & Refusals Register

An incident log will be kept at the premises and made available on request to an authorised officer or the police which will record the following:

- all crimes reported to the venue
- any complaints received regarding crime and disorder
- any incidents of disorder
- any refusal of sale

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. Staff Training

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];

4. The premises shall operate the Challenge 25 policy for the sale of alcohol.

The only acceptable proof of age identification shall be a current passport, Photo card Driving Licence or identification carrying the PASS logo (until other Effective identification technology e.g. thumb print or pupil recognition, is adopted by the Premises Licence Holder)

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

6. All regulated entertainment shall take place inside the building and doors and windows shall remain closed while the regulated entertainment is taking place.

7. No refuse, including bottles, shall be placed into receptacles outside the Premises between the hours of 10pm until 7am

8. Children under the age of 18 shall not be permitted to enter or remain at the premises after 21:00 hours unless resident, dining with an adult or attending a pre-booked function.

9. No open drinking vessels or bottles shall be taken out of the licensed premises on to the pavement or highway.

10. Noise from amplified music or voices shall not be such as to cause a noise nuisance to the occupants of nearby premises

11. Where regulated entertainment is provided the premises licence holder or dps or responsible person nominated by either will monitor noise emanating from the premises at least every 90 minutes to ensure that no noise nuisance is being caused and where there is shall cause the noise to be reduced. A written record shall be kept on the premises detailing the name of the person carrying out the monitoring, the monitoring locations, the date and time and result obtained. Such records shall be made available on demand of an authorised person (as defined by the licensing act 2003) or police.

12. Should the need ever be identified for SIA licensed security staff at the premises the designated premises supervisor will employ them to the satisfaction of North Yorkshire police and the licensing authority.

13. Last orders for the retail sale of alcohol (on sales -drinking up time) will be 30 minutes before the premises is due to close.

14. No entertainment of an adult or sexual nature shall ever be provided on the premises.

15. All off sales shall be in sealed containers

**THE THREE TUNNS PH
SOUTH END
OSMOTHERLEY
DL6 3BN**

Hambleton District Council.
Licensing Act 2003. Environmental Health – Premises Licence
Application Representation Response

Premises address	Three Tuns Inn, 9 South End, Osmotherley, Northallerton, North Yorkshire, DL6 3BN
Date of representation	26-11-21

Representation response relating to Licensing Objective (please select):

Prevention of Crime & Disorder	
Prevention of Public Nuisance	x
Protection of Children	
Public Safety	

Reason for representation and recommended amendments to Operating Schedule:

Reasons:

Due to the proximity of residents and the very low background noise levels within the area, I have concerns about noise from; live music, recorded music, noise from people leaving pub late at night, use of external areas and smoking provision until 1.30am, as requested by the applicant, has the potential to cause public nuisance.

Having spoken to the applicant he has advised that the business will continue to be run as a restaurant and letting rooms. Letting rooms are provided above the premises and Moon House the property to the right has the provision to accommodate 30 guests. These rooms represent some of the closest noise sensitive premises that would be directly impacted. The provision of extended alcohol and refreshments is to cater for guests using the lettings in a similar way to a hotel.

The applicant has advised that the provision requested would be used for the occasional party for example a staff Christmas party or weddings, New Year's Eve but would allow increased flexibility. Having frequent use would have a negative impact of the businesses' letting provision.

Recommended amendments:

Sale of alcohol

The application seeks for the sale of alcohol to be permitted between the hours of 10:00am and 1:30am both indoors and outdoors seven days a week. After a conversation with the applicant, it was established that the consumption of alcohol in the rear beer garden would be until 22:00 and the external seating area to the front of the licensed premises would be until 22:30. The consumption of alcohol indoors would remain until 1:30am.

Live music

The application seeks to permit live music to be played between the hours of 10:00am and 1:30am indoors seven days per week. After a conversation with the applicant, live music is planned to occur infrequently on an ad hoc basis and will cease at 12 midnight. Live music is currently a non-licensable activity up until 11pm.

Recorded music

The application seeks to permit the playing of recorded music between the hours of 10:00am and 1:30am indoors seven days per week. After a conversation with the applicant, any recorded music will cease at 12 midnight. Recorded music is currently a non-licensable activity up until 11pm.

Performance of dance

The application seeks to permit the performance of dance between 10:00am and 1.30am, after a conversation with the applicant, there will be no performance of dance.

Late night refreshment

The application seeks to permit late night refreshment from 23:00 to 1:30am. After discussion with the applicant late night refreshment outdoors will not be permitted after 22:00 and indoors will be until 1:30am.

Recommended conditions:

1. **The rear beer garden shall not be used for drinks or consumption of food between the hours of 22:00 until 10:00**
2. **The front seated area, identified as part of the original premises licence, shall not be used by customers after 22:30 until 10:00**
3. **A designated smoking area has been identified to the rear of the premises, for access during licensable activities. This shall be managed so the number of customers within this area after 22:00 does not exceed 5 people. Customers shall not be permitted beyond the steps.**
4. **Recorded music shall be played indoors only and shall not exceed 12 Midnight. All windows and doors shall be kept closed during all live music entertainment.**
5. **Live music shall be played indoors only and shall not exceed 12 Midnight. All windows and doors shall be kept closed during all live music entertainment.**

If you are satisfied with the amendments, the Applicant shall provide written confirmation which will be provided to the Licensing Authority.

If these amendments are agreed / approved by the Applicant, the Environmental Health Service will withdraw this representation.

Officer ...



Clair Weber Date 06 December 2021
Title: Environmental Health Officer

This matter is being dealt with by ...Clair Weber..... who can be contacted at:
Hambleton District Council, Residential Services, Civic Centre, Stone Cross, Rotary Way, Northallerton, North Yorkshire, DL6 2UU. Tel 01609 767 059 clair.weber@hambleton.gov.uk

From: ashley gavin <ashley_gavin@outlook.com>
Sent: 06 December 2021 15:47
To: Licensing Team
Subject: Re: Three Tuns Inn

Hi Anita

First of all I would like to confirm that I agree with the terms set out by the environmental health and police. Secondly I would like to withdraw from the scope of the licence application live music , recorded music and performance and dance.

Thanks

Ashley Gavin

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From: Licensing Team <licensingteam@hambleton.gov.uk>
Sent: Monday, December 6, 2021 3:25:59 PM
To: 'ashley gavin' <ashley_gavin@outlook.com>
Subject: Three Tuns Inn

Mr. Gavin

Please reply to this email to detail the changes you'd like to make to your operating schedule.

Regards, Anita

Anita Huntsman
Senior Licensing Officer
Licensing Team
Licensing Team
Legal Services
Hambleton District Council

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Feedback survey - click below to begin



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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 LICENCE³⁹

5.2.1 Subject to paragraph 5.2.2, 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 (see paragraph 5.12);
- proof of the applicant's right to work in the UK (see paragraph 5.15); 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).

³⁹ [Section 17 of the Licensing Act 2003](#)

5.3 VARIATION OF LICENCE⁴⁰

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 (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 VARIATION⁴¹

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 (see paragraph 5.12).

5.4.4 An application for a minor variation of a premises licence must be advertised on the premises for a period of 10 working days (see Annex D for more information).

5.5 CHANGE OF DPS⁴²

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 appointment of a new designated premises supervisor where, in exceptional circumstances, they believe that it would undermine the prevention of crime and disorder objective.

⁴⁰ [Section 34 of the Licensing Act 2003](#)

⁴¹ [Section 41A of the Licensing Act 2003](#)

⁴² [Section 37 of the Licensing Act 2003](#)

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

- 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 LICENCE⁴³

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;
- proof of the applicant's right to work in the UK (see paragraph 5.15); 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 licence⁴⁴.

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 licence⁴⁵.

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.

⁴³ [Section 42 of the Licensing Act 2003](#)

⁴⁴ [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](#)

⁴⁵ [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 NOTICE⁴⁶

- 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 STATEMENTS⁴⁷

- 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

⁴⁶ [Section 47 of the Licensing Act 2003](#)

⁴⁷ [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 LICENCE⁴⁸

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 REVIEWS⁴⁹

5.11.1 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 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.

5.11.3 If a review application has been made by a person other than a responsible authority (e.g. a local resident, residents' association, local business or trade association), the licensing authority must consider whether the complaint being made is frivolous, vexatious or repetitious.

5.11.3.1 A review may be regarded as frivolous where the concerns are minor and no remedial steps would be warranted or proportionate.

5.11.3.2 A review 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.

5.11.3.3 A review may be considered to be repetitious if it is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence; or
- representations considered by the licensing authority when the premises licence was granted

5.11.4 The licensing authority is expected to prevent review applications made merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. Accordingly, a review application in relation to a particular premises would not generally be permitted within a 12 month period on similar grounds unless the licensing authority is satisfied that there are exceptional circumstances.

5.11.5 In borderline cases, the benefit of the doubt about any aspect of a review application should be given to the applicant. The subsequent hearing would then provide an opportunity for the person applicant to amplify and clarify the grounds for review. Any person who is aggrieved by a rejection of their review application may lodge a complaint through the council's corporate complaints procedure or they may seek to challenge the authority's decision by way of judicial review.

⁴⁸ [Section 33 of the Licensing Act 2003](#)

⁴⁹ [Section 51 of the Licensing Act 2003](#)

5.11.6 Although the licensing authority may act in its capacity as a responsible authority to apply for a review of a premises licence, 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.

5.11.7 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.

5.12 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 respects⁵⁰” (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 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

5.14.2 If an applicant submits any part of their application by post, 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.

⁵⁰ [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](#)

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 RIGHT TO WORK IN THE UK

5.15.1 Individuals and partnerships (which are not limited liability partnerships) applying for a premises licence must be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003 with effect from 6 April 2017 so that an application made on or after that date by someone who is not entitled to work in the UK must be rejected.

5.15.2 In order for the licensing authority to be satisfied that an applicant has the right to work in the UK, applicants must submit a copy of one of the documents listed in Annex E to show that the applicant has permission to be in the UK and to undertake work in connection with a licensable activity.

5.15.3 Applicants should provide photocopies or scanned copies of the documents. Original documents should not be sent to the licensing authority.

5.15.4 If an applicant has restrictions on the length of time they may work in the UK, a premises licence may still be issued, but the licence will cease to have effect when the right to work lapses.

5.15.5 All applicants will be treated in the same way. Assumptions will not be made about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic origin, accent, the colour of their skin, or the length of time they have been resident in the UK.

5.16 DETERMINING UNCONTESTED APPLICATIONS

5.16.1 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.

5.17 REPRESENTATIONS

5.17.1 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.

5.17.2 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.

- 5.17.3 Any representations must relate to the likely adverse effect that granting the application would have on the licensing objectives. Representations about the commercial damage caused by competition from new licensed premises would not be considered relevant. Similarly, matters of morality, public health (as opposed to public safety) and commercial demand are not relevant matters for the licensing authority to consider in discharging its licensing functions.
- 5.17.4 If a representation has been made by a person other than a responsible authority (e.g. a local resident, residents' association, local business or trade association), the licensing authority must consider whether the complaint being made is frivolous or vexatious.
- 5.17.4.1 A representation may be regarded as frivolous where the concerns are minor and no remedial steps would be warranted or proportionate.
- 5.17.4.2 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.
- 5.17.5 In borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making representation. The subsequent hearing would then provide an opportunity for the person applicant to amplify and clarify the grounds for objection. Any person who is aggrieved by a rejection of their representation may lodge a complaint through the council's corporate complaints procedure or they may seek to challenge the authority's decision by way of judicial review.
- 5.17.6 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 hearing⁵¹.

5.18 HEARINGS

- 5.18.1 The licensing authority must hold a hearing within a prescribed period where relevant representations are made.
- 5.18.2 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.
- 5.18.3 The procedure for hearings is attached at Annex C.

5.19 PERIOD OF VALIDITY⁵²

- 5.19.1 Unless it has been granted only for a limited period, a premises licence will remain valid until:
- it is suspended;
 - it is surrendered;

⁵¹ 9.12 of the [Home Office Guidance](#) issued under section 182 of the Licensing Act 2003 (April 2018)

⁵² [Section 26 of the Licensing Act 2003](#)

- 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;
 - ceases to be entitled to work in the United Kingdom; or
 - if it is a club, ceases to be a recognised club.

5.20 APPEALS

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

5.21 CONDITIONS

5.21.1 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.

5.21.2 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 licence⁵³;
- 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 suspended⁵⁴;
- Every supply of alcohol under the premises licence is made or authorised by a person who holds a personal licence⁵⁵;
- 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 authority⁵⁶;
- Any individual carrying out a security activity in accordance with a licence condition is authorised under the Private Security Industry Act 2001⁵⁷;
- An age verification policy is adopted and implemented in relation to the sale or supply of alcohol⁵⁸;
- 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

⁵³ [Section 19\(2\)\(a\) of the Licensing Act 2003](#)

⁵⁴ [Section 19\(2\)\(b\) of the Licensing Act 2003](#)

⁵⁵ [Section 19\(3\) of the Licensing Act 2003](#)

⁵⁶ [Section 20 of the Licensing Act 2003](#)

⁵⁷ [Section 21 of the Licensing Act 2003](#)

⁵⁸ [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

bearing their photograph, date of birth and either a holographic mark or an ultraviolet feature⁵⁹;

- No alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price⁶⁰;
- Staff do not carry out, arrange or participate in any irresponsible promotions in relation to the premises⁶¹;
- 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 prohibited⁶²;
- Free potable water is provided on request to customers where it is reasonably available⁶³;
- 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 - 125ml⁶⁴.

5.21.3 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.

5.21.4 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.

5.21.5 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

5.21.6 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.

5.21.7 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 businesses⁶⁵.

⁵⁹ [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

⁶⁰ [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2014](#)

⁶¹ [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

⁶² [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

⁶³ [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

⁶⁴ [Schedule to the Licensing Act 2003 \(Mandatory Licensing Conditions\) Order 2010](#)

⁶⁵ [Regulators' Code](#) - Better Regulation Delivery Office – April 2014

5.22 PLANNING PERMISSION

- 5.22.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency.
- 5.22.2 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.
- 5.22.3 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.
- 5.22.4 Premises operating in breach of their planning permission would be liable to prosecution under planning law.

5.23 CUMULATIVE IMPACT

- 5.23.1 “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.
- 5.23.2 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.
- 5.23.3 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.

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 England⁴ 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.

⁴ 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.

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 it should be accompanied by acceptable evidence of entitlement to work in the UK (this includes where the application is submitted electronically), 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 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.

Beer gardens or other outdoor spaces

8.35 Applicants will want to consider whether they might want to use a garden or other outdoor space as a location from which alcohol will be consumed. The sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. In scenarios where drink orders are taken by a member of staff in the garden or outdoor space and the member of staff then collects the drinks from the licensed premises and returns to deliver them to the customer this would be treated as an off-sale and any conditions that relate to off-sales would apply.

8.36 In such cases it will be not necessary to include the garden or other outdoor space on the plan as part of the area covered by the premises licence. However, it will be necessary for the applicant to include the garden or other outdoor space on the plan as part of the area covered by the premises licence if the intention is to provide a service whereby drinks are available for sale and consumption directly from that area (i.e. the provision of on-sales). This would apply in the case of an outdoor bar or a service whereby a member of staff who is in the garden or outdoor space carries with them drinks that are available for sale (without the need for the staff member to return to the licensed premises to collect them).

8.37 If the beer garden or other outdoor area is to be used for the consumption of off-sales only, there is no requirement to show it on the plan of the premises, but the prescribed

application form requires the applicant to provide a description of where the place is and its proximity to the premises.

Entitlement to work in the UK

- 8.38 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.
- 8.39 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 has an entitlement to work in the UK.
- 8.40 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 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

- 8.41 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.
- 8.42 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.
- 8.43 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.
- 8.44 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.
- 8.45 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.
- 8.46 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.
- 8.47 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.
- 8.48 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.

- 8.49 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

- 8.50 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

- 8.51 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).
- 8.52 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.
- 8.53 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

- 8.54 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.

- 8.55 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.
- 8.56 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.
- 8.57 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.
- 8.58 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.
- 8.59 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.
- 8.60 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).
- 8.61 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

- 8.62 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.

- 8.63 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.
- 8.64 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.
- 8.65 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

- 8.66 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.
- 8.67 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.
- 8.68 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

- 8.69 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

- 8.70 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.
- 8.71 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

- 8.72 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.
- 8.73 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

- 8.74 Any other changes to the licence or certificate require an application to vary under sections 34 or 84 of the 2003 Act.
- 8.75 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).
- 8.76 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.

8.77 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

8.78 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.

8.79 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

8.80 The requirements governing the advertisement of applications for the grant, variation or review of premises licences and club premises certificates are contained in Regulations 25 and 26 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 which are published on the Government’s legislation website.

8.80 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 (or larger) size notice, on pale blue paper in a prominent position immediately on or outside the premises for at least 28 consecutive days (starting on the day after the day on which the application was given to the relevant licensing authority). The notice must be printed legibly in black ink or typed in black in size 16 font or larger.
- ensure that the above notices contain the name of the applicant, postal addresses of the premises (or if there is no postal address a description of the premises sufficient to enable the location to be identified), relevant licensing authority and the date by which any representations in relation to the application need to be made to the licensing authority. They should also contain a statement of the relevant licensable activities or relevant qualifying club activities that it is proposed will be carried on at the premises, or in the case of an application to vary a premises licence or a club premises certificate the notices shall briefly describe the proposed variation.

- 8.81 It is the responsibility of the applicant for putting the notice up, however licensing authorities should consider where the signs should be placed and advise the applicant where appropriate, to ensure people will see them, in particular if an application is likely to be of interest to the public. 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.
- 8.82 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.
- 8.83 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.
- 8.84 Licensing authorities in Wales are also required to publish key information from licence applications in Welsh on their websites.
- 8.85 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.
- 8.86 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.
- 8.87 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

8.88 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

8.89 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.

8.90 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.

8.91 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.

8.92 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.

8.93 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.

8.94 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.

8.95 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.

8.96 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.

8.97 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.

8.98 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

8.99 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.

8.100 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.

- 8.101 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.
- 8.102 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

- 8.103 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.
- 8.104 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.
- 8.105 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, 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.

- 8.106 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.
- 8.107 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.
- 8.108 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

- 8.109 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.
- 8.110 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.

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area⁵. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities 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

⁵ Police and Crime Commissioners 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 remains 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)⁶ or Local Health Board (LHB) (in Wales) exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services.
- 9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may

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

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 The Licensing Act 2003 (Hearings) Regulations 2005 governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, where the applicant and all of the persons who made relevant representations have given notice to the authority that they consider a hearing to be unnecessary. Where this is the case and the authority agrees that a hearing is unnecessary, it must forthwith give notice to the parties that the hearing has been dispensed with. Notwithstanding those regulatory provisions, in cases where the licensing authority believes that a hearing is still necessary, it is recommended that the authority should, as soon as possible, provide the parties with reasons in writing for the need to hold the hearing. 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. The 2005 Hearings Regulations permit licensing authorities to extend a time limit provided for by those Regulations for a specified period where it considers this to be necessary in the public interest. For example, 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. Where the authority has extended a time limit it must forthwith give a notice to the parties involved stating the period of the extension and the reasons for it.
- 9.33 The 2005 Hearings Regulations 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 and others, such as local residents, who may be affected by the application 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 and should be allowed sufficient time to do so, within reasonable and practicable limits.
- 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.