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**Members of the Licensing Panel:**

Councillor Mrs R Crowe

Councillor I Walker

Councillor Mrs Y Woodhead

*Reserve to be Chosen from Licensing Committee*

## **AGENDA**

**MEETING:      Licensing Hearing**

**DATE:            Thursday, 29 October 2020 at 10.00 am**

**VENUE:         Broadcast from Castle House, Great North Road,  
Newark NG24 1BY**

**You are hereby requested to attend the above Meeting  
for the purpose of transacting the business on the Agenda as overleaf.**

**Attendance at this meeting and public access will be by remote means due to the Covid-19 Pandemic.  
Further details to enable remote access will be forwarded to all parties prior to the  
commencement of the meeting.**

If you have any queries please contact Helen Brandham on [helen.brandham@newark-sherwooddc.gov.uk](mailto:helen.brandham@newark-sherwooddc.gov.uk).

REMOTE MEETING DETAILS

This meeting will be held in a remote manner in accordance with the Local Authorities and Police & Crime Panels (Coronavirus)(Flexibility of Local Authority and Police & Crime Panel Meetings)(England & Wales) Regulations 2020.

The meeting will be live streamed on the Council's social media platforms to enable access for the Press and Public.

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## LICENSING SUB-COMMITTEE

29 OCTOBER 2020

### APPLICATION FOR THE REVIEW OF A PREMISES LICENCE

#### **1.0 Purpose of Report**

1.1 For Members to consider an application for the review of the premise licence for the Bramley Apple, 51 Church Street, Southwell, NG25 0HQ by Ms Jill Morris.

#### **2.0 Reasons for Application for Review**

2.1 The application for review relates to the following licensing objectives:

- The prevention of crime and disorder
- The prevention of public nuisance

2.2 A full copy of the application can be found at **Appendix 1**.

2.3 Following advertisement of the application to review the premise licence additional representations have been received from:

- Review objector 1
- Cllr Penny Rainbow
- Richard Scragg and Helen Teasdale (Premise licence holder)
- Review Supporter 1
- James Kemp (DPS)
- Jonathan Rice (Manager)
- Review supporter 2
- Review objector 2
- Review supporter 3
- Review supporter 4
- Review supporter 5
- Review supporter 6
- Review supporter 7
- Review supporter 8

2.4 A copy of these representations can be found at **Appendix 2**.

#### **3.0 The Premises Subject to Review**

3.1 The premises subject to this review application is Bramley Apple, 51 Church Street, Southwell, NG25 0HQ.

3.2 A plan and photographs showing the site in context of its surroundings is shown as **Appendix 3** to this report.

#### 4.0 Licensing History

4.1 The Bramley Apple, 51 Church Street, Southwell, NG25 0HQ, applied for a conversion and variation of their licence when the powers to licence a premise transferred from the magistrates' court to the local authority in 2005. The original licence was granted following a hearing on 30.09.05.

4.2 This table shows the applications that the licensing authority have received in relation to this premise:

Date	Type of application
05.08.05	Conversion and variation application
29.12.05	Premise variation application
24.09.10	Vary DPS application
08.05.12	Vary DPS application
29.05.13	Vary DPS application
26.03.14	Minor variation application
24.09.14	Vary DPS application
25.02.15	Transfer application
10.07.15	Vary DPS application
07.10.15	Transfer application
18.08.16	Vary DPS application
26.06.17	Vary DPS application
16.01.19	Vary DPS application
05.09.20	Vary DPS application

4.3 This table shows the complaints recorded on the system in relation to the Bramley Apple, 51 Church Street, Southwell, NG25 0HQ.

Date received	Complaint	Action
July 2006	Noise from premises, inside and outside	Complaint investigated. No action taken
August 2007	Noise from premises	Advice given to DPS
October 2007	Noise from people smoking outside	Advice given
April 2008	Loud music	Advice given
May 2008	Breaches of licence conditions and loud music	Complaint investigated. See below
June 2009	Noise	Agreement with brewery and DPS on steps need to reduce problems.
August 2012	Noise from live music	Advice given
30.07.14	Complaints of music and people music finished at 11 XXX XXXXX could hear music in their living room with windows and doors closed.	Complaint investigated
04.08.14	Music and bbq people noise from front of pub	Complaint investigated
06.08.14	Noise from pub	Noise abatement notice served. Problem resolved.
November 2016	Noise from people leaving premises	Advice given

15.08.18	<p>Having problems with anti-social behaviour at the Bramley Apple. At closing time customers congregate outside and fail to move away for some considerable time.</p> <p>Friday 10<sup>th</sup> 00:25 Still very noisy shouting and shrieking outside. One youth urinated on the garden wall on the corner of Farthingate.</p> <p>00:35 A number of groups from the pub passed by shouting and swearing. Regularly cars honking as they passed acknowledging the group still on the pub.</p> <p>00:55 Group talking loudly as they congregated outside the houses on Church St.</p> <p>01:00 Noise still coming from the pub front</p>	<p><i>I have just spoken with the DPS of the Bramley Apple and advised him of his responsibilities in relation to noise levels etc when people leaving his pub</i></p> <p><i>He assures me that he monitors it and advises when necessary but he does say that a lot of the noise comes from people walking past his pub who have not been in and also from passing traffic which he cannot do anything about.</i></p>
18.09.18	Noise – people congregating outside pub	LEO visited and observed reasonable noise levels, asked DPS to remove seating from front of pub to discourage people gathering outside
06.10.18	Fighting outside the premises around 3am on Sunday morning	
26.11.18	Music and noise from the pub on last Friday night, 23 Nov was horrendous. It seems to be Fridays which is the worse. It was in the beer garden at the back.	LEO spoke to complainant and advised to keep records of any further problems. No further issues reported
28.11.18	Noise from Bramley until midnight and beyond.	New tenants took over, noise issues improved. LEO visited new tenants to brief them on past issues
14.01.19	<p>Complainant is concerned about anti-social and dangerous behavior of regular customers of the pub, e.g. noise and driving recklessly. He has spoken to the person currently running the Bramley, the customers themselves and the PCSO but feels that nothing is being done.</p> <p>"This situation is not helped by the generous licensing hours you have granted this pub, namely a licence that allows them to stay open until 01:00hrs on Fridays and weekends. How this was granted to a pub which is located within a primarily residential area beggars belief."</p>	LEO liaised with police and complainants, met with tenant and DPS, advised to keep records of any warnings given to customers about their behaviour which shows that they are taking reasonable steps to try and prevent noise etc. They are aware that police have been informed also.

17.6.19	Screaming/breaking glass	LEO visited DPS and new manager. They say that the noise problems were due to a particular male individual arguing with 3 other women. <i>They have all been barred from the pub and therefore should not be returning. I have reminded the Licensee and manager of the history of incidents and have given them fair warning that if there are further complaints then the licence is likely to be reviewed. The new manager has been there 5 or 6 weeks and to date has not had any problems. They have given me some assurances that they will deal swiftly with any further noise issues, particularly outside at the front where customers tend to congregate. Therefore I think the new management should be given a fair chance to keep the pub all in order.</i>
22.07.19	Complainants stayed overnight, loud music was playing until 2.30am Friday evening and then started again at 6.00am. Complainants went downstairs - there were two people in the pub, they were both very drunk.	LEO TD spoke with current manager Ruth Curtis. She said that 2x drunken people seen at 6am were guests and were helping themselves to drinks behind the bar. They have now been barred from returning to the pub. She denied that loud music was being played at 02:30. She is now in the process of arranging for appropriate measures to be put in place to prevent guests from going behind bar to help themselves.
29.07.19	Noise issue from pub	LEO met with licence holder, area manager and pub manager and discussed problems over the last 2 years. Measures put in place: 1) Only acoustic music being played from now on and at the front of the premises; 2) A sound insulation board will be put in place at the rear of the premises when music is being played, 3) Customers will not be

		allowed to congregate outside at the front of the premises after 10pm, 4) Customers will not be allowed to drink outside at the rear after 11pm.
11.12.19	Report of serving beyond licensed hours and anti-social behaviour inside and outside the pub	CCTV viewed. LEO met with licence holder, area manager and pub manager. No evidence to take any of the allegations further.
04.02.20	Illegal parking	Parking enforcement informed
17.05.20	Police received reports of the pub and beer garden being rammed.	LEO TD visited pub and spoke with manager John at a safe distance. They are in process of refurbishing inside and outside of the pub. Workers on site
22.07.20	Noise nuisance	Under investigation

4.4 A copy of the current licence for the Bramley Apple, 51 Church Street, Southwell, NG25 0HQ can be found at **Appendix 4** to this report.

**5.0 Premise with Licensable Activities in the Surrounding Area**

5.1 There are a few premises within close proximity to the application site, the closest licensed premises being located at:

- Hearty Goodfellow, 81 Church Street, Southwell, NG25 0HQ
- Old Coach House, 69 Easthorpe, Southwell, NG25 0HY

5.2 This table shows the licensable activities for the above premise:

Premise name	Licensing Hours
Hearty Goodfellow, 81 Church Street, Southwell, NG25 0HQ	<p>A Standard Times</p> <p>1. Regulated Entertainment</p> <p>a) Plays Monday to Sunday – 12.00 to 23.00</p> <p>b) Films Monday to Sunday – 08.00 to 23.00</p> <p>e) Live music Monday to Sunday – 19.00 to 23.00</p> <p>f) Recorded music Monday to Sunday – 19.00 to 23.00</p> <p>2. Late night refreshment Monday to Thursday – 23.00 to 00.00 Friday to Sunday – 23.00 to 01.00 the following day</p> <p>3. The supply of alcohol Sunday to Thursday – 11.00 to 00.00 Friday and Saturday – 11.00 to 01.00 the following day</p>

	<p>B Non Standard Times</p> <p>1. Regulated Entertainment</p> <p>e) Live music Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 12.00 to 00.00 24 December 12.00 to 00.00 Christmas Day 31 December 12.00 to 01.00 New Years Day</p> <p>f) Recorded music Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 23.00 to 01.00 24 December 23.00 to 01.00 Christmas Day 31 December 23.00 to 02.00 New Years Day</p> <p>2. Late night refreshment Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 12.00 to 00.00 24 December 12.00 to 00.00 Christmas Day 31 December 12.00 to 01.00 New Years Day</p> <p>3. The supply of alcohol Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 12.00 to 01.00 24 December 11.00 to 01.00 Christmas Day 31 December 11.00 to 02.00 New Years Day</p> <p><b>The opening hours of the premises</b></p> <p>A Standard Times Sunday to Thursday – 08:00 to 01:00 the following day Friday &amp; Saturday – 08:00 to 01:30 the following day</p> <p>B Non Standard Times Sunday prior to a Bank Holiday, Bank Holiday Mondays and Good Friday Mondays and Good Friday 08.00 to 01.30 24 December 08.00 to 01.30 Christmas Day 31 December 08.00 to 02.30 New Years Day One hour prior to and one hour after the advertised showing of any sport event with international significance.</p>
<p>Old Coach House, 69 Easthorpe, Southwell, NG25 0HY</p>	<p>1. <b>The provision of Regulated Entertainment as follows:</b></p> <p>a. The exhibition of films</p> <p>b. Indoor sporting events</p> <p>c. The provision of live music</p> <p>d. The provision of recorded music</p> <p>2. The supply of alcohol</p> <p><b>A Standard Timings</b></p> <p>1. The provision of regulated entertainment of the descriptions in the above box:</p>

	<p>Sunday to Thursday –10:00 to 24:00 Friday and Saturday –10:00 to 01:00 the following day</p> <p>2. The supply of alcohol Sunday to Thursday –10:00 to 24:00 Friday and Saturday –10:00 to 01:00 the following day</p> <p><b>B Non Standard Timings</b></p> <p>1. The provision of regulated entertainment of the descriptions in the above box: Easter Monday Bank Holiday, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> &amp; 27<sup>th</sup> December - 10:00 to 02:00 the following day 31<sup>st</sup> December 10:00 to January 2<sup>nd</sup> 01:00</p> <p>2. The supply of alcohol: Easter Monday Bank Holiday, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> &amp; 27<sup>th</sup> December - 10:00 to 02:00 the following day 31<sup>st</sup> December 10:00 to January 2<sup>nd</sup> 01:00</p> <p>3. An additional hour to both standard and non standard times on the day when British Summer Time commences In the event of the transmission of any international event which falls outside the standard hours timing to commence 1 hour before the start of the event and ending one hour after the end of the event</p> <p><b>Standard Opening Hours</b> Sunday to Thursday – 10:00 to 01:30 the following day Friday and Saturday – 10:00 to 02:30 the following day Opening hours when non standard timings apply Easter Monday Bank Holiday, 24<sup>th</sup>, 25<sup>th</sup>, 26<sup>th</sup> &amp; 27<sup>th</sup> December - 10:00 to 02:00 the following day 31<sup>st</sup> December 10:00 to January 2<sup>nd</sup> 01:00 An additional hour to both standard and non standard times on the day when British Summer Time commences In the event of the transmission of any international event which falls outside the standard hours timing to commence 1 hour before the start of the event and ending one hour after the end of the event</p>
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**6.0 Additional Information Requested by Licensing Authority**

6.1 Further information was requested from all parties by the licensing authority in Schedule 1 of the Notice of Hearing. As detailed below:

Applicant	Additional Details
Jill Morris	<ul style="list-style-type: none"> <li>• Please state the exact controls that you seek to have on any outside areas including any time limits.</li> <li>• Are there any other conditions that you would like the Licensing Panel to consider attaching to the licence that support the licensing objectives, which are: <ul style="list-style-type: none"> <li>• The prevention of crime and disorder,</li> <li>• Public safety,</li> <li>• Prevention of public nuisance, and</li> <li>• The protection of children from harm</li> </ul> </li> </ul>

**Additional Details Required from all Review Supporters Listed Below:**

Review Supporters:	Additional Details
<ul style="list-style-type: none"> <li>• Cllr Penny Rainbow</li> <li>• Review Supporter 1</li> <li>• Review supporter 2</li> <li>• Review supporter 3</li> <li>• Review supporter 4</li> <li>• Review supporter 5</li> <li>• Review supporter 6</li> <li>• Review supporter 7</li> <li>• Review supporter 8</li> </ul>	<ul style="list-style-type: none"> <li>• Please state the exact controls that you seek to have on any outside areas including any time limits.</li> <li>• Are there any other conditions that you would like the Licensing Panel to consider attaching to the licence that support the licensing objectives, which are:                             <ul style="list-style-type: none"> <li>• The prevention of crime and disorder,</li> <li>• Public safety,</li> <li>• Prevention of public nuisance, and</li> <li>• The protection of children from harm</li> </ul> </li> </ul>

**Additional Details Required from all Review Objectors Listed Below:**

Review Objectors:	Additional Details
<ul style="list-style-type: none"> <li>• Review objector 1</li> <li>• Richard Scragg and Helen Teasdale (Premise licence holder)</li> <li>• James Kemp (DPS)</li> <li>• Jonathan Rice (Manager)</li> <li>• Review objector 2</li> </ul>	<p>Please state the detailed reasons why you believe that the current hours of operation (both inside and out) support the licensing objectives, which are:</p> <ul style="list-style-type: none"> <li>• The prevention of crime and disorder,</li> <li>• Public safety,</li> <li>• Prevention of public nuisance, and</li> <li>• The protection of children from harm</li> </ul>

6.2 The responses that the licensing authority has received, can be found at **Appendix 5**.

**7.0 NSDC Policies Applicable**

7.1 Statement of Licensing Policy 2019-2023

Policy 1

*The Authority expects to see evidence of the effective and responsible management of the licensed premises, such as examples of instruction, training and supervision of staff and the adoption of best practice used in the leisure industry, being specifically addressed within the Operating Schedule.*

*REASON: To ensure the promotion of the licensing objectives.*

Policy 2

*When preparing or considering applications, applicants, responsible authorities, interested parties and the Licensing Authority shall, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the necessity for,*

and proportionality of, any conditions which may be offered or imposed on any resulting licence, certificate or permission:

- (i) the nature of the area within which the premises are situated.
- (ii) the precise nature, type and frequency of the proposed activities.
- (iii) any measures proposed by the applicant in the Operating Schedule.
- (iv) the nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.
- (v) means of access to and exit from the premises.
- (vi) the provision and availability of adequate seating and the restriction of standing areas.
- (vii) transport provision in the area and the likely means of public or private transport.
- (viii) parking provision in the area.
- (ix) the potential cumulative impact
- (x) other means and resources available to mitigate any impact.
- (xi) such other matters as may be relevant to the application.

*REASON: To ensure that all relevant matters are taken into consideration during the application process.*

Under the above policy objective, the statement of licensing policy says:

*7.6 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. The impact of noise arising from patrons that are temporarily outside the premises (e.g. smoking or moving from one part of the premises to another), must be recognised and mitigated against.*

*7.7 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their operating schedule. Shops, stores and supermarkets will normally be permitted to sell alcohol and or late night refreshment at any time when they are open for shopping unless there are good reasons related to the promotion of the licensing objectives for restricting these hours.*

*7.8 Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise-sensitive areas operators should consider ceasing the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.*

7.2 Chapters 6 and 7 of the Statement of Licensing Policy are considered particularly relevant to this review application. These are attached as **Appendix 6**.

**8.0 Applicable Provisions of Guidance under Section 182 Licensing Act 2003**

8.1 When considering this review application the panel may wish to consider Chapters 2, 10 and 11 of the Revised Statutory Guidance issued under section 182 of the Licensing Act 2003 - April 2018. These are attached as **Appendix 7**.

8.2 Chapter 11 of Revised Guidance issued under section 182 of the Licensing Act 2003 – April 2018 details the powers of a licensing authority on the determination of a review:

***11.16** The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.*

***11.17** The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.*

***11.18** However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.*

***11.19** Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:*

- *modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*
- *exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);*
- *remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
- *suspend the licence for a period not exceeding three months;*
- *revoke the licence.*

***11.20** In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.*

***11.21** For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a*

*problem where the cause of the identified problem directly relates to poor management decisions made by that individual.*

*11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.*

*11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.*

## **9.0 RECOMMENDATION**

**That Members are asked to consider the review application and the representations made for Bramley Apple, 51 Church Street, Southwell, NG25 0HQ and take the steps as it considers appropriate for the promotion of the licensing objectives.**

**The steps available on determination of a review application are:**

- **To take no further action**
- **To issue a warning**
- **To modify the conditions of the licence**
- **To exclude a licensable activity from the scope of the licence**
- **To remove the designated premise supervisor**
- **To suspend the licence for up to three months**
- **To revoke the licence**

**A decision to modify conditions or exclude a licensable activity can be made on a permanent or temporary basis (for up to three months) depending on the particular issues raised.**

### List of Appendices

Appendix 1 – Review Application Form  
Appendix 2 – Representations Received

Appendix 3 – Location Plan and Photos of the premises

Appendix 4 – Copy of the current licence

Appendix 5 – Responses to additional information requested by the licensing authority

Appendix 7 – NSDC Statement of Licensing Policy

Appendix 8 – Statutory Guidance

For further information please contact Nicola Kellas – Senior Licensing Officer on extension 5894.

Matt Finch

Director – Communities & Environment

An application has been made to Newark & Sherwood District Council as the Licensing Authority for this area for a review of the Premises Licences for Bramley Apple, 51 Church Street, Southwell, NG25 0HQ

The grounds for the review are:

That the Holder of the licence has undermined the Licensing Objectives

- The prevention of crime and disorder
- The prevention of public nuisance

Anyone who wishes to make representations regarding the application must give notice in writing to:-

The Licensing Manager, Newark & Sherwood District Council, Castle House, Great North Road, Newark, Nottinghamshire, NG24 1BY or by e-mail to [request@nsdc.info](mailto:request@nsdc.info). Such representations must not be received any later than **8<sup>th</sup> October 2020**.

The application and register setting out the grounds for review may be viewed at:

[www.newark-sherwooddc.gov.uk/premiselicence/](http://www.newark-sherwooddc.gov.uk/premiselicence/)

It is an offence under section 158 of the Licensing Act 2003 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 is up to level 5 on the standard scale (£5,000)

Dated: 10<sup>th</sup> September 2020

**Application for the review of a premises licence or club premises certificate under the  
Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

<b>I</b>	
<i>(Insert name of applicant)</i>	
<b>apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)</b>	
<b>Part 1 – Premises or club premises details</b>	
<b>The Bramley Apple Public House</b>	
<b>51, Church Street</b>	
<b>Southwell</b>	
<b>Name of premises licence holder or club holding club premises certificate (if known)</b>	
<b>Number of premises licence or club premises certificate (if known)</b>	

<b>Part 2 - Applicant details</b>	
I am	Please tick ✓ yes
1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)	
2) a responsible authority (please complete (C) below)	
3) a member of the club to which this application relates (please complete (A) below)	

<b>(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)</b>	
--	--

Please tick ✓ yes							
Mr		Mrs		Miss		Ms. ‘	Other title
				(for example, Rev)			
<b>Surname</b>				<b>First names</b>			
				Please tick ✓ yes			
<b>I am 18 years old or over</b>							
<b>Current postal address if different from premises address</b>							
<b>Post town</b>				<b>Post Code</b>			
<b>Daytime contact telephone number</b>							
<b>E-mail address (optional)</b>							

<b>(B) DETAILS OF OTHER APPLICANT</b>
Name and address
Telephone number (if any)
E-mail address (optional)

<b>(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT</b>
Name and address
Telephone number (if any)
E-mail address (optional)

<b>This application to review relates to the following licensing objective(s)</b>	
1) the prevention of crime and disorder x	
2) public safety	
3) the prevention of public nuisance. x	

**Please provide as much information as possible to support the application** (please read guidance note 3)

**Objection to the licence regards principally to the prevention of public nuisance.**

A meeting was held on Tuesday the 25<sup>th</sup> of August to discuss the issues we have been experiencing. Over sixteen people attended this meeting and expressed their concerns. The general consensus regarded:

- Congregating in large groups at the front of the pub between 10pm-2am on a weekly basis.
- Talking loudly/shouting, standing in the middle of the road
- Swearing and anti - social behaviour, disturbance and anti -social behaviour extending outside of the pub down the street affecting all residents
- Excessive noise levels, enough to keep residents awake/prevent us getting to sleep, including screaming,
- Drinking outside, all of which seems unmanageable: urination, littering and damage to properties
- cars parking on double yellow lines for the evening/night
- cars/taxis picking up customers, slamming of car doors, revving engines, especially after 12am
- **For residents at the rear of the pub,**
- back door open wide so noise levels high and congregating outside the back door smoking (no designated smoking area)

Obviously, all of this interferes with each resident's *reasonable enjoyment* of their property

**COVID**

**in this particular period of covid 19 some residents have observed that social distancing**

**rules have been flouted.**

### **The Meeting**

It was agreed in the meeting that the pub would adhere to earlier closing times for one month to see if this helped the situation. It is clear that the late licence causes more anti social behaviour, as noise has improved past 1am. However, because the new times have only changed slightly there has been little difference to the above issues. Noise after 1 am has decreased but noise up to 1am is as bad. It should be pointed out that the unreasonable behaviour of some of the customers, though particularly bad after 11pm, is unfortunately not confined to these hours.

### **Location.**

The location of the public house is in the middle of a residential area along a main street in which there are already two other public houses.

There are two public houses within a short distance of the Bramley Apple pub that do not seem to have an issue with noise and anti social behaviour. I see that the Hearty Goodfellow closes at 10, the Coach House is 10.30/ 11 at the latest. By keeping late opening hours, this pub attracts all those who cannot get a drink anywhere else. They are already drunk when they arrive and are unable to control their behaviour.

### **History**

Since I moved here in 1999 the Bramley has never been a thriving concern, but it was a pleasant enough 'local', attracting a broad spectrum of customers. We are not averse to people having a nice time but the way the pub is run is not going to attract a community feel. In recent years and especially after the flooding in 2013, the pub has deteriorated dramatically, in every respect. Apart from one or two responsible landlords, there was overall a limited regard for the neighbours and the pub itself degenerated in terms of cleanliness. order

and level of nuisance, attracting generally young adults and daily regular drinkers. Many congregated on the back step, visible from my kitchen window, smoking and talking loudly, with no regard for who might be in earshot. There was a good deal of underage drinking, after hours drinking, loud noise and music. Neighbouring areas were littered with cigarette ends and used as public toilets.

The recent licensee has promised to turn the pub around and respect the community. However, we have observed late night noise and anti social behaviour and customers moving on to the Bramley from other pubs just to drink more. They congregate at the front of the pub and have been known to stay, making noise until 2 in the morning.

There is no apparent reason to allow this public house in Southwell, The Bramley Apple, to have a licence extension which means it stays open till midnight during the week and one o'clock on a Friday and Saturday night. This seems very unreasonable and is bound to encourage anti social behaviour. The residents were certainly not consulted on this matter. These hours may be acceptable in a city/ town centre surrounded by commercial premises, ut are not so in an area where people of all ages live : young families, the elderly, school children and workers. People who need to sleep at a reasonable hour and do not expect to be kept awake by bright lights, shouting, drunken people, cars revving etc.

I would add to this that I have been in communication with NSDC regarding this public house since the flood of 2013. The complaints then regarded the state of the rear garden. I communicated with Alan Batty and Jeremy Hutchinson. Nothing was ever done. We (my neighbours and I put up a fence to shield us from the debris and piled rubbish.)

From 2016 to current times I have complained on a regular basis about the same problems. I am very disappointed with the response of NSDC who have fobbed me off for 5 years with empty promises of resolving the various issues I have had to endure.

<p>The pub has a right to make a living, but not at the expense of this community. The previous licensees and the current one are unable to manage their customers and we cannot reiterate enough how much this is affecting people's enjoyment of their own properties. We are now making a stand collectively as a community to push for change. We would ask that our complaints are taken seriously. The pub has not been a community pub for many years and if the clientele continue to be those who display loud drunken anti-social behaviour- urinating, throwing litter, swearing and shouting- it will never become so again.</p>	
<p><b>Please tick ✓ yes</b></p>	
<p>Have you made an application for review relating to the premises before</p>	<p>No</p>
<p>If yes please state the date of that application</p>	<p>Day    Month    Year</p>

**If you have made representations before relating to the premises please state what they were and when you made them**

<p><b>Please tick ✓ yes</b></p>	
<p>· I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate</p>	

· I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature  
.....

Date  
.....

Capacity  
.....

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)

**Post town**

**Telephone number (if any)**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)**

**From:** [Penny Rainbow](#)  
**To:** [request](#)  
**Subject:** Review of Bramley Apple, Southwell  
**Date:** 02 October 2020 10:09:05

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Good morning

I refer to the current application to review the premises licence for the Bramley Apple, Church Street, Southwell.

I wish to express my concern for residents living within the vicinity of the Bramley Apple public house.

I support the review.

As local member, I have been contacted numerous times with issues involving anti-social behaviour, damage to cars to property and excessive noise into the early hours of the morning.

I have worked with our licensing enforcement officer and I'm aware that the officer has visited frequently and attended Pub Watch meetings and offered 'advice' over the past three to four years.

Anti-social behaviour and damage to surrounding property and vehicles issues have also been brought to the attention of the Southwell Safer Neighbourhood Group meetings. The PCSO for Southwell also visits the premises to 'advise' and listen to the concerns of local residents.

Unfortunately problems persist.

For some reason, maybe historical, the Bramley Apple seems to have very late Licensing hours. 1am in the morning. I feel this is most inappropriate within the residential setting. There are houses to each side and indeed opposite and to the rear of the premises. There is also a court yard area to the front, where drinkers gather and linger after closing time.

May I respectfully request the licensing panel review the licence and pay particular attention to the hours of trading. When other licensed premises are closing the Bramley Apple is attracting drinkers who have left other public houses and wish to continue drinking, which leads to further problems involving anti-social behaviour and excessive noise into the early hours of the morning.

Cllr Penny Rainbow  
District Councillor Southwell

To the licensing manager,

We would like to put forward our representation for the support of the blue notice to review the premises license of the Bramley Apple pub, in particular our objection to the late license.

We live opposite the Bramley Apple pub on Palace View and have been experiencing a number of issues relating to the outside the front of the bramley apple between 10pm and 2am on a weekly basis:

- 1) Congregating in large groups outside of the pub.
- 2) Talking loudly/shouting, swearing and anti-social behaviour.
- 3) Customers grouping and standing in the middle of the road.
- 4) Excessive noise levels, enough to keep us awake and prevent us from getting to sleep, including screaming, drinking outside all of which seems unmanageable.
- 5) Cars parking on double yellow lines blocking the road for the evening/night.
- 6) Customers urinating on the wall of our house
- 7) Drunken and anti-social behaviour after leaving the pub, hanging round in groups near the pub and down the road.
- 8) Three antennas have been broken and removed from my car in the last few months. It usually happens late a night when my car is parked close to the pub.

Obviously all of this interferes with the reasonable enjoyment of the property we live in.

These problems are particularly bad after 11pm in such a residential area. Customers know they are able to get alcohol late and have been observed as going specifically there for the late licence. This seems very unreasonable and is bound to encourage anti-social behaviour. There are no other pubs down Church Street who have a late license, they are all closed by 11pm if not earlier. (We don't think there are any pubs in Southwell with a license until 1am) The Bramley Apple license should be in line with the rest of the community pubs.

We feel that the above issues will not be resolved by reviewing the late license to 12am, we feel the only fair and reasonable thing in such a residential area would be to review the license to 11pm in line with the other pubs nearby.

Furthermore, we appreciate that we are in unusual times with Covid and that pubs aren't running as normal. However, we have been experiencing these issues for a long time and we would like a reasonable outcome that's fair for the community involved.

To the licensing manager,

We would like to put forward our representation for the support of the blue notice to review the premises license of the Bramley Apple pub, in particular our objection to the late license.

We live directly opposite the Bramley Apple pub and have been experiencing a number of issues relating to the outside the front of the Bramley Apple between 10pm and 2am on a weekly basis:

- 1) Congregating in large groups outside of the pub.
- 2) Talking loudly/shouting, swearing and anti-social behaviour.
- 3) Customers grouping and standing in the middle of the road.
- 4) Excessive noise levels, enough to keep us awake and prevent us from getting to sleep, including screaming, drinking outside, intimidating behaviour all of which seems unmanageable.
- 5) Cars parking on double yellow lines blocking the road for the evening/night.
- 6) Cars/taxis picking up customers, slamming car doors and revving engines especially after 12am.
- 7) Drunken and anti-social behaviour after leaving the pub, hanging round in groups near the pub and down the road.

Obviously all of this interferes with the reasonable enjoyment of the property we live in.

These problems are particularly bad after 11pm in such a residential area. It is widely known in the area that you are able to get alcohol late at the Bramley Apple and we have observed people going specifically there for the late licence. This seems very unreasonable and is bound to encourage anti-social behaviour. There are no other pubs down Church Street who have a late license, they are all closed by 11pm if not earlier. (We don't think there are any pubs in Southwell with a license until 1am) The Bramley Apple license should be in line with the rest of the pubs in the community.

Furthermore, It was agreed in the meeting that the pub would adhere to earlier closing times for one month to see if this helped the situation. It is clear that the late licence causes more anti social behaviour, as noise did improve past 1am. However, because the new times have only changed slightly (until 12am) and were not enforced totally, there has been little difference to the above issues. Noise after 1 am has decreased but noise up to 1am is as bad especially after 11pm.

We feel that the above issues will not be resolved by reviewing the late license to 12am, we feel the only fair and reasonable thing in such a residential area would be to review the license to 11pm in line with the other pubs nearby.

Please see below some evidence taken of groups congregating and staying outside the front of the Bramley Apple pub at unreasonable times causing excessive noise.

To the Licensing Manager, NSDC

Please note the following re. the review of the Bramley Apple Licensing hours.

We have lived at XXXXXX Southwell since 2002 and in that time have experienced continuing issues relating to nuisance, noise and anti-social behaviour associated with the Bramley. In recent years this has increased largely due to the late operating of the current hours.

There is no doubt that the current manager is an improvement and is making genuine efforts to improve relations with neighbours.

However, most of the issues on Friday and Saturday nights in particular, are unlikely to be solved, despite his best efforts, whilst drinking is allowed to 1.00 am. This means that drinkers do not need to disperse until 1.30 am. We believe this to be unreasonable in a residential area.

The following problems routinely exist:

- The Bramley operates the latest hours of neighbouring pubs, so is a magnet for late drinkers, many of whom are already noisy and boisterous when they arrive.
- Drinkers esp smokers settle at the tables on the forecourt, so the noise is not contained in the pub.
- Noise can often include offensive language, screaming and shouting
- Cars, including taxis, frequently arrive late at night often sounding horns and idling and revving engines, sometimes up to 2.am.
- It is not unusual for cars to be parked on double yellow lines
- When drinkers eventually leave the pub, they are often slow to disperse, seemingly unaware that it is a residential area and they continue to make excessive noise on Church Street.
- Fights have spilled into our front garden; cars have been interfered with, vomit, drinks and glasses are left in the street and we have also witnessed men urinating in the street and gardens opposite our house.
- On Fridays and Saturdays we sometimes delay going to bed in the certain knowledge that we will be woken up and our nights disturbed.

All of the above take place generally at the later end of the evening.

Interestingly in the past week with the 10.0 curfew, there has been no disturbance at all.

We accept that the pub exists and needs to be a viable business and we know the current landlord is striving to improve the situation.

We firmly believe that a review and subsequent change to the current licensing hours will make it easier for him to improve the reputation of the pub and will certainly be of benefit to all residents.

I have lived at XXXXXX since 1999, which is only XX doors away from the Bramley Apple pub. This pub has been a constant source of noise and disruption since that time and was the principal reason I installed secondary glazing at the front of my house, due to rowdy late night noise travelling down the street.

If I remember correctly, as a result of numerous residents' representations the Bramley was only granted a 11.00 pm license after the 2005 reform of pub licensing. However, shortly after without the residents knowledge the license was extended to 1.00 am at weekends. Had we been aware, the residents would have certainly strongly objected.

As you aware the Bramley is situated enclosed on 3 sides by residential properties. The noise from the front of the pub resonates down the street and the swearing and rowdy behaviour is clearly audible from my front door. Only a few weeks ago, when I was briefly outside my house painting the front door, I witnessed two incidents. At around 9.00 pm on a Tuesday, I heard someone shouting to another person to "F-off and clear-off and not to say such things in front of his child", and on the following Friday I heard another heating argument lasting around 5 mins involving a lot of shouting and swearing. These incidents occurred in the space of less than an hour it took me to paint my door.

It is a ridiculous situation that a pub in such a location should have been ever granted such a late license. The pub attracts already drunk people for other pubs in town with earlier closing times. The people congregate outside the pub swearing and talking very loudly, disturbing the sleep and rights of local residents to enjoy peace and quiet in their own homes. This noise continues at weekends until after 1.00 am. We hear the people leaving the pub noisily, revving their cars and driving off often at high speed down the road. Taxis pull up outside late at night, leaving their engines and radios running. There is frequent shouting, swearing and fights outside the pub. The front door is left open in warm weather, despite licensing conditions requiring the doors to be always kept closed.

Customer frequently park on the pavement outside the pub and on double yellow lines, often completely blocking the pavement, as below in the photos, causing obstructions to pedestrians and road users.



I enclose below previous correspondence with the council regarding the Bramley.

1.

**Sent:** 17 September 2018 19:02

**To:** [request@nsdc.info](mailto:request@nsdc.info)

**Subject:** Please forward to licensing authority re- complaint Bramley Apple

*People are being allowed to congregating on the hard-standing outside the pub after 11.00pm, drinking and making excessive noise. Furthermore, the pub door is being left open.*

*It is my understanding all customers must be inside by 11.00 pm and the door kept shut at all times. The noise for the residents adjacent to the pub must be intolerable.*

*For example, we returned home at 11.30 pm last Friday and we could hear the noise carried down the street halfway down Easthorpe. We walked up to the pub and there was a group of young people loudly talking on the hardstanding and the door was open. We have a short video if you want to see this.*

*Furthermore, the local opinion is the pub is attracting underage drinkers.*

*I trust you will deal with this and insist the publican brings people in and shuts the door. I will monitor the situation and come back to you if there is no improvement.*

*Best regards,*

XXXXXX

2.

**From:**

**Sent:** 07 October 2018 20:38

**To:** Tony Dennis

**Subject:** Re: The Bramley Apple Pub

*Dear Mr Dennis,*

*Last night there was a terrible disturbance at 2.30 pm outside the Bramley, with people shouting and swearing, and what sounded like banging, for around 10 mins. This morning we note a window of a Bramley Apple is smashed. As we were awake at this time, we heard cars still leaving the Hearty Goodfellow car park at this time in the early morning.*

*Please log this as yet another complaint and provide me feedback.*

*Thanks,*

3.

31/01/2020 09:39

*Hi Tony,*

*Further to my previous mail, I took these photos last night at 11.30 pm outside the Bramley Apple. Not only is a car outside on the double yellows, the white car is parked completely across the pavement causing an obstruction for pedestrians.*

*Best regards,*

#### 4. Letter 06/08/2007

Dear Sir/Madam,

*I am writing to make an official complaint regarding the Bramley Apple Public House in Church Street, Southwell. I spoke to your enforcement officer around 4 weeks ago and brought to his attention a number of issues of non-compliance with the conditions attached to the license for this public house. These were principally:*

*Failure to prevent noise from live entertainment from being audible from the nearest façade. The reason for this failure being due to the licensee wedging his front doors wide open.  
Failure to ensure that drinkers on the front hard standing outside are brought inside by 11:30 pm.*

*When I spoke to the enforcement officer he mentioned a number of similar complaints by other residents had also been made along these lines, and he said he would look into the matter. Since our conversation the situation has not improved. For example, on Saturday 4<sup>th</sup> August, I saw drinkers were sitting outside the public house at midnight, making such much noise that it sounded in the street like a party. They were still there at 1.00 am and as I could hear the disturbance through my double glazing 5 doors away. Speaking to my neighbours, the noise levels on the previous Saturday (I was away) amounted to a "riot". The police were even called at few weeks prior to this, as it sounded like a fight was going on. As you can see this is an ongoing problem for residents that needs urgent addressing. I raised this issue during the original licensing hearing for this public house, and as a consequence a condition was imposed that drinkers should not be allowed on the hard standing after 11.30. This condition is being systemically being flouted. It also seems that the condition that the premises closes at 12.00 is also being violated.*

*It is my understanding that is your legal responsibility to enforce these licensing conditions and prevent licensed premises causing a public nuisance, as per your licensing policy 7.2c. Therefore, I would be grateful if you could tell me what action was taken following my previous complaint and those of my neighbours, and what actions you intend to make now to ensure that in future this licensee abides to his licensing conditions. My neighbours and I will continue to monitor the situation and trust that action on your part will lead to a reduction in the disturbance caused by this licensed premises.*

*Finally, Terry Lee, Environmental Services, mentioned we might also request a re-evaluation of the terms of the license for this premises. Therefore, I would be most grateful if you explain the procedure for doing this."*

***I therefore support reducing the licensing hours to 11.00 pm.***

For the attention of the Licensing Manager

Dear Sir

I would ask you to consider the following points with regard to the change of license request.

Parking: The Bramley Apple has very limited private parking spaces so customers are forced to use Farthingate and Farthingate Close for overspill. At pub closing times, people returning to their cars can cause noise levels to increase to an unacceptable level with talking, shouting,, slamming car doors, revving up engines, etc.

This is a quiet, residential area and the prospect of a local public house closing in the early hours is very worrying.

Church Street is very narrow with tall buildings on both sides, causing noise to reverberate in both directions.

To whom it may concern

I am writing in response to the blue notice issued by the licensing team at the council, to the Bramley Apple Pub, in relation to the review of the late license.

I wholeheartedly support Jill Morris and every word written in her report, which I have viewed online. On occasion, the noise has been so loud, that was sleep was impossible. The pub seems to attract a certain sort of clientele, youngsters in particular, who have no regard for those around them, or consideration for the young or elderly who live nearby.

There are 2 other pubs on the street as well, both of whom close 10-11pm, and have never given us cause for concern or complaint.

I have lived here for XX plus years, and am pleased that this issue is finally being addressed. In recent years, noise was an issue at this same pub, and no action was taken then; I hope it will be addressed now.

I do not wish my details to be made public, at any time Thank you XXXX

I am supporting the blue notice which has been put up outside the pub It has become a nightmare opposite our house, My son was horrified about the late night noise when he visited recently Lots of people arrived and went in at 11.15 pm yesterday Earlier the customers were shouting, swearing and walking up in the road I often see and hear the courtyard customers til very late keeping me awake. The landlord cannot keep control of the customers though I think he does try sometimes There is urinating against our walls and damage done to cars parked on Church street. We cannot let this continue .

Licensing Manager  
N+SDC.

Dear Sir Madam, Re the review of the  
licensing hours for The Bramley Appb

I live in the house attached to the pub on the  
Minster side. I sleep at the back of the house and  
don't have a car. So, although I am aware of  
problems with noise in the street after closing  
times and parking issues there are not so pressing  
for me as for others.

However - my sitting room window is barely a  
couple of metres from the pub forecourt. Both prior to  
lockdown and since re-opening there have been  
raucous gatherings of people there which I have  
found a worrying and disruptive trend.

I acknowledge that I chose to live next to a pub  
I have lived here for 30 years during which time  
there have always been people outside the pub  
enjoying themselves. I've never had concerns  
about that. This present situation is of a different  
order though. I accept that the approach of winter  
and retreat of covid may reduce numbers.

The landlord is making efforts to be responsible  
and I would wish to be tolerant

It did worry me when at <sup>BUT</sup> the recent public meeting  
the owners of the pub asserted their income  
would be almost entirely derived from wet sales  
This is a new departure and would seem to  
me to inevitably lead to the Bramley being  
seen as a "drinker's pub". The sort of clientele  
it is attracting now seems to be indicative of  
that.

I would seriously question whether that sort of

establishment is appropriate for this residential area. — Or — should be being encouraged by late licensing hours.

The landlord has been experimenting with earlier closing times — 10:30pm + 11:30pm which seem reasonable to me in the circumstances. But, by his own admission, he is losing money and can't continue on that basis. I know he's trying to run a business in hard times. I'm sure his livelihood is jeopardized by my view. But, if he has to rely on late drinking hours to be financially viable then I would suggest the pub is not viable at all in this location.

It is my understanding that the late-licence was originally granted to facilitate the occasional music night etc to augment income not provide the basis for it.

I don't know if my concerns technically speak to your criteria for changing opening hours. But I do foresee an escalation of complaint and dissatisfaction by local residents if the Bramley becomes a late-night drinking venue as seems likely. It would be seen as an anti-social establishment in our community.

I think the owners must consider other income streams, like B+B, which would be more suitable, and for which there is considerable demand, rather than relying on wet-sales and a late licence.

Sincerely

Supporter 1 comments

1<sup>st</sup> October 2020

To whom it may concern,

I am writing to you with regards The Bramley Apple Public House, Southwell.

This pub is one which we as a family happily visit with our young children and close friends and we are always very impressed with the way in which the landlord Johnathan Rice and his staff make us feel welcome and always go above and beyond to provide exceptional hospitality.

We have visited this establishment on many occasions and have never come across any trouble or customers who have made us feel uncomfortable. We have also been to the pub later at night a few times as a couple without our children and have never witnessed any customers causing any problems or being in any way antisocial or loud and raucous.

We will continue to visit this pub and are certain that we will not ever face any problems. We are very confident that Johnathan himself would effectively and efficiently tackle any concerns should we ever feel the need to raise them, as he is passionate about doing the very best for the pub itself and its cliental alike.

We are also very aware of the continued efforts Johnathan and his staff make on an ongoing basis to ensure that the customers are respectful of the surrounding neighbours and other visitors to the pub; this is easy to see through a range of signs in place in and around the establishment.

Should you require any further recommendation for this public house please do not hesitate to contact us.

Kind Regards

Our pension plan is the owner of the property, The Bramley Apple Southwell and we are the Designated Premises License holders. "We" have been owners of the freehold since 2001 . We currently let the premises to experienced pub managers, Avtar Singh and Paul Linehan. They have in place day to day managers of their pub portfolio.

Richard has attended regular meetings with the local licensing officer throughout and also holds meetings with the area manager and the pub manager to monitor both the upkeep of the premises and to be aware of any issues relating to the license of the pub. We are satisfied that the area managers and the pub manager are fulfilling their roles and ensuring full compliance with the agreed licensing terms. It is therefore disappointing that a request for a review of the Premises License has been issued by Jill Morris during a "trial period" of voluntary restricted hours without waiting for the outcome or assessment by the licensing officer. With reference to "the Meeting" in Ms Morris's complaints, it seems to us that she wants all noise stopped, and in effect, wants the pub to be closed as it was in lock-down. Furthermore, CCTV footage shows that the alleged "unreasonable behaviour" is no such thing and that the pub is being run by consent with very strict house rules which do not tolerate anti-social behaviour.

Ms Morris resides about 200 metres from The Bramley Apple and can, of course, hear noise from the pub but she is not a close neighbour. She has made an individual complaint but "on behalf of the community". In respect of attending the pub which in many respects is at the heart of the Church Street community, Ms Morris is not part of the community and we are told she has not visited the pub other than to attend a meeting on 25th August 2020.

We note the allegations made by Ms Morris in her request for a review. These matters were all dealt with at the meeting of 25th August to the *satisfaction* of Mr Dennis, and we believe by most of the community, judging by the letters of support from local residents. Ms Morris has reiterated in particular:

The suggestion that there were large groups at the front of the pub as late as 2.00 a.m. CCTV footage shows that this is not the case, and Ms Morris could not verify this from her home.

*Similar* allegations of talking *loudly*, shouting, screaming and standing in the middle of the road; Whilst it is feasible that this has occurred, we are assured by the pub manager that there is nothing to link this occasional behaviour with Bramley Apple customers as Church Street is a busy road, being the main road which locals use to go to and fro from the town to the Racecourse end of town . There are two other pubs along Church Street whose customers walk past the Bramley Apple.

*Of* even more concern is the allegation of drinking outside which she says seems unmanageable. We note the management procedures put in place by James Kemp, the current DPS, and of Jonathan Rice, the day to day manager. The allegation cannot be sustained nor can that of urination, littering and damage to properties. Ms Morris's allegations are hearsay, and whether the poor behaviour she cites has occurred or not, they cannot be attributed to just the customers of the Bramley Apple. For instance, one cannot see any logic in a customer leaving the Bramley Apple and then urinating in the street within 200 metres of the pub.

Ms Morris complains about the back door being left wide open, with ~~an~~ understanding that good airflow is *essential* to reduce the risk of transmission of Covid 19. Whilst the pub manager must do

all he can to minimise noise, it is not possible to eliminate completely noise. The voluntary restrictions have already addressed the issue of noise.

Comments regarding the two other pubs under "Location" are in our opinion not sustainable. The success of the three pubs is their different characters and attributes. We do not accept the premise that the pub attracts those who cannot get a drink anywhere else and are drunk and unable to control their behaviour. This is both insulting to the customers, and probably untrue. James Kemp and Jonathan Rice both confirm that the late-night drinkers are often other hospitality workers and they most certainly are respectful to the neighbours and to the pub itself.

Whilst one has some sympathy for Ms Morris, it should be acknowledged that the pub has been in existence since 1913 and she, like all other locals, was aware of its existence when she moved to her current address in 1999. Ms Morris acknowledges that the pub has a right to make a living but to restrict the pub opening hours as she wishes would make the pub unviable financially, deprive the staff of a livelihood and close a community venue. Furthermore, this pub belongs to our pension fund and is therefore an important source of income now that we are retired.

Ms Morris refers to "History". We submit that it is unfair to penalise the current lessees or the pub managers for perceived misdemeanors. Furthermore, to suggest that the pub has never been a thriving concern since 2001 is untrue, speculative, and irrelevant. When the pub was refurbished in 2013, more than £100,000 was spent on it. We have not seen any evidence of uncleanliness when we visit. As Ms Morris has not been a recent customer, she should not make this assertion. Similarly, it is a serious allegation that the pub permitted "a good deal of underage drinking" for which no evidence has been produced. CCTV can be provided to disprove this allegation in recent times.

It is acknowledged that Ms Morris has complained about the pub since 2016. This has mounted to a personal vendetta against the pub. We understand that there were no complaints when she moved out of her house for several months this year, and that she has now sold her property.

To summarise: We believe that the extended opening hours are an asset to the community. Not everyone goes to bed before 11.00 p.m. and well-behaved and well-managed "night owls" should not be penalised as such, nor should the managers, staff and ourselves be deprived of an honest income. We invite the review committee to retain the extended licensing hours with the management commitment to work with and for the community.

Signed

Richard Scragg

Helen Teasdale

Agenda Page 37

I James Kemp being the licensee for The Bramley Apple Public House would like to submit the following supporting information in response to the allegations made by a group of local residents.

I was appointed the NEW licensee on September 5th following a meeting between local residents and the pubs management where issues were raised regarding the compliance of the 'Licensing Act 2003'. It was recognised by the management that the previous licensee/DPS was not as involved as needed and swift action was needed to ensure the local residents were happy with how the pub was managed showing respect for the nearby properties. I was upset to learn that only 5 days later this review was submitted as I was under the belief that 4 weeks had been agreed at the meeting on Aug 25th to rectify any concerns and the residents had not complied with this agreement.

However, it is important to us that the local residents are happy and measures have now been implemented to assist with their concerns such as removal of external seating at the front of the pub so we don't have passer bys using the seating late at night and causing a disturbance. I think it's important to note that all 3 pubs on Church Street have patrons who come and go and cause a nuisance however the finger of blame is always pointed at The Bramley Apple. We feel we should be responsible for the whole streets late night comings and goings as we know the blame will land on our doorstep and in fact I have witnessed Jonathan Rice (Manager) on many occasions risk his own safety to help drunken people who have fallen over and disperse large groups of lads further up the road just to keep the peace.

I believe that should a grace period be given to allow myself and the pubs management to fix any issues that may arise from our pubs patrons we can work together to create a safer and much quieter Church Street. The answer is not to damage a local business and increase unemployment but to identify and fix issues before reviews such as this are submitted. I know that all pubs on Church Street contribute to noise etc. and we should consider beginning a local group where all businesses and residents can discuss and share best practice and allow the Bramley Apple pub to be part of the solution and not the scape goat.

The review contains a lot of allegations and libellous comments that can not be substantiated or proved and I would suggest these are disregarded in this review, these are;

- ° Excessive noise level - define excessive? Tony Dennis has confirmed that no complaints of noise have been made to him.
- ° Unmanageable drinking outside - All outside drinking is monitored via CCTV inside the pub, not having a physical presence does not mean unmanageable.
- ° Cars parked on double yellows - these drivers cannot be connected to our pub, please provide proof that the car owners were our patrons?
- ° Underage drinking is a very serious allegation and unsubstantiated. We operate a strict challenge 25 policy and this is adhered to. If the residents are aware of any underage drinking please provide proof?
- ° No crime and disorder has been reported to the local Police relating to the Bramley Apple. However we are aware that they have been called to another pub on Church Street.

The late license is a necessary part of the business and allows the pub a unique selling point and generates approx 40% of our weekly takings. Without these hours the pub will have no choice but to reduce staffing costs and could cause the business to fold.

We recognise the pub has become a destination for some late night drinkers who wouldn't normally frequent the pub. A lot of our late night trade is other bar workers from the towns pubs and enter sober and have a few drinks to wind down, we also have some local care workers who come after their late shift to unwind after a very stressful shift in this current covid climate.

To be able to filter out the drinkers who come from the Hearty Goodfellow pub, The Coach House and the towns pubs we have introduced an exclusive membership club where as cards are given to our regular well behaved patrons, bar staff from other pubs and care workers allowing a retreat that is for them only and doors will be closed to everyone else and over a period of time once this is marketed we expect this to reduce the footfall considerably that come to the pub late. We intend to close our doors to all at 11pm unless they are an exclusive member. We believe this will fix any historic issues whilst maintaining sales and staffing hours.

I would suggest that this review is based mainly on speculation, unproven allegations and defamation. We as a business would like to build our relationship with the local residents and believe we have provided a solution to their concerns whilst maintaining and protecting possibly the most iconic public house in the town.

Best regards

James Kemp

Statement of Jonathan Rice of The Bramley Apple dated 7th October 2020

I have been the day to day manager of the pub since the beginning of 2020 whilst Aimee was the DPS. The pub was closed during lock-down between 23rd March and 4th July 2020. The overall management of the pub is by experienced area managers, Paul Linehan and Avtar Singh who have managed pubs on behalf of Greene King as well as numerous privately owned pubs. They are also the area managers of The Roaring Meg pub in Newark.

I have lived in Southwell throughout my life and know many of the residents. I have also worked in other pubs in the town. I feel very much part of the community and my intention has always been to provide the community with a friendly local pub and to be recognised as a responsible, caring pub manager. For this reason, I have communicated with the local residents and invited their comments as to what they want from the pub and I have dealt with any concerns they may have and taken on board ideas which enhance the pub, and hence the community. Many of our current customers are now local, living within a short distance of the pub. Several have said they intended to issue letters of support to the Licensing Review.

During the lock-down, I organised and undertook a complete internal refurbishment of the pub. I also made the pub "Covid 19 secure", ensuring that self-distancing was maintained, that access to the bar by the public was prohibited and that there was a good airflow through the pub. Hand sanitiser stations were installed and customer details taken from the first day the pub re-opened. The number of guests permitted in the pub was reduced by 50% to ensure there was plenty of space to enable proper distancing. This by necessity meant that customers were encouraged to go outside whenever the weather permitted.

The nature of the pub is that of a community pub, frequented by locals, members of the Rugby Club, Young Farmers and more recently also the students at Brackenhurst College. Each of the 3 pubs along Church Street hosts a slightly different set of customers. In particular, the Coach House tends to attract fewer and slightly older drinkers. The Hearty Goodfellow is more focused on food, so its customers tend to leave a little earlier than the Bramley Apple customers. The Bramley also attracts other pub and restaurant staff from across town when they have finished their shifts. This is important to the town as it is often their only option to socialise outside of work.

There was a complaint about noise in August so I suggested a meeting be held at the pub with the locals to address that. A meeting was held on 22nd August and was attended by the local licensing officer, Tony Dennis. A Jill Morrison came to this meeting which was, I believe, her first visit to the pub. She is not a known customer.

I implemented all the agreed matters. It was agreed that a progress review would be made with Mr Dennis in 4 weeks' time. We agreed that for the next 4 weeks, we would trial closing the pub earlier; i.e. closing pub doors at 10.30 and customers leaving by 11.00 p.m. Monday to Thursday inc. and Friday, Saturday and Sunday to take last orders at 11.30 p.m. and all customers to leave by midnight. This has been strictly adhered to.

During lock-down, we installed CCTV which gives us confidence and confirmation that we have implemented the trial rules strictly.

Notwithstanding, further complaints were made to Mr Dennis in early September, during the trial period. Whilst all complaints are taken seriously and we aim to be good neighbours, those complaints are mostly unjustified and exaggerated:

27th August people still at the pub at 11.44 Sunday 31st August people outside the pub and people in the pub drinking at 23.34. This is within the agreed trial hours.

Friday 4th September – noise outside at 23.50. This is within the agreed hours of opening. I cannot confirm or deny there was a noise, but I can say that we were monitoring customers leaving the pub at this time, and that the noise could have come from any member(s) of the public in the vicinity of the pub at that time. The customers of the two pubs further out on Church Street will pass the Bramley Apple on their way home if they live towards the town centre.

Saturday 5th September a group of 20 people at the pub. On this occasion, our area manager was also at the pub to monitor noise levels following comments by a local. There were two groups of people in particular at the pub – the Young Farmers who were well behaved and quiet, and a group of footballers who were probably already drunk when they arrived but behaved well enough at first and then became loud. The area manager was on the door ensuring no other people entered the pub whilst James Kemp and I persuaded the group to leave. All of this was recorded on CCTV and Mr Dennis has commended us on how well we handled the group.

It is regrettable that sometimes groups get boisterous but it is not something we encourage. We strictly follow the “pub rules” and guidance as agreed with Tony Dennis. We do have a member of staff (usually myself or James Kemp) outside whose job it is to limit the number of guests congregating outside, to monitor noise and ensure customers leave in a quiet and respectful manner. However, once they are off our premises, we don’t have full control. The allegations of noise may relate to anyone on Church Street later at night, not just The Bramley Apple.

We issued “approved” customers with a club membership card to enable a selected few to drink later in the evening (still within the reduced hours agreed with Mr Dennis). This system seemed to work very well, but the further Covid 19 restrictions have since required the pub to stop servicing and to close by 10.00 p.m. so we could not continue with the club.

To whom it may concern,

I have recently seen notices posted on Church Street relating to the license of the Bramley Apple and I am very concerned that this could undermine the significant improvements that have been made with the current landlord

I live at XXXXXXXX and have been pleased with changes that have been made. Gone are the days of late night lock-ins and excessive noise. The pub is now actually a nice place to visit with my children and grandchildren, and I wouldn't have said that a year or so ago.

The appearance and cleanliness of the pub, both inside and out have been massively improved.

As a neighbor to the pub, I very much appreciate the efforts of the Bramley staff, being made to minimise late night noise, even from people congregating outside from other pubs in the area.

Living next to a pub, I expect reasonable level of noise and finally, I have what I consider to be a reasonable level of noise and all in all a good neighbor.

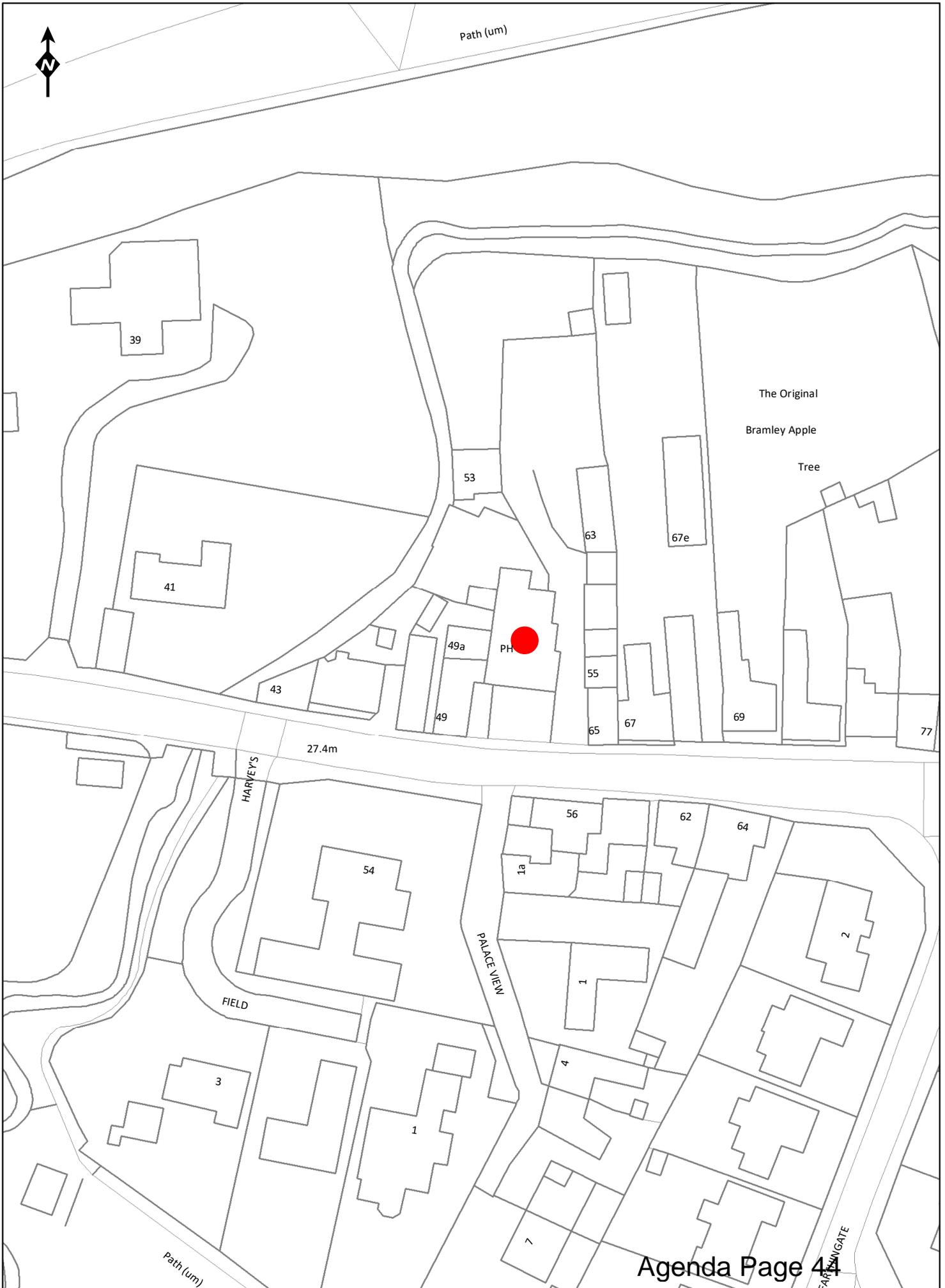
I am genuinely concerned that this significant progress could be lost if there is a change to the licensee and we end up back where we were before.

The efforts being made by the landlord and his staff should be encouraged and not undermined.

Appendix 3 – Photos of the Bramley Apple, Southwell



Bramley Apple, 51 Church Street, Southwell, NG25 0HQ -  
Premise Licence Application



**Castle House, Newark, Notts, NG24 1BY**

**Premises Licence**

<b>Premises licence number</b> 000720
---------------------------------------

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>			
The Bramley Apple 51 Church Street			
<b>Post town</b>	Southwell	<b>Post code</b>	NG25 0HQ
<b>Telephone number</b>	01636-813675		

<b>Where the licence is time limited the dates</b>
Not applicable

<b>Licensable activities authorised by the licence</b>
<ul style="list-style-type: none"> <li>1 Regulated Entertainment               <ul style="list-style-type: none"> <li>a The provision of live music</li> <li>b The provision of recorded music</li> <li>c Performances of dance</li> <li>d Anything of a similar description to (c) above</li> <li>e The provision of facilities for dancing</li> </ul> </li> <li>2 The supply of alcohol by retail</li> </ul>

<b>The times the licence authorises the carrying out of licensable activities</b>	
<p><b>A Standard Times</b></p> <ul style="list-style-type: none"> <li>1 Regulated Entertainment               <ul style="list-style-type: none"> <li>a The provision of live music Friday to Sunday – 19:00 to 23:00</li> <li>b The provision of recorded music Monday to Thursday – 11:00 to 00:00 Friday &amp; Saturday – 11:00 to 01:00 Sunday – 12:00 to 23:30</li> <li>c Performances of dance Monday to Sunday – 11:00 to 23:00</li> </ul> </li> <li>2 The supply of alcohol by retail Monday to Thursday – 11:00 to 00:00</li> </ul>	<ul style="list-style-type: none"> <li>d Anything of a similar description to (c) above Monday to Thursday – 19:00 to 00:00 Friday &amp; Saturday – 19:00 to 00:30 the following day Sunday – 17:00 to 23:30</li> <li>e The provision of facilities for dancing Monday to Thursday – 11:00 to 00:00 Friday &amp; Saturday – 19:00 to 01:00 the following day Sunday – 12:00 to 23:30</li> </ul>
<b>B Non Standard Times</b>	
All licensable activities permitted by this licence	31 <sup>st</sup> December 11:00 to 23:00 on 1 <sup>st</sup> January

**The opening hours of the premises**

- A Standard Times  
Monday to Thursday –11:00 to 00:30 the following day  
Friday & Saturday – 11:00 to 01:30 the following day  
Sunday – 12:00 to 00:00
- B Non Standard Times  
31<sup>st</sup> December 11:00 to 23:00 on 1<sup>st</sup> January

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

Both on and off supplies

**Part 2**

**Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence**

Richard Harry Scragg & Helen Mary Teasdale  
Ellington  
Tattershall Drive  
Nottingham  
NG7 1AD  
Tel: 0115 9413187

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

Not applicable

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

James Kemp

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

Personal Licence number: 001009  
Issuing Authority: Newark and Sherwood District Council

**Annex 1 - Mandatory conditions**

**Designated Premises Supervisor**

No alcohol may be supplied under this Licence:

- (a) at any time when there is no Designated Premises Supervisor in respect of these Premises; or
- (b) at any time when the Designated Premises Supervisor does not hold a personal licence or his/her personal licence is suspended.

### **Authorisation By Personal Licence Holders**

Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.

### **Irresponsible Promotions**

(1) 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.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(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).

### **Potable Water**

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

### **Age Verification**

(1) 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.

(2) 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.

(3) 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.

### **Small Measures**

The responsible person must 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: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(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.”

### **Sales Of Alcohol Below The Permitted Price**

(1) 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.

(2) For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “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,

- (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;
- (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 authorizes the 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

(3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- (4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 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.

(2) 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

### **Exhibition of Films**

Admission of children (i.e. persons under the age of 18 years) to any exhibition of film must be restricted in accordance with any certificate and/or recommendation relating to that film made by the British Board of Film Classification

### **Door Supervision**

Any person exercising a security activity (as defined by paragraph 2(1)(a) of schedule 2 of the Private Security Industry Act 2001) shall be licensed by the Security Industry Authority. Any such person shall be employed at the premises at the discretion of the Licence Holder/Designated Premises Supervisor and shall display their name badge at all times when on duty

**Annex 2 - Conditions consistent with the Operating Schedule**

- 1 This licence is granted on the condition that the restrictions contained within the enactments specified under Licensing Act 2003 Schedule 8 (6) are adhered to except as specifically varied by this licence
- 2 Children under 16 are only permitted on the premises if they are accompanied by a parent or responsible adult and being served a meal. Children are not permitted on the premises after 21:00

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

- 1 The designated Premises Supervisor shall take all reasonable steps to ensure that patrons awaiting entry to the premises or leaving the premises do not cause annoyance or nuisance to any other person in the vicinity of the premises.
- 2 Sound insulation or control equipment which is installed to prevent noise nuisance to the occupiers of neighbouring premises shall be maintained in satisfactory working order
- 3 Any noise produced or associated with the regulated entertainment must not be audible at the façade of the nearest residential, commercial or industrial premises
- 4 The consumption of alcohol in beer gardens or outside areas shall cease at 23:00.
- 5 Electrical sockets used by entertainers shall be fitted with residual current device protection (complying with BS7671: Requirements for Electrical installations) and labelled accordingly.

**Annex 4 – Plans**

Attached – Dated 26.3.2014

## APPENDIX 5

### Further information requested by licensing authority responses

Further information was requested from all parties by the licensing authority in Schedule 1 of the Notice of Hearing. The following responses have been received:

#### **Comments from the Applicant Jill Morris**

1. I would like the licence to be restricted to 11 pm from Sunday to Thursday and 11.30 on Friday and Saturday.
2. Doors to be closed at 10 pm at front and rear and no outside drinking allowed after this time and no congregating outside after 10.
3. Smokers to be allocated a designated smoking area not immediately outside the front/back door and at a suitable distance from the door.
4. Doors, in general, to be closed to avoid noise disturbing 'reasonable' enjoyment of home and garden.

#### **Comments from Review Supporter 1:**

To the licencing manager,

Please find attached the form to say I will be attending the hearing.

I would like to clarify what controls and actions we would like in place at the Bramley Apple Pub:

With regards to the outside: No congregating in groups out the front or back of the Bramley after 10pm. If customers go outside to smoke, it must be in a designated area (preferably in the back) and should be for a reasonable length of time (5-10 minutes) not for extended lengths of times like it is at present.

No cars parked across the pub's entrance.

This is our main condition. We strongly support that the licence being reviewed to 11pm. This will bring it inline with the other pubs in the Southwell community. This will ensure the prevention of public nuisance, the excessive noise and anti social behaviour that comes with the late licence. I have lived near the Bramley Apple since the 1980s. It has been increasingly problematic especially when the late licence was granted. We understand that we live near a pub at that it won't be totally quiet, however, when the noise interferes with our sleep and enjoyment of the property, this is unreasonable for us especially when we are in our 70's and should not have to worry if we will be kept up until all hours with late night drinking and excessive noise.

Lastly, there needs to be stricter management of some of the behaviour of some of the customers. The management have put notices up and go outside to check, however, some customers are still not following the rules and there have been frequent issues with rowdy drunken behaviour, excessive noise and shouting/screaming out the front.

## **Comments from Review Supporter 2:**

To the licensing manager,

I have attached the form which gives notice of my intentions to attend the hearing on Thursday 29th October to review the license of the Bramley Apple Pub.

Please find below clarification to the following points you require:

Please state the exact controls that you seek to have on any outside areas including any time limits.

We feel it is reasonable that the outside areas are not used after 10pm in such a residential area where the distance from sensitive premises such as residential dwellings is so close. This is the time when people, especially children or elderly, may be using their bedrooms. Tony Dennis emailed Jill to say that conditions were given to the Bramley Apple pub to include that any outside gatherings are unreasonable after 10pm, however, this is constantly being breached by the Bramley Apple pub.

The pub has spent money on renovating the beer garden behind the property, yet customers are mainly using the front where majority of neighbouring properties are located. It is clear by all the neighbours complaints that groups of customers congregate outside the pub at unreasonable hours causing noise and anti social behaviour. They are not random members of the public (or other pub customers as implied) they are customers of the Bramley Apple pub.

Are there any other conditions that you would like the Licensing Panel to consider attaching to the licence that support the licensing objectives, which are:

Prevention of public nuisance and crime and disorder.

We strongly support that the licence being reviewed from 1am to 11pm. This condition would ensure the prevention of public nuisance, in particular, that the noise levels and anti social behaviour are better controlled. It would also bring this pub in line with all the other pubs in the Southwell community who shut at 11pm or before.

Persistent noise particularly when it is between the hours of 11pm and 7am could be considered antisocial behaviour when it occurs regularly and continues over a period of time. Many of the residents have lived near the Bramley Apple for a number of years and experiencing persistent unreasonable ongoing anti social behaviour from the pub.

Furthermore, the complaints about noise should be noted as statutory nuisance as the noise is significantly interfering with the reasonable enjoyment of our properties. Representations have noted that the noise has been an ongoing concern and interfered with sleep and normal enjoyment of their properties.

The cars that are regularly parked across the front of the Bramley Apple and on double yellow lines should not be permitted.

There also needs to be stricter control of some of the customers behaviour. The customers who frequent the pub, later at night, are not following the rules or reading posters put up by the pub. This blatant disregard for nearby residents is disconcerting and should be the responsibility of the pub to ensure that customers are respectful and appropriate when on their premises. This is not currently being enforced effectively.

Lastly, there should be a designated smoking area, preferably at the back of the pub. This should be managed so that people who smoke should do so quietly and in a reasonable time limit (5-10 mins) At present the customers are having extended lengths of time outside smoking.

**Comments from Review Supporter 7:**

- 1) That the outside areas are not used after 10pm. In such a residential area this seems reasonable.
- 2) That the late license be changed to from 1am to 11pm. This would prevent the public nuisance residents have been experiencing of excessive noise and anti social behaviour.
- 3) That cars are stopped from parking across the pubs entrance.

## APPENDIX 6

### **6. APPLICATIONS, NOTIFICATIONS AND THEIR CONSIDERATION**

- 6.1 The procedure and documentation required for the various applications and notices is prescribed by the Act and Regulations. Further advice on these processes is available on the Council's web site. This section of the policy gives basic guidance on how those applications and notifications will be considered. Failure to comply with the statutory requirements may result in the application or notice being invalid. To ensure the application is completed fully, applicants must consider the contents of this policy statement, the government guidance issued under section 182 Licensing Act 2003 and relevant guidance published by the licensing authority. Applicants are encouraged to seek advice from the licensing authority and responsible authorities before submitting an application. Failure to comply with the statutory requirements may result in an application or notice being invalid/rejected.
- 6.2 The processes of applying for new premises licences and full variations of current premises licences are dealt with in same way and involve serving the application on all Responsible Authorities and advertising the application in the prescribed way. If objections are received the matter will be heard by the Licensing Committee of the Council. The fee for such applications depends on the size of the premises.
- 6.3 The process of a minor variation to current premises licences are dealt with differently. Minor variations can be applied for to vary times of activities but not to increase the hours when alcohol can be sold. The process can also be used when making minor structural alterations to the premises and to add or remove conditions from the licence. These minor variations should not have a material effect on the way in which the premises are operated, and there is one set fee. The granting of a minor variation is determined at officer level after consultation with those Responsible Authorities affected. If the application is refused the applicant can resort to the full variation process.
- 6.4 All applicants are encouraged to use the gov.uk site to submit on line applications.
- 6.5 Representations**
- 6.5.1 Where the licensing authority receives an application for a new licence or a variation to an existing licence, the responsible authorities and other persons have 28 days to make representations about the application. Representations can be positive as well as negative. Guidance on making a representation is available from the Home Office and a preferred form 10 is available on the Council's Licensing web page for individuals or groups to make their representations.
- 6.5.2 Submissions of representations made via e-mail will be accepted so long as there is a clear indication of who has submitted the representation, it is clear and legible and details of how that person or group can be contacted.

- 6.5.3 For a representation to be relevant it should be positively tied or linked by a causal connection to particular premises. Representations received outside the statutory period for making such representations will be invalid and will not be taken into consideration when the application is determined. The Licensing Authority also has the power to reject a representation made by someone other than a Responsible Authority if it finds it to be vexatious or frivolous. An example could be where a representation was made solely on the basis that the application would provide competition to an existing trader, where there is no relevance or link was made to any of the licensing objectives.
- 6.5.4 Members of the public who wish to submit a representation need to be aware that their personal details will be made available to the applicant. If this is an issue, they may contact their ward Councillor or other locally recognised body such as a resident's association about submitting a representation on their behalf. The Council is not able to accept anonymous representations.
- 6.5.5 Where a representation proceeds to a hearing the Hearings Regulations allow for further information to be put forward in support of that representation. However, that material must only relate to the initial representation and must not add new grounds of objection. It is therefore vitally important that as much detail and evidence as possible is included at the time the representation is made. Representations made without supporting detail and evidence may be viewed as frivolous or vexatious and disregarded.
- 6.5.6 It is for the Licensing Authority to determine whether any representation by an interested party is, on its own merits, vexatious or frivolous. The Authority will determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous.
- 6.5.7 Where representations are received, the characteristics of an area and the impact that the premises may have upon that area, will be a fundamental consideration in determining whether a licence should be granted, and if so what conditions should be attached to it. Conditions will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations. These matters will centre on the premises being used for licensable activities and the vicinity of those premises. What amounts to the "vicinity" will be a question of fact to be determined in the light of the individual circumstances of the case. Consideration will primarily be given to the direct impact of the licensed activity on those who live, work or are engaged in business or other activities in the area concerned.

## **6.6 Responsible Authorities**

- 6.6.1 Although the licensing authority is a responsible authority in its own right, it expects other parties such as local residents, Councillors or community groups should make representations in their own right when they are reasonably able to do so rather than rely on the licensing authority to make representations for them.

6.6.2 The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health is not yet a licensing objective but Public Health is a responsible authority under the Licensing Act, and the licensing authority believes that public health has much to add to licensing in relation to the local populations' alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which may inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies.

## **6.7 Panel/Committee Hearings**

6.7.1 The Act creates a presumption that applications will be granted unless a valid representation is raised. An application will then be determined by the Licensing Committee/Panel unless the issue that led to the representation can be negotiated to an agreed conclusion between the parties.

6.7.2 The Authority considers the effective and responsible management of the premises, the instruction, training and supervision of staff and the adoption of best practice in the leisure industry, which may include participation in such schemes as Pub Watch, Best bar None, Purple Flag or Business Improvement Districts, to be amongst the most important control measures for the achievement of all of the Licensing Objectives.

## **7. LICENSING POLICIES**

### **POLICY 1**

**The Authority expects to see evidence of the effective and responsible management of the licensed premises, such as examples of instruction, training and supervision of staff and the adoption of best practice used in the leisure industry, being specifically addressed within the Operating Schedule.**

***REASON: To ensure the promotion of the licensing objectives.***

7.1 Licensing law is not the primary mechanism for the general control of the anti-social behaviour of patrons once they have left the vicinity of the licensed premises, rather it is part of a holistic approach to the management of the District.

7.2 Where appropriate the Authority will seek to identify mechanisms that are available for addressing the potential impact of anti-social behaviour arising both in respect of the management and operation of licensed premises themselves and that arising once patrons leave the licensed premises. Regard will be had to the Section 182 Guidance in this respect and the following may be employed to address such behaviour and the potential for cumulative impact.

- Planning controls.
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority.

- The provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly.
- The confiscation of alcohol from adults and children in designated areas.
- Police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices.
- Prosecution for the offence of selling alcohol (or allowing such a sale) to a person who is drunk.
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises causing a nuisance.
- The power of the police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate in question.
- Early Morning Alcohol Restriction Orders (EMROs).
- Any other local initiatives that similarly address these problems.

## **POLICY 2**

**When preparing or considering applications, applicants, Responsible Authorities, other persons and the Licensing Authority shall, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the appropriateness of, any conditions which may be offered or imposed on any resulting licence, certificate or permission:**

- (i) The nature of the area within which the premises are situated.**
- (ii) The precise nature, type and frequency of the proposed activities.**
- (iii) Any measures proposed by the applicant in the Operating Schedule.**
- (iv) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.**
- (v) Means of access to and exit from the premises.**
- (vi) The provision and availability of adequate seating and the restriction of standing areas.**
- (vii) Noise from the premises or people visiting the premises**
- (viii) The potential cumulative impact (see below).**
- (ix) Other means and resources available to mitigate any impact.**
- (xi) Such other matters as may be relevant to the application.**

***REASON: To ensure that all relevant matters are taken into consideration during the application process.***

7.3 The authority wishes to encourage high quality, well managed premises. The operating schedule should describe how these high management standards will be achieved. In particular applicants will be expected to demonstrate:

- Knowledge of best practice
- That they understand the legal requirements of operating a licensed business
- Knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Licensing Act 2003

- 7.4 The operating schedule must include all of the information necessary to enable the licensing, responsible authorities and members of the public to assess whether the steps outlined for the promotion of the licensing objectives are sufficient. This will mean that applicants will need to complete their own risk assessments on their businesses. Where the operating schedule does not provide enough detail, there is an increased likelihood that representations will be made.
- 7.5 The authority will expect that the completed operating schedule is specific to the premises subject to the application and the licensable activities to be carried out rather than containing general or standard terms 7.6 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. The impact of noise arising from patrons that are temporarily outside the premises (e.g. smoking or moving from one part of the premises to another), must be recognised and mitigated against.
- 7.7 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their operating schedule. Shops, stores and supermarkets will normally be permitted to sell alcohol and or late night refreshment at any time when they are open for shopping unless there are good reasons related to the promotion of the licensing objectives for restricting these hours.
- 7.8 Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise-sensitive areas operators should consider ceasing the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.
- 7.9 Applicants should also consider making arrangements with local transport operators to provide information to customers to ensure they can access public transport and leave the vicinity of the premises quickly by the most appropriate route.
- 7.10 The Authority is mindful of the responsibilities that licence holders have for preventing anti-social behaviour on and within the vicinity of their premises. The Authority must, however, also bear in mind its statutory duty under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the District. Where appropriate, conditions will be imposed which reflect local crime prevention strategies.
- 7.11 Applicants are expected to have carried out the relevant assessments under other legislation (e.g. fire precautions, health and safety at work, etc) prior to submitting their applications. These assessments should be used to identify particular issues which may need to be addressed in the operating schedule in order to ensure that the objectives will not be undermined. Suggested methods of addressing Policy 2

may be outlined in more detail in any guidance issued by the Responsible Authorities but could include the matters listed below where appropriate.

- 7.12 Examples of recommended management practice to minimise Crime and Disorder:
- The provision of seating and restriction of 'standing only' premises to provide less congestion and potential for disorder
  - Use of CCTV both within and outside the premises.
  - Metal detection and search facilities.
  - Procedures for risk assessing promotions and events such as “happy hours” and plans for minimising such risk.
  - Measures to prevent the use or supply of illegal drugs.
  - Employment of licensed door supervisors and other appropriately trained staff.
  - Participation in an appropriate Pub Watch Scheme or other such scheme aimed at achieving a safe, secure and social drinking environment e.g. bar tariffs (for all bar price lists to carry a guide of how many units of alcohol each individual drink contains) and recommendations that all licensees, managers or supervisors attend regular meetings or send a representative if they cannot attend.
  - The licensee providing a taxi call point, waiting and concierge service for taxi marshalling at the licensed premises.
  - Use of measures aimed at ensuring patrons are more relaxed and quieter when leaving the licensed premises e.g. playing quieter music and promoting non-alcoholic drinks towards the end of the event, ensuring good lighting outside the premises, staggering the closing time with regard to nearby licensed premises, etc.
- 7.13 Examples of recommended management practice to ensure public safety:
- The preparation and application of appropriate risk assessments.
  - The setting and monitoring of occupancy levels for the premises.
  - Reasonable facilities, access and egress for people with disabilities.
  - Having glassware policies.
- 7.14 Examples of recommended management practice for the protection of children and vulnerable adults:
- Exclusion from the premises in certain circumstances.
  - Implementation of a robust proof of age scheme.
  - Training staff in their responsibility not to serve to a person when drunk
  - Encouraging staff to attend vulnerability training
  - Providing facilities to support vulnerable adults when assistance is required. (access to phone and/or charge, cold water, safe room away from others)
- 7.15 **Supply of Alcohol (Off Sales)**
- the display of prominent warning notices about the supply of alcohol to minors;
  - knowledge of the offences which adults can commit by buying alcohol for minors;
  - the requirements for production of satisfactory proof of age;
  - a commitment to the promotion of age verification schemes (i.e. Challenge 21 /Challenge 25);
  - whether any high strength beers, lagers, ciders, etc will be made available for sale.

- 7.16 Examples of recommended management practice for preventing nuisance:
- Keeping doors and windows of licensed premises closed to minimise noise break-out.
  - Sound limiting devices, or insulation to contain sound and vibration so as to address noise break-out not only from music but also, for example, from air handling equipment, generators or patrons.
  - With popular premises that attract queues ensuring that the direction of any queue is away from residential accommodation.
  - Proper and adequate door supervision.
  - Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors and repeating such requests verbally.
  - Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down.
  - Arrangements with licensed taxis or private hire vehicles to take patrons from the premises.
  - In appropriate cases door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it.
  - Banning people who regularly leave in a noisy fashion and liaising with other premises on such bans.
  - Where the premises have a membership scheme, including provisions in the conditions of membership concerning conduct and noise when leaving the premises.
  - Adequate provisions for dealing with litter/refuse arising from the operation of premises.
  - Appropriate times for, and methods of dealing with, bottle delivery, disposal and collection.
  - The licensee providing a help line or contact number for concerned residents.
- 7.17 In some cases it may be helpful for applicants and/or their advisors to discuss their draft Operating Schedule with representatives of Responsible Authorities, before it is submitted. This will help ensure it properly addresses all relevant issues that might give rise to concern.
- 7.18 In order to provide a consistent and clear approach, when considering the addition of conditions to a licence the Licensing Authority will where possible use a condition from a 'pool of potential conditions' that has been agreed by all the Licensing Authorities in Nottinghamshire. Other Responsible Authorities will be encouraged to do likewise.
- 7.19 Any condition attached to a licence or certificate should be:
- clear
  - Enforceable
  - Evidenced
  - Proportionate
  - Relevant
  - be expressed in plain language capable of being understood by those expected to comply with them
- 7.20 As a general rule, the Licensing Authority will seek to avoid attaching conditions that duplicate existing legal requirements and obligations imposed by other regimes

unless such obligations and requirements fail to adequately address the specific circumstances of the case.

## **7.21 Outside Areas**

7.21.1 The prohibition on smoking in enclosed public spaces has increased the demand for outside areas. Applicants are reminded that whilst they can be a valuable addition to the business, they can cause increased nuisance and disorder for residents. Operating schedules should detail how noise nuisance and disorder will be dealt with.

7.21.2 Although consumption of alcohol is not a licensable activity, if the plan does not show outside area such as beer gardens or similar, then any premises licence authorising the sale of alcohol on the premises only would not authorise the use of such areas.

## **7.22 Large Scale Events**

7.22.1 Existing licensed premises which intend to run one-off large scale events (and particularly dance events) are encouraged to consult with the responsible authorities and the Safety Advisory Group well in advance of the event taking place, to ensure that the event does not undermine the licensing objectives.

## **7.23 Cumulative Impact**

7.23.1 Cumulative Impact Assessments (CIA's) were introduced in the Licensing Act 2003 by the Policing and Crime Act 2017.

7.23.2 This potential impact on the promotion of the Licensing Objectives by a significant number of licensed premises concentrated in one area is called "cumulative impact". This should not be confused with the issue of "need" which relates to the commercial demand for licensed premises and cannot be taken into account when determining licensing applications.

7.23.3 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.

7.23.4 The CIA must include a statement saying that the licensing authority considers that the number of premises licences and/or club premises certificates in one or more parts of the area described is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives. As part of the publication a licensing authority must set out the evidential basis for its

opinion. Any CIA published by the Council will be summarised in the Statement of Licensing Policy.

7.23.5 The absence of a CIA does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives, However, in each case it would be incumbent on the person making the representation to provide relevant evidence of cumulative impact.

7.23.6 Having taken into account the evidence presented, the Council is satisfied that there are no areas within the Newark and Sherwood District presently suffering from cumulative impact. Should this situation change, the Council will consider the available evidence and consult with those bodies and individuals listed in the Licensing Act 2003. If the Council is satisfied that it would be appropriate to publish a CIA, it will be published on the Council's website and a summary will be included in this statement of licensing policy.

7.23.7 Responsible Authorities and Interested Parties may still make representations on specific applications concerning cumulative impact even though those applications are not for premises in an area covered by a cumulative impact Policy. In such circumstances the application may be refused, (though there will be no presumption that this will be the case), and the Authority may then choose to review this Statement of Policy and consult as to whether the particular area should be designated as an area to which a cumulative impact Policy should apply.

#### **7.24 Public Space Protection Orders**

7.24.1 The authority supports the use of public space protection orders as a tool to prevent alcohol related crime and disorder in the streets. The authority expects premises that operate in areas where DPPOs have been implemented to have measures in place to ensure that their customers do not contribute to drink related anti-social behaviour.

#### **7.25 Encouraging Diversity**

7.25.1 The Licensing Authority recognises that creating a vibrant night time economy is important. Key to this is ensuring that the area appeals to a wide group of people including families and older adults who may not wish to frequent premises where the main, if not only attraction is the consumption of alcohol.

7.25.2 Applications for premises whose predominant offer is vertical drinking are not encouraged, but if applications are made for such premises, it is expected that the operating schedule will demonstrate robust arrangements for promoting the licensing objectives.

#### **7.26 Provisional Statements**

7.26.1 Where it is proposed to build or alter premises which may require a premises licence then the Licensing Act permits an application for a Provisional Statement. This application is dealt with in the same way as an ordinary application but does not

result in the issue of a premises licence. That is applied for when the premises are complete.

7.26.2 Where a provisional statement has been issued by the Authority and the relevant works are completed satisfactorily then any subsequent application for a premises licence must be granted and any objection which could have been raised at the Provisional Statement stage must be disregarded.

## **7.27 Adult Entertainment**

7.27.1 The potential for the provision of adult entertainment to impact on the licensing objectives is recognised in the prescribed application form and all applicants are required by the prescribed application form to indicate in their operating schedules whether they intend to provide any such entertainment which may give rise to concerns in respect of children.

7.27.2 Applicants for new licences or variations of existing licences must also indicate the nature of any adult entertainment to be carried out at the premises. Where this section contains no information it will be assumed that there are no intentions to allow such activities and the licensing authority will impose a condition to that effect.

7.27.3 Newark and Sherwood District Council has adopted Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 which means that venues proposing to provide sexual entertainment must apply for a sexual entertainment venue licence in addition to the premises licence under the Licensing Act 2003.

7.27.4 There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that does permit premises to offer sexual entertainment no more than 11 times a year and no more frequently than monthly. Where operators intend to take advantage of this exemption, the licensing authority expects a clear explanation in the operating schedule of the proposed signage, publicity and external advertising/display materials. Explicit material should not be visible while signage relating to the nature of the entertainment and the exclusion of children should be prominent and conspicuous.

7.27.5 The provision of adult entertainment on premises may mean that access by children will not be permitted during periods when such entertainment is taking place. The Authority expects licensees to ensure that any age restrictions for shows or entertainment of an adult or sexual nature are properly complied with. In addition it may be appropriate to impose age restrictions for persons working in the premises, and applicants are advised to also consider the wider crime and disorder issues which can be associated with such forms of entertainment, such as issues relating to drugs and prostitution.

7.27.6 Responsible Authorities are likely to continue to consider all applications involving adult entertainment very carefully with regard to the promotion of the licensing objectives within the vicinity in which the premises are located.

## **7.28 Licence Suspensions**

7.28.1 The Licensing Act 2003 requires Licensing Authorities to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due unless an administrative error or dispute has been notified to the Licensing Authority. In such cases there will be a grace period of 21 days to allow the matter to be resolved. If the matter is not resolved within the grace period the licence must be suspended.

7.28.2 Where such a suspension takes place the Licensing Authority must give a minimum of two days notice and may inform the police and other Responsible Authorities of the suspension. All licensable activities must cease when the suspension takes effect. The suspension will only cease on payment of the outstanding fee irrespective of any transfer or hearing which may take place.

## **7.29 Reviews**

7.29.1 At any stage following the grant of a premises licence or club premises certificate a Responsible Authority, business, organisation or other persons may ask for a review. Evidence will however be required to show that a specific concern exists relating to one or more of the licensing objectives.

7.29.2 Where a review Hearing is held the Licensing Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the licence. The Guidance reminds the Authority that the powers of review are to be used in the interests of the wider community and not that of the individual licence/certificate holder. Whilst the financial circumstances of the licence/certificate holder will be a consideration for the Licensing Authority, the promotion of the licensing objectives will be the Authority's primary concern. In some circumstances e.g. the use of premises for the purchase and consumption of alcohol by minors, revocation may be considered an appropriate course of action, even in the first instance.

## **7.30 Early Morning Alcohol Restriction Orders (EMRO)**

7.30.1 The legislation gives Licensing Authorities discretion to restrict sales of alcohol by introducing an Early Morning Alcohol Restriction Order to restrict the sale or supply of alcohol to tackle high levels of alcohol-related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the Licensing Authority area, and if relevant on specific days and at specific times. The Licensing Authority must be satisfied that such an order would be appropriate to promote the licensing objectives.

7.30.2 The only exemptions relating to EMROs are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.

7.30.3 The decision to implement an EMRO should be evidence based and may include consideration of the potential burden imposed as well as the potential benefits.

### **7.31 Personal Licences**

7.31.1 In most cases the Authority is under a duty to grant a Personal Licence so long as the applicant meets the criteria prescribed in section 120 of the Act. Where an applicant for a Personal Licence has certain types of conviction ( for relevant or foreign offences as defined by the act) or, has been required to pay an immigration penalty the Authority is required to notify the police, and, in the case of immigration offences and penalties, the Secretary of State. In these cases a licence will still be granted unless an objection is received within the prescribed period.

### **POLICY 3**

**When considering an objection notice or immigration objection notice the authority will take the following matters into consideration:**

- (i) The circumstances in which the offences were committed or the penalty imposed;**
- (ii) The period that has elapsed since the offence(s) were committed or the penalty imposed;**
- (iii) Whether the offences/penalty reveal a pattern of offending or were a one-off occurrence; and**
- (iv) Any mitigating circumstances.**

**In consideration of an objection notice the Authority will reject the application/revoke the licence if it considers it appropriate to do so in order to promotion of the crime prevention objective.**

**In consideration of an immigration objection notice the Authority will reject the application/revoke the licence if it considers it appropriate to do so for the prevention of illegal working in licensed premises.**

***REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective. Similarly granting licence to a person convicted of an immigration offence or who has paid an immigration penalty will in many cases undermine the prevention of illegal working in licensed premises which itself is a crime.***

7.31.2 Where a Personal Licence holder is convicted of a relevant offence the Court may order that the licence be forfeit. If an applicant is convicted of a relevant offence during the application period and this only comes to light after the licence has been granted or renewed then the Authority must notify the Chief Officer of Police and if an objection notice is lodged within the relevant period a Hearing will be held to determine whether the licence should be revoked.

7.31.3 Where the authority is aware that a Personal Licence holder has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty it may suspend the licence for a period not exceeding six months or revoke the licence. Before doing so the Authority will serve a notice on the personal licence holder inviting them to make representations within 28 days regarding:

- The offence /penalty
- Any decision a court made regarding the licence at the time of the conviction
- Any other relevant information (including the holder's personal circumstances)

7.31.4 After the 28 day period has elapsed the authority will make a decision as to what action it will take based on the information provided to it. In circumstances where the Authority does not propose to revoke the licence, notice must be given to the Chief Officer of Police inviting representations as to whether the licence should be suspended or revoked. **The Act does not require a hearing to be held at any stage during the process**, although the Authority may invite the licence holder to make a personal representation. Licence holders (and the police) will be notified of the Authority's decision in writing along with their right of appeal

### 7.32 Temporary Event Notices

7.32.1 There are two types of types of Temporary Event Notice:

- A standard TEN
- A Late TEN

7.32.2 A standard TEN must be served no later than ten working days before the event to which it relates and this does not include the day it is given or the day of the event, and a late TEN is served not before nine and not less than five working days before the event to which it relates.

7.32.3 Whilst the Council recognises that a Temporary Event Notice may be served at least ten clear working days prior to the commencement of a Permitted Temporary Activity (the event), the current Guidance issued under the Act encourages a locally established preferred period of notice. There is a case for not serving such Notices too early as this could make it difficult for a sensible assessment to be made of the implications of such an event on the Crime and Disorder and Prevention of Public Nuisance objectives. The Council considers that a reasonable period of notice for the service of a Temporary Event Notice is 28 days.

7.32.4 Persons serving Temporary Event Notices must also serve a copy notice on the police and the Responsible Authority for Environmental Health functions i.e. the Council's Environmental Health section, except when the TEN is served electronically/digitally

7.32.5 Further information regarding Temporary Event Notices is contained on the Council's web pages.

## 2. The licensing objectives

### Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

## **Public safety**

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
  - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
  - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

## Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
  - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

## Maintenance and repair

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

## Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

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<sup>1</sup> S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## **Public nuisance**

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the

early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## **Protection of children from harm**

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
  - it is known that unaccompanied children have been allowed access;
  - there is a known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible

authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
  - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
  - restrictions on the parts of the premises to which children may have access;
  - age restrictions (below 18);
  - restrictions or exclusions when certain activities are taking place;
  - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
  - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises certificate

authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

- 2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

### **Offences relating to the sale and supply of alcohol to children**

- 2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

## Table of relevant offences under the 2003 Act

Section	Offence	Prosecuting Authority
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

# 10. Conditions attached to premises licences and club premises certificates

## General

- 10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

## Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

## Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

## **Imposed conditions**

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

## **Proportionality**

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

## **Naming, packing and promotion in retail premises**

- 10.11 The Government acknowledges that the irresponsible naming, packing or promotion of alcoholic drinks may contribute to alcohol related harms. Where there is direct evidence of specific incidents of irresponsible naming, packing or promotion of alcoholic drinks linked to the undermining of one of the licensing objectives, licensing authorities should, in the exercise of their licensing functions (in particular, in relation to an application for the grant, variation or review of a premises licence), consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's Retailer Alert Bulletins. This condition should be considered on a case by case basis and in the context of the promotion of the licensing objectives.
- 10.12 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code,

the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until there has been compliance with the decision.

## **Hours of trading**

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

## **The performance of plays**

- 10.16 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play<sup>7</sup> which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

## **Censorship**

- 10.17 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitation should normally be imposed.

## **Major festivals and carnivals**

- 10.18 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations

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<sup>7</sup> See chapter 15 for when a performance of a play is licensable.

within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.

- 10.19 For other events, applications for many connected premises licences may be made which in combination will represent a single festival. It is important that licensing authorities should publicise the need for proper co-ordination of such arrangements and will need to ensure that responsible authorities are aware of the connected nature of the individual applications.
- 10.20 Local authorities should bear in mind their ability to seek premises licences from the licensing authority for land or buildings under public ownership within the community in their own name.<sup>8</sup> This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas where festivals and carnivals might take place.<sup>9</sup> Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give performances in these places, although they would need the permission of the local authority to put on the event.

## Fixed prices

- 10.21 Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions including where they give rise to a significant risk to any one of the four licensing objectives; the mandatory conditions also prohibit the sale of alcohol below the permitted price, as defined in paragraph 10.56.
- 10.22 Where licensing authorities are asked by the police, other responsible authorities or other persons to impose restrictions on promotions in addition to those restricted by the mandatory conditions, they should consider each application on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are appropriate for the promotion of the licensing objectives. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it would be appropriate for the licensing authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

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<sup>8</sup> No licence is required for any entertainment provided by or on behalf of a local authority, see paragraphs 15.16-15.19

<sup>9</sup> The register of public spaces: <https://www.gov.uk/government/publications/licensed-spaces-register>

## **Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)**

- 10.23 Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.
- 10.24 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:
- a prescribed capacity;
  - an appropriate ratio of tables and chairs to customers based on the capacity; and
  - a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

## **Mandatory conditions in relation to the supply of alcohol**

- 10.25 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

### **Designated premises supervisor**

- 10.26 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.
- 10.27 The main purpose of the ‘designated premises supervisor’ as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).
- 10.28 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

## Authorisation by personal licence holders

- 10.29 In addition, every premises licence that authorises the sale of alcohol must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. This does not mean that the condition should require the presence of the designated premises supervisor or any other personal licence holder on the premises at all times.
- 10.30 Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales.
- 10.31 “Authorisation” does not imply direct supervision by a personal licence holder of each sale of alcohol. The question arises as to how sales can be authorised. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.
- 10.32 The following factors should be relevant in considering whether or not an authorisation has been given:
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
  - the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
  - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
  - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 10.33 It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period. This would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.
- 10.34 Written authorisation is not a requirement of the 2003 Act and its absence alone could not give rise to enforcement action.
- 10.35 It must be remembered that while the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

## **Arrangements for the mandatory licence conditions**

- 10.36 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a DPS and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.
- 10.37 Whereas the initial mandatory conditions in section 19 of the 2003 Act are set out in Annex 1 of the licence, the additional mandatory conditions made under section 19A of the 2003 Act are treated as if they were included in existing licences and certificates on the date that those conditions came into force.
- 10.38 Following their commencement, the mandatory conditions overrode any pre-existing conditions already included in a licence or certificate insofar as the mandatory conditions were identical to, or inconsistent with or more onerous than, any pre-existing conditions. It is not necessary to record on the face of existing licences and certificates the impact that the introduction of the mandatory conditions has had on pre-existing conditions.

## **Irresponsible promotions**

- 10.39 Under this condition, the “responsible person” (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have ensured that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives.

## **Drinking games**

- 10.40 Drinking games which require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise, are prohibited. For example, this may include organised ‘drink downing’ competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit ‘happy hours’ as long as these are not designed to encourage individuals to drink excessively or rapidly.

## **Large quantities of alcohol for free or a fixed price**

10.41 Irresponsible promotions can include the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This includes alcohol provided to the public or to a group defined by a particular characteristic, for example, a promotion which offers women free drinks before a certain time or “all you can drink for £10”. Promotions can be designed with a particular group in mind (for example, over 65s). A common sense approach is encouraged, which may include specifying the quantity of alcohol included in it or not targeting a group which could become more vulnerable or present a greater risk of crime and disorder as a result of excessive alcohol consumption.

## **Prizes and rewards**

10.42 The sale, supply or provision of free or discounted alcohol or any other item as a prize to encourage or reward the purchase and consumption of alcohol can be within the definition of an irresponsible promotion, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This may include promotions under which free or discounted alcohol is offered as a part of the sale of alcohol, for example, “Buy one and get two free” and “Buy one cocktail and get a second cocktail for 25p”. This includes promotions which involve the provision of free or discounted alcohol within the same 24 hour period.

## **Posters and flyers**

10.43 Irresponsible promotions can also include the sale or supply of alcohol in association with promotional materials on display in or around the premises, which can either be reasonably considered to condone, encourage or glamorise anti social behaviour or refer to the effects of drunkenness in any favourable manner.

## **Dispensing alcohol directly into the mouth**

10.44 The responsible person (see paragraph 10.39) must ensure that no alcohol is dispensed directly into the mouth of a customer. For example, this may include drinking games such as the ‘dentist’s chair’ where a drink is poured continuously into the mouth of another individual and may also prevent a premises from allowing another body to promote its products by employing someone to dispense alcohol directly into customers’ mouths. An exception to this condition would be when an individual is unable to drink without assistance due to a disability.

## **Free potable water**

10.45 The responsible person (see paragraph 10.39) must ensure that free potable water is provided on request to customers where it is reasonably available on the premises. What is meant by reasonably available is a question of fact; for example, it would not be reasonable to expect free tap water to be available in premises for which the water supply had temporarily been lost because of a broken mains water supply. However, it may be reasonable to expect bottled water to be provided in such circumstances.

## Age verification

- 10.46 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.39) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram as their preferred proof of age, while acknowledging that many other forms of identification meet the requirements of the mandatory condition.
- 10.47 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies by the premises.
- 10.48 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.
- 10.49 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.50 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

## Smaller measures

- 10.51 The responsible person (see paragraph 10.39) shall ensure that the following drinks, if sold or supplied on the premises, are available in the following measures:
- Beer or cider: ½ pint
  - Gin, rum, vodka or whisky: 25ml or 35ml
  - Still wine in a glass: 125ml

- 10.52 As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures by displaying them on printed materials available to customers on the premises. This can include making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent and conspicuous place in the relevant premises (for example, at the bar). Moreover, staff must make customers aware of the availability of small measures when customers do not request that they be sold alcohol in a particular measure.
- 10.53 This condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the requirement to make it available in 1/2 pints does not apply.
- 10.54 The premises licence holder or club premises certificate holder must ensure that staff are made aware of the application of this condition.

### **Ban on sales of alcohol below the permitted price**

- 10.55 The relevant person (the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, the personal licence holder who makes or authorises a supply of alcohol under such a licence, or any member or officer of a club present on the premises in a capacity which enables the member or officer to prevent the supply in question) 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.
- 10.56 The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. Detailed guidance on how to make this calculation and a calculator to determine permitted prices for each product are available on the Home Office website.
- 10.57 Where there is a change to the rate of duty or VAT applying to alcohol (for instance, following a Budget), the relevant person should ensure that the permitted price reflects the new rates within fourteen days of the introduction of the new rate.
- 10.58 It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.

### **Exhibition of films**

- 10.59 The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification (BBFC)) or by the licensing authority itself.
- 10.60 The effect of paragraph 5 of Schedule 1 to the 2003 Act is to exempt adverts from the

definition of regulated entertainment, but not exempt them from the definition of exhibition of a film. Since the above mandatory condition applies to ‘any film’, it is therefore applicable to the exhibition of adverts.

## Door supervision

- 10.61 Under section 21 of the 2003 Act, when a condition is included in a premises licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in section 21(3)(a) by reference to the Private Security Industry Act 2001 (“the 2001 Act”), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority (“the SIA”) under the 2001 Act, or be entitled to carry out that activity by virtue of section 4 of the 2001 Act.
- 10.62 A premises licence need not require a person to hold a licence granted by the SIA if that person benefits from an exemption under section 4 of the 2001 Act. For example, certain employees benefit from an exemption when carrying out conduct in connection with a certified sports ground (section 4(6) to (12)). Furthermore, in certain circumstances persons benefit from an exemption where they operate under the SIA’s Approved Contractor Scheme (section 15).
- 10.63 Conditions under section 21 of the 2003 Act should only relate to individuals carrying out security activities defined by section 21(3)(a) of the 2003 Act. Therefore, they should only relate to an activity to which paragraph 2(1)(a) of Schedule 2 to the 2001 Act applies (certain manned guarding activities) and which is licensable conduct within the meaning of section 3(2) of that Act. The requirement does not relate to individuals performing non-security related activities, and section 21 should not be used in relation to any such activities.
- 10.64 Section 21 of the 2003 Act continues to ensure that a premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as unlicensed premises. Those are:
- premises in respect of which there is in force a premises licence authorising a performance of a play or an exhibition of a film;
  - casinos or bingo halls licensed under the Gambling Act 2005;
  - premises where a club certificate is in force when activities are being carried on under the authority of that certificate.

See paragraph 8(3) of Schedule 2 to the 2001 Act for full details.

- 10.65 It should be noted, however, that the 2001 Act will require contractors and a small number of employees (those managing/supervising and those supplied under contract) to be licensed as manned guards (rather than door supervisors) when undertaking licensable conduct on premises to which paragraph 8(3) of Schedule 2 to the 2001 Act applies.
- 10.66 It is therefore important that if a licensing authority intends that individuals must be present to carry out security activities (as defined by section 21(3)(a) of the 2003 Act) this should be explicit, as should the mandatory condition for those individuals to hold an SIA licence or be entitled to carry out that activity by virtue of section 4 of the 2001 Act. On the other hand, where a licensing authority intends that individuals must be present to carry out other activities (for example, activities related to safety or steward activities to organise, advise and direct members of the public), no mandatory condition

should be imposed under section 21 of the 2003 Act. In all cases it is important when determining whether or not a condition is to be imposed under section 21 of the 2003 Act to consider whether the activities of any individual working in licensed premises fall within the definition of security activities in section 21(3)(a) of the 2003 Act. (Regardless of whether a condition is imposed under section 21 of the 2003 Act, under the 2001 Act the appropriate SIA licence must be held by any individual performing an activity for which they are licensable under that Act.)

# 11. Reviews

## The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

## **Repetitious grounds of review**

- 11.12 A repetitious ground is one that 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 certificate which has already been determined; or
  - representations considered by the licensing authority when the premises licence or certificate was granted; or
  - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences 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. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

## **Powers of a licensing authority on the determination of a review**

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)<sup>10</sup>;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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<sup>10</sup> See chapter 15 in relation to the licensing of live and recorded music.

## Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

## **Review of a premises licence following closure order or illegal working compliance order**

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

## **Review of a premises licence following persistent sales of alcohol to children**

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.