



# Agenda

Meeting: **LICENSING HEARING**  
Date: **15 FEBRUARY 2013**  
Time: **10.00AM**  
Venue: **COUNCIL CHAMBER**  
To: **Councillors Mrs C Mackman, Mrs S Ryder and J Thurlow.**

- 1. Election of Chair**
- 2. Apologies for absence**
- 3. Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at [www.selby.gov.uk](http://www.selby.gov.uk).

Councillors should declare to the meeting any disclosable pecuniary interest in any item of business on this agenda which is not already entered in their Register of Interests.

Councillors should leave the meeting and take no part in the consideration, discussion or vote on any matter in which they have a disclosable pecuniary interest.

Councillors should also declare any other interests. Having made the declaration, provided the other interest is not a disclosable pecuniary interest, the Councillor may stay in the meeting, speak and vote on that item of business.

If in doubt, Councillors are advised to seek advice from the Monitoring Officer.

- 4. Guidance on procedure for hearing licensing applications**
- 5. Application for a Review of Premises Licence**

To receive the report of the Enforcement Officer (pages 5 to 128 attached)

**Martin Connor**  
**Chief Executive**

Enquiries relating to this agenda, please contact Palbinder Mann on:  
Tel: 01757 292207 Email: [pmann@selby.gov.uk](mailto:pmann@selby.gov.uk)

# **FULL HEARING PROCEDURE FOR APPLICATIONS TO REVIEW PREMISES LICENCES**

## **1. Welcome and Introduction**

[1] The Chairman welcomes the people who are present and introduces the councillors. He/she will ask the councillors to confirm that they have no declarations of interest to declare in respect of the application.

[2] The Chairman asks the Applicant for the review to introduce himself/herself and then asks the Premises Licence Holder, any Responsible Authorities and Interested Parties to introduce themselves.

[3] The Chairman then confirms that the hearing will be conducted in accordance with this procedure. If any party wishes to rely upon any evidence that has not been disclosed prior to the hearing, they must ask for the Chairman's permission at this point.

## **2. The Applicant for the review Case**

[1] The Chairman asks the Applicant or his/her representative to present his/her application for the review.

[2] The Applicant or his/her representative can then call any witnesses and/or give evidence in support of his/her application.

[3] The Responsible Authorities or their spokesperson may then question the Applicant [if he has given evidence] and any witnesses.

[4] The Interested Parties or their spokesperson may then question the Applicant [if he has given evidence] and any witnesses.

[5] The Chairman or any Member of the Sub - Committee can ask questions of the Applicant and any witnesses.

[6] If there are any witnesses, the Applicant or his representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

## **3. The Responsible Authority Case**

[1] The Responsible Authorities will give their reasons for making representations to the application.

[2] The Responsible Authorities will then call any witnesses in support of their representation

[3] The Applicant or his representative may then question the Responsible Authorities and any witnesses.

[4] The Chairman or any member of the Sub-Committee may ask questions of the Responsible Authorities and any witnesses.

[5] The Responsible Authorities will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

#### **4. The Interested Parties Case**

- [1]** The Interested Parties will give their reasons for making representations to the application.
- [2]** The Interested Parties or his representative will then call any evidence in support of their representation.
- [3]** The Applicant or his representative may then question the Interested Parties [if he has given evidence] and any witnesses.
- [4]** The Chairman or any member of the Sub-Committee may ask questions of the Interested Parties and any witnesses.
- [5]** The Interested Parties or his representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

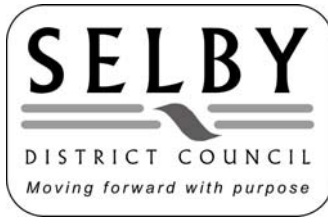
#### **5. Closing Statement**

- [1]** By or on behalf of the Responsible Authorities. The Responsible Authorities can summarise any points they wish to make and comment briefly on the Applicant's replies to questions. They cannot introduce new issues.
- [2]** By or on behalf of the Interested Parties. The Interested Parties can summarise any points they wish to make and comment briefly on the Applicant's replies to questions. They cannot introduce new issues.
- [3]** By or on behalf of the Applicants. The Applicants can summarise any points they wish to make and comment briefly on the Responsible Authorities and Interested Parties replies to questions. They cannot introduce new issues.
- [4]** The Chairman will then ask the Legal Adviser whether there are any other matters to be raised or resolved before the hearing is closed. The Sub-Committee will then retire to a separate room with the Legal Adviser and Democratic Services Officer to deliberate.
- [5]** If the Legal Adviser gives legal advice to Members then this advice will be repeated in summary form when the Sub-Committee reconvenes the hearing.

#### **6. Decision Making**

- [1]** The Chairman will then announce the Sub-Committee's decision and ask the Legal Adviser to read out the details including their reasons.
- [2]** Before closing the hearing, the Chairman will notify the Applicant of the rights of appeal available to the parties should they disagree with the decision. Such appeal should be made within 21 days of receiving written notification of the Sub-Committee's decision.





**Agenda Item No: 5**

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**Title:** Section 51 Application for a Review of Premises Licence for Swan Public House, 1 Low Street Sherburn-in-Elmet, Selby LS25 6BG

**To:** Licensing Act 2003 Sub-Committee

**Date:** 15 February 2013

**Service Area:** Customers and Business Support

**Author:** Rachel Howden

**Presented by:** Rachel Howden

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## **1. Summary**

- 1.1 To seek the determination by the Licensing Sub Committee of an application for the review of a Premises Licence made by North Yorkshire Police in respect of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby LS25 6BG under Section 51 of the Licensing Act 2003. The Licensing Authority is now under a duty to review the Premises Licence held in respect of The Swan.

## **2. Purpose of this Report**

- 2.1 This report provides councillors with the background and history to the making of the review. The report sets out the relevant law when reviewing licences under the Licensing Act 2003 ("the Act") and informs councillors of the options available to them when reviewing a premises licence.

## **3. Background Information**

- 3.1 On 24 November 2005 The Swan, 1, Low Street, Sherburn-in-Elmet, Selby, was granted a Premises Licence under the terms of the Licensing Act 2003. Essentially this was a conversion of the existing Justices Licence.

- 3.2 The premises is currently authorised for the provision of the following licensable activities to take place during the stated hours:

**Sale by retail of alcohol**

Monday to Thursday	11:00 – 23:00
Friday and Saturday	11:00 – 00:30
Sunday	12:00 – 00:30

**Performance of live and recorded music, indoor sporting events, films, making music and dance**

Monday to Thursday	11:00 – 23:00
Friday and Saturday	11:00 – 00:30
Sunday	12:00 – 00:30

**Provision of facilities for dancing**

Monday to Thursday	11:00 – 23:00
Friday and Saturday	11:00 – 00:30
Sunday	12:00 – 00:30

- 3.3 The premises licence allows the premises to be open to the public during the following times:

Monday to Thursday	11:00 – 23:30
Friday and Saturday	11:00 – 01:00
Sunday	12:00 – 01:00

- 3.4 The Premises Licence Holder is Michael and Sue Lavin

- 3.5 The Designated Premises Supervisor is Michael Lavin

- 3.6 A copy of the current Premises Licence is attached at **Appendix A**

- 3.7 A map detailing the location of the premises is attached at **Appendix B**

#### **4. Main issues**

- 4.1 The review is being sought by North Yorkshire Police on the grounds of crime and disorder, public nuisance, public safety and protection of children from harm. A copy of the review application is located at **Appendix C**

- 4.2 Documentary evidence to support the review on the grounds described above can be found at **Appendix D**

- 4.3 As part of the review procedure details of the review and an outline of the grounds on which the review is requested must be displayed at the premises for a period of 28 days commencing the day after the application was received, this being until 25 January 2013.

- 4.4 Notices providing details of the review were duly placed on prominent display at the premises on 28 December 2012, which were checked on a regular basis. The notices were removed at the end of the 28 day consultation period.
- 4.5 Section 51 of the Licensing Act 2003 places upon the Licensing Authority a duty to review the Premises Licence in respect of The Swan Public House, 1, Low Street, Sherburn-in-Elmet, Selby. The Licensing Authority must then follow a procedure set out in the Licensing Act 2003. A summary of this procedure is attached to this report by way of a flow chart at **Appendix E**

## **5. Relevant Representations**

- 5.1 Under the Licensing Act 2003 representations can be received from responsible authorities or interested parties. Representations must be relevant and, in the case of an interested party must not be frivolous or vexatious.
- 5.2 Representations have been received from Responsible Authorities. Councillors are invited to consider the representations from The Licensing Authority, Environmental Health Services and North Yorkshire Trading Standards at **Appendix F**
- 5.3 Representations have been received from four interested parties: three in connection with complaints regarding the conduct of premises from Sherburn-in-Elmet Parish Council and two letters from individuals who have requested to withhold their identities, at **Appendix G**; and one from Gosschalks (Solicitors) acting for Enterprise Inns PLC who is the freehold owner of the premises, at **Appendix H**.

## **6. Matters relevant to the Application**

- 6.1 Members of the Licensing Sub-Committee must make decisions with a view to promoting the licensing objectives which are:
- **the prevention of crime and disorder**
  - **public safety**
  - **the prevention of public nuisance**
  - **the protection of children from harm**
- 6.2 In making their decision councillors are obliged to have regard to guidance issued under Section 182 of the Licensing Act 2003, a copy of the relevant section is attached at **Appendix I** and the council's licensing policy. Councillors must also have regard to the relevant representations made and evidence that they hear.

## **7. Implications for Council Policy and Government**

- 7.1 It is the stated licensing policy of the Council that when considering a review the authority can take such steps, if any, as it considers necessary for the promotion of the licensing objectives. The steps could be: a modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the licence for three months or the revocation of the licence.

## **8. Legal and Resource implication**

- 8.1 There are no resource implications in determining the review.
- 8.2 The Licensing Act 2003 provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrates Court.

## **9. Recommendations**

- 9.1 The Sub-Committee are requested to determine this review. The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:
- to modify the conditions of the licence (which includes adding new conditions or any alteration or omission of an existing condition)
  - exclude any licensable activities to which the application relates
  - to remove the Designated Premises Supervisor
  - to suspend the licence for a period not exceeding 3 months
  - to revoke the licence
- 9.2 The Sub-Committee may alternatively decide that no action is necessary and that the circumstances of the review do not require the Sub-Committee to take any steps to promote the licensing objectives.
- 9.3 The Sub-Committee should note the Guidance also suggests it is open to them to issue an informal warning to the license holder or to recommend improvement within a particular time. However, the Guidance further provides that where responsible authorities have already issued such warnings, the issuing of another warning should not be repeated.
- 9.4 The Sub-Committee are asked to note that they may not take any of the steps outlined above merely because they consider it desirable to do so. It must actually be **appropriate** in order to promote the licensing objectives.

## **Background Papers**

- Guidance issued under section 182 of the Licensing Act 2003
- Selby District Council Statement of Licensing Policy

# **ANNEX A**

**Copy of the Premises Licence for The Swan, 1 Low Street, Sherburn-in-Elmet, Selby.**

# SELBY DISTRICT COUNCIL

## LICENSING ACT 2003

### Premises Licence

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**Premises licence number:** LN/000003115

#### Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description

**The Swan, 1 Low Street, Sherburn In Elmet, Leeds, LS25 6BG**

Telephone number **01977 682235**

Licensable activities authorised by this licence

**Supply of alcohol**                      **Dancing**

**Films**

**Indoor sporting events**

**Live music**

**Recorded music**

**Performance of dance**

**Making music**

The times the licence authorises the sale or supply of alcohol

**Sunday**                      **12:00 - 23:30**

**Monday**                     **11:00 - 23:00**

**Tuesday**                    **11:00 - 23:00**

**Wednesday**                **11:00 - 23:00**

**Thursday**                   **11:00 - 23:00**

**Friday**                      **11:00 - 00:30**

**Saturday**                   **11:00 - 00:30**

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

**On and off supplies**

Non Standard Timings

**To permit the sale of alcohol until 00:30 the following morning on Fri/Sat/Sun and Mon at Bank Holiday weekends, Christmas Eve and Boxing Day**

The times the licence authorises the carrying out of other qualifying activities

<b>Sunday</b>	<b>12:00 - 23:30</b>
<b>Monday</b>	<b>11:00 - 23:00</b>
<b>Tuesday</b>	<b>11:00 - 23:00</b>
<b>Wednesday</b>	<b>11:00 - 23:00</b>
<b>Thursday</b>	<b>11:00 - 23:00</b>
<b>Friday</b>	<b>11:00 - 00:30</b>
<b>Saturday</b>	<b>11:00 - 00:30</b>

#### Non Standard Timings

To permit regulated entertainment until 00:30 the following morning on Fri, Sat, Sun and Mon at Bank Holiday weekends, Christmas Eve and Boxing Day.

**Occupancy - 200**

#### Part 2

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

**Michael & Susan Lavin**  
**The Swan, 1 Low Street, Sherburn In Elmet, Leeds, LS25 6BG**  
**01977 682235**

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

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

**Michael Lavin**  
**The Swan, 1 Low Street, Sherburn-in-Elmet, Leeds, LS25 6BG**  
**01977 682235**

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

**Licence no: LN/000003553**  
**Licensed by: Selby District Council**

#### Selby District Council

**Licence Section**  
**Portholme Road**  
**Selby**  
**YO8 4SB**

**Phone: 01757 292027**  
**Fax: 01757 292229**  
**Email: [licensing@selby.gov.uk](mailto:licensing@selby.gov.uk)**

**NOTE: A fee is payable to Selby District Council each year on the anniversary of the grant of this licence.**



**Annex 1 – Mandatory conditions where licence authorises supply of alcohol.**

- (1) In accordance with section 19 of the Licensing Act 2003, where a premises licence authorises the supply of alcohol, the licence must include the following conditions.
- (2) The first condition is that no supply of alcohol may be made under the premises licence –
  - (a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
- (3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

**Standard conditions applicable to ‘ON LICENCE’ premises.**

**Permitted Hours**

The permitted alcohol hour restrictions do not prohibit:

- a) the sale or supply of alcohol to, or consumption of alcohol by, any person residing at the licensed premises
- b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered
- c) the sale of alcohol to a trader for the purpose of his trade, or to a registered club for the purposes of the club
- d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State, or an authorised mess of the members of Her Majesty’s naval, military or air forces
- e) the taking of alcohol from the premises by a person residing there
- f) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied
- g) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

**Children**

No person under fourteen shall be allowed in the bar of the licensed premises during the permitted hours unless one of the following applies:

- a) He is the child of the holder of the premises licence
- b) He resides in the premises, but is not employed there.



- c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is merely ancillary.
- e) He is in the premises solely for the consumption of meals and/or non-alcoholic beverages.

In this condition 'bar' includes any place exclusively or mainly used for the sale and consumption of intoxicating liquor, but does not include a bar at any time when it is usual in the premises in question for it to be, and it is –

- i) set apart for the service of table meals, and
- ii) not used for the sale or supply of intoxicating liquor otherwise than to persons having table meals there and for consumption by such persons as an ancillary to his meal.

#### Credit Sales

Intoxicating liquor shall not be sold or supplied for consumption on the premises unless it is paid for before or at the time when it is sold or supplied. This condition, however, shall not apply:

- a) If the liquor is sold or supplied for consumption at a meal supplied at the same time, is consumed with the meal and is paid for together with the meal, or
- b) If the liquor is sold or supplied for consumption by a person residing in the premises or his guests and is paid for together with his accommodation, or
- c) If the sale or supply of intoxicating liquor is to any canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or to an authorised mess of members of Her Majesty's naval, military or air forces.

## **Annex 2 – Conditions consistent with operating schedule**

### **Licensing Objectives**

#### **General**

Effective and responsible management of the premises.

There shall be a 30 minute 'drinking up' time after the last permitted sale of alcohol.

The licence holder reserves the right to move the fire appliance, AWP machines, cigarette machines and/or other similar objects temporarily in a fixed location which may impact

On the ability of individuals on the premises to use exits or escapes routes without impediment.

#### **Prevention of Crime & Disorder**

Effective and responsible management of the premises.

Acceptance of accredited proof of age scheme.

Provision of outside lighting.

Most of customers are local.

Outside areas regularly cleared of glasses etc.

Availability of taxi service.

Member of Pubwatch Scheme.

### **Public Safety**

Effective and responsible management of the premises.  
Regular testing (and certification) of procedures, appliances etc.  
Adequate and maintained emergency lighting system.  
Adequate and maintained fire alarm and fire fighting equipment.  
Adequate and maintained illuminated fire exit signs.  
Provision of outside lighting.  
Provision of first aid box.  
Smoking policy.

### **Public nuisance**

Effective and responsible management of the premises.  
Collection and disposal of litter.

### **Protection of Children from Harm**

Effective and responsible management of the premises.  
No unaccompanied children in the premises.  
Limitations on the hours when children may be present on the premises.  
Acceptance of accredited proof of age scheme.  
No entertainment of an adult or sexual nature provided.  
AWP machines in a highly visible area for monitoring play.  
Designated no smoking area.


### **Annex 3 – Conditions attached after Representations by Responsible Authorities.**

None

### **Annex 4 – Conditions attached after a hearing by the Licensing Authority.**

None

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**Head of Legal & Democratic Services**

**Date licence granted 24th November 2005**

**Selby District Council  
Licence Section  
Civic Centre  
Portholme Road  
Selby  
YO8 4SB**

**Phone: 01757 292027  
Fax: 01757 292229  
Email: [licensing@selby.gov.uk](mailto:licensing@selby.gov.uk)**

# SELBY DISTRICT COUNCIL

## LICENSING ACT 2003

### Premises Licence Summary

**Premises licence number:** LN/000003115

#### Premises details

Postal address of premises:

**The Swan, 1 Low Street, Sherburn In Elmet, Leeds, LS25 6BG**

Telephone number: **01977 682235**

Licensable activities authorised by this licence:

**Supply of alcohol**                      **Making music**  
**Films**                                      **Dancing**  
**Indoor sporting events**  
**Live music**  
**Recorded music**  
**Performance of dance**

The times the licence authorises the sale or supply of alcohol:

<b>Sunday</b>	<b>12:00 - 23:30</b>
<b>Monday</b>	<b>11:00 - 23:00</b>
<b>Tuesday</b>	<b>11:00 - 23:00</b>
<b>Wednesday</b>	<b>11:00 - 23:00</b>
<b>Thursday</b>	<b>11:00 - 23:00</b>
<b>Friday</b>	<b>11:00 - 00:30</b>
<b>Saturday</b>	<b>11:00 - 00:30</b>

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

**On and off supplies**

Non Standard Timings

**To permit the sale of alcohol until 00:30 the following morning on  
Fri/Sat/Sun and Mon at Bank Holiday weekends, Christmas Eve and Boxing  
Day**

The times the licence authorises the carrying out of other qualifying activities:

<b>Sunday</b>	<b>12:00 - 23:30</b>
<b>Monday</b>	<b>11:00 - 23:00</b>
<b>Tuesday</b>	<b>11:00 - 23:00</b>
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<b>Thursday</b>	<b>11:00 - 23:00</b>
<b>Friday</b>	<b>11:00 - 00:30</b>
<b>Saturday</b>	<b>11:00 - 00:30</b>

**Non Standard Timings**

To permit regulated entertainment until 00:30 the following morning on Fri, Sat, Sun and Mon at Bank Holiday weekends , Christmas Eve and Boxing Day.

Occupancy - 200

Name and (registered) address of holder of premises licence:

**Michael & Susan Lavin**

**The Swan, 1 Low Street, Sherburn In Elmet, Leeds, LS25 6BG**

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

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol:

**Michael Lavin**

State whether access to the premises by children is restricted or prohibited:

**See Annex 1 - Children**

**Head of Legal & Democratic Services**

**Date licence granted 24th November 2005**

**Selby District Council**

**Licence Section**

**Civic Centre**

**Portholme Road**

**Selby**

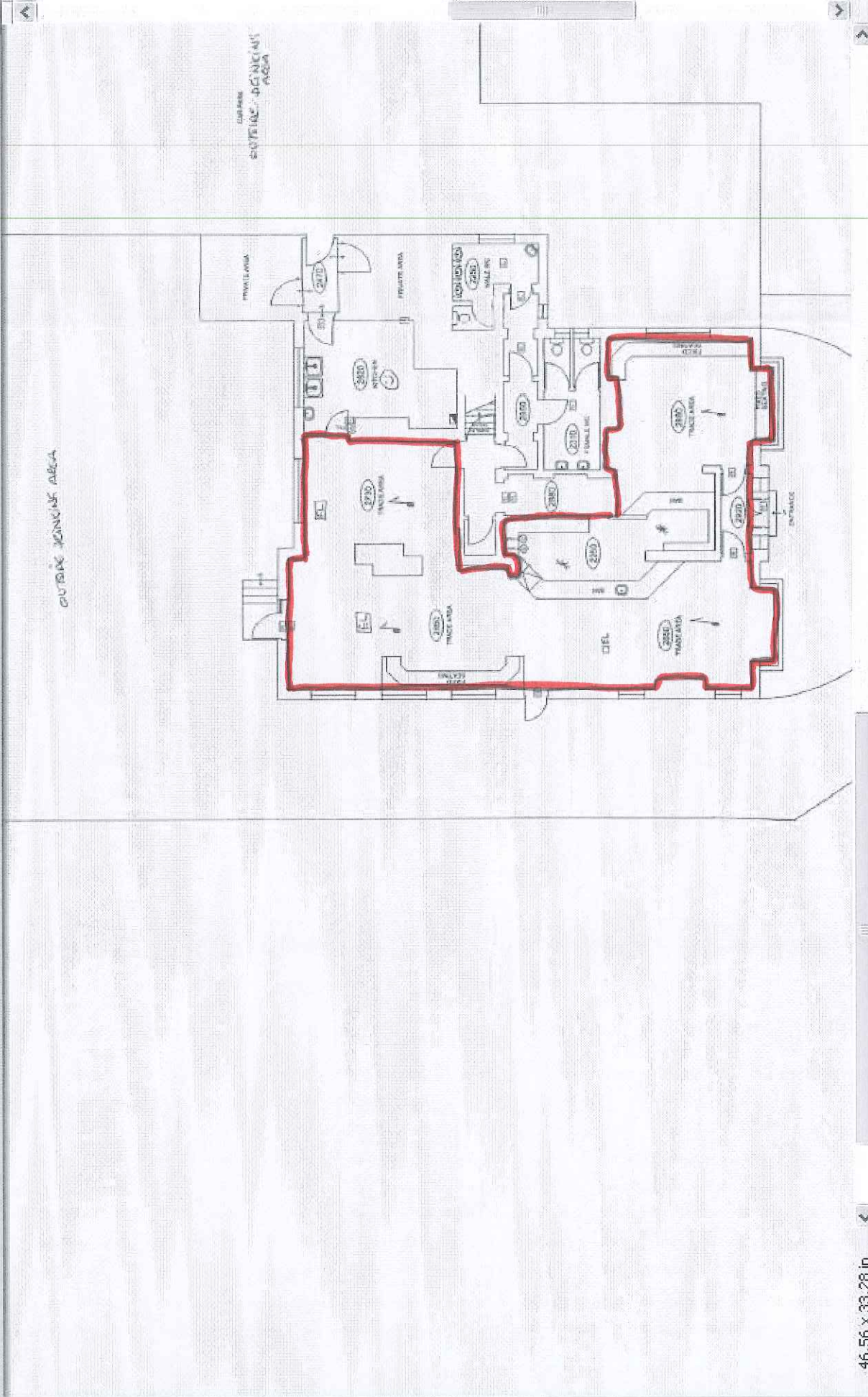
**YO8 4SB**

**Phone: 01757 292027**

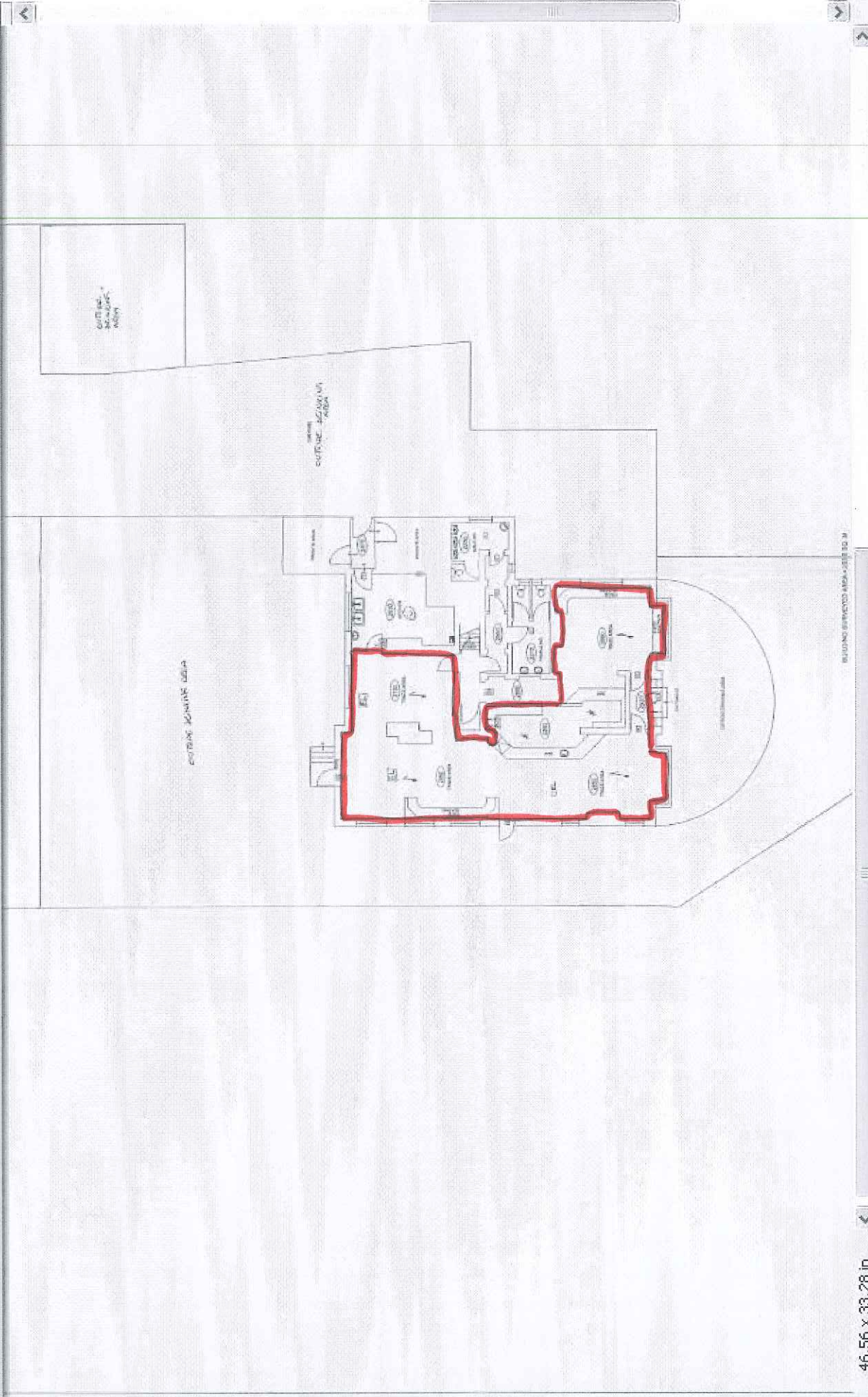
**Fax: 01757 292229**

**Email: [licensing@selby.gov.uk](mailto:licensing@selby.gov.uk)**









## **ANNEX B**

**Map detailing the location of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby.**



# Map of The Swan Public House, Sherburn-in-Elmet, Selby





# **ANNEX C**

**North Yorkshire Police application to review the Premises Licence of The Swan,  
1 Low Street, Sherburn-in-Elmet, Selby.**

NOT PROTECTIVELY MARKED



[Insert name and address of relevant licensing authority and its reference number (optional)]

**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.

**I PC952 Mick Wilkinson**

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
The Swan 1 Low Street Sherburn-in-Elmet	
<b>Post town</b>	<b>Post code (if known)</b>
LEEDS	LS25 6BG

<b>Name of premises licence holder or club holding club premises certificate (if known)</b>
Michael & Susan Lavin The Swan 1 Low Street Sherburn-in-Elmet LEEDS LS25 6BG

<b>Number of premises licence or club premises certificate (if known)</b>
LN/000003115

**Part 2 - Applicant details**

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)

NOT PROTECTIVELY MARKED

NOT PROTECTIVELY MARKED

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

Please tick ✓ yes

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

<b>Surname</b>	<b>First names</b>
<input type="text"/>	<input type="text"/>

I am 18 years old or over  Please tick ✓ yes

<b>Current postal address if different from premises address</b>	<input type="text"/>
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<b>Post town</b>	<input type="text"/>	<b>Post Code</b>	<input type="text"/>
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<b>Daytime contact telephone number</b>	<input type="text"/>
---	----------------------

<b>E-mail address (optional)</b>	<input type="text"/>
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**(B) DETAILS OF OTHER APPLICANT**

<b>Name and address</b>
<input type="text"/>
<b>Telephone number (if any)</b>
<input type="text"/>
<b>E-mail address (optional)</b>
<input type="text"/>

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address  PC952 Mick Wilkinson Police Licensing Office Fulford Road Police Station Fulford Road York YO10 4BY
Telephone number (if any)  01904 669945
E-mail address (optional)  mick.wilkinson@northyorkshire.pnn.police.uk

**This application to review relates to the following licensing objective(s)**

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

**Please state the ground(s) for review (please read guidance note 2)**

The Police wish to seek a review of the above premises as all of the above Licensing Objectives have been undermined.

Over recent years there has been a number of alcohol related incidents directly associated with the venue that clearly show mismanagement of the premises by the Designated Premises Supervisor (Mr Michael Lavin). The most recent serious incident involves a 17 year old customer using a glass vessel to assault another customer by way of "glassing" causing lacerations to the face. This assault is being investigated/progressed at the time of submission.

The history of incidents shows the nature of issues that the Police have had to deal with and include:-

- numerous reports of underage drinking
- alcohol related anti-social behaviour of customers sat drinking outside the premises
- assaults in which customers have received injuries such as a broken ankle, fractured eye socket, injuries due to being head butted and lacerations to the face (due to the above mentioned "glassing")
- breaches of licensing conditions
- large scale disturbances
- Officers being sworn at by the Premises Licence Holder (Susan Lavin) when undertaking routine licensing visits
- operating outside listed opening times
- allegations of open drug use and drug dealing within the venue

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

The attached Police statements will outline the following:-

- PC Wilkinson – outlines the intelligence that the Police hold relating to the premises and also makes reference to the attached “Schedule of Incidents” that was prepared by the Officer.
- PC Richardson – outlines the issues, that as local Beat Officer, he has had to deal with over recent years.
- PC Gill – outlines how the Premises Licence Holder (Susan Lavin) swore at the Officer whilst undertaking a routine licensing visit.
- PC Thompson – outlines details how he had to deal with a 15yr old girl who had been drinking and had taken drugs at the premises.

Also attached are a copies of warning letters that have been sent to the Premises Licence Holder outlining the concerns that the Police and Selby District Council have had regarding the premises.

Copies of witness statements (or part copies) from related incidents linked to the premises are also included which show:-

- underage drinking at the premises
- breaches of licensing conditions

The applicant seeks revocation of The Swan’s Premises Licence (Premises Licence No LN/000003115) as there is no power for the Licensing Committee to remove the Premises Licence Holder from the Premises Licence.



NOT PROTECTIVELY MARKED

Have you made an application for review relating to the premises before

Please tick ✓ yes

If yes please state the date of that application

Day Month Year

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

NOT PROTECTIVELY MARKED

Please tick ✓ yes

- 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
- 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

27th December 2012

Capacity **Police Licensing Officer**

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



Post town

Post Code

Telephone number (if any)

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

#### Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

NOT PROTECTIVELY MARKED



# **ANNEX D**

**North Yorkshire Police documentary evidence to support the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby.**

[Redacted]

MG11

### WITNESS STATEMENT

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

URN 

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Statement of: Michael Leslie Wilkinson

Age if under 18:  18yrs (if over 18 insert 'over 18')

Occupation: Police Officer

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

Signature: [Redacted] (witness) Date: 27th Dec 2012

I am Police Constable 952 of the North Yorkshire Police presently stationed at York. I am currently the Police Licensing Officer covering Selby and my role includes ensuring that Licensed Premises do not undermine the four Licensing Objectives listed in the Licensing Act 2003.

Those Licensing Objectives being:-

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm.

I have recently carried out research into The Swan, Sherburn-in-Elmet which has a Premises Licence issued by Selby District Council (Premises Licence No – LN/000003115). As part of this investigation I have conducted research on intelligence systems held by North Yorkshire Police. Intelligence is received by the organisation by various means and can range from reports filed directly by Officers to anonymous information received through the Crimestoppers Helpline.

The following information has been recorded as intelligence with regards to The Swan public house:

18/05/11

Alleged drug dealing within the premises.

09/06/11

Customer seen to take drugs in the premises on 3rd June 2011.

08/07/11

Premises allegedly serving after hours.

29/07/11

Customer seen walking out of the premises holding partially full glass drinking vessel.

Signature: [Redacted] Signature witnessed by: [Redacted]

2010/11

[Redacted]

[Redacted]

MG11

**Continuation statement of: Michael Leslie Wilkinson**

06/08/11

Customer seen leaving the premises holding a full glass drinking vessel and entering a local shop.

06/09/11

Underage drinkers allegedly getting served at the premises.

08/09/11

Alleged drug dealing at the premises.

13/09/11

Alleged drug dealing at the premises.

31/12/11

Alleged drug dealing at the premises.

01/02/12

Alleged drug dealing at the premises.

On Monday 15th August 2011 I attended The Swan public house, Sherburn-in-Elmet where I spoke with the Designated Premises Supervisor, Mr Michael Lavin, and the Premises Licence Holder Mr Michael and Mrs Susan Lavin and outlined the concerns that I had regarding the Licensing Objectives being undermined. I followed this meeting up with a formal Warning Letter sent to Mr Lavin dated 17 August 2011 (copy included in submission documents).

On Tuesday 10th April 2012 I invited Mr Lavin in to Selby Police Station where I again outlined the concerns that I had regarding the Licensing Objectives being undermined. I followed this meeting up a formal Warning Letter sent to Mr and Mrs Lavin dated 11 April 2012 (copy in submission documents).

I have subsequently produced a schedule which I produce in evidence for the licensing review of The Swan's Premises Licence. The schedule is titled "Incident Reports (Crime & ASB) - Swan, Sherburn-in-Elmet" and shows all incidents linked to The Swan public house.

I have submitted a Licensing Review application to Selby District Council requesting revocation of The Swan's Premises Licence (Premises Licence No LN/000003115) as there is no power for the Licensing Committee to remove the Premises Licence Holder from the Premises Licence.

Signature: [Redacted] Signature witnessed by: [Redacted]

2010/11

[Redacted]

**Incident Reports (Crime & ASB) – Swan, Sherburn-in-Elmet**

**April 2011 to present day**

Premises Licence – LN/000003115  
Intelligence reports in green

No	Incident Time	Incident Date	Day	NYP Ref No	Occurrence Details	Outcome/Result	Document
1	0034hrs	03/04/11	Sun	12110052682	Officer requests assistance at the venue for male refusing to leave. One male arrested for public order offence. Male extremely intoxicated and abusive to Custody Officers.	Offender given Adult Caution for public order offence.	Webstorm NICHE
2	2359hrs	16/04/11	Sat	12110061689	Customer reports issues with underage drinkers who were also taking drugs. Disturbance can be heard in background by Police call taker. Officers attend. All quiet on Police attendance.	No further Police action.	Webstorm
3	1609hrs	01/05/11	Sun	12110070489	Burglary to upstairs living quarter whilst venue open for business. £2000 stolen.	Finalised as undetected crime.	Webstorm NICHE

4	2209hrs	01/05/11	Sun	12110070712	Staff request Police assistance to eject two customers. Police attend. Two offenders arrested and charged with public order offences.	Both offenders issued with £80 Fixed Penalty Notice for public order offences.	Webstorm NICHE
5		18/05/11		IN1211025785	Named offender allegedly actively drug dealing within the venue.	Intelligence submission placed on file.	NICHE
June							
6		09/06/11		IN1211029966	Named offender allegedly seen to take drugs in the venue 03/06/11.	Intelligence submission placed on file.	NICHE
7	0055hrs	11/06/11	Sat	12110095563	CCTV report disturbance in street outside venue. Police attend and move on those involved. Incident unrelated to the premises.	No further Police action. OIC confirms venue was open at time of this incident.	Webstorm Officer Email
8	2237hrs	23/06/11	Thurs	12110103459	CCTV report a disturbance at the venue involving a number of males. Police attend. No complaints forthcoming.	No further Police action.	Webstorm
9	2337hrs	24/06/11	Fri	12110104169	Staff report disturbance at venue. Police attend. No complaints forthcoming.	No further Police action.	Webstorm

10	2324hrs	26/06/11	Sun	12110105474	CCTV report made laid out in front of premises. Police attend. Male found to have cut to back of head but unco-operative with Officers. Enquiries reveal male had been involved in disturbance. Male and second offender subsequently arrested and charged with assault and public order offences.	One offender found guilty of public order offence. Sentenced to 12 weeks imprisonment suspended for 12 months, 80 hours community service and £85 costs. Second offender found guilty of public order offence. Sentenced to a 4 week curfew and £85 costs.	Webstorm NICHE
July							
11	2330hrs	01/07/11	Fri	12110109158	16yr old customer reports being assaulted (broken ankle) in the beer garden of the venue. Police attend and investigate incident. No CCTV available from venue.	Finalised as undetected crime.	Webstorm NICHE Witness statements from 16yr olds.
12		08/07/11		IN1211035773	Venue allegedly serving after hours.	Intelligence submission placed on file.	NICHE
13	0254hrs	10/07/11	Sun	12110114182	Customer makes late report of assault whilst inside venue. Police attend and investigate incident. No CCTV available from venue. Complaint later withdrawn.	No further Police action.	Webstorm NICHE

14	1806hrs	23/07/11	Sat	12110122549	Member of the public reports excessive noise coming from the venue. Advised to contact Selby District Council.	No further Police action.	Webstorm
15		29/07/11		IN1211040384	Named person seen walking away from venue holding partially full glass drinking vessel.	Intelligence submission placed on file.	NICHE Officer Email
16		30/07/11	Sat	Officer Email	Two reports from Officers seeing customers leaving the venue holding partially full glass drinking vessels.	Landlady spoken to by Officers but claimed she doesn't have time to keep an eye on everything that goes off.	Officer Email
Aug 17		06/08/11	Sun	IN1211043555 Officer Email	Customer seen leaving the premises holding a full glass drinking vessel and entering local shop.	Intelligence submission placed on file.	NICHE Officer Email

18	13/08/11	Sat	Officer Email	Fatal road traffic accident outside venue. Deceased seen to be "in drink" at the venue prior to the accident. Deceased had allegedly made sexual suggestive comments to bar staff and allegedly indecently assaulted them but was allowed to stay in the venue. He was served more alcohol prior to leaving the premises. 8yr old child also allowed in venue which was a breach of licensing conditions.	Staff reported for summons by Selby District Council for breach of licensing conditions.	Officer Email Witness statement
	15/08/11	Mon		PC952 Wilkinson attends premises and speaks with DPS (Mick Lavin). All issues outlined to Mr Lavin.	Warning letter sent to DPS & PLH.	Warning Letter
19	18/08/11	Thurs	Officer Email	Report of two females aged 16yrs and 14yrs having been served in the venue on 16/08/12. Report made by concerned grandparent who claimed that ID had been requested but none produced yet the girls were served anyway.	Matter passed to Licensing Services, Selby District Council	Officer Email



Sept							
20	0700hrs	02/09/11	Fri	Officer Email	Report of customers being seen drinking outside the venue at 1035hrs 01/09/11. No Temporary Event Notice in place.	Alleged breach of Licensing conditions passed to Licensing Services Selby District Council.	Officer Email
21	1857hrs	03/09/11	Sat	12110149761	Report from residents re-noise at premises and that customers were drinking in cars parked outside the venue. Police call taker struggled to hear the complainant on the phone due to the noise at the venue.	Police re-contact complainant advising to contact Selby District Council.	Webstorm Officer Email
22		06/09/11		IN1211047486	Report that the venue allegedly serves underage drinkers.	Intelligence submission placed on file.	NICHE
23		08/09/11		IN1211047850	Named offender allegedly dealing drugs in the venue.	Intelligence submission placed on file.	NICHE
24		13/09/11		IN1211048684	Named offender allegedly dealing drugs in the venue.	Intelligence submission placed on file.	NICHE
Oct							
25	0005hrs	02/10/11	Sun	12110167133	Report of serious assault (broken nose, fractured eye socket and 3 teeth displaced) to complainant's father inside the premises. Father taken to hospital. Spoken to by Police. No complaint forthcoming.	No further Police action.	Webstorm NICHE

26	2206hrs	22/10/11	Sat	12110179615	Report of about twenty people involved in a disturbance at the venue. 2208hrs second call for service received confirming bottles were being brandished in the disturbance. Police attend and confirm disturbance has taken place. No complaints forthcoming.	No further Police action.	Webstorm
Dec							
27	2159hrs	06/12/11	Tues	12110205914	Report of disturbance outside the premises. Police attend. All quiet on arrival.	No further Police action.	Webstorm
28	2201hrs	26/12/11	Mon	12110217048	Report of disturbance at the premises. Police attend. Group of males dispersed. No complaints forthcoming.	No further Police action.	Webstorm
29		31/12/11		IN1211069790	Named offender allegedly drug dealing from the venue.	Intelligence submission placed on file.	NICHE
Jan							
30	1547hrs	07/01/12	Sat	12120003530	Report of named offender allegedly dealing drugs within the venue.	Passed to local policing team for their information.	Webstorm

Feb							
31		01/02/12		IN1212006146	Report of named offender buying drugs from the premises.	Intelligence submission placed on file.	NICHE
32	0023hrs	11/02/12	Sat	12120021938	Staff report customer having landlord pinned against a wall outside the premises. Police attend. One male arrested for being drunk & disorderly. No complaints forthcoming.	Offender issued with £80 Fixed Penalty Notice for drunk & disorderly offence.	Webstorm NICHE
Mar							
33	2102hrs	17/03/12	Sat	12120042823	Report of "very nasty" disturbance at venue. Police attend. All quiet on arrival. No complaints forthcoming.	No further Police action.	Webstorm
34	2310hrs	31/03/12	Sat	12120051350	Report of customer being assaulted (swollen and bruised eye, cut eyebrow) at the venue. Police attend. Sue Lavin unco-operative with Officers at scene. Offender later arrested.	Offender found guilty of assault. Sentenced to a 12 week curfew, £625 compensation and £85 costs.	Webstorm NICHE Officer Email
Apr							
		10/04/12	Tues		PC952 Wilkinson speaks with DPS (Mick Lavin) at Selby Police Station. All issues outlined to Mr Lavin.	Warning letter sent to DPS & PLH.	Warning Letter

May							
35	2205hrs	26/05/12	Sat	12120084432	Report of customer being assaulted in beer garden of venue. Police attend and speak with complainant who is heavily in drink. Allegation investigated but later withdrawn by complainant.	No further Police action.	Webstorm NICHE
July							
36		13/07/12			Tim Grogan (Selby District Council) and PC406 Richardson attend venue and speak with Mr Lavin regarding abusive language towards Police Officers attending venue on routine visits.	Warning letter sent to DPS.	Warning Letter Officer Email
37	2307hrs	20/07/12	Fri	12120118157	Police called to deal with 15yr old female who had been drinking and taking drugs inside the premises.	Female removed to St James's Hospital, Leeds	Webstorm Officer Email

38	1813hrs	21/07/12	Sat	12120118661	Staff request assistance to eject customer who is barred but has been drinking in venue all afternoon. Police attend. Offender arrested to prevent a breach of the peace but then violently resists arrests resulting in PAVA spray being used. Offender eventually detained and found to be in possession of drugs.	Offender receives an Adult Caution for resisting arrest and placed on Drug Referral Scheme for possession of Category A drug offence.	Webstorm NICHE
39	0107hrs	29/07/12	Sun	12120123522	CCTV report disturbance at venue. Police attend. Offender found to have caused criminal damage to neighbouring property. Offender removed to hospital and dealt with at later time.  Premises were still open beyond times listed on Premises Licence. No Temporary Event Notice in place.	Offender issued with an £80 Fixed Penalty Notice for criminal damage.	Webstorm NICHE Officer Email
40	2202hrs	03/08/12	Fri	12120127361	Report of drug dealing at the premises.	Passed to local policing team for their information.	Webstorm
Aug							

PC952 Wilkinson  
Licensing Unit  
27/12/2012



41	2025hrs	22/08/12	Weds	12120139819	Report of historical disturbance at venue, offenders having left. Police attend home address of offender. No complaints forthcoming.	No further Police action.	Webstorm
Sept							
42	0100hrs	09/09/12	Sun	12120150805	CCTV report disturbance at venue. Police attend and witness "a large melee". Officers outnumbered and further units needed to attend and back up Officers at the scene. PAVA spray drawn. Crowd eventually dispersed.  Premises were still open beyond times listed on Premises Licence. No Temporary Event Notice in place.	One offender has been reported for summons for assault.  Two further offenders have been reported for Public Order Act offences.	Webstorm NICHE
43	1043hrs	11/09/12	Tues	12120152160	Report of assault (head butt and scratches to neck) arising from the above incident (Inc No 40 of this schedule).	One offender has been reported for summons for assault.  Two further offenders have been reported for Public Order Act offences.	Webstorm NICHE

Nov							
44	1810hrs	01/11/12	Thurs	12120184502	Customer reports theft of mobile phone from inside the venue (30/10/12).	Finalised as undetected crime.	Webstorm NICHE
45	2334hrs	23/11/12	Fri	12120198281	Customer assaulted (cut face) inside the premises by way of glassing by 17yr old offender. Offender arrested for assault.	17yr old offender charged with assault. Currently on bail to York City Youth Court.	Webstorm NICHE
Dec							
46	2340hrs	14/12/12	Fri	Officer Email	Police undertake a routine multi-agency licensing visit and find four unsupervised youths aged 13yrs to 17yrs playing pool in the venue. Premises Licence Holders (Michael & Susan Lavin) on site at time. No Refusals Book in operation at time of visit.	Youths required to leave by Premises Licence Holder but only when visit undertaken by Police.	Officer Email
47	2247hrs	24/12/12	Mon	12120216763	Report of a glass beer glass being thrown at passing motor vehicle. Reportee states that customer swore at her when challenged and that it looks rowdy at the venue. Police attend and search for offender with no gain.	No further Police action.	Webstorm NICHE

NOT PROTECTIVELY MARKED



**NORTH YORKSHIRE POLICE  
WITNESS STATEMENT**

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1)

URN

Statement of: **Jeremy Paul Richardson**

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

Occupation **Police Constable 406**

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

Signature:



Date: 10<sup>th</sup> December 2012

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

I am Police Constable 406 of the North Yorkshire Police currently stationed at Sherburn In Elmet as part of the Safer Neighbourhood Team where as part of that team I am the Beat Manager for Sherburn in Elmet & Villages.

Several of my responsibilities include the reduction of Anti Social Behaviour, Problem Solving and representing the police at the Sherburn in Elmet Pub watch Scheme meetings. I have been attending the Pub watch Meetings since February 2012 to assist the members of the scheme. One of the functions of the scheme is to compile a list of persons who are barred for a period of time in using any of the public houses that are in the scheme. I am aware that one of the members is the Swan Public House in Low Street, Sherburn in Elmet however during my time as attending these meetings a member of the staff namely Sue Lavin has attended only one of these meetings which was in August and that was at my request in order to try to include the Public House in engaging in the scheme. However shortly after Sue Lavins attendance I did note that whilst on patrol two persons drinking outside on the front benches at the Public House on two occasions who were on the Pub watch List. In my opinion the Swan Public House has not fully participated in the idea behind the scheme.

NOT  
PROTECTIVELY  
MARKED



Signature  
witnessed by:

Signature:



## Continuation of statement of : Jeremy Paul Richardson

I have been in my current post at Sherburn in Elmet for the past five years and have had numerous incidents with regards to anti social behaviour taking place outside the frontage of the Public House where the wooden benches are located. These incidents increased during a period of around eight weeks in July 2010 leading into August 2010 when the two PCSOs that I work with on the Sherburn in Elmet Safer Neighbourhoods Team were being the subject of ongoing abuse and comments that were being shouted from the frontage of the Public House. Due to these ongoing incidents the Licensing Officer for the area was made aware of the incidents.

I am aware that in August 2011 Sue and Mick Lavin received advice from the Licensing Officer Tim Grogan with regards to the removal of these wooden benches and their possible relocation in the rear beer garden.

These incidents as pointed out on numerous occasions to the Swan Public House staff have a very negative impact on the impression the public house gives to passers by and local residents in the Sherburn in Elmet area . An example of these incidents are as follows :

- a. At 1640hrs on 24/08/11 a customer sat drinking alcohol on the wooden benches on the frontage of the Swan Public House made some derogatory comments to Officers who were attending the public house which included swearing at the Officers which they were warned about. At this time the landlord Mick Lavin was called and advised not to serve either of the parties involved. Approximately one hour later Officers saw the female involved walk out of the front door of the Public House , stumble and fall over and the landlord Mick Lavin was called to witness what was occurring on his premises.
- b At 1810hrs on Saturday 3<sup>rd</sup> September 2011 having noted a wooden bench had reappeared on the frontage of the Swan Public House against the advice of the Licensing Officer I went with Pc1807 Gill to speak with Sue and Mick Lavin just to confirm why the benches had reappeared at the frontage. Sue Lavin advised me that she had taken advice about not having the tables out on the frontage and that it was their land and we had no right to stop her and that due to having a disabled customer they needed to sit down when they came into town. It was asked that Sue Lavin recorded this matter in the incident book.
- c. At 1840hrs on the same date as above PCSO Wood reported that whilst he was waiting at the traffic lights on Low Street a local male who was stood at the wooden benches and drinking on the frontage of the Swan Public House was abusive towards the officer. The male was advised accordingly and the licensee spoken to about what had occurred.
- d. At 1857hrs on the same date above Police attended the Swan Public House after a complaint from a local resident of noise coming from the public house. I as one of the officers attended and found a large music party occurring in the rear Beer garden which had been going on all afternoon.

NOT PROTECTIVELY MARKED

Signature:

Signature  
witnessed by:

**Continuation of statement of : Jeremy Paul Richardson**


and was just coming to an end. There was disorder occurring outside the entrance to the main car park where several local youths were having an altercation with youths from the Pontefract area who were all warned about their conduct and issued with Section 27 notices to leave the area. The local resident stated that they had called the Swan Public House by phone on two occasions with regards to the noise but on each occasion the phone had been put down on her.

It was due to the type of incidents above that the Swan Public House was added to the North Yorkshire Police Operation Ursine which was to visit Public Houses within the district which were subject to numerous amounts of Public Order and Anti Social Behaviour incidents. These visits were to be made on a Thursday to Sunday basis in order to deter incidents. Due to the role I am involved in with the Pubwatch scheme I was informed by PC Gill that at 2352hrs on 7<sup>th</sup> July 2012 she made an Operation Ursine visit to the Swan Public House where on arrival she heard the words " For Fucks sake" from Sue Lavin as she was sat drinking with other customers. Sue Lavin told her that she was "Fucking Sick" of the harassment and wanted the Officer out of her pub. Sue Lavin informed the Officer that she was the only one who does the checks and she was going to make a complaint. Due to this incident I attended in company with the Licensing Officer for Selby District Council Mr Tim Grogan on Friday 13<sup>th</sup> July 2012 to speak with Mick and Sue Lavin at the Swan Public House with regards to the incident with PC Gill during which it was pointed out to the Lavins as to why visits were being made to their Public House by the police and the incidents that had occurred over the last twelve months in relation to matters both inside and outside of the licensed premises.

I have in the past spoke with Sue and Mick Lavin numerous times about the need to reduce the amount of incidents that occur within the boundaries of their licensed premises and are concerned about the amount of times I hear the comments "No body seen anything ," "The CCTV is not working," or "There was only me working".

I can also state that today 10<sup>th</sup> December 2012 I checked the frontage of the Swan Public House in Low Street, Sherburn in Elmet and noted that the two wooden benches were still in situ even though Sue and Mick Lavin have been advised about their location and the fact that they draw attention to the issues of Anti Social Behaviour at the premises.

NOT PROTECTIVELY MARKED

Signature: Signature  
witnessed by:



**NORTH YORKSHIRE POLICE  
WITNESS STATEMENT**

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1)

URN

Statement of: **Jeremy Paul RICHARDSON**

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

Occupation: Police Constable 406

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

Signature:

Date: 24th January 2013

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

Further to my previous statement dated 10<sup>th</sup> December 2012 I should like to add the following :

On Monday 31<sup>st</sup> December 2012 I was on duty in company with PC1807 Gill detailed as a Public Order Mobile Patrol working 1800hrs to 0400hrs supplementing the Police Response Patrols in the Selby Rural area of Sherburn in Elmet, Tadcaster and Brotherton areas mainly looking at Public Order around licensed premises and possible disorder due to the New Years Eve celebrations.

Whilst on these patrols on several occasions between 0100hrs and 0130hrs I was contacted by police radio by PC14 Holland and Pc922 Bone who were in the Sherburn in Elmet Village Centre and requested to attend the area around The Swan Public House on Low Street in the village centre on two occasions. On the first occasion that I attended the officers were stood on the frontage outside the pub and were speaking to a white male aged around 18 to 20 years who was bleeding around the nose area who stated he had been punched by a male inside the pub. He would not provide his name or any further details and stated he did not wish to make any complaint about what had gone on but the male was in the company of around eight other males and females who were in drink and unhappy over what had occurred but would not elaborate about the incident. PC Bone and Pc Holland continued to make a presence at the location by parking up outside the Red Bear Public House which was now shut. I then resumed with Pc1807 Gill however a short time later we were requested by Pc Holland to return to the car park area behind the pub due to some shouting and large groups making their way into the car park into what was thought a situation which could have developed into further disorder. On arrival all was quiet. Around 0145hrs I made a visit to the pub entering via the front door due to the fact that groups of people were leaving the pub and the fact that persons were being dropped off outside the pub by taxi and I needed to know what the intended last orders

Signature:

Signature  
witnessed by:

Continuation of statement of : Jeremy Paul RICARDSON

were for closure. On entering the pub all was quiet in the right hand side bar of the pub and I spoke to the licensee Mick Lavin who stated that he had finished serving some fifteen minutes ago and that there were a few drinking up in the other bar. I asked him if that was the case then it would be better if the doors were shut to discourage persons trying to get back into the pub. I then left the pub whereupon the doors were shut.



Signature:

Signature  
witnessed by:

MG11

**WITNESS STATEMENT**

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

URN 


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Statement of: Nicola Jayne GILL

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

Occupation: Police Constable 1807

This statement (consisting of 02 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: (witness) 

Date: 30 November 2012

I am PC1807 Nicola GILL serving for North Yorkshire Police, currently stationed at Sherburn in Elmet. At approximately 23:52 hours on Saturday 7 July 2012 I attended THE SWAN public house on Low Street, Sherburn in Elmet as part of Operation Ursine. I was alone.

The pub is a double fronted detached building, the front entrance door in the middle with the public bar area to the right and the lounge area to the left. The actual service area is in the middle and serves both areas.


As I usually do, I went into the public bar area to speak with bar staff to make enquiries to satisfy the log.

On this occasion I walked in, turned to my left to approach the bar when I heard a female voice say 'FOR FUCK SAKE' I immediately recognised the voice as SUE LAVIN, licensee of the premises and it was coming from my right. I turned around and saw SUE LAVIN sitting in the customer area. She was between two customers and looked angry. There were glasses of what appeared to be alcoholic drinks on the table. I assumed SUE LAVIN was having an evening off work.

I walked towards SUE LAVIN and said HELLO not realising the comment I had heard was directed at me. SUE LAVIN then said 'I'M FUCKING SICK OF THIS. THIS IS HARASSMENT'. I realised she was speaking to me and I told her I was just doing the usual check and I would be on my way very quickly. She then said 'THERE'S ONLY YOU DOES THIS, I'M MAKING A COMPLAINT OF HARASSMENT'.

I realised there was little point discussing the matter with SUE LAVIN, I told her my collar number although I am certain she knows it from previous incidents I have dealt with on her behalf, I know she knows my forename as she usually addresses me by it.

I asked SUE LAVIN what time she intended closing that evening, she did not answer that question and said me to 'GET THE FUCK OUT OF MY PUB'. As SUE LAVIN appeared to be off duty and the bar unattended I did a quick head count of the customers, observed there were no obvious issues in the premises and left.

Signature: 

Signature witnessed by: .....

2010/11



[REDACTED]

[REDACTED]

MG11

**Continuation statement of: Nicola Jayne GILL**

SUE LAVIN'S voice sounded slurred and her expression glazed, in my opinion she appeared intoxicated. I was surprised and disappointed by her attitude towards me that evening, given her position in the community I anticipate she would understand and accept my role in her premises that evening even if she did not welcome it.

I have only ever shown her the utmost respect, professionalism and friendliness when I dealt with her as a victim of crime in the past and in my general encounters with her. I was also embarrassed, there were customers in that part of the bar who witnessed the incident and they were watching us intently, I was conscious that their conversations had stopped when SUE LAVIN spoke at me in a raised voice.

I recorded the incident in my pocket note book and reported it to PC692 Wilkinson, Licensing Officer

[REDACTED]

[REDACTED]

Signature

[REDACTED]

Signature witnessed by: .....

2010/11

[REDACTED]

NOT PROTECTIVELY MARKED

[Redacted]

MG11

**WITNESS STATEMENT**

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

URN: 

--	--	--	--

Statement of: Ian Thompson

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

Occupation: Police Constable

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

Signature: [Redacted] (witness) Date: 08/12/2012

I am PC1586 Ian Thompson of the North Yorkshire Police, currently stationed at Sherburn In Elmet police station.

On Thursday 19th July 2012, I was on duty and in full uniform, when I attended the Crooked Billet public house in Saxton, in company with PC527 Smith. This was as a result of a request by an ambulance crew at the location. Who had requested police attendance, due to a female patient who was 'kicking off' whilst they were attempting to treat her.

On arrival in the car park of the Crooked Billet, an ambulance crew were trying to sedate a young female who was shouting and struggling with them in the rear of their vehicle. She was very upset and appeared scared at what was happening to her. Stood at the rear of the ambulance were a few friends of the female, all of whom were in their mid teens. I then went inside the pub and spoke with the licensee, who also happened to be the father of the female in the ambulance. He was very worried and upset about what was happening, but was also angry that his fifteen year old daughter had managed to get into the state she was. At this time I was informed by him that the female in question was [Redacted] born 01/10/1996.

After speaking with friends outside, I was informed by them that [Redacted] had been drinking heavily at The White Swan public house in Sherburn In Elmet for most of the night. Further to this, they said that she had taken the drugs M-Cat and Ketamine, after it had been offered to her inside this pub. The ambulance crew then stated to me, that due to the behaviour she was displaying, and her rapidly increasing temperature, they believed that it was true that she had taken these drugs as well as a large amount of alcohol. Saying that her body was struggling to cope with the contradicting effects of the drugs and the alcohol in her system. The ambulance then left the scene on route to St James hospital in Leeds.

Her father was very angry at what he had heard about where [Redacted] had been, and how she had come to get into the condition she was now in. He then stated to me that he would be visiting the licensee Sue Lavin the following day to discuss the matter, as he was disgusted how a fellow licensee was running her business.

I then left the scene and had no further involvement.

NOT PROTECTIVELY MARKED

Signature: [Redacted] Signature witnessed by: [Redacted]

2010/11



**Please ask for:** Mr. J. Gregson  
**Dial Direct No.:** 0845 6060247  
**Fax No.:**

**Your Ref:**  
**Our Ref:** JG/MG  
**E-mail:**

28<sup>th</sup> August 2010

Dear Mr. Glavin,

This letter is to confirm the issues Tim Grogan (Selby District Council Licensing Enforcement Officer) and I discussed at our meeting with your wife at the Swan, Low Street, Sherburn-in-Elmet on Wednesday 25<sup>th</sup> August 2010.

You will be aware that a number of complaints have been received both from Police Community Support Officers and passers-by who have had occasion to walk within the vicinity of the beer garden situated in front of your premises and experienced persistent personal verbal comment of an abusive and insulting nature.

Essentially the complaints involve patrons who frequent your premises, which mean they come under your control in terms of your obligation to do all within your power to prevent crime and disorder. You are therefore instructed to ensure that in future all customers frequenting the beer garden of your premises do not behave in a manner which brings your premises into disrepute and thereby risk your Premises Licence being formally reviewed.

Yours sincerely,

Police Licensing Officer

Mr. G. Lavin,  
Swan Public House,  
1 Low Street,  
Sherburn in Elmet,  
Leeds,  
LS25 6BG.

LN/3115

**Please ask for:** Mr. T. Grogan  
**Dial Direct No.:** 01757 292027  
**Fax No.:**

**Your Ref:**  
**Our Ref:** TG/MG  
**E-mail:**

3<sup>rd</sup> February 2011

Dear Mr. Glavin,

This letter is to confirm the issues I discussed in my conversation with your wife regarding the Swan, Low Street, Sherburn-in-Elmet on Thursday 3<sup>rd</sup> February 2011.

You will be aware that a complaint has been received from the Police in connection with the persistent verbal abuse an officer had to endure within the vicinity of the beer garden situated in front of your premises, whilst he was dealing with an individual for a traffic matter, on Friday 28<sup>th</sup> January 2011.

This follows complaints received both from Police Community Support Officers and passers-by in August 2010 when they had occasion to walk within the same area and accept similar persistent personal verbal comment of an abusive and insulting nature.

On the 27<sup>th</sup> August 2010 you were sent a letter from the Police reminding you that complaints involving patrons who frequent your premises, mean they come under your control in terms of your obligation to do all within your power to prevent crime and disorder. That particular letter was sited in a prominent position adjacent to your front door yet an inspection of your premises on Tuesday 1<sup>st</sup> February 2011 showed it to be missing. You are therefore instructed again to ensure that in future all customers frequenting the beer garden of your premises do not behave in a manner which brings your premises into disrepute and thereby risk your Premises Licence being formally reviewed. Please also ensure that signs indicating how your customers are expected to behave are suitably sited as soon as possible.

Yours sincerely,

Mr. G. Lavin,  
Swan Public House,  
1 Low Street,  
Sherburn in Elmet, Leeds,  
LS25 6BG.

# Safer Neighbourhoods



Mr Michael Lavin  
The Swan  
1 Low Street  
Sherburn-in-Elmet  
Leeds  
LS25 6BG

— Our Ref: NYP/952/SwanSherburn/150811

E-mail: [yorklicensing@northyorkshire.pnn.police.uk](mailto:yorklicensing@northyorkshire.pnn.police.uk)

Date: 17<sup>th</sup> August 2011

Dear Mr Lavin,

## Licensing Issues – The Swan, Sherburn-in-Elmet

Firstly, may I take the opportunity to thank you and Mrs Lavin for taking the time to meet with Mr Tim Grogan, Selby District Council and me on the morning of Monday 15<sup>th</sup> August 2011. As I stated in that meeting, the purpose of this letter is to document the fact we spoke and formally record the issues in question.

As Designated Premises Supervisor for The Swan (Premises Licence No – LN/000003115) you will be aware that you have a duty to ensure that the four Licensing Objectives are upheld. Those objectives being:-

- i) the prevention of crime and disorder
- ii) public safety
- iii) the prevention of public nuisance
- iv) the protection of children from harm.

I have grave concerns that, given the nature of the incidents we discussed, these objectives were not being upheld; those incidents from April 2011 to the date of our meeting being:-



3<sup>rd</sup> April 2011

Male customer refusing to leave. Male subsequently arrested. Very intoxicated and abusive to Police staff.

16<sup>th</sup> April 2011

Report received regarding a disturbance involving alleged underage drinkers who were taking drugs. Disturbance could be heard in the background by the Police call taker. Opinion of the Police who attended that underage drinking had occurred.

1<sup>st</sup> May 2011

Burglary to upstairs living quarters whilst the venue was open for business.

1<sup>st</sup> May 2011

Two drunk males subsequently arrested after being ejected from the premises.

23<sup>rd</sup> June 2011

Disturbance outside the venue.

24<sup>th</sup> June 2011

Male refusing to leave the premises. Had left prior to Police attendance.

26<sup>th</sup> June 2011

Alleged glassing at the venue. Further allegations of open drug taking. Two males arrested and charged with affray.

1<sup>st</sup> July 2011

Serious assault in the beer garden involving a 16yr old male.

10<sup>th</sup> July 2011

Alleged assault inside the venue. No CCTV coverage.

29<sup>th</sup> July 2011

Customer seen leaving the venue holding partially full glass drinking vessel.

30<sup>th</sup> July 2011

Two separate reports of customers seen leaving the venue holding partially full glass drinking vessels.

6<sup>th</sup> Aug 2011

Customer seen leaving the venue holding partially full glass drinking vessel.

12<sup>th</sup> Aug 2011

Customer, in company with an 8yrs old child, served whilst "in drink" at the venue. Same customer allegedly makes sexually suggestive comments and allegedly indecently assaults bar staff. Allowed to stay on premises and continually served alcohol. Customer then leaves the venue and is involved in a fatal road traffic accident.

There has also been intelligence received by the Police alleging:-

- Active drug dealing
- Customers taking drugs in the venue
- Venue regularly serving after permitted hours

I would now like to take this opportunity to remind you of the relevant times attached to your Premises Licence:-

#### Supply of Alcohol

Sun	1200 – 2330
Mon	1100 – 2300
Tues	1100 – 2300
Weds	1100 – 2300
Thurs	1100 – 2300
Fri	1100 – 0030
Sat	1100 – 0030

#### Opening Times

Sun	1200 – 2400
Mon	1100 – 2330
Tues	1100 – 2330
Weds	1100 – 2330
Thurs	1100 – 2330
Fri	1100 – 0100
Sat	1100 – 0100

Further to the above timings I would also like to remind you of certain conditions attached to the Premises Licence.

Standard Conditions applicable to “ON LICENCE” premises.

#### Children

No person under fourteen shall be allowed in the bar of the licensed premises during the permitted hours unless one of the following applies:-

- a) He is the child of the holder of the Premises Licence.
- b) He resides in the premises, but is not employed there.
- c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- d) The bar is a railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is merely ancillary.
- e) He is in the premises solely for the consumption of meals and/or non-alcoholic beverages.

In this condition "bar" includes any place exclusively or mainly used for the sale and consumption of intoxicating liquor, but does not include a bar at any time when it usual in the premises in question for it to be, and it is:-

- i) set aside for table meals, and
- ii) not used for the sale or supply of intoxicating liquor otherwise than to persons having table meals there and for the consumption by such persons as an ancillary to his meal.

Finally, it would be remiss of me if I did not take this opportunity to place on record the action that the Police could take following any incidents which show you are not upholding the above objectives in future. Under the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) the Police could seek a review of your Premises Licence with the Licensing Authority (Selby District Council).

The consequences of a successful review could include a number of options. A few I have listed below:

- i) modification of the conditions of the Premises Licence
- ii) the exclusion of sale of alcohol by retail from the Premises Licence
- iii) removal of the Designated Premises Supervisor
- iv) suspension of the Premises Licence
- v) a reduction in operating hours
- vi) compulsory signage to update members of the public that the premises have been subject of a Licensing Review.

Following our meeting I would like to give you the opportunity to respond to this letter and would welcome a written response from you outlining the steps that you intend to take to ensure such incidents do not happen in the future.

I look forward to hearing from you at your earliest convenience.

Should you have any queries about this, or any other licensing matter, then please don't hesitate to contact me.

Yours sincerely,



Mick Wilkinson  
PC952  
Police Licensing Unit  
01904 551833  
07802 385220

CC Tim Grogan, Selby District Council  
Michael & Susan Levin (Premises Licence Holder)



York Police Station, Fulford Road, York, YO10 4BY  
Telephone 0845 60 60 24 7  
[www.northyorkshire.police.uk](http://www.northyorkshire.police.uk)



# Safer Neighbourhoods



Mr Michael Lavin  
The Swan  
1 Low Street  
Sherburn-in-Elmet  
Leeds  
LS25 6BG

Our Ref: NYP/952/TheSwan/310312

E-mail: [yorklicensing@northyorkshire.pnn.police.uk](mailto:yorklicensing@northyorkshire.pnn.police.uk)

Date: 11<sup>th</sup> April 2012

Dear Mr Lavin,

## Licensing Issues – The Swan, Sherburn-in-Elmet

Firstly, may I take the opportunity to thank you for taking the time to attend Selby Police Station on the afternoon of Tuesday 10<sup>th</sup> April 2012 and meet with PC Richardson and myself. As I stated in that meeting, the purpose of this letter is to document the fact we spoke and formally record the issues in question.

As Designated Premises Supervisor for The Swan (Premises Licence No – LN/000003115) you will be aware that you have a duty to ensure that the four Licensing Objectives are upheld. Those objectives being:-

- i) the prevention of crime and disorder
- ii) public safety
- iii) the prevention of public nuisance
- iv) the protection of children from harm.

I have grave concerns that, given the nature of the incident we discussed, these objectives were not being upheld and this letter follows on from my previous letter to you dated 17<sup>th</sup> August 2011.

The incident we discussed occurred on the evening of Saturday 31<sup>st</sup> March 2012 and raised the following issues:-

- Allegations of drunken customers at your venue
- Customers fighting with each other resulting in one person being seriously assaulted
- Customers being allowed to remain on premises following incidents of disorder

We also discussed at length the issue of customers being allowed to congregate outside the front of the premises, especially being allowed to remain seated at the tables and chairs you provide for them directly at the front of the venue. This would appear to have been a contributory factor to the assault and was also a contributory factor to the issues that you experienced in Summer 2011.

We did discuss the future use of these tables and chairs and your pro-active approach to ensuring customers make use of the beer garden to the rear of the premises.

It would be remiss of me if I did not take this opportunity to place on record the action that the Police could take following any incidents which show you are not upholding the above objectives in future. Under the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) the Police could seek a review of your Premises Licence with the Licensing Authority (Selby District Council).

The consequences of a successful review could include a number of options. A few I have listed below:

- i) modification of the conditions of the Premises Licence
- ii) the exclusion of sale of alcohol by retail from the Premises Licence
- iii) removal of the Designated Premises Supervisor
- iv) suspension of the Premises Licence
- v) a reduction in operating hours
- vi) compulsory signage to update members of the public that the premises have been subject of a Licensing Review.

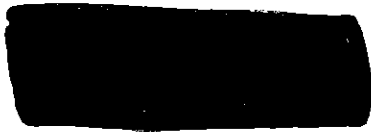
Finally, I would like to remind you of Operation URSINE. This is a local Police initiative to ensure that licensed premises are visited on a regular basis and is implemented across the Selby and Tadcaster district. These high visibility visits are undertaken by local Officers to ensure that licensed premises are complying with the conditions attached to their Premises Licence and to ensure that no offences contrary to the Licensing Act 2003 are being committed.

Your venue is not being singled out when these visits are undertaken and I would be obliged if you could make sure that your members of staff are made aware of these visits so that the visiting Officers can go about their business unhindered.

I hope that following receipt of this letter you will review the Operating Procedures you have in place at your venue and that this will be an end to any issues associated with your venue.

Should you have any queries about this, or any other licensing matter, then please don't hesitate to contact me.

Yours sincerely,



Mick Wilkinson  
PC952  
Police Licensing Unit (York and Selby)  
Community Safety Dept  
01904 669945  
07802 385220

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**Please ask for:** Mr. T. Grogan  
**Dial Direct No.:** 01757 292027  
**Fax No.:** 01757 292229

**Your Ref:**  
**Our Ref:** TG/The Swan  
**E-mail:** tgrogan@selby.gov.uk

16 July 2012

Dear Mr Lavin,

This letter is to confirm the issues that I discussed with you on Friday 13 July 2012 when I met you and Sue Lavin in company with PC Richardson. You will recall this was in connection with a report that Sue had used language that is described as abusive, insulting and offensive to a serving Police Officer who had occasion to attend the Swan Public House in connection with a routine visit.

You are the Designated Premises Supervisor and as a consequence accountable for the effective and responsible management of the premises. This behaviour, which was not challenged by Sue, is in my view both outrageous and disgraceful. You were informed of the reasons why the Police have occasion to visit the Swan and that these visits will continue and may indeed increase following the manner of the reception described above.

In addition, you were reminded of my attitude regarding the two benches situated outside the front of the Swan. It is my information that on occasion they continue to be a magnet for ill-mannered and graceless behaviour between your patrons and foot passengers.

In conclusion, you should understand you are warned as to your future conduct with regard to the behaviour of both your staff and patrons throughout the full extent of your premises.

Yours sincerely,

Senior Enforcement Officer

Mr Mick Lavin  
The Swan  
1, Low Street,  
Sherburn-in-Elmet  
LS25 6BG

RESTRICTED (when complete)

WITNESS STATEMENT

(CJ Act 1987, s.8; MC Act 1983, ss.5A(3) (c) and 5B; Criminal Procedure Rules 2005, Rule 27.1)

URN [ ] [ ] [ ] [ ]

Statement of [REDACTED]

Age if under 18 (if over 18 insert 'over 18') 16 Occupation: School Police

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

Signature [REDACTED] Date: 2nd July 2011

Tick if witness evidence is visually recorded [ ] (supply witness details on rear)

I am the above named person and I live at the address [REDACTED]. On Friday 1st July 2011 I was out in the beer garden of THE SWAN PUB in SWITSON in [REDACTED]. I was there between 2130hrs and 2230hrs with [REDACTED] and [REDACTED]. I had had 2 pints whilst there and then returned home. I went back to the pub sometime between 2300hrs and 2330hrs the same night as I discovered my phone was missing. I went into the beer garden and said generally to everyone there "WHERE'S MY PHONE". A girl I knew from when I went to school in Sherburn told me to "FUCK OFF, NOONES GOT YOUR PHONE". I told her to "FUCK OFF, I WANT MY PHONE BACK". The girl is called [REDACTED] and she continued having a go at me and making off. [REDACTED] boy friend who I have known for [REDACTED].

KB

Signature: [REDACTED] Signature witnessed by: [REDACTED]



RESTRICTED (when complete)

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1)

URN [ ] [ ] [ ] [ ]

Statement of [redacted]

Age if under 18 (if over 18 insert 'over 18') 16 Occupation: STUDENT

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

Signature [redacted] Date: 040711

Tick if witness evidence is visually recorded [ ] (supply witness details on rear)

I am the above named person and I live at the address overleaf. On Friday 1st July 2011 I walked to the new Public House in Sharncliffe Street with my friend [redacted]. We got there at 230hrs and were in the beer garden. Also in the beer garden were [redacted] who are my friends and a male called [redacted] who I have known for a couple of years from living in the Sharncliffe area. There was also [redacted] who I know as [redacted] and his older brother I've known [redacted] for 2 years as well. Whilst there I was talking to a lad who I had only just met and had just moved into the area. I was there for a couple of hours and had drunk 2 pints whilst there. At approximately 2330hrs I

Signature: [redacted] Signature witnessed by: [redacted]



RESTRICTED (when complete)

WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1)

URN [ ] [ ] [ ] [ ]

Statement of [REDACTED]

Age if under 18 (if over 18 insert 'over 18') ..... Occupation: BARMAN

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

Signature ..... [REDACTED] Date: 12/8/11

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

I am the above named person and I live at the address given overleaf. I am presently employed as a barman at 'The Swan' in Shelburn in Bradford. I have held this position for around four years.

On Friday 12th August 2011 I was at work doing a 12 noon to 5pm shift. During that time, the pub was 'teedy' not too busy.

At around 3:30 to 4pm a male I know as [REDACTED] came into the pub. I only know him because he comes into the pub maybe once a fortnight or so, not very often. [REDACTED] had his son with him, I don't know his name or anything about him, but I would say he is about 8 years old.

I would describe [REDACTED] as a white male, late 40's, balding grey/light brown hair, he was wearing a beige/grey coloured top and cropped [REDACTED]

Signature: [REDACTED] Signature witnessed by: [REDACTED]



Continuation of Statement of: [REDACTED]

being colonial bottoms

When he came in [REDACTED] went to the toilet, along with his son, and then came to the bar. He ordered a pint of 'berling and home' and a bottle of Lucesale for his son.

[REDACTED] seemed a bit strange, he was cheeky and wild. He said something along the lines 'you need a big fat sausage in you' and 'do you opt for the other team?' from what I know of [REDACTED] this seemed out of character for him, he had never behaved in this way before, towards me. His behaviour made me form the opinion that he had already been drinking before he came into the pub. They then went and sat down in front of the fire, along with some other regulars.

I think they were in the pub for around an hour and during that time I served him at the bar at least twice. On both occasions he bought the same drinks. He also helped himself to a pint of Calving belonging to one of the other customers who he was sitting with. He just took it and drank it there was no disagreement or fell out over that.

At [REDACTED] he then got up and left, with his son. I was the only member of staff working at that time, so no one else served him any drinks.

I finished work at 3pm.

Continuation of Statement of: [REDACTED]

Page No 3 of 3

At one point he swiped past me and as he did so, he put his hand on my arm. I pushed him away. He didn't say anything to me, but again, I would say that behaviour was out of character for him.

I did not see [REDACTED] leave the pub, but from 5pm I was sat at the other side of the bar and I did not see him buy any further drinks. hi.

Signature: [REDACTED]

Signature witnessed by: .....

# **ANNEX E**

**A flow chart outlining the procedure the Licensing Authority must follow upon receiving an application to review a Premises Licence under section 51 of the Licensing Act 2003.**



Review of Premises Licence

Application for a review received.

- Is the application completed correctly?
- Is the application relevant to the Licensing Objective?
- Is the interested party relying on frivolous, vexatious or a repetitious ground?
- Has the applicant notified responsible authorities and Licence holder?

Notify the applicant as soon as possible that the ground is frivolous, vexatious or a repetition.

Licensing Authority must advertise the review

- Advertisement placed - At or near premises subject to review
- At offices of Licensing Authority
- On [leeds.gov.uk](http://leeds.gov.uk)

The advert must include the following details

- a) The address of the premises subject to review
- b) The dates between which interested parties & Responsible Authorities may make representations
- c) The grounds of the application for review
- d) The postal address, web site address ,licensing register details etc
- e) That it is an offence to knowingly or recklessly to make a false statement in connection with the review.

The advert is placed for no less than 28 consecutive days starting with the day *after* the application was given to the applicant.

**The Licensing Authority must hold a hearing**

The hearing must be held within 20 working days beginning with the day *after* the end of the period during which representations may be made



**The Licensing Authority must give notice of the hearing, no later than ten working days before the day of the hearing**

Notice of the review hearing must be given to  
a) The premises licence holder  
b) Those that made relevant representations

**Representations from interested parties must not be vexatious, frivolous or a repetition.**

- A ground for review already specified in an earlier review application of the same premises which has already been determined; or
- Representations considered when the premises licence was first granted; or
- Representations which would have been made when the application for the premises licence was first granted and which were excluded then due to a provisional statement being issued; and
- A reasonable interval has not elapsed since a previous review or the grant of the licence.

Notification that a representation is frivolous, vexatious or repetitious must be given in writing before the review is determined.

# **ANNEX F**

**Representations in connection with the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby received from Responsible Authorities in the form of:**

- 1. The Licensing Authority**
- 2. Environmental Health Services**
- 3. North Yorkshire Trading Standards**

# **ANNEX F**

**Representations in connection with the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby received from Responsible Authorities in the form of:**

- 1. The Licensing Authority**



## ENFORCEMENT SECTION

### INTERNAL MEMO

**TO:** Rachel Howden  
Licensing Authority

**FROM:** Tim Grogan  
Senior Enforcement Officer

**YOUR REF:**

**OUR REF:**

**DATE:** 16 January 2013

**TEL:** 01757 292027

**RE: Application for review of Premises Licence, Swan, 1 Low Street, Sherburn-in-Elmet, Selby, LS25 6BG.**

I refer to the application to review the premises licence of the above premises by North Yorkshire Police.

Following examination of the information held by the Enforcement Section, I can confirm that the following is a summary of the complaints and issues regarding the management of the Swan, 1 Low Street, Sherburn-in-Elmet, Selby.

Date of Complaint	Nature of Complaint	Action taken and outcome
6 June 2007	Complaints regarding noise	The Council Licensing Officer interviewed the manageress on 5 June 2007 who was advised as to her future conduct. The action was confirmed in the form of a letter sent to the DPS on 6 June 2007. <b>Advised as to future conduct</b>
August 2010	Abuse from patrons to Police Support Officers and passers-by.	The Police and Council Licensing Officers interviewed the manageress on 25 August 2010 who was advised as to her future conduct. This action was confirmed in the form of a letter sent to the DPS on 28 August 2012. <b>Instructed to place the letter in a prominent position in premises</b>
28 January 2011	Abuse from patrons to Police Officer dealing with traffic matter	The Council Licensing Officer interviewed the manageress on 1 February 2011 when it was noted that the letter, referred to above, was missing. Manageress was advised as to her future conduct and this action was confirmed in the form a letter sent to the DPS on 3 February 2012. <b>Instructed to place suitably located signs indicating how customers are expected to behave as soon as possible</b>

12 August 2011	Alleged breach of conditions and previous issues of crime and disorder	<p>The Police and Council Senior Enforcement Officers interviewed the DPS and the manageress on 15 August 2011 in relation to allowing a 7-8 years old boy to enter the premises in breach of conditions. In addition, to discuss 13 matters of assaults, drugs, disorder, refusals to leave and other incidents reported between 3 April 2011 and 12 August 2011. In addition, mention was made of allegations of drug dealing, drug taking and alcohol being served after permitted hours. Both advised as to future conduct and sent a letter requesting the steps intended to be taken to address the issues outlined. Also advised to remove the benches situated at the front of the premises to prevent the opportunity for customers to abuse passers-by.</p> <ol style="list-style-type: none"> <li><b>1. Later that day the DPS and another member of staff were interviewed regarding the breach of licensing conditions. A file was submitted and both received verbal simple cautions.</b></li> <li><b>2. Letter sent from Police 17 August 2011 requesting DPS to outline steps to prevent further incidents</b></li> </ol>
July 2012	Noise complaint	<p>Telephone conversation with manageress about the level of noise emanating from the premises. <b>Advised as to future conduct</b></p>
July 2012	Abuse from manageress to Police Officer	<p>A patrol Police Constable and Council Senior Enforcement Officer interviewed the DPS and manageress on 13 July 2012 in relation to comments alleged to have been made by the manageress to a Police Officer who had attended the premises in connection with a routine visit. Both warned as to their future conduct and the DPS was sent a letter to confirm this action together with advice in relation to the removal of benches situated at the front of the premises. <b>Warned as to future conduct</b></p>
August 2012	Noise complaint	<p>2 August 2012, letter received reporting that levels of noise had been reduced. Telephone conversation with manageress informing of her that reduction in noise level had been reported <b>Informed that noise levels had improved</b></p>

**In light of the review of the premises licence for the Swan, 1 Low Street, Sherburn-in-Elmet, Selby, I would advise that the Enforcement Section of Selby District Council fully support the position of the Police in relation to this matter. However, should the Committee decide to introduce I would ask that the following conditions are also considered.**

1. That customers are not allowed to consume drinks, smoke or congregate in the area to the front and side of the premises where it abuts onto Low Street or Moor Lane.
2. That at no time should there be any benches or furniture of any description in the area to the front and side of the premises where it abuts onto Low Street or Moor lane.

Yours faithfully

**Tim Grogan**  
**Senior Enforcement Officer**

**Please ask for:** Mr. T. Grogan  
**Dial Direct No.:** 01757 292027  
**Fax No.:** 01757 292229

**Your Ref:**  
**Our Ref:** TG/JB  
**E-mail:** tgrogan@selby.gov.uk

6<sup>th</sup> June, 2007

Dear Ms. Lavin,

This letter is to confirm the issues we discussed at our meeting at the Red Bear on Tuesday, 5<sup>th</sup> June, 2007.

You will recall I brought to your attention the number of complaints I had received from residents who occupy dwellings within close proximity to your premises.

Essentially the complaints involve noise before and after 11.00 p.m. which involves music and comments from the DJ. You are aware that all windows and doors must be closed after 11.00 p.m. and this is apparently being complied with. However, noise from your premises is penetrating residences nonetheless. You explained that your DJ was responsible for the level of noise and that despite your warnings to that individual the volume was unnecessarily increased.

You are the Designated Premises Supervisor of the Swan and as such have sole responsibility for the day to day running of the premises. This quite obviously includes a commitment to ensuring noise levels do not penetrate the nearest noise sensitive residence. As a consequence I cannot over-emphasise the importance that your DJ must adhere to the requirements of the Licensing Act 2003 or run the risk of jeopardising your Premises Licence.

Yours sincerely,

Enforcement Officer - Licensing

Mr. S. Lavin,  
Swan Public House,  
1 Low Street,  
Sherburn in Elmet,  
Leeds,  
LS25 6BG.

**Please ask for:** Mr. J. Gregson  
**Dial Direct No.:** 0845 6060247  
**Fax No.:**

**Your Ref:**  
**Our Ref:** JG/MG  
**E-mail:**

28<sup>th</sup> August 2010

Dear Mr. Glavin,

This letter is to confirm the issues Tim Grogan (Selby District Council Licensing Enforcement Officer) and I discussed at our meeting with your wife at the Swan, Low Street, Sherburn-in-Elmet on Wednesday 25<sup>th</sup> August 2010.

You will be aware that a number of complaints have been received both from Police Community Support Officers and passers-by who have had occasion to walk within the vicinity of the beer garden situated in front of your premises and experienced persistent personal verbal comment of an abusive and insulting nature.

Essentially the complaints involve patrons who frequent your premises, which mean they come under your control in terms of your obligation to do all within your power to prevent crime and disorder. You are therefore instructed to ensure that in future all customers frequenting the beer garden of your premises do not behave in a manner which brings your premises into disrepute and thereby risk your Premises Licence being formally reviewed.

Yours sincerely,

Police Licensing Officer

Mr. G. Lavin,  
Swan Public House,  
1 Low Street,  
Sherburn in Elmet,  
Leeds,  
LS25 6BG.

LW/3115

**Please ask for:** Mr. T. Grogan  
**Dial Direct No.:** 01757 292027  
**Fax No.:**

**Your Ref:**  
**Our Ref:** TG/MG  
**E-mail:**

3<sup>rd</sup> February 2011

Dear Mr. Glavin,

This letter is to confirm the issues I discussed in my conversation with your wife regarding the Swan, Low Street, Sherburn-in-Elmet on Thursday 3<sup>rd</sup> February 2011.

You will be aware that a complaint has been received from the Police in connection with the persistent verbal abuse an officer had to endure within the vicinity of the beer garden situated in front of your premises, whilst he was dealing with an individual for a traffic matter, on Friday 28<sup>th</sup> January 2011.

This follows complaints received both from Police Community Support Officers and passers-by in August 2010 when they had occasion to walk within the same area and accept similar persistent personal verbal comment of an abusive and insulting nature.

On the 27<sup>th</sup> August 2010 you were sent a letter from the Police reminding you that complaints involving patrons who frequent your premises, mean they come under your control in terms of your obligation to do all within your power to prevent crime and disorder. That particular letter was sited in a prominent position adjacent to your front door yet an inspection of your premises on Tuesday 1<sup>st</sup> February 2011 showed it to be missing. You are therefore instructed **again** to ensure that in future all customers frequenting the beer garden of your premises do not behave in a manner which brings your premises into disrepute and thereby risk your Premises Licence being formally reviewed. **Please also ensure that signs indicating how your customers are expected to behave are suitably sited as soon as possible.**

Yours sincerely,

Mr. G. Lavin,  
Swan Public House,  
1 Low Street,  
Sherburn in Elmet, Leeds,  
LS25 6BG.

## R-v-LAVIN and KAVANAGH

### Defendants

1. Michael Terence Lavin, [REDACTED], Designated Premises Supervisor, of the Swan Public House, 1, Low Street, Sherburn-in-Elmet
2. Angela Dianne Kavanagh, [REDACTED] Manageress, of [REDACTED]  
[REDACTED]

### Offence

#### **Against both**

That you did, jointly, on Friday 12<sup>th</sup> August 2011, knowingly, allow a licensable activity namely the allowance of a person under the age of 14 years to be in the bar of the Swan Public House during permitted hours to be carried on from premises otherwise than under and in accordance with an authorisation.

Contrary to Section 136(1) and (4) of the Licensing Act 2003

The brief facts of this matter are as follows:

On the 25<sup>th</sup> July 2005 Joanne Beavers made application to Selby District Council for a Premises Licence in respect of the Swan Public House situate at 1, Low Street, Sherburn-in-Elmet, the terms of which involved a request to supply alcohol, provide various activities and comply with a number of conditions including the exclusion of all persons under the age of 14 years from the bar within permitted hours.

On the 24<sup>th</sup> November 2005 the establishment was granted a Premises Licence under the terms of the Licensing Act 2003. This licence involved the condition that the Designated Premises Supervisor, Joanne Beavers, was responsible for the effective and responsible management of the premises and that there was to be no person under the age of 14 years to be in the bar during the permitted hours.

On 6<sup>th</sup> April 2006 the Premises Licence was varied to authorise the defendant Michael Lavin as the Designated Premises Supervisor. However, all the conditions attached to the Premises Licence remained the same. The Premises Licence authorises the permitted hours on a Friday as 11am until 1am.

The witness, Lisa Terry, can tell the court that she is employed at the Swan Public House as a barmaid and that her hours of operation on Friday 12<sup>th</sup> August were midday until 5pm. She can confirm that on this date the person authorising the sale of alcohol was the manageress, Angela Kavanagh because the Designated Premises Supervisor, Michael Lavin, was on leave.



At around 3.30pm – 4pm that day she recalls a man who she now knows to be Trevor McCabe enter the premises accompanied by his son. The son appeared to be around 7 – 8 years of age. She can confirm that Trevor and his son remained in the Swan Public House until atleast 5pm, by which time she had completed her work.

At 4.25pm on Tuesday 16<sup>th</sup> August 2011 the Enforcement Officer saw Michael Lavin at the Swan Public House, Low Street, Sherburn-in-Elmet. He was cautioned and confirmed he was both the Premise Licence Holder and the designated Premises Supervisor. At this time the breach of the condition regarding the prohibition of persons under the age of 14 years being allowed in the bar was put to him. He revealed that he was unaware that this was a condition on his licence and accepted he was in breach of it. He stated that he had allowed children under the age of 14 years for several years but would no longer do so until he varied his licence. He realised that he should have paid more attention to the licensing conditions attached to his Premises Licence but had taken it for granted children were allowed into the bar provided they were accompanied by an adult. In addition, he explained that had he known of the condition he would certainly have informed his manageress to conform to it. He showed remorse and upon being formally reported he said “I JUST NEVER REALISED”.

At 4.35pm that day the Enforcement Officer saw Angela Kavanagh at the same location. She was cautioned and confirmed she was the manageress in charge of the Swan Public House on Friday 12<sup>th</sup> August 2011 during the absence of Michael Lavin. She explained that she had been on duty at the Swan when Trevor and his son had been present but did not realise the child’s presence breached a licensing condition. She accepted that as a manageress of the establishment she should have paid more attention to the conditions attached to the premises but had never thought to examine them. She was formally reported and replied “I JUST NEVER KNEW”.

#### Exhibits

1. A copy of the Premises Licence for the Swan Public House

#### Witnesses

1. Lisa Anne Terry, barmaid, civilian witness
2. Tim Grogan, Senior Licensing Enforcement Officer, Selby District Council

### Points to assist

1. This matter was originally investigated jointly by the Licensing Department of Selby District Council and the Police. The circumstances arose out of fatal road traffic accident that involved the customer Trevor, now known to be the deceased, Trevor McCabe.
2. It is clear that by allowing Mr McCabe's son into the Swan that the particular condition outlined had been breached. However, there are mitigating circumstances that demonstrate that both defendants were completely unaware of its existence as a condition.
3. Ignorance of the law is never an excuse but it is the considered opinion of the Enforcement Section of the Council that prosecuting this offence would be harsh albeit that both defendants may offer pleas of guilt. As a consequence it is suggested that both Lavin and Kavanagh be dealt with by way of a Simple Caution

# Safer Neighbourhoods



Michael and Susan Lavin  
The Swan  
1 Low Street  
Sherburn-in-Elmet  
Leeds  
LS25 6BG

Prem  
3115

– Our Ref: NYP/952/SwanSherburn/150811  
E-mail: [yorklicensing@northyorkshire.pnn.police.uk](mailto:yorklicensing@northyorkshire.pnn.police.uk)  
Date: 17<sup>th</sup> August 2011

Dear Mr and Mrs Lavin,

## Licensing Issues – The Swan, Sherburn-in-Elmet

As Premises Licence Holder for The Swan, Sherburn-in-Elmet (Premises Licence No – LN/000003115) please see the attached letter that has been sent to the Designated Premises Supervisor, Mr Michael Lavin.

I look forward to Mr Lavin's written response.

Should you have any queries about this, or any other licensing matter, then please don't hesitate to contact me.

Yours sincerely,

Mick Wilkinson  
PC952  
Police Licensing Unit  
01904 551833  
07802 385220

CC Tim Grogan, Selby District Council

 **CRIMESTOPPERS**  
**0800 555 111**  
Call anonymously with information about crime

York Police Station, Fulford Road, York, YO10 4BY  
Telephone 0845 60 60 24 7  
[www.northyorkshire.police.uk](http://www.northyorkshire.police.uk)



# Safer Neighbourhoods



Mr Michael Lavin  
The Swan  
1 Low Street  
Sherburn-in-Elmet  
Leeds  
LS25 6BG

– Our Ref: NYP/952/SwanSherburn/150811  
E-mail: [yorklicensing@northyorkshire.pnn.police.uk](mailto:yorklicensing@northyorkshire.pnn.police.uk)  
Date: 17<sup>th</sup> August 2011

Dear Mr Lavin,

## **Licensing Issues – The Swan, Sherburn-in-Elmet**

Firstly, may I take the opportunity to thank you and Mrs Lavin for taking the time to meet with Mr Tim Grogan, Selby District Council and me on the morning of Monday 15<sup>th</sup> August 2011. As I stated in that meeting, the purpose of this letter is to document the fact we spoke and formally record the issues in question.

As Designated Premises Supervisor for The Swan (Premises Licence No – LN/000003115) you will be aware that you have a duty to ensure that the four Licensing Objectives are upheld. Those objectives being:-

- i) the prevention of crime and disorder
- ii) public safety
- iii) the prevention of public nuisance
- iv) the protection of children from harm.

I have grave concerns that, given the nature of the incidents we discussed, these objectives were not being upheld; those incidents from April 2011 to the date of our meeting being:-

 **CRIMESTOPPERS**  
**0800 555 111**  
Call anonymously with information about crime

York Police Station, Fulford Road, York, YO10 4BY  
Telephone 0845 60 60 24 7  
[www.northyorkshire.police.uk](http://www.northyorkshire.police.uk)

3<sup>rd</sup> April 2011

Male customer refusing to leave. Male subsequently arrested. Very intoxicated and abusive to Police staff.

16<sup>th</sup> April 2011

Report received regarding a disturbance involving alleged underage drinkers who were taking drugs. Disturbance could be heard in the background by the Police call taker. Opinion of the Police who attended that underage drinking had occurred.

1<sup>st</sup> May 2011

Burglary to upstairs living quarters whilst the venue was open for business.

1<sup>st</sup> May 2011

Two drunk males subsequently arrested after being ejected from the premises.

23<sup>rd</sup> June 2011

Disturbance outside the venue.

24<sup>th</sup> June 2011

Male refusing to leave the premises. Had left prior to Police attendance.

26<sup>th</sup> June 2011

Alleged glassing at the venue. Further allegations of open drug taking. Two males arrested and charged with affray.

1<sup>st</sup> July 2011

Serious assault in the beer garden involving a 16yr old male.

10<sup>th</sup> July 2011

Alleged assault inside the venue. No CCTV coverage.

29<sup>th</sup> July 2011

Customer seen leaving the venue holding partially full glass drinking vessel.

30<sup>th</sup> July 2011

Two separate reports of customers seen leaving the venue holding partially full glass drinking vessels.

6<sup>th</sup> Aug 2011

Customer seen leaving the venue holding partially full glass drinking vessel.

12<sup>th</sup> Aug 2011

Customer, in company with an 8yrs old child, served whilst "in drink" at the venue. Same customer allegedly makes sexually suggestive comments and allegedly indecently assaults bar staff. Allowed to stay on premises and continually served alcohol. Customer then leaves the venue and is involved in a fatal road traffic accident.



York Police Station, Fulford Road, York, YO10 4BY  
Telephone 0845 60 60 24 7  
www.northyorkshire.police.uk



There has also been intelligence received by the Police alleging:-

- Active drug dealing
- Customers taking drugs in the venue
- Venue regularly serving after permitted hours

I would now like to take this opportunity to remind you of the relevant times attached to your Premises Licence:-

#### Supply of Alcohol

Sun	1200 – 2330
Mon	1100 – 2300
Tues	1100 – 2300
Weds	1100 – 2300
Thurs	1100 – 2300
Fri	1100 – 0030
Sat	1100 – 0030

#### Opening Times

Sun	1200 – 2400
Mon	1100 – 2330
Tues	1100 – 2330
Weds	1100 – 2330
Thurs	1100 – 2330
Fri	1100 – 0100
Sat	1100 – 0100

Further to the above timings I would also like to remind you of certain conditions attached to the Premises Licence.

Standard Conditions applicable to “ON LICENCE” premises.

#### Children

No person under fourteen shall be allowed in the bar of the licensed premises during the permitted hours unless one of the following applies:-

- a) He is the child of the holder of the Premises Licence.
- b) He resides in the premises, but is not employed there.
- c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- d) The bar is a railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is merely ancillary.
- e) He is in the premises solely for the consumption of meals and/or non-alcoholic beverages.



York Police Station, Fulford Road, York, YO10 4BY  
Telephone 0845 60 60 24 7  
[www.northyorkshire.police.uk](http://www.northyorkshire.police.uk)

In this condition "bar" includes any place exclusively or mainly used for the sale and consumption of intoxicating liquor, but does not include a bar at any time when it usual in the premises in question for it to be, and it is:-

- i) set aside for table meals, and
- ii) not used for the sale or supply of intoxicating liquor otherwise than to persons having table meals there and for the consumption by such persons as an ancillary to his meal.

Finally, it would be remiss of me if I did not take this opportunity to place on record the action that the Police could take following any incidents which show you are not upholding the above objectives in future. Under the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) the Police could seek a review of your Premises Licence with the Licensing Authority (Selby District Council).

The consequences of a successful review could include a number of options. A few I have listed below:

- i) modification of the conditions of the Premises Licence
- ii) the exclusion of sale of alcohol by retail from the Premises Licence
- iii) removal of the Designated Premises Supervisor
- iv) suspension of the Premises Licence
- v) a reduction in operating hours
- vi) compulsory signage to update members of the public that the premises have been subject of a Licensing Review.

Following our meeting I would like to give you the opportunity to respond to this letter and would welcome a written response from you outlining the steps that you intend to take to ensure such incidents do not happen in the future.

I look forward to hearing from you at your earliest convenience.

Should you have any queries about this, or any other licensing matter, then please don't hesitate to contact me.

Yours sincerely,

Mick Wilkinson  
PC952  
Police Licensing Unit  
01904 551833  
07802 385220

CC Tim Grogan, Selby District Council  
Michael & Susan Levin (Premises Licence Holder)

 **CRIMESTOPPERS**  
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Call anonymously with information about crime

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Telephone 0845 60 60 24 7  
[www.northyorkshire.police.uk](http://www.northyorkshire.police.uk)



LN13115

BUSINESS SUPPORT  
- 2 AUG 2012  
RECEIVED

LS25 6DP

Dear Mr Grogan,

Further to our telephone conversation of 16<sup>th</sup> July regarding noise coming from the Swan public house Shelton-in-Elmer, I would like to say thankyou as over the past two weekends there has been very little noise. I hope that if it begins again you can deal with it as quickly thank you for you help.





**Please ask for:** Mr. T. Grogan  
**Dial Direct No.:** 01757 292027  
**Fax No.:** 01757 292229

**Your Ref:**  
**Our Ref:** TG/The Swan  
**E-mail:** tgrogan@selby.gov.uk

16 July 2012

Dear Mr Lavin,

This letter is to confirm the issues that I discussed with you on Friday 13 July 2012 when I met you and Sue Lavin in company with PC Richardson. You will recall this was in connection with a report that Sue had used language that is described as abusive, insulting and offensive to a serving Police Officer who had occasion to attend the Swan Public House in connection with a routine visit.

You are the Designated Premises Supervisor and as a consequence accountable for the effective and responsible management of the premises. This behaviour, which was not challenged by Sue, is in my view both outrageous and disgraceful. You were informed of the reasons why the Police have occasion to visit the Swan and that these visits will continue and may indeed increase following the manner of the reception described above.

In addition, you were reminded of my attitude regarding the two benches situated outside the front of the Swan. It is my information that on occasion they continue to be a magnet for ill-mannered and graceless behaviour between your patrons and foot passengers.

In conclusion, you were warned as to your future conduct with regard to the behaviour of both your staff and patrons throughout the full extent of your premises.

Yours sincerely,

Senior Enforcement Officer

Mr Mick Lavin  
The Swan  
1, Low Street,  
Sherburn-in-Elmet  
LS25 6BG

# **ANNEX F**

**Representations in connection with the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby received from Responsible Authorities in the form of:**

**2. Environmental Health Services**



# ENVIRONMENTAL HEALTH AND HOUSING

## INTERNAL MEMO

**TO:** Tim Grogan  
Enforcement Officer

**FROM:** Wayne Palmer  
Lead Officer – Environmental Health  
and Housing

**YOUR REF:** 3741

**OUR REF:**

**DATE:** 16 July 2012

**TEL:** 01757 292200

**RE: Application for review of Premises Licence, New Inn, 4 Gowthorpe, Selby, YO8 4ET.**

I refer to the application to review the premises licence of the above premises by North Yorkshire Police.

Following examination of the information held by this Department, I can confirm that the following is a brief summary of the complaints received regarding alleged noise nuisance emanating from the New Inn, 4 Gowthorpe, Selby. Where action has been taken, this is indicated.

Date of Complaint	Reference	Nature of Complaint	Action / Outcome
1/12/2007	WK/200718928	Alleged noise nuisance from amplified music.	Complaint investigated and substantiated resulting in an abatement notice being served on 5 December 2007. Licensee advised in writing on 8 December 2012 that closing the rear doors reduced the noise nuisance.
22/4/2008	WK/200822386	Complaint alleging noise nuisance.	Complaint investigated resulting in a warning letter being sent to the Licensee advising more control of persons using the rear of the premises was required and reminding the licensee that any further breaches of the abatement notice served on 5 December 2007 will result in formal action being taken.
6/9/2010	WK/201041270	Complaint alleging noise nuisance.	Complaint investigated resulting in a warning letter being sent to the Licensee reminding them that the abatement notices served on 5 December 2007 was still in force and that any breaches could result in legal action being taken.

18/4/2011	WK/201145222	Complaint alleging noise nuisance.	Warning letter sent to the licensee reminding them of the requirements of the abatement notice served on 5 December 2007. Written request for the complainant to monitor and record instances of noise nuisance. No further contact from the complainant.
11/5/2012	WK/201202472	Complaint alleging noise nuisance.	Diaries sent to the complainant not returned. No further action.

**In light of the review of the premises licence for the New Inn Gowthorpe Selby. The current conditions are:**

Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises [between the hours of 23:00 and 07:00] shall not be audible inside habitable rooms of noise sensitive properties in the vicinity.

All external doors to the rooms where regulated entertainment is being provided shall not be propped open during the course of the entertainment, other than for normal access and egress.

All external areas of the premises (beer gardens, patios, etc) must not be used by customers between the hours of 23:20 and 07:00.

**I would suggest that in addition the following conditions are added.**

1. All windows shall be kept closed during regulated entertainment
2. Documented patrols shall be carried out by members of staff at no less than hourly intervals during the hours of opening with regulated entertainment to the public. These checks shall be undertaken outside the building to the front and rear to check for noise from inside the premises and noise from customers outside the venue. Details of any remedial action necessary to reduce noise to an acceptable level shall also be recorded. Records shall be made available to an authorised officer of Selby Council on request.
3. A direct contact number for the duty manager shall be made available to residents living in the vicinity of the premises on request

Yours faithfully



**W Palmer**  
**Lead Officer - Environmental Health and Housing**

Please ask for: Liz Lloyd  
Direct dial number: 01757 292186  
Fax number: 01757 292020

Our Ref: WK/200710374  
E-mail:

24th January 2007

[REDACTED]  
[REDACTED]  
Sherburn In Elmet  
Leeds  
North Yorkshire  
LS25 [REDACTED]

Dear [REDACTED]

**Environmental Protection Act 1990**

**Complaint of noise arising from the playing of amplified music - The Swan, 1 Low Street, Sherburn In Elmet, Leeds** \*

With reference to your recent complaint, I have now written to the person you allege to be responsible for the noise and trust that the matter will be resolved.

However, you are advised to monitor the situation by keeping a written record of the dates and times when you consider that a noise nuisance arises, together with brief details of the noise and its effects. A diary of events form is enclosed for this purpose. If the situation has not improved after 21 days, please contact me at this office. I will arrange to investigate the matter further after the examination of your records.

If the existence of a noise nuisance is substantiated, then ultimately a notice may be served under the provisions of the above legislation prohibiting a recurrence. Should such action be taken it may be necessary for you to appear in Court and give evidence about the nuisance.

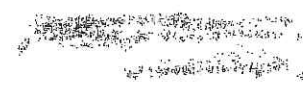
If however a nuisance cannot be established after reasonable monitoring, then your rights as an occupier to take private legal proceedings will be explained and further advice and information provided to you.

You may wish to know that the Council has recently introduced a Mediation Service – staffed by trained mediators who will aim to help resolve neighbour disputes and disagreements – and I would be pleased to discuss this option with you if you feel it may be useful.

**You should also be aware that as a matter of course this department is in liaison with the Licensing department as the prevention of nuisance is an objective of the Licensing Act 2003 with which the Licensed Premises Designated Supervisor is required to comply.**

If I do not hear from you after a period of 21 days has elapsed, I shall assume that the situation has improved such that this department need take no further action.

Yours sincerely



Senior Environmental Health Officer



**Please ask for:** Liz Lloyd  
**Direct Dial No:** 01757 292186  
**Fax No:** 01757 292020

**Our Ref:** WK/200710374  
**E-mail:**

24th January 2007

The Swan  
1 Low Street  
Sherburn In Elmet  
Leeds  
North Yorkshire  
LS25 6BG

Dear Sir/Madam

**Environmental Protection Act 1990**

**Complaint of noise arising from the playing of amplified music - The Swan, 1 Low Street, Sherburn In Elmet, Leeds North Yorkshire LS25 6BG**

I would advise you that I have received a complaint alleging noise nuisance arising from the playing of amplified music and speech from the DJ at the above premises.

If you feel the complaint has any justification then you should take all necessary steps to minimise noise emissions from your property.

I would emphasise that the purpose of this letter is merely to advise you of receipt of complaint and there is no intention to accuse. So as to establish if there is any noise amounting to a nuisance actionable by law the situation will be monitored.

You may wish to know that the Council has recently introduced a Mediation Service – staffed by trained mediators who will aim to help resolve neighbour disputes and disagreements – and I would be pleased to discuss this option with you if you feel it may be useful.

Should you wish to arrange an appointment to discuss any of the issues raised above please contact me at the above office so that we can arrange a mutually convenient time and venue.



**In addition you should be aware that as a matter of course this department is in liaison with the Licensing department as the prevention of nuisance is an objective of the Licensing Act 2003 with which you must comply.**

Yours sincerely

Senior Environmental Health Officer

**Property**

Address **The Swan, 1 Low Street, Sherburn In Elmet, Leeds, North Yorkshire, LS25 6BG**  
 Telephone **01977 682235** Fax Area **58 - Sherburn In Elmet**

**Worksheet**

Source  
 Name  
 Address **Sherburn In Elmet, Leeds, North Yorkshire, LS25**  
 Home Tel Work Tel Mobile  
 Fax Email

Department **EH - Environmental Health** Date Recd **24/01/2007** Time **15:01**  
 Application **CPEH - Complaints - EH** Method **P - Personal Visit**  
 Task Group **C011 - Environmental Protection** Recd By **LL - Liz Lloyd**  
 Task **C4E - Noise Entertainment** Source Type

**Details**

Message

Officer <b>LL - Liz Lloyd</b>	Target	Actual
Time Taken <b>60</b>	First Response <b>30/01/2007</b>	<b>24/01/2007</b>
Next Task	Completed <b>05/03/2007</b>	<b>06/03/2007</b>
Due	Allocated <b>24/01/2007</b>	Outcome <b>C706 - Informal Notice</b>

**References**  
 No references set up.

**Complaints**

Subject Details

Title	Initials	Telephone <b>01977 682235</b>
First Name		Fax
Family Name		Email

Section  
 Offence Statute  
 Purchase Date Purchase Time  
 OFT (Product) FSA Type  
 OFT (Condition)

**Previous Complaints** (Last 10 not including this one)

Reference	Received	Details	Status	Outcome	Officer
WK/201205376	18/09/2012	loud music	Resp		SO
WK/201148976	06/10/2011	DPS (Lavin) reported for breaching licensing condition	Comp	C708	TG
WK/201148977	06/10/2011	Premises manager reported for breaching	Comp	C708	TG
WK/201147422	26/07/2011	Noise Complaint resulting in Council and Police visit to	Comp	C005	TG
WK/201039141	15/06/2010	12 black refuse bags have been dumped in the car park	Comp	C703	RH
WK/200824283	24/07/2008	Noise from entertainment and music and broken glass	Comp	C702	LL
WK/200713089	09/05/2007	Proposed erection of a smoking shelter to the rear	Comp	C714	LL
WK/200601922	15/03/2006	Search	Comp	C712	ZZZZ
WK/200503990	26/07/2005	Licence Upgrade	Comp	C712	LL
WK/200105146	03/10/2001	SOAPY WATER FROM DRAIN OFTEN FLOWS ONTO P.	Comp	C701	ZZ68

**Actions**

Action	Officer	Actual	Target	Time	Value	Number
0000 - Procedure Started	LL	24/01/2007				
9003 - WP Document Comment DIARY.DOC	LL	24/01/2007				
034 - Warning Letter	LL	24/01/2007		60		

**User Defined Codes**

Fly Tipping	Enforcement Risk
LA Code 55	LA Code 56
Local Code 5	Local Code 6
Local Code 7	Local Code 8

**Remarks**

No remarks found.

**Related Addresses**

Address	Telephone	Type
No related addresses found.		

**User Defined Addresses**

No User Defined Addresses found.

**User Defined Text**

No User Defined Text found.

Please ask for: Liz Lloyd  
Direct dial number: 01757 292186  
Fax number: 01757 292020

Our Ref: WK/200824283  
E-mail:

24th July 2008

[REDACTED]  
[REDACTED]  
Sherburn in Elmet  
Leeds  
LS25 [REDACTED]

Dear [REDACTED]

**Environmental Protection Act 1990**

**Complaint of noise arising from the playing of amplified music - The Swan, 1 Low Street, Sherburn in Elmet, Leeds**

With reference to your recent complaint, I have now written to the person you allege to be responsible for the noise and trust that the matter will be resolved.

However, you are advised to monitor the situation by keeping a written record of the dates and times when you consider that a noise nuisance arises, together with brief details of the noise and its effects. A diary of events form is enclosed for this purpose. If the situation has not improved after 21 days, please contact me at this office. I will arrange to investigate the matter further after the examination of your records.

If the existence of a noise nuisance is substantiated, then ultimately a notice may be served under the provisions of the above legislation prohibiting a recurrence. Should such action be taken it may be necessary for you to appear in Court and give evidence about the nuisance.

If however a nuisance cannot be established after reasonable monitoring, then your rights as an occupier to take private legal proceedings will be explained and further advice and information provided to you.

**You should also be aware that as a matter of course this department is in liaison with the Licensing department as the prevention of nuisance is an objective of the Licensing Act 2003 with which the Licensed Premises Designated Supervisor is required to comply.**

If I do not hear from you after a period of 21 days has elapsed, I shall assume that the situation has improved such that this department need take no further action.

Yours sincerely

Senior Environmental Health Officer

Please ask for: Liz Lloyd  
Direct Dial No: 01757 292186  
Fax No: 01757 292020

Our Ref: WK/200824283  
E-mail:

24th July 2008

The Swan  
1 Low Street  
Sherburn in Elmet  
Leeds  
LS25 6BG

Dear Sir/Madam

**Environmental Protection Act 1990**  
**Complaint of noise arising from the playing of amplified music - The Swan, 1 Low Street,**  
**Sherburn in Elmet, Leeds LS25 6BG**

I would advise you that I have received a complaint alleging noise nuisance arising from the playing of amplified music at the above premises and also excessive amounts of broken glass at the sides of the property.

If you feel the complaint has any justification then you should take all necessary steps to minimise noise emissions from your property.

I would emphasise that the purpose of this letter is merely to advise you of receipt of complaint and there is no intention to accuse. So as to establish if there is any noise amounting to a nuisance actionable by law the situation will be monitored.

Should you wish to arrange an appointment to discuss any of the issues raised above please contact me at the above office so that we can arrange a mutually convenient time and venue.

**In addition you should be aware that as a matter of course this department is in liaison with the Licensing department as the prevention of nuisance is an objective of the Licensing Act 2003 with which you must comply.**

Yours sincerely

Senior Environmental Health Officer



**Property**

Address **The Swan, 1 Low Street, Sherburn In Elmet, Leeds, North Yorkshire, LS25 6BG**  
 Telephone **01977 682235** Fax Area **58 - Sherburn In Elmet**

**Worksheet**

Source

Name [REDACTED]  
 Address [REDACTED] **Sherburn In Elmet, Leeds, North Yorkshire, [REDACTED]**  
 Home Tel [REDACTED] Work Tel Mobile  
 Fax Email

Department **EH - Environmental Health** Date Recd **24/07/2008** Time **12:54**  
 Application **CPEH - Complaints - EH** Method  
 Task Group **C011 - Environmental Protection** Recd By **LL - Liz Lloyd**  
 Task **C4E - Noise Entertainment** Source Type

Details **Noise from entertainment and music and broken glass at side of premises**

Message

Officer	<b>LL - Liz Lloyd</b>	Target	Actual
Time Taken	<b>30</b>	First Response	<b>30/07/2008 24/07/2008 13:14</b>
Next Task		Completed	<b>02/09/2008 17/09/2008</b>
Due	Allocated <b>24/07/2008</b>	Outcome	<b>C702 - Not Substantiated</b>

**References**

No references set up.

**Complaints**

Subject Details

Title	Initials	Telephone	<b>01977 682235</b>
First Name		Fax	
Family Name		Email	

Section

Offence	Statute
Purchase Date	Purchase Time
OFT (Product)	FSA Type
OFT (Condition)	

**Previous Complaints** (Last 10 not including this one)

Reference	Received	Details	Status	Outcome	Officer
WK/201205376	18/09/2012	loud music	Resp		SO
WK/201148976	06/10/2011	DPS (Lavin) reported for breaching licensing condition	Comp	C708	TG
WK/201148977	06/10/2011	Premises manager ( <del>REDACTED</del> ) reported for breaching	Comp	C708	TG
WK/201147422	26/07/2011	Noise Complaint resulting in Council and Police visit to	Comp	C005	TG
WK/201039141	15/06/2010	12 black refuse bags have been dumped in the car park	Comp	C703	RH
WK/200713089	09/05/2007	Proposed erection of a smoking shelter to the rear	Comp	C714	LL
WK/200710374	24/01/2007		Comp	C706	LL
WK/200601922	15/03/2006	Search	Comp	C712	ZZZZ
WK/200503990	26/07/2005	Licence Upgrade	Comp	C712	LL
WK/200105146	03/10/2001	SOAPY WATER FROM DRAIN OFTEN FLOWS ONTO P.	Comp	C701	ZZ68

**Actions**

Action	Officer	Actual	Target	Time	Value	Number
0000 - Procedure Started	LL	24/07/2008				
032 - Letter To Complainant	LL	24/07/2008		30		
9003 - WP Document	LL	24/07/2008 13:14				
Comment DIARY.DOC						

**User Defined Codes**

Fly Tipping	Enforcement Risk
LA Code 55	LA Code 56
Local Code 5	Local Code 6
Local Code 7	Local Code 8

**Remarks**

17th Sept, no diary returned. NFA EL

**Related Addresses**

Address	Telephone	Type
No related addresses found.		

**User Defined Addresses**

No User Defined Addresses found.

**User Defined Text**

No User Defined Text found.

Please ask for: Steve O'Mahoney  
Direct dial number: Our Ref: WK/201205376  
Fax number: 01757 292020 E-mail:

19th September 2012

[REDACTED]  
[REDACTED]  
Sherburn In Elmet  
Leeds  
North Yorkshire

Dear [REDACTED]

**Environmental Protection Act 1990**

**Complaint of noise arising from the playing of amplified music - The Swan, 1 Low Street, Sherburn In Elmet, Leeds**

With reference to your recent complaint, I have now written to the person you allege to be responsible for the noise and trust that the matter will be resolved.

However, you are advised to monitor the situation by keeping a written record of the dates and times when you consider that a noise nuisance arises, together with brief details of the noise and its effects. A diary of events form is enclosed for this purpose. If the situation has not improved after 21 days, please contact me at this office. I will arrange to investigate the matter further after the examination of your records.

If the existence of a noise nuisance is substantiated, then ultimately a notice may be served under the provisions of the above legislation prohibiting a recurrence. Should such action be taken it may be necessary for you to appear in Court and give evidence about the nuisance.

If however a nuisance cannot be established after reasonable monitoring, then your rights as an occupier to take private legal proceedings will be explained and further advice and information provided to you.

**If I do not hear from your after a period of 28 days has elapsed, I shall assume that the situation has improved such that this department need take no further action.**

Yours sincerely

Please ask for: Steve O'Mahoney  
Direct Dial No: Our Ref: WK/201205376  
Fax No: 01757 292020 E-mail:

19th September 2012

The Swan  
1 Low Street  
Sherburn In Elmet  
Leeds  
North Yorkshire  
LS25 6BG

Dear Sir/Madam

**Environmental Protection Act 1990**  
**Complaint of noise arising from the playing of amplified music - The Swan, 1 Low Street,**  
**Sherburn In Elmet, Leeds North Yorkshire LS25 6BG**

I would advise you that I have received a complaint alleging noise nuisance arising from the playing of amplified music at the above premises.

If you feel the complaint has any justification then you should take all necessary steps to minimise noise emissions from your property.

I would emphasise that the purpose of this letter is merely to advise you of receipt of complaint and there is no intention to accuse. So as to establish if there is any noise amounting to a nuisance actionable by law the situation will be monitored.

Should you wish to arrange an appointment to discuss any of the issues raised above please contact me at the above office so that we can arrange a mutually convenient time and venue.

Yours sincerely



**Property**

Address **The Swan, 1 Low Street, Sherburn In Elmet, Leeds, North Yorkshire, LS25 6BG**  
 Telephone **01977 682235** Fax Area **58 - Sherburn In Elmet**

**Worksheet**

Source			
Name [REDACTED]			
Address [REDACTED], Sherburn In Elmet, Leeds, North Yorkshire			
Home Tel [REDACTED]	Work Tel	Mobile	
Fax	Email		
Department	<b>EH - Environmental Health</b>	Date Recd	<b>18/09/2012</b> Time <b>08:36</b>
Application	<b>CPEH - Complaints - EH</b>	Method	
Task Group	<b>CO - Community Officers</b>	Recd By	<b>LFOX - Leanne Fox</b>
Task	<b>CO3 - Nuisance</b>	Source Type	
Details	<b>loud music</b>		
Message	<b>please see remarks</b>		
Officer	<b>SO - Steve O'Mahoney</b>	Target	Actual
Time Taken	<b>120</b>	First Response	<b>25/09/2012</b> <b>18/09/2012 11:12</b>
Next Task	Completed		
Due	Allocated <b>18/09/2012</b>	Outcome	

**References**

No references set up.

**Complaints**

Subject Details			
Title	Initials	Telephone <b>01977 682235</b>	
First Name		Fax	
Family Name		Email	
Section			
Offence	Statute		
Purchase Date	Purchase Time		
OFT (Product)	FSA Type		
OFT (Condition)			

**Previous Complaints** (Last 10 not including this one)

Reference	Received	Details	Status	Outcome	Officer
WK/201148976	06/10/2011	DPS (Lavin) reported for breaching licensing condition	Comp	C708	TG
WK/201148977	06/10/2011	Premises manager ( <del>W. Smith</del> ) reported for breaching	Comp	C708	TG
WK/201147422	26/07/2011	Noise Complaint resulting in Council and Police visit to	Comp	C005	TG
WK/201039141	15/06/2010	12 black refuse bags have been dumped in the car park	Comp	C703	RH
WK/200824283	24/07/2008	Noise from entertainment and music and broken glass	Comp	C702	LL
WK/200713089	09/05/2007	Proposed erection of a smoking shelter to the rear	Comp	C714	LL
WK/200710374	24/01/2007		Comp	C706	LL
WK/200601922	15/03/2006	Search	Comp	C712	ZZZZ
WK/200503990	26/07/2005	Licence Upgrade	Comp	C712	LL
WK/200105146	03/10/2001	SOAPY WATER FROM DRAIN OFTEN FLOWS ONTO P	Comp	C701	ZZ68



**Actions**

Action	Officer	Actual	Target	Time	Value	Number
0000 - Procedure Started	SCO	18/09/2012				
010 - Officer Changed	SCO	18/09/2012 11:12				
Comment Passed from officer: BS - Barbara Scargill to officer: SO - Steve O'Mahoney						
9003 - WP Document	SO	19/09/2012 16:08				
Comment Diary of Events Sheet						
9003 - WP Document	SO	19/09/2012 16:14				
Comment Music Noise						
005 - Case Preparation	LL	28/12/2012		120		

**User Defined Codes**

Fly Tipping	Enforcement Risk
LA Code 55	LA Code 56
Local Code 5	Local Code 6
Local Code 7	Local Code 8

**Remarks**

loud music on Saturday night to Sunday morning at The Swan. This resident does not live near by and could still hear the music. Resident advised the music was so loud it was setting car alarms off. Please call her to discuss this.

**Related Addresses**

Address	Telephone	Type
No related addresses found.		

**User Defined Addresses**

No User Defined Addresses found.

**User Defined Text**

No User Defined Text found.

# **ANNEX F**

**Representations in connection with the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby received from Responsible Authorities in the form of:**

**3. North Yorkshire Trading Standards**



North

Yorkshire County Council

**NOTICE OF RELEVANT REPRESENTATION FOR A PREMISES LICENCE/CLUB PREMISES CERTIFICATE (Variation/New) UNDER THE LICENSING ACT 2003**

North Yorkshire County Council Trading Standards Service hereby gives notice of objection to the Premises Licence / Club Premises Certificate as listed below:

<b>Postal address of premises or club premises:</b>	
<b>The Swan 1, Low Street Sherburn-in-Elmet North Yorkshire.</b>	
<b>Post code (if known)</b>	<b>LS25 6BG</b>

This Notice of Objection relates to the following licensing objective:

*(Please tick one or more boxes)*

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input type="checkbox"/>            |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) prevention of Public Nuisance        | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

## **GROUNDS FOR RELEVANT REPRESENTATION**

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

### **1. PROTECTION OF CHILDREN FROM HARM**

**Information in support of this representation:**

Notice of application for the review of a premises licence has been received by this department from the Police Licensing Officer PC 952 Mick Wilkinson.

- There are 6 incidents involving underage persons on the premises highlighted in this report:
- 16/04/2011 – underage drinking (and drug taking)
- 01/07/2011 – underage customer assaulted
- 18/08/2011 – 1x 16yrs old and 1 x 14yrs old served alcohol
- 20/07/2012 – 15 yrs old drinking alcohol and taking drugs
- 23/11/2012 – 17 yr old present in the public house who assaulted another customer.
- 14/12/2012 – 1x 17 yr old, 1x 15 yr old and 2x 13 year old found in the premise

Incidents 1 – 5 on the above mentioned report, although not reported to Trading Standards, at the time they occurred, do raise a great deal of concern in that it appears under 18 year old are frequently found to be involved in incidents in the public house.

The final incident on the 14/12/2012 was reported as a result of a multi-agency visit, at which officers from trading standards were present. Four under 18's ( a 17yr old a 15yr old and two 13 year olds) were found in the premises, at midnight and appeared to have been drinking. The Premise Licence Holders Michael and Susan Lavin were reported as being present at the time.

**Suggested conditions that could be attached to the licence to address these issues:**

... A Challenge 21 policy (minimum) should be adopted. The only acceptable proof of age identification shall be a current Passport, Photocard Driving licence or identification carrying the PASS logo.

... All staff should receive training in policy & procedures regarding underage drinking and the sale of alcohol to minors. This training should be documented and be available for inspection at the request of the Local Authority, Police and Trading Standards.

... all refusals are to be recorded appropriate format, namely, a refusals log, which is to be made available for inspection at the request of the Local Authority, Police and Trading Standards.



**Signature:** .....

**Date:** 30 January 2013

**Contact name and address for correspondence:**

**North Yorkshire Trading Standards and Planning Services,  
Unit 4/5, Block B,  
Thornfield Business Park,  
Standard Way.  
Northallerton  
DL6 2XQ**

**Telephone number: 01609 534800**

**E- mail address: greg.chapman@northyorks.gov.uk**

# **ANNEX G**

**Representations in connection with the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby received from Interested parties in the form of:**

- 1. Sherburn-in-Elmet Parish Council**
- 2. Name withheld of occupant of address in Carousel Walk, Sherburn-in-Elmet**
- 3. Name withheld of occupant of address in Pinfold Court, Sherburn-in-Elmet**

## **ANNEX G**

**Representations in connection with the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby received from Interested parties in the form of:**

- 1. Sherburn-in-Elmet Parish Council**

# Sherburn-in-Elmet Parish Council

Eversley Park Centre Low Street Sherburn-in-Elmet North Yorkshire LS25 6BA

Telephone: 01977 681024

E-mail: clerk@sherburningelmet-pc.gov.uk Website: www.sherburningelmet-pc.gov.uk

Office hours: Mon to Wed 10am – 4pm; Thurs 10am – 3pm; Fri 1pm – 4pm

22<sup>nd</sup> January 2013

## RE “The Swan” Public House, Sherburn-In-Elmet

Listed below are incidents that have been reported to parish councillors regarding misconduct by customers and miss –management by the landlord.

The incidents are as follows:-

- Lock Ins
- Noise Pollution ( Discos to the early hours of the morning)
- Intimidation from Drinkers (During the day sat outside on the benches provided by the landlord. Their presence intimidates the general public by being verbally loud mouthed and offensive.
- Incidents of violence inside and outside of the public house.
- Unlawful Taxi Service operating day and night.

What ever the weather you will find customers sitting outside smoking and drinking, the numbers increase in fine weather. This is quite intimidating to people passing by- many chose to cross the road to avoid passing the crowds that congregate outside the pub due to the bad language and abuse that seems to be the accepted behaviour of the pub. Residents have reported that they will not go out to local shops in the evening due to living in fear of going near the pub and feeling nervous and frightened by the pubs clientele.

Unfortunately geographically the Swan public house is positioned in a very prominent part of the village and portrays a very negative image of Sherburn to visitors .It seems a shame to waste the beer/smoking garden at the back of the public house which is secluded from the main road (Moor Lane and London Road)

There have been violent incidents subsequently of late, (Please refer to PC 406 Richardson for further details) thus effecting evening trade in Tesco's/ Spar and local Take Away Restaurants.

The Management are not enforcing the No- Alcohol rule at the front area of the Swan and the Turf accountants and are not making full use of the rear beer garden. Occasionally if not often there are discos that are very loud which go on till about 2am, local residents have reported the noise nuisance to us, thus coupled with a number of late night lock ins, again lasting into the early hours of the morning(usually Friday /Saturday nights).

On a Health and Safety aspect there is no provision for the use of plastic glasses, all drink served and drank outside the pub are served in either glasses or bottles. Frequently broken glass is found on the

floor, this is left un-cleared for children/ the elderly / dogs to walk over. Occasionally broken glass has been found on the road outside due to fracas outside the pub which is hazardous to road users. The flower bed outside the pub is used as an ashtray and rubbish tip; again this presents a very unattractive image of Sherburn to outside visitors and is unfair for the residents of the village to have to live in.

The management seems to turn a blind eye to an unlicensed uninsured Taxi service to take the revellers home, thus further causing distress to residents in other area of Sherburn.

#### Parish Proposals.

- Alcohol free zone at the front of the pub. The Swan to make use of the beer garden at the back of the pub for customers to drink outside.
- A CCTV panning 360 degrees over the front area of the Swan.
- The pub to employ door staff to ensure no under age drinking is taking place on the premises and to regulate the behaviour of customers.
- CCTV installed inside the premises to be rolled every 21 days to the police.
- Plastic glasses to be used when customers drinking outside.
- The benches outside the Public House to be removed permanently and if needed the removal of the raised flower bed to prevent customers from congregating outside the front.

We would be obliged if you would kindly furnish feed back to the council following your investigation.

Sent on behalf of Sherburn-In-Elmet Parish Council.



## **ANNEX G**

**Representations in connection with the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby received from Interested parties in the form of:**

- 2. Name withheld of occupant of Carousel Walk, Sherburn-in-Elmet**

Carousel Walk

Sherburn In Elmet

Leeds. [REDACTED]

22 Jan 2013

Dear Sir

Re The Swan Public House, Low Street, Sherburn in Elmet.

Firstly I would like to state that I do not want my name and address to be revealed to anyone regarding my complaint. Also I do not want any correspondence sending to my address re the above.

Ref the notice of application to review the Licence of the above Public House.

I have lived in Sherburn in Elmet for over 20 years. I have never visited the Swan, and would be very unlikely to do so.

If go up to the village, I tend to cross over the road to avoid walking anywhere near the Public House.

On summer days, the villagers have to suffer drunkenness, swearing, abuse and intimidating behaviour by the regulars, sitting outside at an area to the front of the public house.

The outside of the building is a eye sore, and adds to making Sherburn In Elmet the tip it has become.

On occasions I have visited the Red Bear opposite, I have witnessed police in attendance at the Swan, having to break up fights outside the public house.

The Red Bear landlady has had to lock the front door to stop it spreading across the road.

A very frightening experience for anyone just out for a quiet night.

I am relieved that my Children have now left the area, as I find Sherburn In Elmet, not a very pleasant place to live.

I would not dare to venture up the village after about 8pm, as I would fear for my life.

Maybe if you cut down building so much low cost housing, and did something positive about the swan our village could improve, and return to the village we once loved.

Once again could I please remind you not to use my name and address for any proceedings. Also send no mail regarding this letter to my address.

[REDACTED]  
[REDACTED]

[REDACTED]

## **ANNEX G**

**Representations in connection with the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby received from Interested parties in the form of:**

- 3. Name withheld of occupant of Pinfold Court, Sherburn-in-Elmet**

Pinfold Court  
Sherburn-in-Elmet  
Leeds  
[REDACTED]



22 January 2013

Licensing Officer  
Selby District Council  
Doncaster Road  
Selby  
YO8 9FT

Dear Sir

The Swan Public House, Low Street, Sherburn-in-Elmet

With reference to the notice of application to review the Licence for the above public house. As a resident of Sherburn, I would like the following to be taken into consideration:

The appearance of this public house is very scruffy and unkempt. The tables outside on the pavement are unattractive and unnecessary as there is a perfectly good beer garden to the rear. The outside is littered with cigarette ends and weeds are allowed to grow around the base of the walls.

The public house is in a very prominent position right at the crossroads where people entering the village cannot help but see it. The clientele the pub attracts is intimidating and in particular when sitting outside on the pavement passers-by do not feel comfortable walking past on the pavement. The whole appearance does not give a good impression of the village to visitors.

I have never set foot inside The Swan, as I know many residents have not. The pub has its own particular customer base who are intimidating and do not encourage outsiders. This is not how a village pub, or any pub for that matter, should make the residents feel. It should be a place where all are welcome.

I would be grateful if these points could be considered when reviewing this Licence.

I would also request that my name and address are withheld.

Yours faithfully

[REDACTED SIGNATURE]

## **ANNEX H**

**Representation in connection with the review of the Premises Licence of The Swan, 1 Low Street, Sherburn-in-Elmet, Selby received from an Interested party, on behalf of the freehold owner of the premises, in the form of:  
Gosschalks, Solicitors**





**GOSSCHALKS**  
SOLICITORS

The Senior Enforcement Officer  
Selby District Council  
Doncaster Road  
SELBY  
YO8 9FT

**Our ref:** RJT.JB 98454.18315  
**Your ref:**

**Date:** 21 January 2013

**E-Mail:** janet\_braithwaite@gosschalks.co.uk  
**Direct Fax:** 0870 600 5958

BY EMAIL AND POST

Dear Sir/Madam

**Re: Swan at Sherburn, Low Street, Sherburn in Elmet**

We act for Enterprise Inns PLC. Our client is the freehold owner of these premises and has received a copy of the review proceedings issued by North Yorkshire Police.

Whilst our client is the freehold owner of the premises, it is not the operator. These premises are the subject of a twenty year lease in favour of Susan & Michael Lavin who also hold the premises licence. Susan & Michael Lavin have been in occupation of the premises and operating these premises since April 2006.

Our client's business is the leasing of licensed premises. The Lavins pay client rent and have certain purchasing obligations to our client.

We would be grateful if you would accept this letter as formal representation on behalf of our client. Please note, however, that as our client has no operational responsibility or input in these premises, and takes a wholly neutral stance with regard to the matters raised in the review papers.

The purpose of this representation is to make submissions to the committee that the licensing objectives could be promoted by way of suspension, conditions imposed upon the licence and/or the removal of the designated premises supervisor rather than by revocation of the licence. If the committee revokes the licence then this would punish our client for matters wholly beyond its control. Our client's business is the leasing of licensed premises. Obviously its business interests are severely prejudiced if there is no licence in force.

We would be grateful if you could confirm receipt of this letter and acceptance of our clients representation. We would also be grateful if you would advise the date of the proposed hearing in order that we may take instructions from our client to ascertain whether it wishes to be represented and expand upon those representations in front of the licensing committee.

Queens Gardens, Hull, HU1 3DZ | 01482 324252 | 0870 600 5984 | info@gosschalks.co.uk | www.gosschalks.co.uk | 11902 - Hull

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

Yours faithfully



**GOSSCHALKS**

# **ANNEX I**

**Guidance regarding the review of a Premises Licence.**

# 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 the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via Business Link 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 a premises and wants to intervene early without waiting for representations from other parties. 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. 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 Any application for a review received by the licensing authority from responsible authorities and any other persons should be given due consideration and treated by the authority in precisely the same way, regardless of the body or individual which made it. This includes an application made by the local authority acting in a separate capacity (for example, environmental health or child protection).
- 11.8 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.
- 11.9 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 13 of this Guidance.
- 11.10 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 written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 11.11 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, responsible authorities and any other persons in pursuit of common aims. 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.



11.12 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**

11.13 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.

11.14 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.

11.15 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.

11.16 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**

11.17 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.

11.18 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote 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.

11.19 However, where responsible authorities like 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.

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

- to 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;
- to 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);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.21 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.



- 11.22 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.
- 11.23 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.
- 11.24 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. 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. 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.

## **REVIEWS ARISING IN CONNECTION WITH CRIME**

- 11.25 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, or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. 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.
- 11.26 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. 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.

11.27 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 in the interests of the wider community and not those of the individual licence holder.

11.28 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. 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. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.

11.29 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 Class A drugs 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 knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;



- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

11.30 It is envisaged that licensing authorities, the police 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. We would also encourage liaison with the local Community Safety Partnership.

11.31 As noted below (Chapter 13, paragraph 13.59), it is unlawful to discriminate or to refuse service on grounds of race, disability, gender reassignment, pregnancy and maternity, religion and belief, sex and sexual orientation or by displaying discriminatory signs on the premises. Representations made about such activity from responsible authorities or other persons would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

#### **REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER**

11.32 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. 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 10 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 5 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**

11.33 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether 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 outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.