



Agenda

Meeting: **LICENSING HEARING**
Date: **MONDAY 22 JULY 2013**
Time: **1.00PM**
Venue: **COUNCIL CHAMBER**
To: **Councillors Mrs P Mackay, R Sayner and J Thurlow**

1. **Apologies for absence**
2. **Disclosures of Interest**

A copy of the Register of Interest for each Selby District Councillor is available for inspection at 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.

3. **Guidance on procedure for hearing licensing applications** (page 1)
4. **Application for the Variation of a Premises Licence for the Castle Takeaway, 10 Finkle Street, Selby**

To receive the report of the Senior Enforcement Officer (pages 2 to 38)

Martin Connor
Chief Executive

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

The Chair introduces him/herself, the other members of the panel, the Clerk to the panel and any officers present

The Chair will ask the parties to introduce themselves, and provide details of any witnesses they will be calling. If more than one interested party, the Chair will ask whether a representative can be appointed to speak on their behalf.

The Clerk summarises the hearings procedure, any time limits for speakers and any additional information to be produced by the parties.

The Licensing Officer gives a summary of his report and any representations received.

The Chair asks for questions for the licensing officer from members, and then the Applicant, responsible authorities, interested parties and officers.

The Applicant or their representative makes a brief opening statement and may call witnesses relevant to the application.

The Chair asks for questions for the applicant from members, and then responsible authorities, interested parties and officers.

Responsible Authorities or their representative makes a brief opening statement and may call witnesses relevant to the application.

The Chair asks for questions for the responsible authorities from members, and then the applicant, interested parties and officers.

The Interested Parties or their representative makes a brief opening statement and may call witnesses relevant to the application.

The Chair asks for questions for the interested parties from members, and then the Applicant, responsible authorities and officers.

The Chair asks the responsible authorities or their representative if they wish to sum up their case, without adding any new evidence.

The Chair asks the interested parties or their representative if they wish to sum up their case, without adding any new evidence.

The Chair asks the applicant or their representative if they wish to sum up their case, without adding any new evidence.

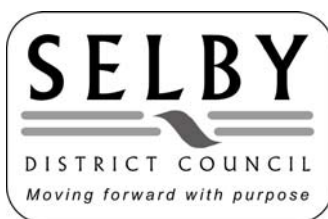
The Chair confirms with all parties that they have had an opportunity to say all they wanted to say in relation to the application.

The Clerk advises the meeting that the panel will retire to deliberate and reach a decision.

Meeting reconvenes

The Chair announces the decision of the committee

Meeting Closes



Agenda Item No: 4

Title: Section 35(3)(a) Application for the variation of a premises licence for the Castle Takeaway, 10 Finkle Street, Selby YO8 4DS

To: Licensing Act 2003 Sub Committee

Date: 22 July 2013

Service Area: Customers and Business Support

Author: Tim Grogan

Presented by: Tim Grogan

1. Summary

- 1.1 To seek the determination by the Licensing Sub Committee of an application for a variation to a Premises Licence where relevant representations have been received.
- 1.2 Application reference: LN/3585
- 1.3 Name of Applicant: Nahsen Demir
- 1.4 Type of authorisation applied for: Variation of a Premises Licence
- 1.5 Summary of application: The nature of the application is to extend existing licensed hours for the provision of recorded music and late night refreshment
- (a) Sunday to Wednesday between 16:30 – 01:00
 - (b) Thursday 16:30 – 02:30
 - (c) Friday and Saturday 16:30 – 03:00
- The variation seeks to amend the permitted hours and the licensed activities referred to above as follows:
- (a) Monday to Wednesday between 16:30 – 01:00
 - (b) Thursday to Sunday between 16:30 – 04:00

2. Background

- 2.1 A copy of the existing Premises Licence is attached at **Annex 1**.
- 2.2 A copy of the application to vary the Premises Licence is attached at **Annex 2**.

3. Promotion of Licensing Objectives

- 3.1 The applicant does not propose any additional steps to promote the licensing objectives other than that the existing licence conditions will apply to any additional hours and activities granted.

4. Consultation

- 4.1 Consultation was carried out by the applicant in accordance with section 13, and section 17(5) of the Licensing Act 2003 and Regulation 42, parts 2 and 4 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005, which concern the displaying of a notice on the premises and an advertisement in a local newsletter giving details of the application and serving a copy of the application on all responsible authorities. The applicant complied with all statutory requirements.

5. Summary of representations made by Responsible Authorities

- 5.1 A representation has been received from a Responsible Authority listed at **Annex 3**. The representation is in the form of North Yorkshire Police. The Representation is attached at **Annex 4**. Essentially, the representation is in line with the Licensing objective regarding the prevention of crime and disorder.

6. Summary of representations made by interested parties

- 6.1 No representations have been received from any interested parties.

7. Options

- 7.1 By virtue of section 18(4) of the Act, the Sub Committee have the following options available to them in making their decision:-
Option 1: Grant the variation of the licence in the terms applied for.
Option 2: Grant the variation of the licence with modified/additional conditions imposed by the Licensing Sub Committee.
Option 3: Grant the variation of the licence to exclude any of the licensable activities to which the application relates and modify/add conditions accordingly.
Option 4: Reject the application.

8. Analysis

- 8.1 The following could be the result of any decision made by this Sub Committee:

Option 1: This decision could be appealed at Magistrates Court by the representor.

Option 2: This decision could be appealed at Magistrates Court by the applicant or the representor.

Option 3: This decision could be appealed at Magistrates Court by the applicant or the representor.

Option 4: This decision could be appealed at magistrates Court by the applicant

9. Licensing Objectives

- 9.1 The Licensing Act 2003 has 4 objectives: prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.
- 9.2 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 **Annex 5** and the Council's Licensing Policy. Councillors must also have regard to the relevant representations made and evidence that they hear.

10. Implications

10. Community safety and crime: The Sub Committee is reminded of their duty under the Crime and Disorder Act 1998 to consider the crime and disorder implications of their decisions and the authority's responsibility to cooperate in the reduction of crime and disorder in the town.

11. Risk Management

- 11.1 This decision could be appealed at Magistrates Court by the applicant or the representor. In addition any decision which is unreasonable or unlawful could be open to legal challenge resulting in loss of image reputation and potential financial penalty.

12. Recommendations

- 12.1 Councillors determine the application

Background Papers

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

ANNEX 1

Copy of the existing Premises Licence for the Castle Takeaway.

SELBY DISTRICT COUNCIL

LICENSING ACT 2003

Premises Licence

Premises licence number: LN/000003585

Part 1 – Premises details

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

Castle Takeaway, 10 Finkle Street, Selby, North Yorkshire, YO8 4DS

Telephone number: **01757 212219**

Licensable activities authorised by the licence:

Late night refreshment

Recorded music

The times the licence authorises the carrying out of this/these activity/ies

Sunday 16:30 - 01:00

Monday 16:30 - 01:00

Tuesday 16:30 - 01:00

Wednesday 16:30 - 01:00

Thursday 16:30 - 02:30

Friday 16:30 - 03:00

Saturday 16:30 - 03:00

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

Not applicable

21.6.12

James [unclear]

28/12
13/11

LN/000003585

Annex 1 – No Mandatory conditions.

Annex 2 – Conditions consistent with the operating schedule

Licensing Objectives

General

Effective and responsible management of the premises.

Prevention of Crime & Disorder

Effective and responsible management of the premises.

Public Safety

Effective and responsible management of the premises.

Public Nuisance

Effective and responsible management of the premises.

Protection of Children from Harm

Effective and responsible management of the premises.

**Annex 3 – Conditions attached after Representations by Responsible Authorities
Environmental Health Officer**

1. **The disposal of waste bottles into external receptacles will not take place between the hours of 23:00 and 07:00.**
2. **At the end of business every day/night the pavement to the frontage (and sides) of the premises shall be cleared of litter and waste.**
3. **The external refuse and waste bottle receptacles and surrounding storage area shall be cleansed on a weekly basis.**
4. **Noise from music, voices and equipment emanating from 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.**
5. **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.**
6. **No external doors and windows to the room/s where regulated entertainment is being provided shall be open during the course of the entertainment other than for normal access and egress.**
7. **All external doors (including fire-exit doors and patio doors) to the premises shall not be propped open during the course of regulated entertainment.**
8. **Speakers used to relay amplified music, singing and speech provided as part of the regulated entertainment shall not be positioned outside the premises; where placed internally ensure they are directed away from external doors and windows.**

NYCC Social services

No under 18's to be allowed on the premises after midnight (this includes staff)

Annex – 4 Conditions attached after a hearing by the Licensing Authority
None


Solicitor To The Council

Date licence granted 24 November 2005

Date licence issued 21 June 2012 Licence transfer

**Selby District Council
Civic Centre
Doncaster Road
Selby
YO8 9FT**

**Phone: 01757 705101
Fax: 01757 292229
Email: info@selby.gov.uk**

Part 2

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

Nahsen Demir

Castle Takeaway, 10 Finkle Street, Selby, North Yorkshire, YO8 4DS

01757 212219

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

Not applicable

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: Not applicable

Licensed by Not applicable



Solicitor To The Council

Date licence granted 24 November 2005

Date licence issued 21 June 2012 Licence transfer

Selby District Council

Civic Centre

Doncaster Road

Selby

YO8 9FT

Phone: 01757 705101

Fax: 01757 292229

Email: info@selby.gov.uk

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

ANNEX 2

Copy of the application to vary the Premises Licence for the Castle Takeaway

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

Premises licence number

LN/000003585

Part 1 – Premises Details

| | |
|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| Postal address of premises or, if none, ordinance survey map reference or description <u>CASTLE TAKEAWAY 10 FINKLE STREET</u> | |
| Post town <u>SELBY</u> | Post code <u>YO8 4DS</u> |

Telephone number of premises (if any)

01757 212219

Non domestic rateable value of premises

£ TO PAY £190

Part 2 – Applicant Details

Daytime contact telephone number

[REDACTED]

Email address (optional)

[REDACTED]

Mr

Mrs

Miss

Ms

Other title (for example, Rev)

Surname

First names

DEMIR

NAHSEN

Current postal address
if different from
premises address

Post Town

Postcode

Part 3 - Variation

Please tick yes

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

If not do when do you want the variation to take effect from?

| Day | Month | Year |
|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

If 5000 or more people attend the premises at any one time please state the number expected to attend

Please describe briefly the nature of the proposed variation (please read guidance note 1)

To extend the hours in relation
to late night refreshment and
recorded music as follows:

SUNDAY: 16³⁰ - 04⁰⁰

MONDAY: 16³⁰ - 01⁰⁰

TUESDAY: 16³⁰ - 01⁰⁰

WEDNESDAY: 16³⁰ - 01⁰⁰

THURSDAY: 16³⁰ - 04⁰⁰

FRIDAY: 16³⁰ - 04⁰⁰

SATURDAY: 16³⁰ - 04⁰⁰

BANK HOLIDAYS (SUCH AS, CHRISTMAS DAY + NEW YEARS
DAY) TO SHUT AT 04⁰⁰



Part 4 - Operating Schedule

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

Please tick ✓ yes

Provision of regulated entertainment

- | | | |
|----|-------------------------------------------------------------------------------------------------------------|-------------------------------------|
| a) | play (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) | films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) | indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) | boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) | live music (if ticking yes, fill in box E) | <input type="checkbox"/> |
| f) | recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) | performance of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) | anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of entertainment facilities for:

- | | | |
|----|-------------------------------------------------------------------------------------------------------------|--------------------------|
| i) | making music (if ticking yes, fill in box I) | <input type="checkbox"/> |
| j) | dancing (if ticking yes, fill in box J) | <input type="checkbox"/> |
| k) | entertainment of a similar description to that falling within (i) or (j) (if ticking yes, fill in box K) | <input type="checkbox"/> |

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

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

In all cases complete boxes N, O and P

A

| Plays Standard days and timings (please read guidance note 6) | | | Will the performance of a play take place indoors or outdoors or both – please tick (✓) (please read guidance note 2) | Indoors | |
|---------------------------------------------------------------------|-------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--|
| Day | Start | Finish | | Outdoors | |
| Mon | | | Please give further details here (please read guidance note 3) | Both | |
| Tue | | | | | |
| Wed | | | State any seasonal variations for performing play (please read guidance note 4) | | |
| Thur | | | | | |
| Fri | | | Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5) | | |
| Sat | | | | | |
| Sun | | | | | |

B

| Films Standard days and timings (please read guidance note 6) | | | Will the exhibition of a films take place indoors or outdoors or both – please tick (✓) (please read guidance note 2) | Indoors | |
|---------------------------------------------------------------------|-------|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--|
| Day | Start | Finish | | Outdoors | |
| Mon | | | Please give further details here (please read guidance note 3) | Both | |
| Tue | | | | | |
| Wed | | | State any seasonal variations for the exhibition of films (please read guidance note 4) | | |
| Thur | | | | | |
| Fri | | | Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5) | | |
| Sat | | | | | |
| Sun | | | | | |

C

| Indoor sporting events Standard days and timings (please read guidance note 6) | | | Please give further details (please read guidance note 3) |
|--------------------------------------------------------------------------------------|-------|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Day | Start | Finish | |
| Mon | | | |
| | | | |
| | | | |
| Tue | | | State any seasonal variations for indoor sporting events (please read guidance note 4) |
| | | | |
| | | | |
| Wed | | | |
| | | | |
| | | | |
| Thur | | | |
| | | | |
| | | | |
| Fri | | | Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list. (please read guidance note 5) |
| | | | |
| | | | |
| Sat | | | |
| | | | |
| | | | |
| Sun | | | |
| | | | |
| | | | |

D

| Boxing or wrestling entertainment Standard days and timings (please read guidance note 6) | | | Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2) | Indoors | |
|-------------------------------------------------------------------------------------------------|-------|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--|
| Day | Start | Finish | | Outdoors | |
| Mon | | | | Both | |
| | | | | | |
| | | | | | |
| Tue | | | | | |
| | | | | | |
| | | | | | |
| Wed | | | State any seasonal variations for the boxing or wrestling entertainment (please read guidance note 4) | | |
| | | | | | |
| | | | | | |
| Thur | | | | | |
| | | | | | |
| | | | | | |
| Fri | | | Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list. (please read guidance note 5) | | |
| | | | | | |
| | | | | | |
| Sat | | | | | |
| | | | | | |
| | | | | | |
| Sun | | | | | |
| | | | | | |
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E

| Live music Standard days and timings (please read guidance note 6) | | | Will the performance of live music take place indoors or outdoors or both – please tick (✓) (please read guidance note 2). | Indoors | |
|--------------------------------------------------------------------------|-------|--------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--|
| Day | Start | Finish | | Outdoors | |
| Mon | | | Please give further details here (please read guidance note 3) | Both | |
| Tue | | | | | |
| Wed | | | State any seasonal variations for the performance of live music (please read guidance note 4) | | |
| Thur | | | | | |
| Fri | | | Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list. (Please read guidance note 5) | | |
| Sat | | | | | |
| Sun | | | | | |

F

| Recorded music Standard days and timings (please read guidance note 6) | | | Will the playing of recorded music take place indoors or outdoors or both – please tick (✓) (please read guidance note 2) | Indoors | <input checked="" type="checkbox"/> |
|------------------------------------------------------------------------------|------------------|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------------------------------------|
| Day | Start | Finish | | Outdoors | |
| Mon | 16 ³⁰ | 01 ⁰⁰ | Please give further details here (please read guidance note 3) | Both | |
| Tue | 16 ³⁰ | 01 ⁰⁰ | | | |
| Wed | 16 ³⁰ | 01 ⁰⁰ | State any seasonal variations for the playing of recorded music (please read guidance note 4) | | |
| Thur | 16 ³⁰ | 04 ⁰⁰ | | | |
| Fri | 16 ³⁰ | 04 ⁰⁰ | Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list. (please read guidance note 5) | | |
| Sat | 16 ³⁰ | 04 ⁰⁰ | | | |
| Sun | 16 ³⁰ | 04 ⁰⁰ | | | |

BANK HOLIDAYS (SUCH AS CHRISTMAS DAY, NEW YEARS EVE) TO STOP AT 04⁰⁰

G

| Performance of dance Standard days and timings (please read guidance note 6) | | | Will the performance of dance take place indoors or outdoors or both – please tick (✓) (please read guidance note 2) | Indoors | |
|------------------------------------------------------------------------------------|-------|--------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--|
| Day | Start | Finish | | Outdoors | |
| Mon | | | Please give further details here (please read guidance note 3) | Both | |
| Tue | | | | | |
| Wed | | | State any seasonal variations for the performance of dance (please read guidance note 4) | | |
| Thur | | | | | |
| Fri | | | Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list. (please read guidance note 5) | | |
| Sat | | | | | |
| Sun | | | | | |

H

| Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6) | | | Please give a description of the type of entertainment you will be providing | Indoors | |
|----------------------------------------------------------------------------------------------------------------------------------------|-------|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--|
| Day | Start | Finish | | Outdoors | |
| Mon | | | Please give further details here (please read guidance note 3) | Both | |
| Tue | | | | | |
| Wed | | | State any seasonal variations for the entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4) | | |
| Thur | | | | | |
| Fri | | | Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list. (please read guidance note 5) | | |
| Sat | | | | | |
| Sun | | | | | |

I

| | | | | | | | | |
|--------------------------------------------------------------------------------------------------------------|-------|--------|---------------------------------------------------------------------------------------------------------------------|--|---------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
| Provision of facilities for making music Standard day and timings (please read guidance note 6) | | | Please give a description of the facilities for making music you will be providing | | | | | |
| | | | Will the facilities for making music be indoors or outdoors or both – please tick (✓) (please read guidance note 2) | | Indoors | | | |
| | | | Outdoors | | | | | |
| | | | Both | | | | | |
| Day | Start | Finish | Please give further details here (please read guidance note 3) | | | | | |
| Mon | | | | | | | | |
| Tue | | | | | | | | |
| Wed | | | | | | State any seasonal variations for the provision of facilities for making music (please read guidance note 4) | | |
| Thur | | | | | | | | |
| Fri | | | | | | | | |
| Sat | | | | | | Non standard timings. Where you intend to use the premises for the provision of facilities for making music at different times to those listed in the column on the left, please list. (please read guidance note 5) | | |
| Sun | | | | | | | | |

J

| | | | | | | | | | | |
|----------------------------------------------------------------------------------------------|-------|--------|----------------------------------------------------------------------------------------------------------------|--|----------|--|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|--|
| Provision of facilities for dancing Standard timings (please read guidance note 6) | | | Will the facilities for dancing be indoors or outdoors or both – please tick (✓) (please read guidance note 2) | | Indoors | | | | | |
| | | | | | Outdoors | | | | | |
| | | | Both | | | | | | | |
| Day | Start | Finish | Please give further details here (please read guidance note 3) | | | | | | | |
| Mon | | | | | | | | | | |
| Tue | | | | | | | | | | |
| Wed | | | | | | | State any seasonal variations for providing dancing facilities (please read guidance note 4) | | | |
| Thur | | | | | | | | | | |
| Fri | | | | | | | | | | |
| Sat | | | | | | | Non standard timings. Where you intend to use the premises for the provision of facilities for dancing at different times to those listed in the column on the left, please list. (please read guidance note 5) | | | |
| Sun | | | | | | | | | | |

K

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|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|--------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--|
| Provision of facilities for entertainment of a similar description to that falling within I or J Standard days and timings (please read guidance note 6) | | | Please give a description of the type of entertainment facility you will be providing | | |
| | | | Will the entertainment facility be place indoors or outdoors or both – please tick (✓) (please read guidance note 2) | Indoors | |
| | | | | Outdoors | |
| | | | | Both | |
| Day | Start | Finish | Please give further details here (please read guidance note 3) | | |
| Mon | | | | | |
| Tue | | | State any seasonal variations for the provisions of facilities for entertainment of a similar description to that falling within I or J (please read guidance note 4) | | |
| Wed | | | | | |
| Thur | | | Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within I or J at different times to those listed in the column on the left, please list. (please read guidance note 5) | | |
| Fri | | | | | |
| Sat | | | | | |
| Sun | | | | | |

L

| | | | | | |
|------------------------------------------------------------------------------------------|------------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|--|
| Late night refreshment Standard days and timings (please read guidance note 6) | | | Will the provision of late night refreshment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2) | | |
| | | | | Indoors | |
| | | | | Outdoors | |
| | | | | Both | |
| Day | Start | Finish | Please give further details here (please read guidance note 3) | | |
| Mon | 23 ⁰⁰ | 01 ⁰⁰ | | | |
| Tue | 23 ⁰⁰ | 01 ⁰⁰ | State any seasonal variations for the provision of late night refreshment (please read guidance note 4) | | |
| Wed | 23 ⁰⁰ | 01 ⁰⁰ | | | |
| Thur | 23 ⁰⁰ | 04 ⁰⁰ | Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list. (please read guidance note 5) | | |
| Fri | 23 ⁰⁰ | 04 ⁰⁰ | | | |
| Sat | 23 ⁰⁰ | 04 ⁰⁰ | | | |
| Sun | 23 ⁰⁰ | 04 ⁰⁰ | | | |

BANK HOLIDAYS (SUCH AS CHRISTMAS DAY, NEW YEARS EVE) TO SHUT AT 04⁰⁰

M

| Supply of alcohol Standard days and timings (please read guidance note 6) | | | Will the supply of alcohol be for consumption on or off the premises or both – please tick (✓) (please read guidance note 7) | On the premises | |
|---------------------------------------------------------------------------------|-------|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|--|
| | | | | Off the premises | |
| Day | Start | Finish | | Both | |
| Mon | | | State any seasonal variations for providing dancing facilities (please read guidance note 4) | | |
| Tue | | | | | |
| Wed | | | | | |
| Thur | | | Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list. (please read guidance note 5) | | |
| Fri | | | | | |
| Sat | | | | | |
| Sun | | | | | |

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

NO ADULT ENTERTAINMENT OR SERVICES

0

| Hours premises are open to the public Standard days and timings (please read guidance note 6) | | | State any seasonal variations (please read guidance note 4) |
|-----------------------------------------------------------------------------------------------------|------------------|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Day | Start | Finish | |
| Mon | 16 ³⁰ | 01 ⁰⁰ | BANK HOLIDAYS SUCH AS, CHRISTMAS DAY + NEW YEARS DAY SHUT AT 04 ⁰⁰ ↓ Non standard timings. Where you intend to open the premises to be open to the public at different times from those listed in the column on the left, please list. (please read guidance note 5) ↓ |
| Tue | 16 ³⁰ | 01 ⁰⁰ | |
| Wed | 16 ³⁰ | 01 ⁰⁰ | |
| Thur | 16 ³⁰ | 04 ⁰⁰ | |
| Fri | 16 ³⁰ | 04 ⁰⁰ | |
| Sat | 16 ³⁰ | 04 ⁰⁰ | |
| Sun | 16 ³⁰ | 04 ⁰⁰ | |
| | | | |

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

| |
|--|
| |
| |
| |

I have enclosed the premises licence **Please tick ✓ yes**
I have enclosed the relevant part of the premises licence

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

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

P

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

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

Condition as shown on original licence

b) The prevention of crime and disorder

see above

c) Public safety

see above

d) The prevention of public nuisance

see above

e) The protection of children from harm

see above

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

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

Part 5 – Signatures (please read guidance note 10)

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

Signature N. Dennis

Date 04/06/13

Capacity MANAGING DIRECTOR

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature

Date

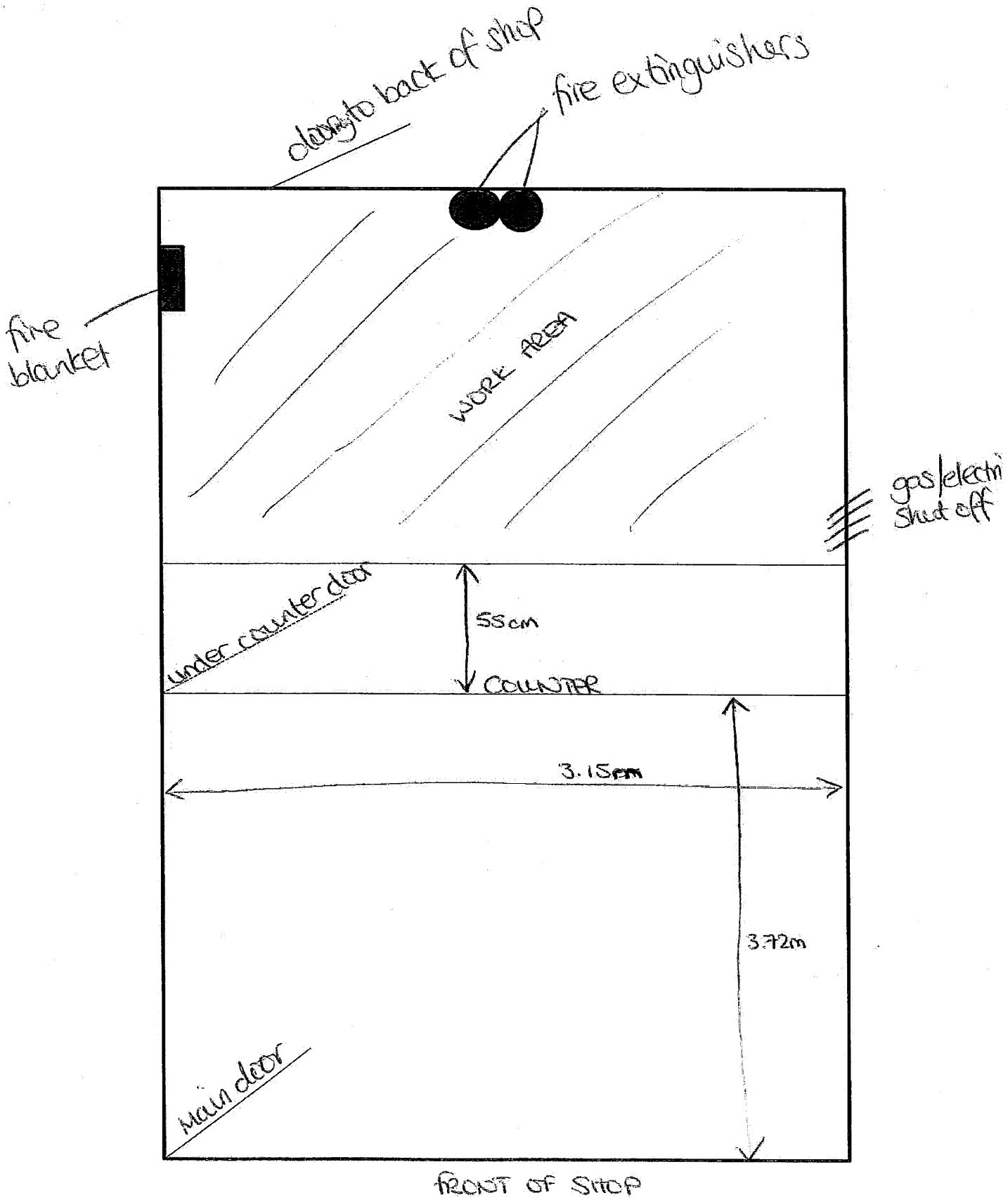
Capacity

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 19) | |
| | |
| Post town | Post code |
| Telephone number (if any) | |
| If you would prefer us to correspond with you by e-mail your e-mail address (optional) | |

Notes for guidance

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

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which would be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and provide a place for consumption of these off-supplies you must include a description of where the place is and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day i.e. Christmas Eve.
6. Please give timings in 24 hour clock (eg 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises, please tick on. If you wish people to be able purchase alcohol to consume away from the premises, please tick off. If you wish people to be able to do both, please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gambling machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.



ANNEX 3

List of Responsible Authorities

North Yorkshire Police

ANNEX 4

Representation made by Responsible Authority (North Yorkshire Police)

Tim Grogan

From: Wilkinson, Mick [Mick.Wilkinson@northyorkshire.pnn.police.uk]
Sent: 03 July 2013 10:27
To: Licensing
Cc: Allen, Jackie
Subject: POLICE REPRESENTATION - Variation - Castle Takeaway, Finkle Street, Selby [NOT PROTECTIVELY MARKED]

Attachments: Insp Falkingham CJA Finkle Street.pdf

Classification: NOT PROTECTIVELY MARKED

We have received an application from Nahsen Demir to vary the premises licence at the above venue.

The Police wish to object to the application as we believe that given the applicants submission to apply for later hours the licensing objective *the prevention of crime and disorder* would be undermined.

The venue is situated in Finkle Street which has a high percentage of alcohol related crime and anti-social behaviour incidents when compared to other areas across the Selby district. Whilst we acknowledge that the venue is not (and does not apply to be) licensed for the retail sale of alcohol it is widely acknowledged that such a venue is described (in relevant Home Office Guidance documents) as a "honeypot" (where people congregate and linger) and the type of person who would use/congregate in and around the venue will be under the influence of alcohol.

The "spike" for alcohol related crime and anti-social behaviour in the Finkle Street area is 0200hrs and any increase in hours at the venue would only lead to this "spike" being moved further in to the early hours of the morning should the application be granted; such movement could also be viewed as loss of amenities to local residents.

I also attached a statement from Insp Falkingham outlining how such an extension to the venue's hours would affect local policing should the application be granted.

This email is submitted as a representation on behalf of the Chief Constable of North Yorkshire Police, as a Responsible Authority under the Licensing Act 2003.

Should you have any further queries about this, or any other licensing matter, then please don't hesitate to get in touch.

Regards,

PC Mick Wilkinson
Collar Number 952
Police Licensing Officer (York & Selby)
North Yorkshire Police

WITNESS STATEMENT

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

URN [] [] [] []

Statement of: Michelle Mary FALKINGHAM

Age if under 18: 0'18 (if over 18 insert 'over 18')

Occupation: Police officer

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: 230613I

I am Inspector 804 Michelle FALKINGHAM of North Yorkshire Police currently stationed at Selby. As part of my role I am responsible for policing provisions and the planning of events and staffing with the Selby District. This includes the management of the night time economy with Selby Town Centre. I also regularly go on patrol on an evening within the town centre.

I have been involved in the management of this for approximately 3 years. I take part in regular meetings in respect of the night time economy with local stakeholder partners.

The largest percentage of incidents of violence and disorder within the Selby District, happen within Finkle Street or nearby in the Market place in Selby during the hours of the night time economy. The latest opening venues for the district likewise are within this location. As a result of these factors a disproportionate amount of policing resources has to be put into this locality during the hours of the night time economy and as a result the capacity for policing elsewhere in the district is greatly effected by this. The resources we dedicate to this are not only in reacting to incidents but to proactive high visibility patrols during key hours to prevent disorder. These high visibility resources are planned around allowing for the latest closing venue and a period of dispersal afterwards. It is evident from the activity we experience that violence often occurs later into the night and at the point of dispersal either when obtaining non alcoholic refreshment or awaiting transport. To ensure officer and public safety, our staffing is planned so that we have the maximum staffing up until 4am on a weekend ; 1am Thurs and Sun and midnight Mon - Wed. We then move to skeleton staffing across the district. With the staffing level we have available to us this is the only way we can provide these provisions. I therefore could not support any additional hours in opening to any venues within this locality.

[Redacted]

Signature: [Redacted]

Signature witnessed by:

ANNEX 5

Guidance notes regarding determining applications

9. Determining applications

General

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

Where no representations are made

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

Where representations are made

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

Relevant, vexatious and frivolous representations

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

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

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

The role of responsible authorities

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

Representations from the police

- 9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local

area⁴. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

Licensing authorities acting as responsible authorities

- 9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.
- 9.14 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.
- 9.15 It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.
- 9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee

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

comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.

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

Health Bodies Acting As Responsible Authorities

- 9.20 Where a local authority's Director of Public Health in England (DPH)⁵ or Local Health Board (LHB) (in Wales) acts as a responsible authority, they should have sufficient knowledge of the licensing policy and health issues in order to be able to fulfil this function. If they wish to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies exercising health functions in the area, such as emergency departments and ambulance services.
- 9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information would be relevant to the public safety objective and in some cases the crime and disorder objective. In making representations, DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at

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

emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

Disclosure of personal details of persons making representations

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

Hearings

- 9.27 Regulations governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.
- 9.28 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.29 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

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

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

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

- 9.38 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.39 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.40 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Considering cases where licensing and planning applications are made simultaneously

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