

# Licensing Sub-Committee

## 1 December 2020



Time: 11.30 am

**PLEASE NOTE: This will be a 'virtual meeting', held remotely in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations.**

**Members of the press and public can view the meeting by clicking on the link provided on the agenda page on the Council's website or calling the number provided.**

**Instructions for members of the committee, officers and other participants to join the meeting have been circulated separately.**

### **Membership:**

**Councillor ; Councillors Stephen Gauntlett, Isabelle Linington and Christine Robinson and Sam Adeniji (reserve).**

**Quorum: 3**

*Published: Monday, 23 November 2020*

## **Agenda**

- 1 Election of chair of the sub-committee for this meeting**
- 2 Apologies for absence/declaration of substitute members**
- 3 Declarations of interest**

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.
- 4 Determination of a Premises Licence Application - Superfuzz Ltd (Pages 3 - 70)**

## **Information for the public**

### **Accessibility:**

This agenda and accompanying reports are published on the Council's website in PDF format which means you can use the "read out loud" facility of Adobe Acrobat Reader.

# Information for Councillors

## Disclosure of interests:

Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

## Democratic Services

For any further queries regarding this agenda or notification of apologies please contact Democratic Services.

**Email:** [committees@lewes-eastbourne.gov.uk](mailto:committees@lewes-eastbourne.gov.uk)

**Telephone:** 01323 410000

**Council website:** <https://www.lewes-eastbourne.gov.uk/>

**Modern.gov app available:** View upcoming public committee documents on your device. Free modern.gov [iPad app](#) or [Android app](#) or [Microsoft app](#).

# Agenda Item 4

**Report to:** Licensing Sub Committee

**Date:** 1 December 2020

**Title:** Application for a Premises Licence. Superfuzz Limited 3  
The Malthouse, Daveys Lane, Lewes. BN7 2BF

**Report of:** Director of Service Delivery

**Ward(s):** Lewes Bridge

**Purpose of report:** To provide information in order that the Sub Committee can determine an application for a Premises Licence

**Officer recommendation(s):** The Sub Committee is asked to determine the application in accordance with the Licensing Act 2003 (as amended), LDC Licensing Policy and the Home Office Guidance issued per Section 182 Licensing Act 2003, whilst having due regard to the applicant's submissions and relevant representations.

**Reasons for recommendations:** An application has been received for a Premises Licence, pursuant to Section 17 Licensing Act 2003. Three representations against the application have been made by local residents.

**Contact Officer(s):** Name: Robin Fuller  
Post title: Specialist Advisor (Licensing)  
E-mail: Robin.Fuller@lewes-eastbourne.gov.uk  
Telephone number: 01323 415226

---

## 1 Introduction

1.1 An application has been made to Lewes District Council for a Premises Licence at Superfuzz Limited Unit 3 The Malthouse, Daveys Lane. Lewes BN7 2BF. The applicant is Mr Andrew Mellor a Director of Superfuzz Limited. A copy of the application and plans are included at **Appendix 1, 2 and 3.**

1.2 The licensable activities applied for are:

|   |                          |
|---|--------------------------|
| Sale of Alcohol – For Consumption on and Off Premises<br>Except New Years Eve until 1am New Years Day | Everyday 1200 – 2300 hrs |
| Provision of Live music. Monday to Friday.  | 1600 – 2200 hrs          |
| Saturday and Sunday.  | 1200 – 2200 hrs          |
| Provision of recorded music Monday  | 1600 – 2300 hrs          |

to Thursday.  
Friday, Saturday and Sunday.  
Playing of recorded / streamed music  
on in-house music system.

1200 – 2300 hrs

1.3 When submitting an application for a new premises licence the applicant is required to describe any steps they intend to take to promote the four licensing objectives, as defined by the Licensing Act 2003. The applicant has submitted the following:

1.3.1 General

The appointed DPS is an experienced licensee and understands how to operate a bar business and make it a safe welcoming hub for the local community. Staff will be trained in retailing alcohol in a responsible manner and understanding licensing legislation. Key members of staff will be personal license holders themselves and will oversee or authorize sale of alcohol. A range of drinks and snacks will be served including soft drinks.

1.3.2 The prevention of crime and disorder

They will be a congenial space for customers to enjoy themselves. There will be a zero tolerance approach to antisocial and drunken behaviour, staff will be trained in this subject. CCTV will be installed covering outside and inside spaces, and recordings will be kept for 28+ days. Drinks served will be of premium quality and priced accordingly with a high £ per unit.

1.3.3 Public safety

All areas inside and out will be well lit, fire exits clearly marked and staff trained in evacuation of the premises. Health and Safety policy and Fire policy will be in place, and staff trained on all aspects. The trading areas will be kept separate to production areas by barriers.

1.3.4 The prevention of public nuisance

Noise levels will be monitored at all times and customers seated outside will be encouraged to behave in appropriate a manner. Signage in place to ask customers to leave quietly at the end of service.

1.3.5 The protection of children from harm

Under 18's will be admitted with a responsible adult, before 8pm, a challenge 25 years policy in place requiring official photo ID. Staff trained in responsible retailing of alcohol and managing families and groups with children.

**2 Background Information**

2.1 Superfuzz Limited is the retail arm of ABYSS brewing which was first started at the Pelham Arms in Lewes. The applicant is the owner/operator of both.

- 2.2 It is the intention to move the production brewery location for ABYSS Brewing to Lewes in the premises at Unit 3 The Malthouse, Daveys Lane.
- 2.3 Unit 3, The Malthouse, Daveys Lane is an industrial unit which is located in the industrial & retail park between the A26, Malling and the River Ouse, Lewes. The application has been submitted for the premises to operate as a new brewery site together with a subsidiary tap room/bar serving ABYSS brewing beers to retail customers for consumption on site or for off sales, including internet sales.
- 2.4 The attached plan at **Appendix 2** shows the proposed layout, a fixed bar area, and beer garden to the top of the property, a temporary production / seating area inside along the brew-house, and an additional temporary outdoor area.
- 2.5 The applicant was required to advertise both on the premises and in a local newspaper in order to inform the public of the application.
- 2.6 A consultation period took place between 8<sup>th</sup> October and 4<sup>th</sup> November 2020. Responsible Authorities (listed below at 3.2) were consulted as part of the process. The applicant conformed with all requirements in accordance with The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

**3 Representations received from Responsible Authorities:**

3.1 The following Statutory Bodies (described as Responsible Authorities by the Licensing Act 2003) were consulted about this application.

|     |                                   |                                  |
|-----|-----------------------------------|----------------------------------|
| 3.2 | Sussex Police                     | No objection to the application. |
|     | Environmental Health              | No comment made                  |
|     | East Sussex Fire and Rescue       | No comment made                  |
|     | East Sussex Child Protection Team | No comment made                  |
|     | Trading Standards                 | No comment made                  |
|     | LDC Health and Safety             | No comment made                  |
|     | LDC Planning                      | No comment made                  |
|     | Public Health                     | No comment made                  |
|     | Home Office Immigration           | No comment made                  |

**4 Representations received from others**

4.1 Representations objecting to this application have been received from Jim Ball, Suzanne Rose and in a petition signed by eight local residents. The relevant grounds of objections in the representations relate to noise and anti-social behaviour which are relevant to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. Copies of the representations are at **Appendix 4, 5 and 6**.

## 5 Mediation

5.1 Following the application there appears to be no common grounds for mediation.

5.2 On the basis of the representations received it is considered unlikely that this application will be successfully mediated before the Sub Committee hearing.

## 6 Licensing Sub Committee Considerations

6.1 In determining the application with a view to promoting the licensing objectives the Sub Committee must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives
- The representations presented by all the parties
- The Home Office Guidance issued under section 182 Licensing Act 2003
- The Lewes District Council Statement of Licensing Policy
- Any other relevant legislation

6.2 The Licensing Act 2003 requires representations to address the four Licensing Objectives:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

A representation is a 'relevant representation' if it is about the likely effect of the grant of the licence on the promotion of the licensing objectives. The objector must establish that such a consequence is a *likely* effect of a grant (i.e. more probable than not).

6.3 Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003. A copy of the Licensing Policy is attached at **Appendix 7**.

6.3.1 The aims of the Policy are to secure the safety and amenity of residential communities, to help ensure a sustainable environment and provide regulation of the cultural/entertainment industry, and to promote the four Licensing Objectives.

6.3.2 The three guiding principles (set out in paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.

6.3.3 In each case that arises following representation, the Policy states that the Council will:

- Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and

activities of the business involved and the rights of residents to peace and quiet.

- Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
- Consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.

6.4 The relevant sections of the Home Office Guidance are attached at **Appendix 8**.

6.5 The Licensing Sub Committee should be mindful of requirements and responsibilities placed on them by other legislation, in addition to those contained within the Licensing Act 2003. These include, but are not limited to, having due regard to the Equality Act 2010 and the Human Rights Act 1998.

6.6 The Sub Committee is asked to note the procedures relating to this hearing which are contained within The Licensing Act 2003 (Hearing Regulations) 2005 (as amended) and attached at **Appendix 9**.

## **7 Options**

7.1 When considering this application for a premises licence the following options are available to the Sub Committee:

- Grant the Licence in the same terms as it was applied for.
- Grant the Licence, but modify the conditions as appropriate for the promotion of the licensing objectives
- Grant the Licence, but modify the hours of licensable activity as appropriate for the promotion of the licensing objectives
- Reject the application.

## **8 Right of Appeal**

8.1 Under Section 181 and Schedule 5 of the Act, there is a right of appeal to the Magistrates' Court in respect of applications for new licences. This right of appeal is open to both the applicant and to any person who has made relevant representation. The appeal application must be made within 21 days of the written notification of the Sub Committee's decision.

## **9 Financial appraisal**

9.1 A decision made by the Sub Committee may be appealed by any party to the proceedings to a Magistrates' Court. Costs associated with this matter and incurred by any party, may in certain circumstances be awarded against the Council.

## **10 Legal implications**

10.1 Under section 18 of the Licensing Act 2003 (as amended), following receipt of an application for a premises licence, under section 17 of the 2003 Act, if relevant representations are received, and unless all parties agree that a hearing is unnecessary, then the Licensing Authority must hold a hearing. At the hearing

the Sub Committee shall having regard to the relevant representations take such steps as it considers appropriate for the promotion of the licensing objectives. The relevant options are outlined in para. 7.1 of this Report.

10.2 The Legal Section considered this Report on 18 November 2020 (Iken 9663-LDC-MW).

## **11 Risk management implications**

11.1 There are no risks associated with the content of this Report.

## **12 Equality analysis**

12.1 An Equality Analysis is not constructive in this instance.

## **13 Environmental sustainability implications**

13.1 There are no sustainability and/or carbon reduction implications associated with this Report.

## **14 Appendices**

|            |   |
|------------|---|
| Appendix 1 | Application                             |
| Appendix 2 | Plan of site                            |
| Appendix 3 | Malthouse lease plan                    |
| Appendix 4 | Representation Jim Ball                 |
| Appendix 5 | Representation Suzanne Rose             |
| Appendix 6 | Petition representation from residents  |
| Appendix 7 | Lewes District Council Licensing Policy |
| Appendix 8 | Relevant sections Home Office Guidance  |
| Appendix 9 | Hearing Regulations 2005 (as amended)   |





**Lewes**  
**Application for a premises licence**  
**Licensing Act 2003**

For help contact  
[licensing@lewes.gov.uk](mailto:licensing@lewes.gov.uk)  
 Telephone: 01273 471600

\* required information

### Section 1 of 21

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference

Not Currently In Use

This is the unique reference for this application generated by the system.

Your reference

n/a

You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes  No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

### Applicant Details

\* First name

Andrew

\* Family name

Mellor

\* E-mail

mister.mellor@gmail.com

Main telephone number

07919445345

Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- Applying as a business or organisation, including as a sole trader  
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

### Applicant Business

Is your business registered in the UK with Companies House?

Yes  No

Note: completing the Applicant Business section is optional in this form.

Registration number

12855114

Business name

SUPERFUZZ LTD

If your business is registered, use its registered name.

VAT number

- NON

Put "none" if you are not registered for VAT.

Legal status

Private Limited Company

*Continued from previous page...*

Your position in the business

Home country

The country where the headquarters of your business is located.

**Registered Address**

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Section 2 of 21**

**PREMISES DETAILS**

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

**Premises Address**

Are you able to provide a postal address, OS map reference or description of the premises?

- Address     OS map reference     Description

**Postal Address Of Premises**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Further Details**

Telephone number

Non-domestic rateable value of premises (£)

**Section 3 of 21****APPLICATION DETAILS**

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company / limited liability partnership
- A partnership (other than limited liability)
- An unincorporated association
- Other (for example a statutory corporation)
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales

**Confirm The Following**

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

**Section 4 of 21****NON INDIVIDUAL APPLICANTS**

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

**Non Individual Applicant's Name**

Name

**Details**

Registered number (where applicable)

Description of applicant (for example partnership, company, unincorporated association etc)

Continued from previous page...

**Address**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Contact Details**

E-mail

Telephone number

Other telephone number

\* Date of birth  /  /   
dd mm yyyy

\* Nationality  [Documents that demonstrate entitlement to work in the UK](#)

**Section 5 of 21**

**OPERATING SCHEDULE**

When do you want the premises licence to start?  /  /   
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end  /  /   
dd mm yyyy

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off- supplies you must include a description of where the place will be and its proximity to the premises.

General situation:  
Unit 3, The Malthouse, Daveys Lane is an industrial unit, in the industrial & retail park quarter of Lewes between A26, River Ouse & Malling. It is to be the new production brewery location for ABYSS Brewing, which is moving back to Lewes in the coming months.

*Continued from previous page...*

Relevant background information:

ABYSS Brewing started under the Pelham Arms, Lewes. Andrew Mellor the applicant is the owner/operator of both ABYSS Brewing, the Pelham Arms & SUPERFUZZ Ltd. SUPERFUZZ Ltd is the new retail side of ABYSS Brewing.

Layout:

A premises license is being sought so alongside the properties main purpose as a new brewery site, as a subsidiary tap room/bar will be able to operate serving ABYSS brewing beers to retail customers, either for consumption on site or for off sales. The attached plan shows the proposed layout, a fixed bar area, and beer garden to the top of the property, a temporary production / seating area inside along the brew-house, and an additional temporary outdoor area.

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

### Section 6 of 21

#### PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will you be providing plays?

- Yes  No

### Section 7 of 21

#### PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will you be providing films?

- Yes  No

### Section 8 of 21

#### PROVISION OF INDOOR SPORTING EVENTS

[See guidance on regulated entertainment](#)

Will you be providing indoor sporting events?

- Yes  No

### Section 9 of 21

#### PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will you be providing boxing or wrestling entertainments?

- Yes  No

### Section 10 of 21

#### PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will you be providing live music?

- Yes  No

#### Standard Days And Timings

Continued from previous page...

MONDAY

Start

End

Start

End

Give timings in 24 hour clock.  
(e.g., 16:00) and only give details for the days  
of the week when you intend the premises  
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the performance of live music take place indoors or outdoors or both?

- Indoors       Outdoors       Both

Where taking place in a building or other  
structure tick as appropriate. Indoors may  
include a tent.

State 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.

Occasional live bands amplified or unamplified

State any seasonal variations for the performance of live music

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Continued from previous page...

Non-standard timings. Where the premises will be used for the performance of live music at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

**Section 11 of 21**

**PROVISION OF RECORDED MUSIC**

[See guidance on regulated entertainment](#)

Will you be providing recorded music?

- Yes                       No

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Give timings in 24 hour clock.  
(e.g., 16:00) and only give details for the days  
of the week when you intend the premises  
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

Continued from previous page...

SUNDAY

Start

End

Start

End

Will the playing of recorded music take place indoors or outdoors or both?

Where taking place in a building or other structure tick as appropriate. Indoors may include a tent.

- Indoors       Outdoors       Both

State 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.

Playing of recored / streamed music on in-house music system

State any seasonal variations for playing recorded music

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the playing of recorded music at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From 12 noon New Years Eve until 1am New Years Day

**Section 12 of 21**

**PROVISION OF PERFORMANCES OF DANCE**

[See guidance on regulated entertainment](#)

Will you be providing performances of dance?

- Yes       No

**Section 13 of 21**

**PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE**

[See guidance on regulated entertainment](#)

Will you be providing anything similar to live music, recorded music or performances of dance?

- Yes       No

**Section 14 of 21**

**LATE NIGHT REFRESHMENT**

Will you be providing late night refreshment?



Section 15 of 21

SUPPLY OF ALCOHOL

Will you be selling or supplying alcohol?

- Yes
- No

Standard Days And Timings

MONDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the sale of alcohol be for consumption:

- On the premises
- Off the premises
- Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Continued from previous page...

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From 12 noon New Years Eve until 1am New Years Day

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

**Name**

First name

Family name

Date of birth  /  /   
dd mm yyyy

**Enter the contact's address**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Personal Licence number (if known)

Issuing licensing authority (if known)

**PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT**

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Continued from previous page...

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

**Section 16 of 21**

**ADULT ENTERTAINMENT**

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

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 etc gambling machines etc.

N/A

**Section 17 of 21**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

MONDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

*Continued from previous page...*

SUNDAY

Start

End

Start

End

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From 12 noon New Years Eve until 1am New Years Day

**Section 18 of 21**

**LICENSING OBJECTIVES**

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

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

The appointed DPS is an experienced licensee and understands how to operate a bar business and make it a safe welcoming hub for the local community. Staff will be trained in retailing alcohol in a responsible manner and understanding licensing legislation. Key members of staff will be personal license holders themselves and will oversee or authorize sale of alcohol. A range of drinks and snacks will be served including soft drinks.

b) The prevention of crime and disorder

We will be creating a congenial space for customers to enjoy themselves. There will be a zero tolerance approach to anti-social and drunken behavior, staff will be trained in this subject. CCTV will be installed covering outside and inside spaces, and recordings will be kept for 28+ days. Drinks served will be of premium quality and priced accordingly with a high £ per unit.

c) Public safety

All areas inside and out will be well lit, fire exits clearly marked and staff trained in evacuation of the premises. Health and Safety policy and Fire policy will be in place, and staff trained on all aspects. The trading areas will be kept separate to production areas by barriers.

d) The prevention of public nuisance

Noise levels will be monitored at all times and customers seated outside will be encouraged to behave in appropriate manner. Signage in place to ask customers to leave quietly at the end of service.

*Continued from previous page...*

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

e) The protection of children from harm

|  |
|--|
| Under 18's will only be admitted with a responsible adult, before 8pm, a challenge 25 years policy in place requiring official photo ID. Staff trained in responsible retailing of alcohol and managing families and groups with children. |
|--|

**Section 19 of 21**

**NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK**

*Continued from previous page...*

### **Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any premises licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have an entitlement to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity. They do this in one of two ways: 1) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

### **Documents which demonstrate entitlement to work in the UK**

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

*Continued from previous page...*

- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relation to the carrying on of a licensable activity.
- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.
- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.
- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.
- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:-
  - evidence of the applicant's own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - (i) working e.g. employment contract, wage slips, letter from the employer,
    - (ii) self-employed e.g. contracts, invoices, or audited accounts with a bank,
    - (iii) studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    - (iv) self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:-

- (i) any page containing the holder's personal details including nationality;
- (ii) any page containing the holder's photograph;
- (iii) any page containing the holder's signature;
- (iv) any page containing the date of expiry; and
- (v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.

*Continued from previous page...*

If the document is not a passport, a copy of the whole document should be provided.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.

### **Home Office online right to work checking service**

As an alternative to providing a copy of the documents listed above, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their 9-digit share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth (provided within this application), will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be checked online. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copy documents as set out above.

## **Section 20 of 21**

### **NOTES ON REGULATED ENTERTAINMENT**



*Continued from previous page...*

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08:00 and 23:00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
  - o a performance of unamplified live music between 08:00 and 23:00 on any day, on any premises.
  - o a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08:00 and 23:00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
  - o a performance of amplified live music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o a performance of amplified live music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - o any playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - o any playing of recorded music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - o any playing of recorded music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

*Continued from previous page...*

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

**Section 21 of 21**

**PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Premises Licence Fees are determined by the non&nbsp;domestic rateable&nbsp;value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at [http://www.voa.gov.uk/business\\_rates/index.htm](http://www.voa.gov.uk/business_rates/index.htm)

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £87000 £315.00

Band D - £87001 to £125000 £450.00\*

Band E - £125001 and over £635.00\*

\*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then your are required to pay a higher fee

Band D - £87001 to £125000 £900.00

Band E - £1250001 and over £1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.

Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college.

If you operate a large event you are subject to ADDITIONAL fees based upon the number in attendance at any one time

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

\* Fee amount (£)

190.00

**DECLARATION**

*Continued from previous page...*

[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read Guidance Note 15)

The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or her Proof of Entitlement to Work, if appropriate (please see Note 15)

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

\* Full name

\* Capacity

\* Date  /  /   
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/lewes/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

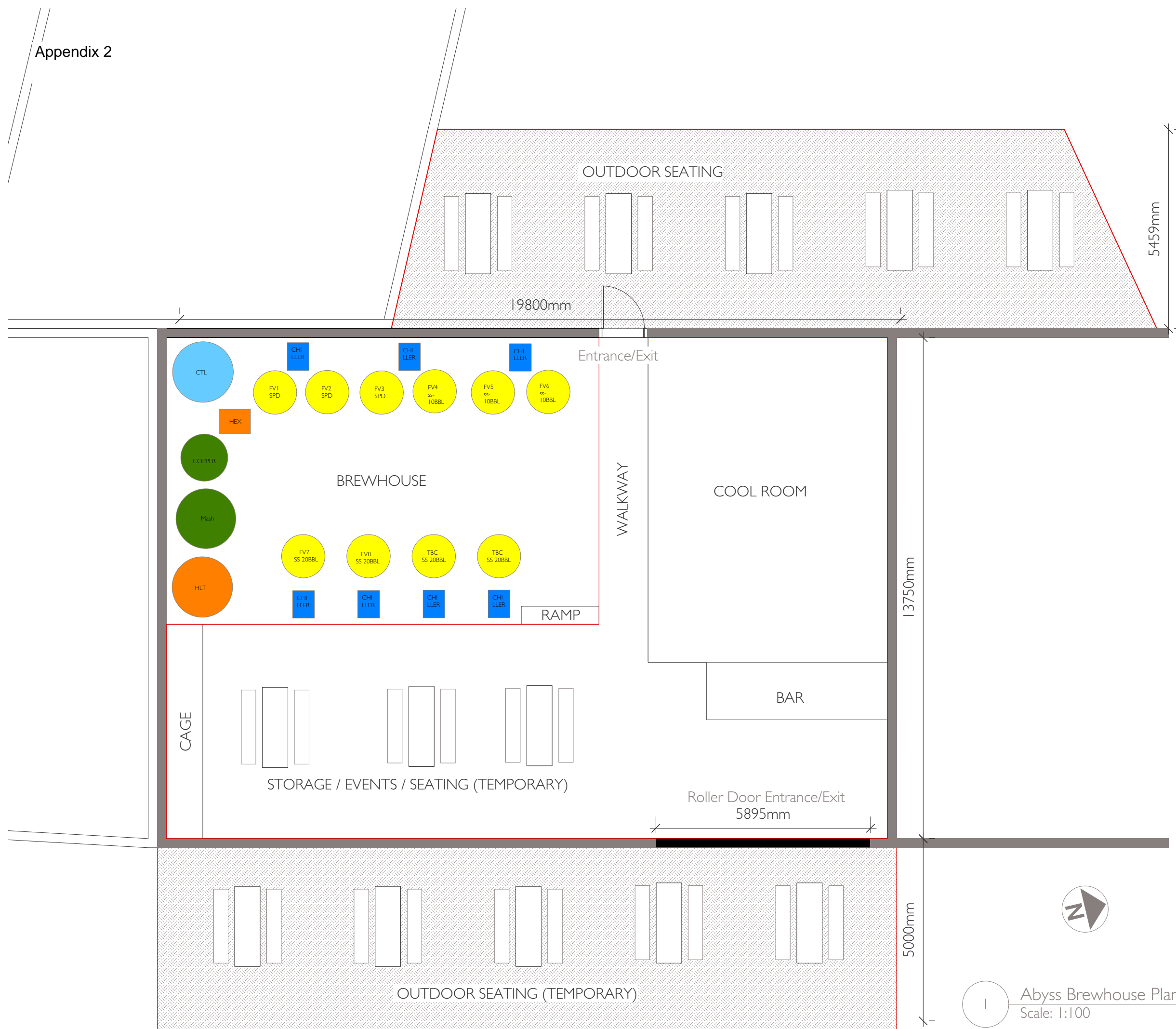
**IT IS AN OFFENCE LIABLE TO SUMMARY CONVICTION TO A FINE OF ANY AMOUNT UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

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

**OFFICE USE ONLY**

|                            |                                  |
|----------------------------|----------------------------------|
| Applicant reference number | <input type="text" value="n/a"/> |
| Fee paid                   | <input type="text"/>             |
| Payment provider reference | <input type="text"/>             |
| ELMS Payment Reference     | <input type="text"/>             |
| Payment status             | <input type="text"/>             |
| Payment authorisation code | <input type="text"/>             |
| Payment authorisation date | <input type="text"/>             |
| Date and time submitted    | <input type="text"/>             |
| Approval deadline          | <input type="text"/>             |
| Error message              | <input type="text"/>             |
| Is Digitally signed        | <input type="checkbox"/>         |

[1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#) [13](#) [14](#) [15](#) [16](#) [17](#) [18](#) [19](#) [20](#) [21](#) [Next >](#)



ROMY FRANCE  
INTERIOR DESIGN

DRAWING DESCRIPTION

Proposed Tap Room: Plan  
For Abyss brewing

SCALE

1:100 @ A3

DATE DRAWN

15/09/2020

DRAWN BY

Romy France

DRAWING NUMBER

001

ADDRESS

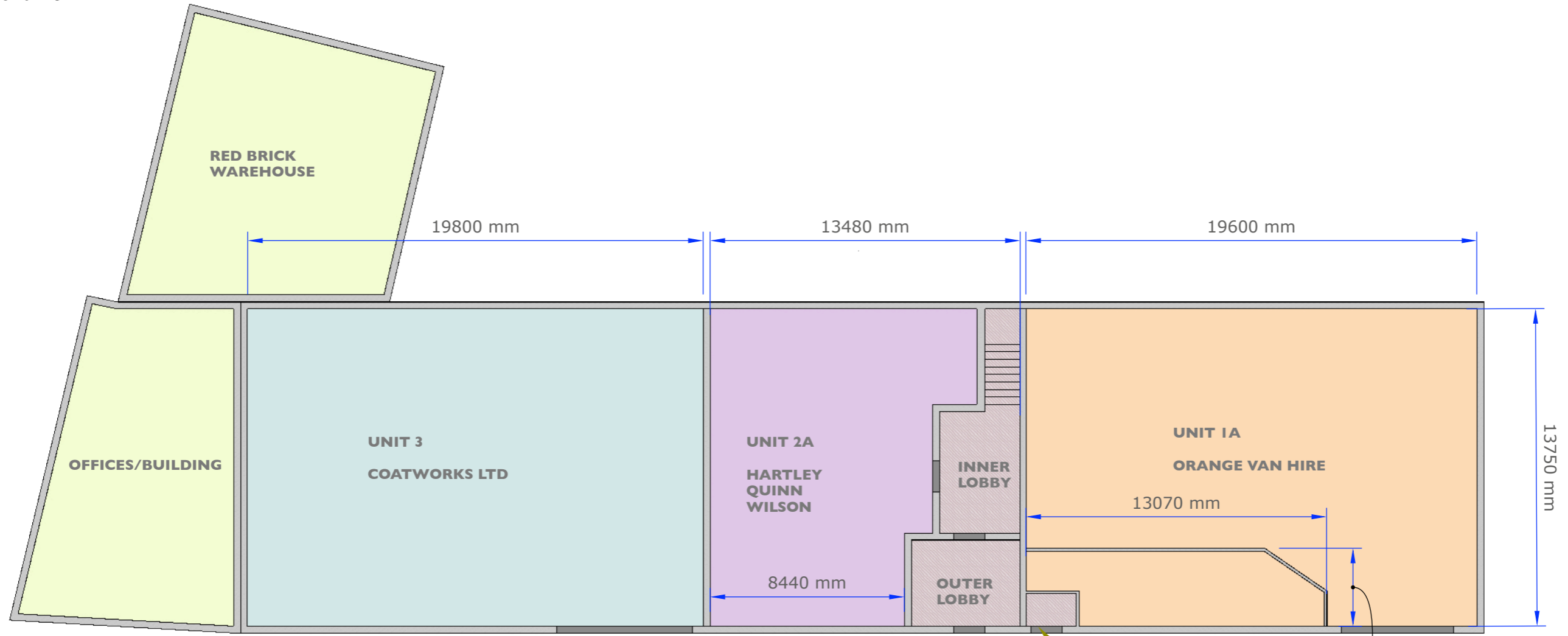
Superfuzz LTD  
The Malthouse  
Daveys Lane  
Lewes

DISCLAIMER

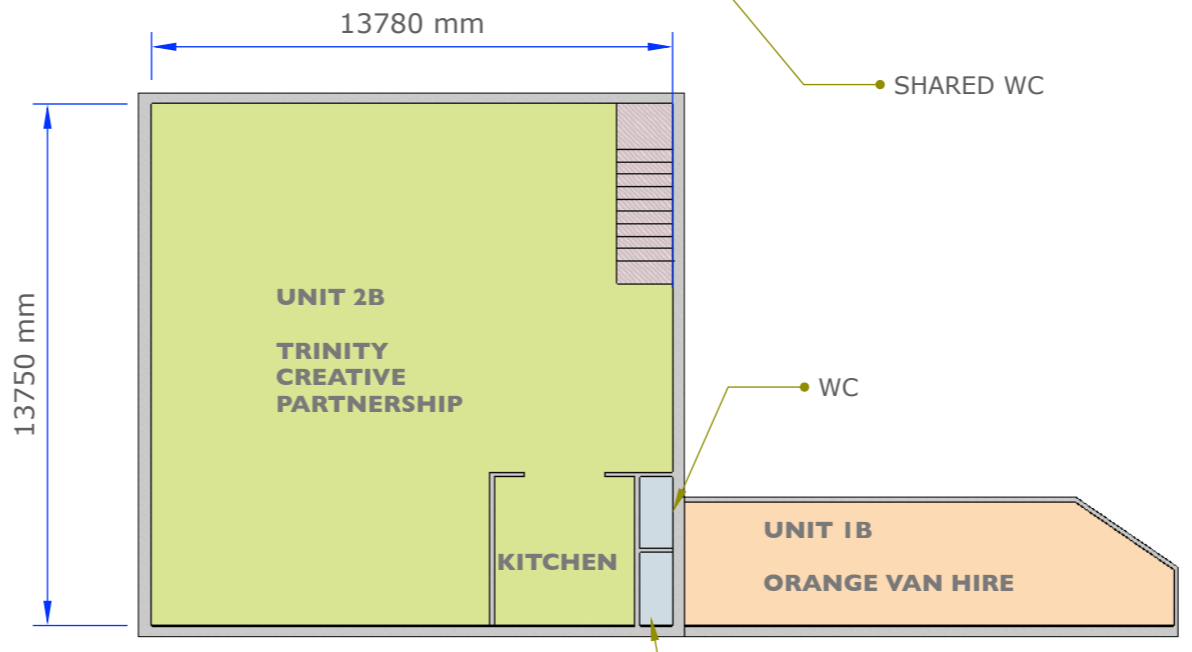
All dimensions are in millimeters. Do not scale from these drawings. Report suspected errors or emissions. Verify all dimensions on site.

Abyss Brewhouse Plan  
Scale: 1:100

This page is intentionally left blank



**GROUND FLOOR**



**FIRST FLOOR**

- COATWORKS LTD
- RED BRICK WAREHOUSE/ OFFICES
- HARTLEY QUINN WILSON
- ORANGE VAN HIRE
- TRINITY CREATIVE PARTNERSHIP
- RED DOT INVESTMENTS



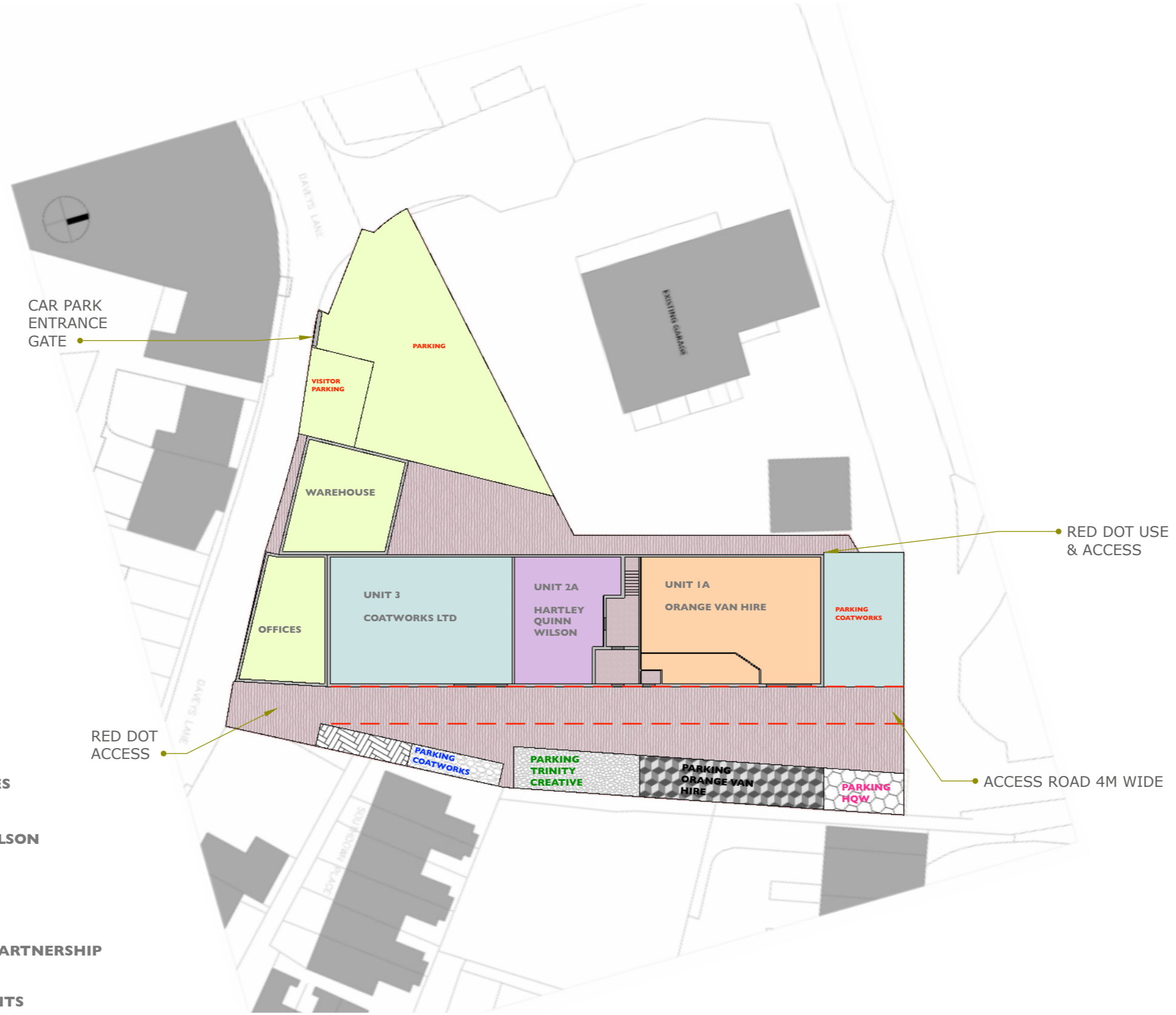
**DIMENSIONS FOR GUIDE ONLY**

| PROJECT   | DRAWING                             | SCALE | DRAWING NUMBER  | REVISION | DATE     |
|---|-------------------------------------|-------|-----------------|----------|----------|
| RED DOT INVESTMENTS LTD<br>THE MALHOUSE<br>DAVEYS LANE<br>LEWES | LEASE AGREEMENT PLAN<br>FLOOR AREAS | 1:200 | MLP 1801        |          | JAN 2019 |
|   |                                     |       | <b>DRAWN BY</b> |          |          |
|   |                                     |       | MS              |          |          |

**MARTINSWATTON | DESIGN**

ARCHITECTURAL & INTERIOR DESIGN

01323 430 865  
07721 610 806  
martin@martinswatton.com  
www.martinswatton.com



- COATWORKS LTD
- WAREHOUSE/OFFICES
- HARTLEY QUINN WILSON
- ORANGE VAN HIRE
- TRINITY CREATIVE PARTNERSHIP
- RED DOT INVESTMENTS



| PROJECT   | DRAWING                                  | SCALE | DRAWING NUMBER  | REVISION | DATE     |
|---|--|-------|-----------------|----------|----------|
| RED DOT INVESTMENTS LTD<br>THE MALHOUSE<br>DAVEYS LANE<br>LEWES | LEASE AGREEMENT PLAN<br>PARKING & ACCESS | 1:500 | MLP 1802        |          | JAN 2019 |
|   |  |       | <b>DRAWN BY</b> |          |          |
|   |  |       | MS              |          |          |

**MARTINSWATTON | DESIGN**

ARCHITECTURAL & INTERIOR DESIGN

01323 430 865  
07721 610 806  
martin@martinswatton.com  
www.martinswatton.com



The Licensing Officer  
Lewes Council  
Southover House  
Southover Road  
Lewes B7 1AB

October 23<sup>rd</sup> 2020

**Re Application for Licensable Premises at Unit 3 the Malthouse, Daveys Lane Lewes BN7 2BF**

Dear Licensing Officer,

I am very concerned to see a licensing application for the above premises displayed. I live at 7 Southdown Place just yards away. This quarter of the town has attracted several new developments recently and it is rapidly acquiring an attractive residential ambiance. There are dozens of homes close by.

I understand the building has been leased with the view of becoming a small craft brewery with the option to hold 'tasting experiences' outside in the lane for a limited number of people.

However, this would seem to mask the real intention. The application is for something very different - a 7-day a week venue, with live music until 10pm every day and recorded music until 11pm at weekends. Proposed opening times, with alcohol to be sold on and off the premises, are from 12 until 11pm, Monday to Saturday and 12-10pm on Sundays.

I am absolutely horrified at this proposal. The prospect of drinkers wandering round this quiet part of town, along a narrow lane with only pedestrian access at one end, suggests the strong likelihood of a crowd accumulating and spilling out into the street. Davey's Lane gives access to the car park and pedestrian entrance to the flats and houses recently built here, so there will be difficulty in people easily accessing their houses. The gardens of the houses in Thomas Street open into Davey's Lane, literally just on the other side of the fence - again residents will run the gamut of drinkers and smokers to get to their houses. And this is proposed to go on seven days a week until late at night to the sound of loud music.

The numbers of people potentially accumulating, making merry and urinating in the quiet corners of the Lane and the passageway of Southdown Place; the smokers outside in the Lane; the smell of smoke and alcohol; the empty glasses left lying around in a street where people try to park or carry shopping to their homes; the noise of both music and voices carrying late into the night or when people are trying to enjoy a quiet weekend, the inevitable light pollution and just general disturbance make this application completely unacceptable.

I truly hope you will recognise my concerns and reject this application. I was born in Lewes and have lived here for decades and I know from my heart that this is a thoroughly bad proposal.

Yours sincerely,

  
Jim Ball  
7 Southdown Place  
[raggedroyalist@yahoo.co.uk](mailto:raggedroyalist@yahoo.co.uk)  
07779 120076

Customer First

25 OCT 2020

Received

This page is intentionally left blank

## Appendix 5

From: suzanne rose Sent: 29 October 2020 15:03

Subject: Licensing Public notice for Andrew Mellor, Superfuzz Ltd, Unit 3, The Malthouse, Daveys Lane,

Lewes BN7 2BF

Dear Janet Adams & Cllr's

I wish to make representation about the Public Notice regarding Premises licenses and Club premises certificates, which has been posted behind my home with details of Proposed Licensable activities.

The deadline for representation is 4th November 2020. Unfortunately no details of who should be contacted are included in the notice except for the 'Licensing Officer'. I do hope that you may be able to forward my comments to the appropriate person. I have not been informed as to whether decisions will be made at officer or committee level, but as a local resident, I would very much like the impact of these proposals to be made known.

I live at 66 Malling Street. Davey's Lane runs from my back gate and behind the flint wall of my garden. The premises and the activities the notice refers to are directly behind my home and within a few metres distance.

I wish to object to the proposed licensable activities on the following grounds;

The notice proposes the following activities, which are not compatible with a residential area;

Live music from Mon – Fri 4pm – 10pm Sat & Sun 12-10pm

Recorded music – Mon – Thur 4pm – 11pm Fri – Sun 12-11pm

Sale by retail of alcohol for consumption on and off premises Mon – Sun 12-11pm

Opening hours to public Mon -Sat 12-11pm and Sun 12-10pm

### Music

These activities will increase noise pollution – the music both recorded and live will be audible from residents' homes and gardens and will have a significant impact on quality of life. I am a disabled person with a chronic pain condition which includes noise sensitivity. I have a right to a reasonable expectation of peace & quiet within my home and garden. The hours for both live and recorded music are excessive and inconsiderate. Every day of the week will be impacted by noise from this venue. As I work from home this will also impact on my ability to think, work and to teach classes online.

### Alcohol

Sales of alcohol every day of the week from 12-11pm will increase the levels of drunkenness and antisocial behaviour that residents already have to contend with in our area, particularly on a Friday and Sat evening. I regularly have to deal with drunk people behaving badly on Malling Street and in Daveys Lane. These proposed activities will only increase the level of people in the area affected by alcohol. Increase in litter and urinating. This is already an issue in Davey's Lane and will only be increased by these proposed activities, which will bring more people affected by alcohol to a small confined area.

### Opening Hours

By proposing such long opening hours there will be no respite for local residents from the impact of this venue's activities. Davey's Lane will be used as an access point bringing people directly past our homes and gardens at very close quarters at all times of day and night, leaving local residents to put up with the noise and clean up the mess they leave behind. I already have to clear broken glass, litter, detritus of drug use such as needles, and food stuffs every week from in front and behind my home. This is caused by people passing by on Malling Street and Daveys Lane from pubs and venues in the town. Having a venue within metres of my home, opening every day and evening will only serve to increase the levels of litter, antisocial behaviour, fights, drunkenness, and general stress of life living in this part of town. This new venue and its proposed activities will now add to the distress by creating excessive noise and providing more opportunity for people to behave anti socially right on our doorsteps every day of the week.

As a resident here of 16yrs the quiet residential area I moved to, is no longer recognisable. Our small community of residents including young families, children, older and disabled people, all of whom will be impacted by this venue. Whilst I support the need for new business and opportunities for live music, this needs to be in an appropriate setting where it doesn't impact on the lives of local residents. No consultation on these proposed activities has been sought by the business with local residents and no consideration of their potential impact has been made. If these activities are to be granted permission I would support a much greater reduction in the opening times, and no opening or at least no music on Sundays at all, to provide some respite from the impact of this venue. I would also request that the access points to this venue are routed away from Daveys Lane / Malling Street / Thomas Street and that the venue be held responsible for litter in the area as well as for dealing with anti social behaviour.

Best wishes

Suzanne Rose

**Petition:**  
**To oppose to the application for the grant of a**  
**premises license at**  
**Unit 3, The Malthouse, Daveys Lane,**  
**Lewes, BN7 2BE.**

Together, we, the local residents demand that the application for this license is **carefully reviewed and amended with regard to the following concerns.**  
 Thomas Street and the surrounding streets are densely populated. This license should not be approved as it is wholly unsuitable for the venue in this location. There are other live music venues in Lewes in more appropriate locations.

- This is a **quiet residential area.** We do not want live music 7 days a week until 2200hrs and alcohol being served until 2300 7 days a week. This is antisocial and unfair to all residents in the surrounding area.
- **No consideration** has been given for residents in terms of noise levels particularly those who work shifts and have young families or who are elderly.
- If the license is approved it will **significantly devalue** all the properties in the vicinity.
- **Interference with daily comings and goings of local community** due to increased deliveries to venue, potential **loss of 4 parking spaces (on Thomas Street)** for residents and **increased foot traffic.**
- Increased likelihood of **littering and loitering** outside the venue and after venue has closed.
- Increased likelihood of **antisocial behaviour** e.g. noise, fighting and urination.
- **Soundproofing** of the building is unlikely to be sufficient within the building due to being grade 2 listed.
- Socialisation in our own gardens will be **disrupted** all through the year.
- The **safety, security and privacy** of our properties and gardens are at risk.
- The smoking area would have to be outside the front of the building, this is antisocial for residents, especially for **children, non-smokers and the elderly.**

We propose in a new license (at a minimum): no deliveries past 1pm on Saturday or at all on a Sunday, CCTV on the street to record bad behaviour and damage to properties or vehicles, no live music on a Sunday past 4pm.

Thank you for your time.

Name Signature Address Email/Phone Date

|                 |             |                                 |          |
|-----------------|-------------|---------------------------------|----------|
| OLIVIA THRECAUX | [Signature] | FLAT 3 The Old Brewery          | 20/10/20 |
| JOHN ROSS       | [Signature] | FLAT 7 The Old Brewery BN7 2FE  | 24/10/20 |
| JOE BUCKLEY     | [Signature] | Flat 4, The Old Brewery BN7 2FE | 24/10/20 |
| Sharon Hills    | [Signature] | Apartment 5, The Old Brewery    | 24/10/20 |
| Martin Scott    | [Signature] | Flat 1, The Old Brewery BN7 2FE | 25/10/20 |
| Tom Campbell    | [Signature] | Flat 2, The Old Brewery BN7 2FE | 26/10/20 |

|            |             |                         |               |
|------------|-------------|-------------------------|---------------|
| S. TROETH  | [Signature] | FLAT 3, THE OLD BREWERY | OCT 24, 2020  |
| I. VELKOVA | [Signature] | Flat 6, The Old Brewery | Oct. 26, 2020 |

This page is intentionally left blank

## 2. The licensing objectives

### Crime and disorder

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

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

## Public safety

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



## Ensuring safe departure of those using the premises

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

## Maintenance and repair

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

## Safe capacities

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

---

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

those premises should be.

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

## Public nuisance

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

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

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

## **Protection of children from harm**

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

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

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

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

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

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

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

This page is intentionally left blank

## 9. Determining applications

### General

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

### Where no representations are made

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

### Where representations are made

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

### Relevant, vexatious and frivolous representations

9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.

9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

## **The role of responsible authorities**

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

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local areas<sup>5</sup>. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

5 Police and Crime Commissioners are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police remains the named responsible authority under the 2003 Act.

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

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

9.19 Smaller licensing authorities, where such a separation of responsibilities is more difficult, may wish to involve officials from outside the licensing department to ensure a separation of responsibilities. However, these officials should still be officials employed by the authority.

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

9.20 Where a local authority's Director of Public Health in England (DPH)<sup>6</sup> or Local Health Board (LHB) (in Wales) exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services.

9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may

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

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

9.22 However, health bodies are encouraged to make representations in respect of any of the four licensing objectives without necessarily seeking views from other responsible authorities where they have appropriate evidence to do so. There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well being.

9.23 Evidence relating to under 18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. For example, the police could use this data to tackle instances of 'shoulder tapping' (where under 18s approach adults to buy alcohol on their behalf) and to suggest measures which retailers might be able to take to ensure, as far as possible, that they are not knowingly selling alcohol to an adult who is buying on behalf of a person aged under 18. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.

9.24 DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

## **Home Office Immigration Enforcement acting as a responsible authority**

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

## **Disclosure of personal details of persons making representations**

9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.

9.27 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.

9.28 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.

9.29 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.

9.30 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

## **Hearings**

9.31 The Licensing Act 2003 (Hearings) Regulations 2005 governing hearings may be found on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, where the applicant and all of the persons who made relevant representations have given notice to the authority that they consider a hearing to be unnecessary. Where this is the case and the authority agrees that a hearing is unnecessary, it must forthwith give notice to the parties that the hearing has been dispensed with. Notwithstanding those regulatory provisions, in cases where the licensing authority believes that a hearing is still necessary, it is recommended that the authority should, as soon as possible, provide the parties with reasons in writing for the need to hold the hearing. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. The 2005 Hearings Regulations permit licensing authorities to extend a time limit provided for by those Regulations for a specified period where it considers this to be necessary in the public interest. For example, if the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences. Where the authority has extended a time limit it must forthwith give a notice to the parties involved stating the period of the extension and the reasons for it.

9.33 The 2005 Hearings Regulations require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

9.34 Applicants should be encouraged to contact responsible authorities and others, such as local residents, who may be affected by the application before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.

9.35 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.

9.36 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.

9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

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

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

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

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

responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

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

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

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

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

This page is intentionally left blank

## Appendix 9

## Statutory Instruments




---

 STATUTORY INSTRUMENTS
 

---

**2005 No. 44****LICENCES AND LICENSING****The Licensing Act 2003 (Hearings) Regulations 2005**

|                               |                          |
|-------------------------------|--------------------------|
| <i>Made</i>                   | <i>12th January 2005</i> |
| <i>Laid before Parliament</i> | <i>13th January 2005</i> |
| <i>Coming into force</i>      | <i>7th February 2005</i> |

The Secretary of State, in exercise of the powers conferred upon her by sections 9(2) and 183(1) of the Licensing Act 2003<sup>[1]</sup> hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Licensing Act 2003 (Hearings) Regulations 2005 and shall come into force on 7th February 2005.

**Interpretation**

2. - (1) In these Regulations -

"the Act" means the Licensing Act 2003;

"authority" means, in relation to a hearing, the relevant licensing authority which has the duty under the Act to hold the hearing which expression includes the licensing committee or licensing sub-committee discharging the function of holding the hearing;

"determination" is to be interpreted in accordance with Schedule 4;

"hearing" means the hearing referred to in column 1 of the table in Schedule 1 as the case may require;

"legible in all material respects" means that the information contained in the notice is available to the recipient to no lesser extent than it would be if given by means of a document in written form;

"notice of hearing" means the notice given under regulation 6(1);

"party to the hearing" means a person to whom the notice of hearing is to be given in accordance with regulation 6(1) and "party" and "parties" shall be construed accordingly.

(2) In these Regulations, a reference to the application, representations or notice made by a party means the application, representations or notice referred to in relation to that party in column 2 of the table in Schedule 2.

(3) In these Regulations, a reference to a section, or a paragraph of a Schedule is a reference to the section of, or the paragraph of the Schedule to, the Act.

**Scope**

3. These Regulations make provision for the procedure to be followed in relation to hearings held under the Act by an authority.

**Period of time within which hearing to be held**

4. The authority shall arrange for the date on which and time and place at which a hearing is to be held in accordance with regulation 5 and shall give a notice of hearing in accordance with regulations 6 and 7.

5. Hearings to be held under the provisions listed in column 1 of the table in Schedule 1 must be commenced within the period of time specified in column 2 of the table and in a case where the hearing is to be held on more than one day, the hearing must be arranged to take place on consecutive working days.

**Notice of hearing**

6. - (1) In the case of hearings under the provisions listed in column 1 of the table in Schedule 2, the authority shall give to the persons listed in column 2 of the table a notice stating the date on which and time and place at which the hearing is to be held (the "notice of hearing") in accordance with the following provisions of this regulation.

(2) In the case of a hearing under -

- (a) section 48(3)(a) (cancellation of interim authority notice following police objection), or
- (b) section 105(2)(a) (counter notice following police objection to temporary event notice),

the authority shall give the notice of hearing no later than two working days before the day or the first day on which the hearing is to be held.

(3) In the case of a hearing under -

- (a) section 167(5)(a) (review of premises licence following closure order),
- (b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
- (c) paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
- (d) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),

the authority shall give the notice of hearing no later than five working days before the day or the first day on which the hearing is to be held.

**Information to accompany notice of hearing**

7. - (1) The notice of hearing shall be accompanied by information regarding the following -

- (a) the rights of a party provided for in regulations 15 and 16;
- (b) the consequences if a party does not attend or is not represented at the hearing;
- (c) the procedure to be followed at the hearing;
- (d) any particular points on which the authority considers that it will want clarification at the hearing from a party.

(2) In relation to hearings under the provisions listed in column 1 of the table in Schedule 3, the notice of hearing given to the persons listed in column 2 of the table shall also be accompanied by the documents listed in column 3 of the table.

**Action following receipt of notice of hearing**

8. - (1) A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating -

- (a) whether he intends to attend or be represented at the hearing;
- (b) whether he considers a hearing to be unnecessary.



(2) In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

(3) In the case of a hearing under -

(a) section 48(3)(a) (cancellation of interim authority notice following police objection), or

(b) section 105(2)(a) (counter notice following police objection to temporary event notice),

the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.

(4) In the case of a hearing under -

(a) section 167(5)(a) (review of premises licence following closure order),

(b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),

(c) paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or

(d) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),

the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.

(5) In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

#### **Right to dispense with hearing if all parties agree**

9. - (1) An authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary, other than the authority itself, have done so by giving notice to the authority that they consider a hearing to be unnecessary.

(2) Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph (1), the authority, if it agrees that a hearing is unnecessary, must forthwith give notice to the parties that the hearing has been dispensed with.

#### **Withdrawal of representations**

10. A party who wishes to withdraw any representations they have made may do so -

(a) by giving notice to the authority no later than 24 hours before the day or the first day on which the hearing is to be held; or

(b) orally at the hearing.

#### **Power to extend time etc.**

11. - (1) Subject to regulation 13, an authority may extend a time limit provided for in these Regulations for a specified period where it considers this to be necessary in the public interest.

(2) Where the authority has extended a time limit it must forthwith give a notice to the parties stating the period of the extension and the reasons for it.

12. - (1) Subject to regulation 13, an authority may -

- (a) adjourn a hearing to a specified date, or
- (b) arrange for a hearing to be held on specified additional dates,

where it considers this to be necessary for its consideration of any representations or notice made by a party.

(2) Where an authority has adjourned a hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

(3) Where an authority has arranged for a hearing to be held on a specified additional date it must forthwith notify the parties of the additional date on which and time and place at which the hearing is to be held.

13. An authority may not exercise its powers under regulations 11 and 12 in such a way that the effect will be that -

- (a) an application will be treated as granted or rejected under paragraph 4(4), 7(3), 16(4), 19(3) or 26(4) of Schedule 8 (transitional provision etc.); or
- (b) it would fail to reach a determination on the review under section 167 (review of premises licence following closure order) within the period specified in subsection (3) of that section.

#### **Hearing to be public**

14. - (1) Subject to paragraph (2), the hearing shall take place in public.

(2) The licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

(3) For the purposes of paragraph (2), a party and any person assisting or representing a party may be treated as a member of the public.

#### **Right of attendance, assistance and representation**

15. Subject to regulations 14(2) and 25, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

#### **Representations and supporting information**

16. At the hearing a party shall be entitled to -

- (a) in response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1)(d), give further information in support of their application, representations or notice (as applicable),
- (b) if given permission by the authority, question any other party; and
- (c) address the authority.

17. Members of the authority may ask any question of any party or other person appearing at the hearing.

18. In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

19. The authority shall disregard any information given by a party or any person to whom permission to appear at the hearing is given by the authority which is not relevant to -

- (a) their application, representations or notice (as applicable) or in the case of another person, the application representations or notice of the party requesting their appearance, and
- (b) the promotion of the licensing objectives or, in relation to a hearing to consider a

notice given by a chief officer of police, the crime prevention objective.

#### **Failure of parties to attend the hearing**

20. - (1) If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

(2) If a party who has not so indicated fails to attend or be represented at a hearing the authority may -

(a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or

(b) hold the hearing in the party's absence.

(3) Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.

(4) Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

#### **Procedure at hearing**

21. Subject to the provisions of these Regulations, the authority shall determine the procedure to be followed at the hearing.

22. At the beginning of the hearing, the authority shall explain to the parties the procedure which it proposes to follow at the hearing and shall consider any request made by a party under regulation 8(2) for permission for another person to appear at the hearing, such permission shall not be unreasonably withheld.

23. A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require.

24. The authority must allow the parties an equal maximum period of time in which to exercise their rights provided for in regulation 16.

25. The authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may -

(a) refuse to permit that person to return, or

(b) permit him to return only on such conditions as the authority may specify,

but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

#### **Determination of applications**

26. - (1) In the case of a hearing under -

(a) section 35 or 39 which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 (determination of application under section 34 or 37),

(b) section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under section 85),

(c) section 105(2)(a) (counter notice following police objection to temporary event notice),

(d) section 167(5)(a) (review of premises licence following closure order),

(e) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),

(f) paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or

(g) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence),

the authority must make its determination at the conclusion of the hearing.

(2) In any other case the authority must make its determination within the period of five working days beginning with the day or the last day on which the hearing was held.

27. Where a hearing has been dispensed with in accordance with regulation 9, the authority must make its determination within the period of ten working days beginning with the day the authority gives notice to the parties under regulation 9(2).

#### **Notification of determination**

28. - (1) In a case where the Act does not make provision for the period within which the authority must notify a party of its determination, the authority must do so forthwith on making its determination.

(2) In a case where -

(a) the Act provides for a chief officer of police to be notified of the determination of an authority, and

(b) that chief officer of police has not been a party to the hearing,

the authority shall notify that chief officer of police of its determination, forthwith on making its determination.

29. Where the authority notifies a party of its determination, the notice given (or, in the case of a hearing under section 31(3)(a) (determination of application for provisional statement), the statement issued) to the party must be accompanied by information regarding the right of a party to appeal against the determination of the authority.

#### **Record of proceedings**

30. The authority shall provide for a record to be taken of the hearing in a permanent and intelligible form and kept for six years from the date of the determination or, where an appeal is brought against the determination of the authority, the disposal of the appeal.

#### **Irregularities**

31. Any irregularity resulting from any failure to comply with any provision of these Regulations before the authority has made a determination shall not of itself render the proceedings void.

32. In any case of such an irregularity, the authority shall, if it considers that any person may have been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure the irregularity before reaching its determination.

33. Clerical mistakes in any document recording a determination of the authority or errors arising in such document from an accidental slip or omission may be corrected by the authority.

#### **Notices**

34. - (1) Any notices required to be given by these Regulations must be given in writing.

(2) Notwithstanding the requirement in paragraph (1) and subject to paragraph (3), that requirement shall be satisfied in a case where -

(a) the text of the notice -

(i) is transmitted by electronic means;

(ii) is capable of being accessed by the recipient;

(iii) is legible in all material respects; and

(iv) is capable of being reproduced in written form and used for subsequent reference;

(b) the person to whom the notice is to be given has agreed in advance that such a notice may be given to them by electronic means; and

(c) forthwith on sending the text of the notice by electronic means, the notice is given to the recipient in writing.

(3) Where the text of the notice is transmitted by electronic means, the giving of the notice shall be effected at the time the requirements of paragraph (2)(a) are satisfied.

*Richard Caborn*

Minister of State Department for Culture, Media and Sport

Date 12th January 2005

SCHEDULE 1

regulation 5

|    | Column 1   | Column 2   |
|----|--|--|
|    | <b>Provision under which hearing is held.</b>  | <b>Period of time within which hearing must be commenced.</b>  |
| 1. | Section 18(3)(a) (determination of application for premises licence).  | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c).                            |
| 2. | Section 31(3)(a) (determination of application for a provisional statement).   | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 30.    |
| 3. | Section 35(3)(a) (determination of application to vary premises licence).  | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 34(5). |
| 4. | Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor). | 20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 37(5).                               |
| 5. | Section 44(5)(a) (determination of application for transfer of premises licence).                                      | 20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 42(6).                               |
| 6. | Section 48(3)(a) (cancellation of interim authority notice following police objection).                                | 5 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 48(2).                                |
| 7. | Section 52(2) (determination of application for review of premises licence).   | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c).                            |
| 8. | Section 72(3)(a) (determination of application for club premises certificate).   | 20 working days beginning with the day after the end of the period during which  |

|     |   |  |
|-----|---|--|
|     |   | representations may be made as prescribed under section 71(6)(c).  |
| 9.  | Section 85(3) (determination of application to vary club premises certificate).   | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c) by virtue of section 84(4). |
| 10. | Section 88(2) (determination of application for review of club premises certificate).   | 20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 87(3)(c).                            |
| 11. | Section 105(2)(a) (counter notice following police objection to temporary event notice).  | 7 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 104(2).                             |
| 12. | Section 120(7)(a) (determination of application for grant of personal licence).   | 20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 120(5).                          |
| 13. | Section 121(6)(a) (determination of application for the renewal of personal licence).   | 20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 121(3).                          |
| 14. | Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).                                     | 20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 124(3).                          |
| 15. | Section 167(5)(a) (review of premises licence following closure order).   | 10 working days beginning with the day after the day the relevant licensing authority receives the notice given under section 165(4).  |
| 16. | Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).                              | 10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 3(2) or (3) of Schedule 8.       |
| 17. | Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).                    | 10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 15(2) or (3) of Schedule 8.      |
| 18. | Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence). | 10 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under paragraph 25(2) of Schedule 8.           |

## SCHEDULE 2

regulation 6

|    | Column 1  | Column 2   |
|----|---|--|
|    | <b>Provision under which hearing is held.</b>                         | <b>Persons to whom notice of hearing is to be given.</b>   |
| 1. | Section 18(3)(a) (determination of application for premises licence). | (1) The person who has made the application under section 17(1);<br><br>(2) persons who have made relevant |

|    |   |  |
|----|---|--|
|    |   | representations as defined in section 18(6).   |
| 2. | Section 31(3)(a)<br>(determination of application for provisional statement).   | (1) The person who has made the application under section 29(2);<br><br>(2) persons who have made relevant representations as defined in section 31(5).  |
| 3. | Section 35(3)(a)<br>(determination of application to vary premises licence).  | (1) The holder of the premises licence who has made the application under section 34(1);<br><br>(2) persons who have made relevant representations as defined in section 35(5).  |
| 4. | Section 39(3)(a)<br>(determination of application to vary premises licence to specify individual as premises supervisor). | (1) The holder of the premises licence who has made the application under section 37(1);<br><br>(2) each chief officer of police who has given notice under section 37(5);<br><br>(3) the proposed individual as referred to in section 37(1).   |
| 5. | Section 44(5)(a)<br>(determination of application for transfer of premises licence).                                      | (1) The person who has made the application under section 42(1);<br><br>(2) each chief officer of police who has given notice under section 42(6);<br><br>(3) the holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made. |
| 6. | Section 48(3)(a) (cancellation of interim authority notice following police objection).                                   | (1) The person who has given notice under section 47(2);<br><br>(2) each chief officer of police who has given notice under section 48(2).   |
| 7. | Section 52(2) (determination of application for review of premises licence).  | (1) The holder of the premises licence in respect of which the application has been made;<br><br>(2) persons who have made relevant representations as defined in section 52(7);<br><br>(3) the person who has made the application under section 51(1).   |
| 8. | Section 72(3)(a)<br>(determination of application for club premises certificate).   | (1) The club which has made the application under section 71(1);<br><br>(2) persons who have made relevant representations as defined in section 72(7).  |
| 9. | Section 85(3)(a)<br>(determination of application to vary club premises certificate).                                     | (1) The club which has made the application under section 84(1);<br><br>(2) persons who have made relevant   |

|     |   |   |
|-----|---|---|
|     |   | representations as defined in section 85(5).  |
| 10. | Section 88(2) (determination of application for review of club premises certificate).   | <p>(1) The club which holds the club premises certificate in respect of which the application has been made;</p> <p>(2) persons who have made relevant representations as defined in section 88(7);</p> <p>(3) the person who has made the application under section 87(1).</p> |
| 11. | Section 105(2)(a) (counter notice following police objection to temporary event notice).  | <p>(1) The premises user;</p> <p>(2) each chief officer of police who has given notice under section 104(2).</p>  |
| 12. | Section 120(7)(a) (determination of application for grant of personal licence).   | <p>(1) The person who has made the application under section 117(1);</p> <p>(2) the chief officer of police who has given notice under section 120(5).</p>  |
| 13. | Section 121(6)(a) (determination of application for renewal of personal licence).   | <p>(1) The person who has made the application under section 117(1);</p> <p>(2) the chief officer of police who has given notice under section 121(3).</p>  |
| 14. | Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).                                     | <p>(1) The holder of the licence in respect of which the notice has been given;</p> <p>(2) the chief officer of police who has given notice under section 124(3).</p>   |
| 15. | Section 167(5)(a) (review of premises licence following closure order).   | <p>(1) The holder of the premises licence in respect of which the review has been made;</p> <p>(2) persons who have made relevant representations as defined in section 167(9).</p>   |
| 16. | Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).                              | <p>(1) The person who has made the application under paragraph 2(2) of Schedule 8;</p> <p>(2) each chief officer of police who has given notice under paragraph 3(2) or (3) of Schedule 8.</p>  |
| 17. | Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).                    | <p>(1) The club which has made the application under paragraph 14(2) of Schedule 8;</p> <p>(2) each chief officer of police who has given notice under paragraph 15(2) or (3) of Schedule 8.</p>  |
| 18. | Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence). | <p>(1) The person who has made the application under section 117 to which paragraph 23(1) of Schedule 8 applies;</p> <p>(2) the chief officer of police who has</p>   |



|  |  |   |
|--|--|---|
|  |  | given notice under paragraph 25(2) of Schedule 8. |
|--|--|---|

SCHEDULE 3

regulation 7

|    | Column 1   | Column 2   | Column 3  |
|----|--|--|---|
|    | <b>Provision under which hearing is held</b>   | <b>Person to whom notice of hearing is given</b>   | <b>Documents to accompany notice of hearing</b>                                 |
| 1. | Section 18(3)(a) (determination of application for premises licence).  | The person who has made the application under section 17(1).   | The relevant representations as defined in section 18 (6) which have been made. |
| 2. | Section 31(3)(a) (determination of application for provisional statement).   | The person who has made the application under section 29(2).   | The relevant representations as defined in section 31 (5) which have been made. |
| 3. | Section 35(3)(a) (determination of application to vary premises licence).  | The holder of the premises licence who has made the application under section 34 (1).  | The relevant representations as defined in section 35 (5) which have been made. |
| 4. | Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor). | (1) The holder of the premises licence who has made the application under section 37(1);<br><br>(2) the proposed individual as referred to in section 37(1).   | The notices which have been given under section 37(6).                          |
| 5. | Section 44(5)(a) (determination of application for transfer of premises licence).                                      | (1) The person who has made the application under section 42(1);<br><br>(2) the holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made. | The notices which have been given under section 42(6).                          |
| 6. | Section 48(3)(a) (cancellation of interim authority notice following police objection).                                | The person who has given notice under section 47(2).   | The notices which have been given under section 48(2).                          |
| 7. | Section 52(2) (determination of application for review of premises licence).   | The holder of the premises licence in respect of which the application has been made.  | The relevant representations as defined in section 52 (7) which have been made. |
| 8. |  |  |   |

|     |   |   |   |
|-----|---|---|---|
|     | Section 72(3)(a) (determination of application for club premises certificate).              | The club which has made the application under section 71(1).  | The relevant representations as defined in section 72 (7) which have been made. |
| 9.  | Section 85(3)(a) (determination of application to vary club premises certificate).          | The club which has made the application under section 84(1).  | The relevant representations as defined in section 85 (5) which have been made. |
| 10. | Section 88(2) (determination of application for review of club premises certificate).       | The club which holds the club premises certificate in respect of which the application has been made. | The relevant representations as defined in section 88 (7) which have been made. |
| 11. | Section 120(7)(a) (determination of application for grant of personal licence).             | The person who has made the application under section 117(1).   | The notice which has been given under section 120(5)                            |
| 12. | Section 121(6)(a) (determination of application for renewal of personal licence).           | The person who has made the application under section 117(1).   | The notice which has been given under section 121 (3).                          |
| 13. | Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence). | The holder of the licence in respect of which the notice has been given.                              | The notice which has been given under section 124 (3).                          |
| 14. | Section 167(5)(a) (review of premises licence following closure order).                     | The holder of the premises licence in respect of which the review has been made.                      | The relevant representations as defined in section 167(9) which have been made. |

## SCHEDULE 4

regulation 2

## Meaning of "determination"

The determination of the authority is the outcome of its consideration, as applicable, of -

1. the relevant representations as defined in section 18(6), in accordance with section 18,
2. the relevant representations as defined in section 31(5), in accordance with section 31,
3. the relevant representations as defined in section 35(5), in accordance with section 35,
4. a notice given under section 37(5), in accordance with section 39,
5. a notice given under section 42(6), in accordance with section 44,
6. a notice given under section 48(2), in accordance with section 48,
7. an application made in accordance with section 51 and any relevant representations as defined in section 52(7), in accordance with section 52,
8. the relevant representations as defined in section 72(7), in accordance with section 72,
9. the relevant representations as defined in section 85(5), in accordance with section 85,

10. an application made in accordance with section 87 and any relevant representations as defined in section 88(7), in accordance with section 88,
11. a notice given under section 104(2), in accordance with section 105,
12. a notice given under section 120(5), in accordance with section 120,
13. a notice given under section 121(3), in accordance with section 121,
14. a notice given under section 124(3), in accordance with section 124,
15. the matters referred to in section 167(5)(a), in accordance with section 167,
16. the notice given under paragraph 3(2) or (3) of Schedule 8, in accordance with its paragraph 4,
17. the notice given under paragraph 15(2) or (3) of Schedule 8, in accordance with its paragraph 16, or
18. the notice given under paragraph 25(2) of Schedule 8, in accordance with its paragraph 26.

---

#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the holding of hearings required to be held by licensing authorities under the Licensing Act 2003(c.17) ("the Act").

In particular, the Regulations provide for the timing of hearings and the notification requirements to parties to a hearing of the date, time and place of a hearing and information to accompany that notification (regulations 4, to 7 and Schedules 1, 2 and 3). In addition, provision is made for a party to a hearing to provide information to the licensing authority about attendance at a hearing, representations, the seeking of permission for another person to attend to assist the authority and whether the party believes a hearing to be necessary (regulation 8).

The Regulations provide for a range of procedural issues to govern the way in which preparations are made for a hearing, for the procedures to be followed, the rights of parties at a hearing, and various administrative matters, for example, the keeping of a record of the hearing and the manner of giving notices (regulations 9 to 33). The Regulations also make provision for the timing of the licensing authority's determination following a hearing (Schedule 4).

Insofar as these Regulations do not make provision for procedures for and at hearings, section 9 of the Act provides that the authority can determine its own procedure.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the libraries of both Houses of Parliament and copies may be obtained from the Alcohol and Entertainment Licensing Branch of the Department for Culture, Media and Sport, 3rd Floor, 2-4 Cockspur Street, London SW1Y 5DH or viewed on the Department's website, [www.culture.gov.uk](http://www.culture.gov.uk).

---

#### Notes:

[1] 2003 c.17<sup>back</sup>

---

ISBN 0 11 051611 7

## Statutory Instruments

LAWTEL

---

**STATUTORY INSTRUMENTS**

---

**2005 No. 78****LICENCES AND LICENSING****The Licensing Act 2003 (Hearings) (Amendment) Regulations  
2005**

|                               |                          |
|-------------------------------|--------------------------|
| <i>Made</i>                   | <i>20th January 2005</i> |
| <i>Laid before Parliament</i> | <i>20th January 2005</i> |
| <i>Coming into force</i>      | <i>7th February 2005</i> |

The Secretary of State, in exercise of the power conferred upon her by sections 183(1) of the Licensing Act 2003<sup>[1]</sup>, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Licensing Act 2003 (Hearings) (Amendment) Regulations 2005 and shall come into force on 7th February 2005.

**Amendment of Licensing Act 2003 (Hearings) Regulations 2005**

2. In regulation 6 (notice of hearing) of the Licensing Act 2003 (Hearings) Regulations 2005<sup>[2]</sup> there shall be added after paragraph (3) the following paragraph -

" (4) In any other case, the authority shall give the notice of hearing no later than ten working days before the day of the first day on which the hearing is to be held."

*Andrew McIntosh*  
Minister of State Department for Culture, Media and Sport

20th January 2005

---

**EXPLANATORY NOTE**

*(This note does not form part of the Regulations)*

These Regulations amend the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44)



This page is intentionally left blank