



# Licensing of Alcohol and Gambling Sub- Committee

THURSDAY 19 DECEMBER 2019 AT 2.00 PM

## DBC Council Chamber - The Forum

The Councillors listed below are requested to attend the above meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

### Membership

Councillor Mrs Bassadone  
Councillor P Hearn (Chairman)

Councillor Link

For further information, please contact Corporate and Democratic Support or 01442 228209

## AGENDA

1. **MINUTES** (Pages 2 - 11)  
To confirm the minutes from the previous meeting.
2. **APOLOGIES FOR ABSENCE**  
To receive any apologies for absence.
3. **DECLARATIONS OF INTEREST**  
To receive any declarations of interest.
4. **PREMISES LICENCE APPLICATION UNDER THE LICENSING ACT 2003** (Pages 12 - 48)
5. **PROCEDURE OF HEARING** (Pages 49 - 51)

# Agenda Item 1

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## DACORUM BOROUGH COUNCIL

### LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE

31 JULY 2019

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Present –

#### MEMBERS:

Councillors Hearn (Chairman), Bassadone and Rogers

#### OFFICERS:

Nathan March	Licensing Team Leader
Nargis Sultan	Lead Litigation Lawyer
Trudi Angel	Corporate and Democratic Support Officer (Minutes)

#### OTHER PERSONS PRESENT:

Jonathan Soden	Applicant
Christopher Pocock	Applicant
Daniel Taylor	Applicant
Neil Polden	Objector – Environmental Health Officer
Vincent Lampey	Objector – Hertfordshire Constabulary

The meeting began at 2:29 pm

#### 1. MINUTES

The minutes of the meeting held on 10 April 2019 were confirmed by the members present and then signed by the Chairman.

#### 2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

#### 3. DECLARATIONS OF INTERESTS

There were no declarations of interests.

#### 4. CONSIDERATION OF OBJECTIONS TO TEMPORARY EVENT NOTICES UNDER THE LICENSING ACT 2003

The Sub-Committee were required to consider 3 applications (reference numbers: M048830, M048831 and M048832) for Temporary Event Notices (TENS) but all for a single event, The Giving Tree Festival, which have been submitted for the following premises:

Ledgemore Farm  
Ledgemore Lane  
Great Gaddesden  
Hertfordshire

HP2 6HF

The Chairman introduced herself, the members on the sub-committee and the officers present.

The Chairman asked the members of the sub-committee to confirm that they had read the agenda. The members of the committee confirmed they had.

The Chairman asked N March if the legal requirements had been complied with and N March confirmed they had.

The Chairman asked N March if he had anything to add to the report.

N March introduced the report by highlighting the key aspects of the event that were to be considered:

“This hearing is to consider three Temporary Event Notices (TENs) submitted to the Council which were submitted by three different individuals, but all for a single event – The Giving Tree Festival.

TENs are a light touch form of licensing for ‘one off’ small events (a singular TEN can cover only 499 people, including any workers at an event). However, legally, as long as an organiser ensures that licensable activities covered by any individual TEN can be clearly demonstrated to be separated effectively, an event can be run using a combination of TENs in the way that this event has been planned. The organisers state in their TENs that the event is being run as a pilot this year, with the view to obtaining a 5 year licence should it be sustainable to do so. The Licensing Act allows for premises licences to be applied for on a time limited basis, which is an alternative way to hold a large one off event, which would allow for better regulation and promotion of the licensing objectives.

Pages 6 and 7 detail the full permissions applied for in relation to this event, but in summary 2 TENs have been submitted to allow regulated entertainment in the form of live and recorded music between 2pm and 4am in the morning on 30<sup>th</sup> August, and from 12pm on the 31<sup>st</sup> August until 4am on 2<sup>nd</sup> September. The third TEN allows for alcohol sales between 2pm and 1am on 30<sup>th</sup> and 31<sup>st</sup> August, and from 12pm on 31<sup>st</sup> August to 2am on 2<sup>nd</sup> September. The bar has been submitted as an on and off licence, meaning that alcohol purchased there can be taken away from the area covered by that TEN, and taken elsewhere (including the other areas covered by the TENs for music.

Objections have been received by The Council’s Environment and Community Protection department (page 41, Annex C1) to all of the TENs as it has concerns that permitting the each of the events is likely to lead to public nuisance, as well as public safety risks. One of the key concerns is the access to the site which is only by Ledgemore Lane – a single track road meaning significant concern in relation to access by emergency vehicles especially at times of high traffic, or should an incident such as a break-down occur. In addition to this, public nuisance is another significant concern in relation to both the regulated entertainment and the sale of alcohol.

The Police have also objected to one of the TENs (covering the small stage), however, the reason for only objecting to one of the TENs is clearly an administration error as a result of the way that the TENs were submitted, and it is clear that the intention of the Police was to

object to all three TENs. Objectors are required to submit their objection to the submitter (applicant i.e. the person who gave the notice) as well as to the Licensing Authority. The Police were under the impression that there was a lead organiser who they submitted the objection to, however, as stated earlier two of the TENs were in fact submitted by other individuals and therefore only one objection was made correctly.

The authority can issue a counter notice for any or all of the events that TENs have been submitted for which would prevent an event taking place, if it considers it appropriate to do so for the promotion of the licensing objectives, as a result of consideration of the objections that have been received.

Alternatively, the Authority can decide not to issue a counter notice for some or all of the events, permitting these to go events to go ahead.

The site does not benefit from any permissions by way of a premises licence, and therefore it is not possible to consider adding conditions to any or all of the TENs. Whilst the Committee has received a number of late submissions from the event organisers and can have regard to these to understand what is in place to manage the event, it is important to recognise that as no conditions can be added to the TENs should they not be issued counter notices, the Licensing Authority will have no enforcement powers in regards to ensuring that the submitted management plans are adhered to.

In arriving at its decisions, the committee should consider the potential impact of each TEN in terms of the Public Nuisance objective and the licensable activities, matters of Planning or other issues which cannot be connected to the licensable activities which the TENs are proposing should not be considered.

However, Dacorum's local policy in regards to Licensing does make it clear that public nuisance will be interpreted in a wide sense, meaning that issues of noise, vibration, light, litter etc. connected to the provision of licensable activities will be considered."

Councillor Bassadone asked if the premises had been used for events previously. N March replied no, not to his knowledge.

The Chairman noted that some papers had been submitted at very short notice and that those papers may not have been read as thoroughly due to lack of time. She asked the Applicants to summarise the changes since the original paperwork was distributed. Mr Soden said their proposals had come back twice from two departments and they had made resolutions which were detailed on page 13. He summarised the following changes:

- They had since provided the details for the artists that would be performing over the weekend.
- He advised that they put references back in to all the technical data that they already submitted with regards to the concerns of bass noise and their ability to control the bass sounds, and sound engineers would be monitoring the bass levels throughout the event to address noise pollution.
- With regards to the bar space and bar set up, it was designed to be managed by stewards and security teams.
- He confirmed there was a typo with regards to the hay bale wall which had been corrected and would be used behind the main stage to baffle noise.
- He said there had been updates on their search policy which was detailed under 8.5 in the paperwork.

- He said although having a paramedic on site was not necessary they have chosen to have one there.
- He advised there was a schedule of the security staff under 8.1 in the paperwork.
- He said they would be doing everything they could to restrict guests leaving the premises with open alcohol.
- He advised that their ASB Policy had been updated and could be found under 8.6 of the paperwork.

Mr Soden then ran through the proposed traffic management plan. N March asked if permission had been granted for these proposals. Mr Soden advised that they would seek permission and apply for the relevant permits if the committee grant the application.

Councillor Bassadone asked if there were residential properties near the Farm. Mr Soden confirmed there were. Councillor Bassadone asked what provisions they were putting in place for those residents. Mr Soden explained that they were restricting access to the event and they had notified the closest residents of their proposals. He said they weren't expecting more than 100 vehicles to be on site at any one time, and they were also offering a free shuttle service that will run every hour from Hemel Hempstead train station and will hold up to 15 people.

The Chairman asked if they were confident that Ledgemore Lane would cope with the traffic. Mr Soden explained that people were only expected to arrive and leave once; they expect a third of people to arrive on Friday between 4-8pm and the remaining two thirds to arrive on Saturday morning. He said the tickets for campervans would be pre-sold so they will know how many will be arriving. The arrivals of staff and performers would be before the event opened. He said they would be limiting the amount of vehicles using the lane as much as possible.

Councillor Rogers asked what experience the applicants had. Mr Soden said he had been in the industry for 15 years and runs a company called ELF Events which was a design and production company. He said he had run parties and club nights in the UK before and they had hosted stages at festivals so they were familiar with the plans and procedures.

Councillor Rogers asked if there would be any children allowed. Mr Soden replied it was strictly adults only over the age of 18 years. He said they were targeting an older audience and they had selected an older generation of performers.

Councillor Rogers asked if 24 hour management was for the whole event and Mr Soden confirmed it was. Mr Pocock advised that there would be security and medical help on site 24 hours per day and either he or his deputy would be present for the whole event.

The Chairman asked how many tickets they were planning on issuing. Mr Soden replied they were capping the tickets at 500 and were allowing up to 200 staff which included performers, the production team, studio team and security teams, bringing the total to 700 people. He felt it was unlikely that they would reach 500 ticket sales but they were hoping for 50%.

Councillor Bassadone queried the toilet facilities available. Mr Soden advised there would be 20 toilets on site, one of which will have disabled access.

The Chairman invited the objectors to make their submissions to the sub-committee.

Neil Polden, Environmental Health Officer, made the following statement in objection:

“Our concerns predominantly cover the public nuisance objective due to noise from the event. This proposes regulated entertainment, i.e. music, spanning 14 hours on the 30<sup>th</sup> August, 12 hours on the 31<sup>st</sup> August and 6 hours on the 1<sup>st</sup> September.

This covers:

- Friday in Saturday
- Saturday into Sunday, and
- Sunday into Monday

The terminal hour for music is 4:00am Friday (i.e. early hours of Saturday morning) and then Music will take place between 1pm Saturday, and 2:00am Sunday (i.e. early hours of Monday morning). These hours significantly intrude into times when people would reasonably expect to be sleeping.

Other issues raised is the lack of detailed information submitted by the applicant when taking into account the size, scale and location of the event. They have now submitted an event safety management plan which addresses some of these concerns, but still does not go far enough.

The problem arising from the TEN process is that an event made in this way cannot be rendered acceptable by condition. The option available to the committee is to either approve or reject the application.

We received an event management plan Monday (29<sup>th</sup> July), despite objection being lodged on the 22<sup>nd</sup> July. This has given limited time to the ECP team to review this submission.

However I will take you to relevant sections of the management plan to explain why I still have concerns on public nuisance and safety grounds.

Noise from the event is covered under:

- 3.13 Sound systems
- 3.14 Noise pollution and noise reduction measures
- 3.15 neighbours and locals
- 10.3 noise and vibration

My concern is that the management plan gives limited indication of likely noise intrusion off-site. In addressing noise the applicant has replicated manufacturer / supplier information for equipment, but with no indication as to how the sound system will perform in the event environment and to what degree it can eliminate noise. They have proposed a hay bale to baffle behind the main stage, but this stage is directed towards the nearest residents and so protection behind the stage is likely to be of limited benefit. The performance of the baffle is unknown when having regard to likely sound levels produced at site, which is also limited.

A similar argument can also be made for the hoarding, for which no dimensions are specified and whether this will be a continuous barrier.

There are no clear plans regarding the orientation of the 2<sup>nd</sup> stage and in which direction the speakers are facing.

At section 10.3 this states the speaker system will be monitored to comply with levels at 64db @ 64m and 58dB at 128m. The sound levels are poorly defined and how these have been calculated. It doesn't specify how sound levels will be measured and where monitoring positions will be located in relation to residential receptors.

The sound levels also lack a time interval which is necessary for measurement of sound, and how it will be measured, and whether persons undertaking measurement are qualified.

The application site has not considered the quiet rural locality which will experience low background levels, and which should factor into the consideration of noise especially at night. Residents are unlikely to be able to sleep and due to hours sought can result in significant intrusion. (500m 46dB and 800m 42dB). This doesn't account for the influence of bass and wind direction that can lead to amplification of sound at distances between 500m and 1km.

There is also no provision for handling of complaints by the public and how the event will address these.

My own experience of providing monitoring at concerts and investigating noise complaints is that music will be audible at far distances. I have monitored concerts where music is readily noticeable at distances of 600–700m to 1km. These will be events that play music.

There is also an issue of crowd noise which will form part of an event, noting attendance of 700 limit per day. This is a considerable area source which will result in noise off-site. Recent monitoring of an outdoor venue noted crowd noise at distances between 400–500m.

Referring to section 3.14; the organisers advise approaching local residents at 200m. They have been made aware of running times and a monetary compensation offered. We are aware that this offer was made on the 27<sup>th</sup> July after the TEN was submitted.

We have since received complaint from one of those residents who has concerns over the disturbance and that their daughter will be starting back at school the Monday when the event takes place.

The following statements are made in the letter by the organiser:

'The proximity to your residence will result in you being disturbed, even if only in a minor capacity' – a point I dispute if you consider the projected noise levels near to site.

'As a gesture of good will we would like to offer both residences £500 each, in return for a signed agreement that you are aware and accept some disruption to your daily life will happen during this weekend'.

This statement by the event organiser implies the event will give rise to public nuisance affecting at least the most immediate neighbours. The offer does not appear to have been accepted and is made late in the day. Agreement of local residents should have been addressed before making the application.

The Manor house appears closed for renovation, but no evidence provided by the applicant when work will be completed and if anyone is living elsewhere on the grounds or in temporary accommodation.

Noise from build and break is also not covered and hours when this will take place – We cannot condition the hours the site construction and deconstruction will occur over.

My opinion is based on hours and nature of the event that nuisance to the public will be caused on noise grounds.

Public Safety:

If I refer you to section 9 covering traffic management; Ledgemore Lane is a narrow single track lane with a number of passing points along its length. The width of the lane does vary at different points.

Section 9.3 suggests if a one-way system is passed. This implies the relevant road traffic orders are not in place to deal with site access. If there is no one-way system in place and given potential visitor numbers to site I am concerned how emergency vehicles may access and also blocking of the lane due to vehicles trying to pass.

The site provides detail that parking for 100 cars is available. There is no information detailed how this is communicated to the public and how people will ensure they do not all arrive by car, for example pre-paid parking.

If the public are not made aware will this result in vehicles being left on passing points on the lane or being parked in nearby villages where limited parking may be available. If people have to walk into site, and noting Ledgemore Lane is narrow, how will the operators ensure that traffic and pedestrians are adequately separated when taking into account 700 people at site?

I note the shuttle bus will deal with the provision, but only for customers coming from London, s9.1. What about guests not arriving from London and has the event considered guests from other areas. Do they know where people will be arriving from and is this publicised?

The application and supporting management plan hasn't addressed these points and hence my concerns on public safety grounds."

The Chairman invited the sub-committee to ask the officer questions if they had any.

Councillor Rogers asked what sound levels were expected at an event like this. N Polden replied that was subject to locality but they would look at how much the sound emerges above background noise. In a quiet rural location they would expect as low as 20-30 decibels, so with the indication that the event would measure 50-60 decibels that is a substantial increase and would become intrusive to residents.

Councillor Rogers asked if the sound would likely be heard if residents kept their windows closed. N Polden replied it would be reasonable to expect residents to have their windows open at this time of year and if they were forced to close their windows and modify their usual behaviours then it would be unreasonable intrusion.

The Chairman invited Vincent Lampey from Hertfordshire Constabulary to raise his concerns.

V Lampey explained that when they initially received the application they had objections relating to the prevention of crime and disorder as there would be live and recorded music provided by DJ's from London and across the UK. When the Police requested further details of the performers the applicants directed them to the website but the information provided was insufficient. He advised that he had emailed the applicants yesterday to ask precisely for the background of the performers and their following so they can get an idea of any issues they may bring, instead they received a list of 37 confirmed performers/DJs and their names and date of birth which wasn't what they asked for. Therefore the concern remained.

With regards to public safety, he acknowledged the transport being provided to and from the train station but remained concerned that individuals may choose to walk down the lane which is unlit and could also be intoxicated causing them to be a danger to themselves and others.

In regards to public nuisance, they have received calls from two residents that are unhappy with the event and feel that the compensation letter was a bribe. He said he had seen a copy of that letter and wouldn't say it was a bribe, however he hadn't seen the agreement the residents would have to sign in order to receive the money offered as compensation.

Councillor Rogers asked what significant impact not having the background checks would have. V Lampey advised the nature of the music could have a gang or criminal following which they have seen at other events in Hertfordshire and the impact could be detrimental.

Mr Soden said he was concerned about sharing other people's personal information and felt it would be in breach of GDPR. V Lampey replied they were only asking what background checks the applicants had done to ensure the performers weren't going to bring any problems along with them. Mr Soden explained he had selected the Acts and was fully aware of all of them. He felt 100% sure that there would not be any violence related to this genre of music.

Mr Soden referred to the public safety concern raised by V Lampey and explained that due to the distance from the train station and the locality of the event, it would be unlikely that individuals would be walking there. They will also have Marshalls and security guards there to stop people leaving the event and wandering down the lane. He added that the tickets would be pre-sold so no one without a ticket would be allowed to enter or buy tickets at the entrance.

N March said from his experience in licensing it was quite common for people to leave by foot and later get picked up by a taxi so he didn't feel that the distance from the train station would prevent pedestrian traffic down the lane.

Mr Pocock referred to the point of compensation for residents. He explained that they were trying to engage with residents and invite them to raise their concerns. The intention was to raise a dialogue and not to bribe anyone.

Mr Pocock moved on to the concerns about noise and explained that it was targeted sound and the bass would be minimised which makes a considerable difference. He then advised that they had sat in the area during the day to monitor the sound with a sound meter and that measured around 60 decibels. He added that it peaked at 85 decibels when a plane flew over.

N Polden asked how long they had sat in the area for. Mr Pocock replied one hour. N Polden felt one hour wasn't really long enough to produce a reasonable predication, and that also didn't cover the early hours of the morning when the event would still be ongoing.

Mr Pocock advised that no one was currently living at the Manor house and they could get that in writing if required. With regards to the one-way system, they would advise the Emergency Services so they were aware. He suggested that the traffic on Ledgemore Lane would be limited to small windows and that traffic would be monitored by stewards via radio communication.

Councillor Rogers asked how the customers would be identified. Mr Pocock advised that they would be using wristbands. Mr Soden then explained that tickets were sold through an online ticket sale website and the barcode on the confirmation would be scanned on paper or on a mobile phone at the entrance. Mr Taylor added that the scanner would identify if someone tried to scan the same barcode more than once.

There were no further questions.

The meeting was adjourned at 3:35 pm

The meeting reconvened at 4:55 pm

#### Decision

An application has been made for 3 Temporary Event Notices submitted by three different individuals all for one single event namely The Giving Tree Festival to be held in the field adjacent to Ledgemore Farm on the 30 August until 2 September 2019 in accordance with Part 5 of the Licensing Act 2003.

The Committee notes the background to this matter from the officer's report. Upon the hearing, all the submissions from the applicants and other responsible parties; the Police and Environmental Health, the committee have resolved not to issue a counter notice and to allow the event to take place as proposed.

In reaching this decision the committee has considered the licensing officer's report which contained details of the application, the submissions from the applicants and the responsible authorities. Each will be dealt with in turn.

In the case of the applicants, the committee have heard that the senior events and production manager has 15 years' experience in events management. The applicant maintains that the event will be satisfactorily managed by 200 staff excluding the 41 performers. There will be staff manning the various points around the site, in particular the entrance to the event. There is also a holding area for minibuses and taxi's so this does not congest the entrance points. There will also be paramedics on site and the event organiser will personally be on site should there be any issues. They also say they have records of people attending the site who will receive security wristbands so that those without tickets will not be permitted. We note that this event will be for adults only beyond the age of 18 years. Furthermore alcohol will only be available in times of operation and will not be allowed outside of the event grounds. They reassured the committee that sound levels will be managed accordingly and that they have provisions in place to manage this.

The committee had further objections from the Police who had raised concerns in relation to potential crime and disorder, public nuisance and public safety, objecting to all three of the TEN's. The Police were concerned about not having the opportunity to carry out sufficient background checks of the performers, however the applicants promised the committee that the performers have been checked by the event organisers. In regards to public nuisance the Police's concerns were the same as Environmental Health's in the attached email dated 22 July 2019 which forms part of the licensing officer's report. Furthermore, although there is now an event management plan the Police are still not satisfied that it meets their concerns.

The committee have also heard from Environmental Health who have raised concerns about public nuisance and public safety. Their concern relates to the public nuisance but they also have concerns regarding the proposed site and the access via Ledgemore Lane which is a single track road. In particular they have concerns regarding vehicles accessing the site including emergency vehicles, particularly at times when there is traffic or a vehicle breakdown. Their concerns are that a single track access is not sufficient for an event with a capacity of approximately 700 people. There are approximately three residential properties (one not occupied) between 200-800 metres from the site. The location is one of a rural nature and likely to experience low background levels. Therefore regulated entertainment will be considered as a source of loud music and something which is a stark contrast of environment and expectation of persons living in the location. Regulated entertainment is also specified until 4.00 am and therefore they have concerns that prolonged interference will be likely to disturb residents.

#### Conclusion

Taking into account all the submissions provided to this committee today, the committee has resolved to allow applications for the three TEN's licences.

The meeting ended at 5.02 pm.

# Agenda Item 4



## AGENDA ITEM: 4

Report for:	Licensing of Alcohol and Gambling Sub-Committee
Date of meeting:	19 December 2019
PART:	I
If Part II, reason:	-

Title of report:	<b>Premises Licence application under the Licensing Act 2003</b>
Contact:	Sally McDonald, Lead Licensing Officer, Licensing, Corporate and Contracted Services
Purpose of report:	This report sets out details of an application in respect of a premises licence, which requires consideration and determination by the Sub-Committee in accordance with the adopted scheme of delegation.
Recommendations	That the Sub-Committee consider the contents of the report, and the representation made in respect of the application, and determine the application in accordance with the options set out below.
Corporate objectives:	<p>Safe and Clean Environment</p> <ul style="list-style-type: none"> <li>Applications are required to be considered with regard to the promotion of four licensing objectives, comprising the prevention of crime and disorder, public safety, prevention of public nuisance, and protection of children from harm.</li> </ul> <p>Dacorum Delivers</p> <ul style="list-style-type: none"> <li>Consideration of applications for premises licences and club premises certificates is a statutory function, with a risk of judicial proceedings and reputational damage should the authority fail to properly exercise its functions.</li> </ul>
Implications:	Application to be determined under existing policies. No new policy implications arise.
Consultees:	Consultation requirements are prescribed by legislation, and differ depending upon the type of application. Details of representations made by consultees are set out in the appendix to this report.

Background papers:	Licensing Act 2003, and associated regulations <a href="#">DBC Statement of Licensing Policy 2016-2021</a> <a href="#">Guidance to Licensing Authorities under section 182 of the Licensing Act 2003</a> (Home Office, April 2018)
Glossary of acronyms and any other abbreviations used in this report:	

## 1. Background

- 1.1. The supply of alcohol, provision of regulated entertainment, and sale of late night refreshment are licensable activities under the Licensing Act 2003. Authorisation from the Council, in its role as the licensing authority, is required in order to carry on any of these activities at premises within the borough.
- 1.2. The Act provides several forms of authorisation for different scenarios. Persons or organisations wishing to carry on activities at premises on a regular basis, or at larger one-off events, will require a premises licence to authorise those activities. Members' clubs, satisfying a number of statutory criteria, may alternatively hold a club premises certificate.
- 1.3. Under the scheme of delegation adopted by the Council, the Licensing of Alcohol & Gambling Sub-Committee ("the Sub-Committee") is responsible for the exercise of many of the functions of the licensing authority, including determination of applications where representations have been received.

## 2. Applications

- 2.1. The application detailed in part 5 of this report has been made to the licensing authority and requires consideration and determination by the Sub-Committee.
- 2.2. Notice of application was given by the applicant in each case, through service of a copy of the application on specified 'responsible authorities' (this obligation is fulfilled by officers where the application was given electronically). The applicant was also required to give public notice of the application, by way of publication of details in a local newspaper, and by displaying a statutory notice at or near the premises. Failure to comply with these requirements would render an application invalid. Officers have undertaken checks to ensure that these requirements were satisfied.
- 2.3. The applicant and persons making representations have been given notice of the hearing in accordance with statutory requirements.

## 3. General principles to be followed when determining applications

- 3.1. When considering applications, the licensing authority is required to carry out its functions with a view promoting the licensing objectives, which are:

- the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 3.2. The licensing authority must also have regard to its Statement of Licensing Policy, and to the statutory guidance issued by the Home Office under section 182 of the Act. Attention is drawn to specific, relevant provisions from these documents, with the details of the applications in the Appendices.
- 3.3. The Sub-Committee must ensure that all licensing decisions have a direct relationship to the promotion of one or more of the licensing objectives. Every application should be considered on its merits, and there must not be a 'blanket policy' to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded. Applications must be considered with regard to the principles of fair process and the Human Rights Act.
- 3.4. The Statement of Licensing Policy makes clear to applicants and persons who have made representations the considerations that will be taken into account when determining applications. It is also intended to guide the Sub-Committee when considering licensing applications; however, the Sub-Committee may depart from either the Statement of Licensing Policy or the statutory guidance where the circumstances of the application justify it and if there are good reasons for doing so. Full reasons must be given and Sub-Committees should be aware that such departures could give rise to an appeal or judicial review.
- 3.5. The provisions of chapter 10 of the statutory guidance highlight that only precise, necessary and proportionate conditions, which promote one or more of the licensing objectives, should be attached to the licence or certificate. The Sub-Committee should only impose such conditions as are appropriate to promote the licensing objectives arising out of the consideration of the representations received, and should avoid straying into undisputed areas. Conditions duplicating other statutory provisions are not considered to be appropriate.
- 3.6. It is considered inappropriate for officers involved in the administration of applications to make recommendations. However officers from the Responsible Authorities may request conditions be imposed on a licence and make recommendations with regard to the licensing objectives.
- 3.7. Parties to a hearing, including the applicant and persons who made relevant representations, may have rights of appeal against any decision made by the Sub-Committee, dependent upon the nature of the decision. Appeals may be instituted by way of written notice to a Magistrates Court, within 21 days of being notified of the decision.

#### **4. Options available to the Sub-Committee**

- 4.1. While considering an application for the variation of an existing licence, only the proposed variation may be considered. No changes can be made to a licence or the conditions attached unless they are (part of) the subject of the variation application.

4.2. When determining an application for the variation of a premises licence (under section 34), the Sub-Committee must, having regard to relevant representations made in respect of that application, take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- (a) modify the conditions of the licence (by way of alteration, omission or addition);
- (b) reject the whole or part of the application.

If neither of these steps are to be taken the application shall be granted.

## 5. Details of application

5.1. The following application requires consideration and determination by the Sub-Committee. Further details on each application are contained in the indicated appendix:

Appendix	Premises name / address	Type of application
A	Cedar, Church Road, Potten End, Berkhamsted, Herts HP4 2QY	Variation of premises licence (s.34 Licensing Act 2003)

5.2. Local policy considerations and national guidance relevant to both applications can be found at Annex E within this appendix.

**CEDAR, CHURCH ROAD, POTTEN END,  
BERKHAMSTED, HERTFORDSHIRE: HP4 2QY**

**APPENDIX A**

**APPLICATION TO VARY PREMISES LICENCE UNDER  
S.34 OF THE LICENSING ACT 2003**

**Applicants name** F. J. Enterprises Limited

**Name and address of premises** Hardy House  
Northbridge Road  
Berkhamsted  
Hertfordshire  
HP4 1EF

**Ward** Ashridge

**1. Current Licence**

1.1 The premises is subject to a current premises licence DAC 32409 granted in 2013.

1.2 The current licence authorises the following activities:

Sale by retail of alcohol for consumption off the premises  
Monday to Sunday 07.00 until 21.30

Hours premises currently open to the public  
Monday to Sunday 07.00 until 21.30

The current licence is attached to this report at Annex A.

1.3 The premises licence was subject to a minor variation in November 2018 to submit amended plans for the layout of the premises, in line with the creation of a café/coffee shop to the rear of the retail area of the shop, following the grant of planning permission in July 2018.

**2. Application**

2.1 The initial variation application sought the following:

Sale by retail of alcohol for consumption both on and off the premises  
Monday to Saturday 07:00 until 19:00  
Sunday 08:00 until 16:00

The applicant explained in the application that they wished to serve alcohol such as wine and cocktails to the customers in the café between noon and closing time.

The variation application is attached to this report at Annex B.

A site plan of the area is attached at Annex C.

### **3. Details of Representation**

- 3.1 One representation was received during the consultation period, from an individual running a business in the local area. Though several areas of the representation were not deemed to be related to the licensing objectives, the objector did have some valid concerns, particularly relating to public nuisance and the protection of children from harm. The objector also raised a point of clarification about the hours proposed for on-sales. This representation is set out at Annex D1.
- 3.2 The applicant was invited to address the concerns raised by the applicant, and these are set out at Annex D2.
- 3.3 As a result of questions raised in the representation about the proposed hours and concerns in respect of the capacity of the premises, the applicants submitted an amendment to the application to add a condition to the application operating schedule as follows:
- ‘To allow on premises consumption of alcohol to seated customers only and between the hours of 12:00 and 17:00 Monday to Saturday and between the hours of 12:00 and 16:00 on Sundays and public holidays.’
- Written confirmation of the amendment from the applicant is attached at Annex D3.
- 3.4 The objector responded by confirming that he still had concerns. Face to face mediation to discuss the concerns further was offered, and agreed by the applicant, but declined by the objector. The objector’s e-mail is attached at Annex D4.
- 3.5 No representations were received from any responsible authorities.
- 3.6 There is no history of problems or disorder at this premises.
- 3.7 Local Policy considerations and National Guidance are set out at Annex E

**ANNEX A**

**Cedar, Church Road Berkhamsted Herts – current premises licence**

 <b>BOROUGH COUNCIL</b>	<b>Licensing Act 2003</b> <b>Premises Licence</b>		
Premises Licence Number:	<b>DAC 32409</b>	Version reference:	<b>047065</b>
		Date issued:	<b>8 November 2018</b>
<b>Part 1 – Premises Details</b>			
<b>Postal address of premises including Post Town &amp; Post Code, or if none, ordnance survey map reference or description</b>			
Cedar Church Road Potten End Berkhamsted Hertfordshire HP4 2QY			
<b>Telephone number</b>			
<b>Where the licence is time limited the dates</b>			
Not applicable			
<b>Licensable activities authorised by the licence</b>			
Sale by retail of alcohol			
<b>The times the licence authorises the carrying out of licensable activities</b>			
<b><u>Sale by retail of alcohol</u></b> For consumption off the premises only			
Monday to Sunday      07.00 until 21.30			
<b><u>The opening hours of the premises</u></b>			
Monday to Sunday      07.00 until 21.30			
<b>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</b>			
Sale of alcohol authorised for consumption off the premises			
<small>Dacorum Borough Council, The Forum, Marlowes, Hemel Hempstead HP1 1DN Tel. 01442 228000 Email: licensing@dacorum.gov.uk www.dacorum.gov.uk/licensing</small>			

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

F.J. Enterprises Ltd  
Hardy House  
Northbridge Road  
Berkhamsted  
Hertfordshire  
HP4 1EF

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

11280048

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

(Details redacted)

Telephone number:

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

Licence number: DAC xxxxxxxx

Issuing authority: Dacorum

Signed:

Nathan March – Licensing Team Leader

Date issued:

8 November 2018

On behalf of: **Mark Brookes**  
**Solicitor to the Council**

**NOTES**

This licence is issued subject to the provisions of the Licensing Act 2003 and is subject to compliance with the conditions in the following Annexes.

Possession of this document does not guarantee that the licence remains in force, nor does it imply that the premises are fit for use. Validity and current status of the licence may be confirmed by reference to the Council's Licensing officers.

## Annex 1: Mandatory Conditions

### Condition A1.

No supply of alcohol may be made under this licence:

- a) At a time when there is no designated premises supervisor in respect of the premises licence; or
- b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

### Condition A2.

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

### Condition A4.

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

### Condition A7.

- (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- (2) In this condition:—
  - (a) “permitted price” is the price found by applying the formula  $P = D + (D \times V)$ , where—
    - (i) P is the permitted price,
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.
- (4) Where the permitted price on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

*In the above conditions, ‘responsible person’ means the holder of the Premises Licence, the Designated Premises Supervisor, or any other person over the age of 18 years who has been authorised to sell alcohol at the licensed premises.*

## Annex 2: Conditions consistent with the Operating Schedule

### THE PREVENTION OF CRIME AND DISORDER

The digital closed circuit television system shall be compatible with the requirements of Hertfordshire Constabulary. All entry and exit points will be covered to enable frontal identification of every person entering the premises in any light condition.

The CCTV system shall continuously record whilst the premises is open for licensable activities and during times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of the DPS by Police or authorised officer throughout the preceding 31 day period.

A staff member from the premises who is knowledgeable with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member must be able to show a Police or authorised offer recent date or footage with absolute minimum of delay when requested.

### PUBLIC SAFETY

The Licence Holder shall ensure that the premises is never over crowded. In the event of an accident inside or outside the premises medical help will be called upon immediately and relevant authorities informed.

### THE PREVENTION OF PUBLIC NUISANCE

Adequate parking facilities shall be made available. The Licence holder will ensure that all rubbish is kept away from the public.

### THE PROTECTION OF CHILDREN FROM HARM

The licence holder will adhere to the Challenge 21 protocol, seeking identification from everyone who appears to be under 21, to prove they are 18 years of age, prior to the sale of alcohol.

Convincing evidence is:

- A passport with photograph
- A photo driving licence
- A proof of age card with the holders photograph complying with the PASS approved identification scheme and bearing the PASS hologram.

A refusal book is to be maintained and staff are required to complete it when sales are refused to persons under the age of 18 years, or to those who fail to provide sufficient evidence of their age. The refusals book must be regularly checked, signed and dated by the Designated Premises Supervisor and made available to any visiting enforcement office on request.

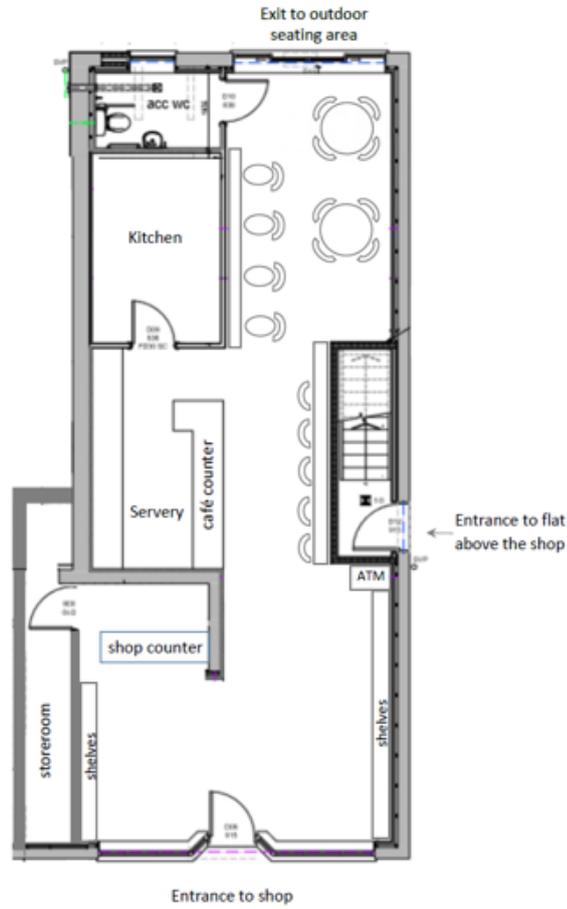
In addition to any other training all staff are to be trained to maintain the refusals book and monitored to ensure their training is put into practice. A written record is to be kept of all staff training.

Ensure all electronic tills automatically prompt the seller to check the age of the buyer when alcohol products are entered for sale into the till.

## Annex 3: Conditions attached after a hearing by the licensing authority

N/A

**Annex 4: Plans**



## ANNEX B Application to vary premises licence



**Dacorum**  
Application to vary a premises licence  
Licensing Act 2003

For help contact  
[licensing@dacorum.gov.uk](mailto:licensing@dacorum.gov.uk)  
Telephone: 01442 228000

\* required information

Section 1 of 18	
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	<input style="width: 100%;" type="text" value="Not Currently In Use"/> <span style="font-size: small; margin-left: 10px;">This is the unique reference for this application generated by the system.</span>
Your reference	<input style="width: 100%;" type="text" value="License change to include on prem consumption"/> <span style="font-size: small; margin-left: 10px;">You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.</span>
Are you an agent acting on behalf of the applicant?	Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.
<input type="radio"/> Yes <input checked="" type="radio"/> No	
<b>Applicant Details</b>	
* First name	<input style="width: 100%;" type="text" value="Suk Yee"/>
* Family name	<input style="width: 100%;" type="text" value="Cheng"/>
* E-mail	<input style="width: 100%;" type="text" value="potten.end.village.store@gmail.com"/>
Main telephone number	<input style="width: 100%;" type="text" value="REDACTED"/> <span style="font-size: small; margin-left: 10px;">Include country code.</span>
Other telephone number	<input style="width: 100%;" type="text"/>
<input type="checkbox"/> Indicate here if you would prefer not to be contacted by telephone	
Are you:	
<input checked="" type="radio"/> Applying as a business or organisation, including as a sole trader	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.
<input type="radio"/> Applying as an individual	
<b>Applicant Business</b>	
Is your business registered in the UK with Companies House?	<input checked="" type="radio"/> Yes <input type="radio"/> No <span style="font-size: small; margin-left: 20px;">Note: completing the Applicant Business section is optional in this form.</span>
Registration number	<input style="width: 100%;" type="text" value="11280048"/>
Business name	<input style="width: 100%;" type="text" value="FJ ENTERPRISES LIMITED"/> <span style="font-size: small; margin-left: 10px;">If your business is registered, use its registered name.</span>
VAT number	<input style="width: 30px;" type="text" value="GB"/> <input style="width: 100px;" type="text" value="330314847"/> <span style="font-size: small; margin-left: 10px;">Put "none" if you are not registered for VAT.</span>
Legal status	<input style="width: 100%;" type="text" value="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 18**

**APPLICATION DETAILS**

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

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

\* Premises Licence Number

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

**Premises Contact Details**

Telephone number

Continued from previous page...

Non-domestic rateable value of premises (£)

**Section 3 of 18**

**VARIATION**

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

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?  Yes  No

You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.

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

**Describe Briefly The Nature Of The Proposed Variation**

Describe 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.

The proposed variation is so that customers can choose to purchase beer in the village store and drink it in the coffee shop. It is also so that the coffee shop can serve glasses of wine or cocktails (for on premise consumption in the coffee shop) between noon and closing time.

**Section 4 of 18**

**PROVISION OF PLAYS**

[See guidance on regulated entertainment](#)

Will the schedule to provide plays be subject to change if this application to vary is successful?  Yes  No

**Section 5 of 18**

**PROVISION OF FILMS**

[See guidance on regulated entertainment](#)

Will the schedule to provide films be subject to change if this application to vary is successful?  Yes  No

**Section 6 of 18**

**PROVISION OF INDOOR SPORTING EVENTS**

<i>Continued from previous page...</i>	<a href="#">See guidance on regulated entertainment</a>
<p>Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes                      <input checked="" type="radio"/> No</p>	
<b>Section 7 of 18</b>	
<b>PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS</b>	
<p><a href="#">See guidance on regulated entertainment</a></p> <p>Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes                      <input checked="" type="radio"/> No</p>	
<b>Section 8 of 18</b>	
<b>PROVISION OF LIVE MUSIC</b>	
<p><a href="#">See guidance on regulated entertainment</a></p> <p>Will the schedule to provide live music be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes                      <input checked="" type="radio"/> No</p>	
<b>Section 9 of 18</b>	
<b>PROVISION OF RECORDED MUSIC</b>	
<p><a href="#">See guidance on regulated entertainment</a></p> <p>Will the schedule to provide recorded music be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes                      <input checked="" type="radio"/> No</p>	
<b>Section 10 of 18</b>	
<b>PROVISION OF PERFORMANCES OF DANCE</b>	
<p><a href="#">See guidance on regulated entertainment</a></p> <p>Will the schedule to provide performances of dance be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes                      <input checked="" type="radio"/> No</p>	
<b>Section 11 of 18</b>	
<b>PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE</b>	
<p><a href="#">See guidance on regulated entertainment</a></p> <p>Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?</p> <p><input type="radio"/> Yes                      <input checked="" type="radio"/> No</p>	
<b>Section 12 of 18</b>	
<b>PROVISION OF LATE NIGHT REFRESHMENT</b>	

Continued from previous page...

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

Yes  No

**Section 13 of 18**

**SUPPLY OF ALCOHOL**

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

Yes  No

**Standard Days And Timings**

MONDAY

Start

End

Provide 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.

Start

End

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

Continued from previous page...

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.

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, 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 14 of 18**

**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.

Provide 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.

Not applicable

**Section 15 of 18**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

MONDAY

Start

End

Start

End

TUESDAY

Start

End

Start

End

Provide 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.

*Continued from previous page...*

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

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 above, list below.

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

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

I have enclosed the premises licence

*Continued from previous page...*

I have enclosed the relevant part of the premises licence

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

**Section 16 of 18**

**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.

Cedar Village Store and Coffee Shop is primarily a village store and coffee shop and therefore the amount of alcohol that will be consumed by customers is expected to be low. In addition Potten End is a small village so the volume of customers is not expected to be very high either (<10 people drinking at any one time). The intention of this application is to enable customers to have a glass or two of wine or beer.

b) The prevention of crime and disorder

There is already CCTV deployed throughout the premises.  
Restrict alcohol sale to only those of 18yrs and above.  
Refuse sale of alcohol to anyone who appears drunk or is in anyway abusive.  
Keep all spirits behind the counter so it cannot be directly accessed by members of the public.

c) Public safety

As per b) above

d) The prevention of public nuisance

In addition to b) above, alcohol sales will cease 30mins before closing (i.e. at 6:30pm on Monday - Saturday and 3:30pm on Sundays and Public Holidays).

e) The protection of children from harm

Cedar Village Store and Coffee Shop is primarily a village store and coffee shop and therefore the amount of alcohol that will be consumed by customers is expected to be low and therefore not a threat to children.

**Section 17 of 18**

**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 18 of 18**

**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 application fees are determined by the non-domestic rateable value of the premises. You can find out the current rateable value of your premises using the Valuation Office Agency's search engine at:

<https://www.gov.uk/correct-your-business-rates>

Band A | Premises not rated, or rateable value up to £4,300

Application fee: £100.00

Band B | Rateable value between £4,301 and £33,000

Application fee: £190.00

Band C | Rateable value between £33,001 to £87,000

Application fee: £315.00

Band D | Rateable value between £87,001 to £125,000

Application fee: £450.00 #

Band E | Rateable value £125,001 or greater

Application fee: £635.00 #

# Premises in bands D or E used primarily for the consumption of alcohol on the premises are subject to fee multipliers, requiring fees of £900.00 or £1,905.00 respectively. Premises undergoing construction or redevelopment are treated as if they were in Band C for fee purposes.

Certain community premises, including church halls, chapel halls, village halls, community centres and schools and colleges, which are only licensed for entertainment and NOT alcohol or late night refreshment, may be exempt from licensing application and annual fees. Please contact us to discuss whether your premises will fall within this exemption.

Premises licences for large capacity events (i.e. more than 5,000 people attending) will require payment of an additional fee, based upon the number of people permitted to attend the event at any time. Please contact us for details of these additional fees.

\* Fee amount (£)

190.00

**DECLARATION**

• It is an offence, under section 158 of the Licensing Act 2003, to make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.

I understand that I must now advertise my application, by arranging for a public notice to be published in a local newspaper within the next 10 working days, and by displaying notices printed on blue paper at or near the premises and conveniently readable at all times for the next 28 days.

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

**Continued from previous page...**

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	<input type="text" value="Suk Yee Cheng"/>
* Capacity	<input type="text" value="Applicant"/>
* Date	<input type="text" value="24"/> / <input type="text" value="10"/> / <input type="text" value="2019"/> 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/dacorum/change-1> to upload this file and continue with your application.

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

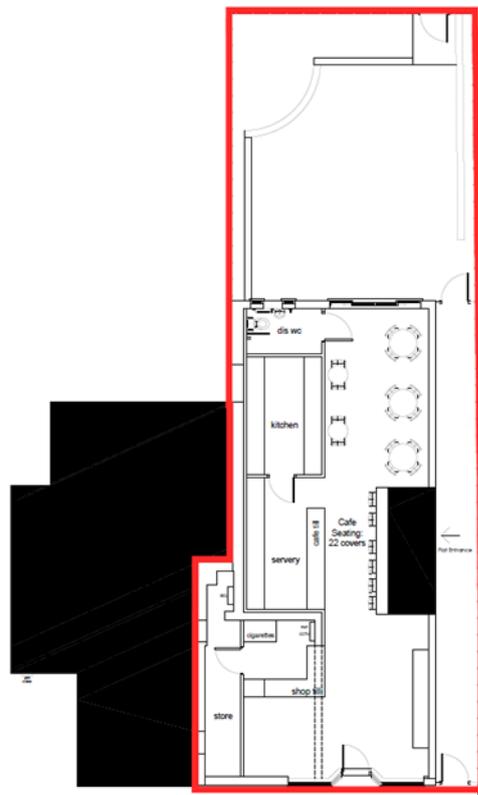
**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**OFFICE USE ONLY**

Applicant reference number	<input type="text" value="License change to include on prem consumpt"/>
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](#) [Next >](#)

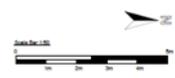
**Annex B Continued:  
Plan to accompany variation application**



Ground Floor Plan  
Scale 1:50

Schedule of Accommodation

Use	Total sqm
A1 Shop	48sqm
A1 Cafe	58sqm
<b>TOTAL FLOOR AREA</b>	<b>106sqm</b>



<b>Legal Plan</b>	
User: Mr J Rowland	
Project: The Village Store, Church Road, Pottan End, Berkhamstead	
Title: Commercial Legal Plan	
Date: 1/02/2022	Drawing Number: 19027-P-202
Scale: 1:50	Sheet: A

**ANNEX C**  
**Map of area in which premises is situated**



**ANNEX D1**  
**Representation**  
**(Note: valid points highlighted in bold text)**

**From:**  
**Sent:** 15 November 2019 10:36  
**To:** Licensing Mailbox <Licensing@dacorum.gov.uk>  
**Subject:** Licensing application representation

**Please acknowledge receipt of this email.**

**APPLICATION REF NO: MO49745**  
**PREMISES: CEDAR VILLAGE STORE AND COFFEE**  
**SHOP**

TO WHOM IT MAY CONCERN

I wish for Dacorum Council to take into consideration the below points when making its decision with respect to the above licensing application.

**1. Prevention of crime and disorder:**

Adding additional license premises always has the potential to increase local anti-social behaviour. Currently the village has two public houses wherein alcohol can be purchased on-premises, and these are well-run and well-regulated, with the opening hours well-understood and the public and police are aware of precisely what they are. A village store is far removed from that environment, and the potential for alcohol in a shop environment clearly heightens the risk of shop-lifting and other crime and disorder.

**2. Public safety:**

There are numerous issues here. First, the issue of capacity and overcrowding. **How will the store's capacity limit truly be monitored? Does that mean that village shoppers will potentially be prevented from going into the shop if there are too many people drinking inside?** This fundamentally restricts the primary purpose of the shop. Naturally, alongside this are the **increased risks of fire and accident** - in a clearly residential area - as well as a need to understand what improvements to the property will be made to accompany this additional use. **Moreover, the road outside the shop is already very busy with parked cars all along it, creating frequent traffic issues: adding in extra people often requiring car spaces coupled with alcohol consumption will only further block up that road and potentially cause public safety issues.**

**3. Prevention of public nuisance:**

A clear potential public nuisance issue here is that of noise. On-premises alcohol consumption is always accompanied by greater noise from a premises. Local residents are entitled to have limited and clearly designated areas where they have a right to peaceful enjoyment of their homes and life: this will undoubtedly be compromised by a licensed on-premises where previously there wasn't one. Moreover, the possibility now of regulated entertainment would again change the quiet enjoyment of the local residents. For example, is there any sound-proofing or sound limiter / noise regulation

being proposed here? In my opinion, there need to be an expectation beyond that of notices to be displayed at exits to remind customers to leave quietly / not block driveways and highways etc. In addition, **what are the proposed times for the emptying of rubbish bins, notably the increased glass refuse? Equally, what time will there be (bottle or barrel) deliveries? Where will extra rubbish bins and glass refuse be put? All these are real consideration that the application does not provide any solution to.**

Further issues which need careful consideration include the potential for increased light pollution to local residents. This will become real if the store seeks to extend their opening hours further into the evening, and thereby be serving alcoholic drinks in the evening. This seems to be a likely next step in the store's evolution here. In addition, given this seems to be part of a push towards an increased food and beverage offering at the village shop, **the impact of an increase in odours from the kitchen out into the local vicinity also needs to be carefully considered and planned for - this links into the upgrading of any ventilation systems that the premises might require.**

Finally, what is the proposed provision for an outdoor smoking area that will undoubtedly be required if the premises is now to serve alcohol? Is this to be directly outside, which is also immediately opposite the local school. That does not feel like an appropriate place for the village community, also being the entrance to the village shop. Many shoppers could find that an intimidating situation. Walking through a smoking area to access your village shop doesn't feel an appropriate or safe situation.

#### **4. Protection of children from harm:**

The proximity of the local school - directly opposite and in the direct line of sight and where many children walk past - makes this a critical point for consideration. Moreover, presumably the store is also where many children go in before and after school (it stocks lots of sweets and snacks!). The Council naturally is fully aware of its responsibility to protect children from moral, psychological and physical harm including early exposure to: strong language, sexual expletives, adult entertainment, drinking alcohol, gambling and violence. The risks to all of these "harms" are raised within licensed premises, hence the need for careful consideration when granting alcohol licenses. This then begs the question whether there will be a restriction of where and if children are allowed in the premises (eg time restriction)? Again, this impacts the fundamental primary use of the property.

**The applicant states that "the amount of alcohol that will be consumed is expected to be low and therefore not a threat to children". However, if that expectation of "low consumption" is exceeded on occasion or indeed regularly, then the applicant seems to be implicitly acknowledging that this is an inappropriate location for such consumption and seemingly a threat to children. With no way of controlling or monitoring actual levels of consumption, especially with the extended hours requested to serve alcohol, this is an acknowledgement of a potential "threat to children", notably those shopping in the village store, especially given the proximity to the village school.**

Additional thoughts:

The village already has two public houses, so to have an additional licensed premises will undoubtedly have a negative knock-on effect on their already precarious financial situations. The applicant himself notes how "Potten End is a small village". The lease on The Plough public house, within 20 yards of the village store, has been for sale for years: there is a clear opportunity for the applicant to take on its lease and serve alcohol from there if he so wishes. With a pub opposite struggling, it seems counterintuitive to then grant another on-premises license opposite. This becomes even more ridiculous when one considers that the Council placed an Asset of Community Value on that same pub only last year! The Council could end up being instrumental here in having a derelict pub opposite a village store that serves alcohol.

From a practical perspective, to have beer, wine and cocktails served in a village shop is quite bizarre, never mind from 7am. The village-shop-atmosphere will be notably altered and to many that will become a very uninviting and alienating experience. At the very least, I hope you will seek some tight conditions on any possible license here, starting with the requested serving hours! The applicant indeed notes that Cedar Village Store is "primarily a village store and coffee shop". Adding an alcohol license fundamentally changes the primary purpose of a village store. The applicant also states that "the amount of alcohol that will be consumed by customers is expected to be low... have a glass or two of wine or beer". There is no way of controlling this in reality, nor of predicting amounts consumed. This is a misleading statement to make.

**The "applicant's description of application" notes that the license application is from "noon", but the operating schedule request states from 7am (8am on a Sunday). This is contradictory and ambiguous, and from 7am is clearly an entirely inappropriate time for responsible, local people to be drinking alcohol, not least cocktails in a village store! This timing needs clarifying, and the hours requested contradicts the applicant's stated assumption about low levels of consumption. Indeed, the licensing hours requested are actually longer than either of the village's two pub's current opening hours, again illustrating how disproportionate and inappropriate this request is.**

I look forward to hearing your thoughts and hope you will consider the points I raise above and thoughtfully agree to reject this license request. I feel it is clearly detrimental to the village's best interests without adding any new service that isn't already provided for in the village, as well as there being clear unaddressed issues with respect to the prevention of crime and disorder, public safety, the prevention of public nuisance, as well as the protection of children from harm. Moreover, there is inconsistency in the applicant's statement re consumption and opening and serving hours.

Kind regards

Potten End  
Hertfordshire

**ANNEX D2**

**Applicant's response to valid points of representation**

**From:** Potten End Village Store <[potten.end.village.store@gmail.com](mailto:potten.end.village.store@gmail.com)>  
**Sent:** 21 November 2019 11:19  
**To:** Licensing Mailbox <[Licensing@dacorum.gov.uk](mailto:Licensing@dacorum.gov.uk)>  
**Subject:** Re: Objection to your licensing application

Good afternoon Sally,

Thank you for your email. Further to the objection you have received regarding the recent license application, I would like to offer the following comments in response. I have summarized what I feel are the pertinent points;

*1. How will the store's capacity limit truly be monitored? Does that mean that village shoppers will potentially be prevented from going into the shop if there are too many people drinking inside?*

In the granted planning permission, ref. 4/01240/19/RET (letter dated 24th July 2019, a copy is available if required) there is reference to drawing no.19027-P-002-Rev-B (also, copy available if required). This is the proposed floor plans drawing. It states a total of 22 seated in the internal area of the coffee shop. In addition there are 5 tables in the rear garden area (only used during the warmer weather) seating up to 4 persons per table (i.e. 20 people in total). We also have 6 staff on duty in the coffee shop during busy periods. There was no capacity figure provided in the application since the only place I could see where capacity info. was requested was in section 3, and only if the capacity was anticipated to exceed 5,000 people ("If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend"). I would anticipate however for the max. capacity (including outdoor areas) not to exceed 50 people (this includes staff and also anyone shopping in the village store area). In order to address the objectors concern I would like to propose that a condition is added to the operating schedule to only provide alcohol for on premise consumption to seated customers.

*2. Increased risks of fire and accident*

There is no increased risk and or accident expected since the capacity will be unchanged from the current level without an on-premise alcohol license. Note that we have a full, certified 240V mains powered fire detection system in operation throughout the entire building (village store, coffee shop, flat above and adjacent house). Furthermore the fire alarm system is monitored 24hrs per day by Sentinel Fire and Security Systems Limited. A copy of the relevant fire alarm certificates (design certificate, installation certificate, commissioning certificate and acceptance certificate) are available if required.

*3. What are the proposed times for the emptying of rubbish bins, notably the increased glass refuse? Equally, what time will there be (bottle or barrel) deliveries? Where will extra rubbish bins and glass refuse be put? All these are real consideration that the application does not provide any solution to.*

We have a contract with Cawleys (refer to their website [here](#)). Cawleys provide a very comprehensive recycling and refuse collection service. We have weekly collection of (a) general waste, (b) food waste and (c) recycling waste (cardboard and paper, plastics, glass). All food waste and glass waste is contained in sealed bags which are then stored within the large enclosed plastic bins. Waste collection is every Thursday morning at approx. 7:30am and last no more than 5mins each collection (there are 3 collections, one for each of (a), (b) and (c) mentioned above). It is possible to increase the frequency of collection (f.ex. twice weekly etc) if required. All bins are kept adjacent to the coffee shop in the private alleyway behind a locked gate to the front and a gate also to the rear (i.e. bins are not visible to visitors to the village store / coffee shop or to people passing by the premises). It should also be noted that there is no intention to sell beer (or other beverages) from barrels. Bottle deliveries will be unchanged from the current arrangement, which is suppliers deliver them together with other stock for the village store / coffee shop during the working day (8am - 5pm).

*4. The impact of an increase in odours from the kitchen out into the local vicinity also need to be carefully considered and planned for - this links into the upgrading of any ventilation*

Although I don't believe this is relevant to the license application, a new ventilation system was installed in the kitchen as part of the fitout under the granted planning permission (ref. 4/00790/18/FUL) which included the Change of Use from A1 (retail) to Mixed Use A1 / A3 (restaurants / cafes). The ventilation system is far beyond suffice for the capacity of the coffee shop. A copy of the granted planning permission letter dated 9th August 2018 is available if required.

*5. The applicant states that "the amount of alcohol that will be consumed is expected to be low and therefore not a threat to children". However, if that expectation of "low consumption" is exceeded on occasion or indeed regularly, then the applicant seems to be implicitly acknowledging that this is an inappropriate location for such consumption and seemly a threat to children. With no way of controlling or monitoring actual levels of consumption, especially when the extended hours requested to serve alcohol, this is an acknowledgement of a potential "threat to children", notably those shopping in the village store, especially given the proximity to the village school.*

There are already robust conditions in place to manage the potential threat to minors. We have regular training for staff which includes the Challenge 21 rule, till prompts to check before sale of any alcoholic beverage and a refusals book. In addition, as already mentioned in point 1 above, we will only be serving alcohol to seated customers and hence can control the volume of customers that will be drinking alcoholic beverages on the premises. We will also control the amount of

beverages sold and cease sales to anyone that appears intoxicated. I would also like to highlight that The Plough public house is located <100 meters away from the village store and coffee shop and is located directly opposite the children's playground where a large number of the Potten End C of E primary school children play after school. In the warmer weather parents buy alcohol in the shop / pub and then drink it while sitting on the grass while the children play. I don't believe there is a threat to children from either The Plough or the Village Store and Coffee Shop.

*6. The "applicant's description of application" notes that the license application from "noon", but the operating schedule request states from 7am (8am on a Sunday). This is contradictory and ambiguous, and from 7am is clearly an entirely inappropriate time for responsible, local people to be drinking alcohol, not least cocktails in a village store! This timing need clarifying, and the hours requested contradicts the applicant's stated assumption about low levels of consumption. Indeed, the licensing hours requested are actually longer than either the village's two pubs current opening hours, again illustrating how disproportionate and inappropriate this request is.*

This is an error in the application. I have put the opening hours of the village store and coffee shop in section 13 of the application as well as section 15. The correct hours for serving alcohol for on premise consumption should be as stated in section 3 ("between noon and closing time" [of the coffee shop]). So in order to clarify, sales of alcohol for on premise consumption should be from 12noon to 5pm on Mondays to Saturdays and from 12noon to 4pm on Sundays and public holidays. Sales of alcohol for consumption off premise should remain as they are under the current license.

#### *7. Parking.*

I don't believe there will be any impact to the current parking situation. Most of the visitors to the Village Store and Coffee Shop are hikers and cyclists. Regardless there is plenty adequate parking on the adjacent roads (Vicarage Road, The Front, Plough Lane and also the parking allocation opposite the Village Hall on The Common).

I hope that this feedback can help to settle the concerns of the objector, however if I can be of any further assistance, please do not hesitate to contact me.

Kind regards,

Fiona

**ANNEX D3**  
**Amendment to application proposed by application**

**From:** Potten End Village Store <[potten.end.village.store@gmail.com](mailto:potten.end.village.store@gmail.com)>  
**Sent:** 21 November 2019 12:33  
**To:** Licensing Mailbox <[Licensing@dacorum.gov.uk](mailto:Licensing@dacorum.gov.uk)>  
**Subject:** Re: Objection to your licensing application

Hi Sally,

I would like to confirm that the application is to amend the operating schedule to allow on premise consumption of alcohol to seated customers only and between the hours of 12noon to 5pm on Mondays to Saturday and between the hours of 12noon to 4pm on Sundays and public holidays.

I would also like to confirm that the sales of alcohol for consumption off premise should remain the same as it is under the terms of the current license (i.e. from 7am to 7pm on Mondays to Saturdays and from 8am to 4pm on Sundays and public holidays).

I have attached too an updated form with the amended times in section 13 just in case this is helpful. I have also added in some of the other clarifications too.

Many thanks,

Jim

**ANNEX D4**  
**Response from objector**

**From:**

**Sent:** 25 November 2019 10:01

**To:** Licensing Mailbox <Licensing@dacorum.gov.uk>

**Subject:** Re: Application to vary premises licence: Cedar, Church Road Potten End

Hi Sally

Thank you for clarifying with the applicant the opening hours, and the points as raised.

As a clarification point, is it intended by the application that the serving of alcohol will only be permitted to “seated customers” means that they are “sat at tables” (as opposed to say a bar), and additionally that they are also ordering and eating a main meal (as opposed to say a packet of crisps)? For me, I feel the latitude of the wording does not make such specifications clear, but I believe this to be the intention of all.

It would also be beneficial for clarity if there was an explicit maximum capacity of 22 customers agreed and stated to be seated inside the shop that can be served alcohol. This then removes the concerns about the village shop becoming overcrowded and preventing it from providing its primary function as a store for the village.

I think it is perhaps unwittingly disingenuous to simply cite what happens now with respect to glass waste, when clearly the intention is to radically increase the number of bottles that will need to be disposed of compared to what happens now. On-premises consumption will involve large number of empty glass bottles of beer, wine and spirits that will need thoughtful disposal of. Neighbouring residents are entitled to know when their peace will be disturbed by these numerous glass bottles being emptied, firstly from the village shop into the bin (every day when?), and second collected by the waste contractor (730am seems early). Moreover, is once per week collection sufficient for the additional expected waste?

Unfortunately, I think we will not reach an agreement around the potential threat to children here. Pubs are clearly known what to sell and for whom: children are allowed in only if accompanied by an adult for a reason. However, a village store that sells sweets to primary-school-aged children is not, in my opinion, an environment wherein such unaccompanied children should come into contact with adults whom have been sat (for potentially several hours) drinking alcohol. It is not what anyone would expect if you allow your child to call into a sweet shop. As the applicant notes, there is a pub less than 100 yards away, but it is clearly labelled as pub and is not opposite the school, selling sweets, like the village shop is.

Thank you for trying to reconcile my thoughts with the applicant, but I do think the fundamental objection about what a village store should be providing, and its inherent place that attracts and serves children, is irreconcilable with an application to serve alcohol on premises. Pubs do not allow unaccompanied minors in for this precise

reason and it is the Council's role, in my opinion, to uphold such delineations between where children are encouraged to go (sweet shops) and where they should be not allowed to go without adult supervision (pubs). I think it is unlikely the applicant and I will agree on this at any meeting, so I think it is the right moment for the Council to make its considered decision here.

Thank you for your ongoing consultation and dialogue, and for clarifying the ambiguous application with respect to the opening hours.

I look forward to hearing your decision in due course.

Kind regards

**Local policy considerations and National Guidance****Local Policy considerations**

3.4 The licensing authority may not reject an application nor revoke a licence in response to representations concerning general moral or ethical objections to the carrying on of licensable activities, unless a direct link to one or more of the licensing objectives can be established. In particular, the supply of alcohol is expressly permitted under UK legislation, and the licensing authority has a duty to act fairly and in accordance with the legislation.

**Public Safety:**

5.9. When considering this objective, the licensing authority will concern itself with the physical safety and wellbeing of the people who use licensed premises, and those who may be affected by the use of licensed premises (e.g. non-customers who happen to be in the immediate vicinity of a premises). This will include measures that seek to prevent accidents, injuries and short- or long-term illnesses to staff, customers or other persons.

5.9. There are several regulatory regimes concerned with public safety, and the licensing authority will seek to avoid duplication with these insofar as is possible. In particular, we will not duplicate obligations placed upon licence-holders under the Health and Safety at Work Act 1974 or the Regulatory Reform (Fire Safety) Order 2005.

**Protection of children from harm:**

5.21. There is no reason why children should not be admitted to responsibly-run, family-oriented licensed premises (for example, restaurants, theatres, cinemas (showing age-appropriate films), supermarkets, community premises, etc), when accompanied by a suitable adult, such as a parent or guardian, and the Act allows for this. However, it is an offence under the Act:

- to admit children to exhibitions of films if they are below the minimum age recommended by the licensing authority or a film classification body,
- to allow unaccompanied children under the age of 16 to be present at premises being used exclusively or primarily for the supply of alcohol for consumption on those premises, or
- to allow unaccompanied children under 16 to be present between midnight and 5 a.m. at licensed premises supplying alcohol for consumption on the premises.

5.23. The licensing authority will judge each application and the circumstances pertaining to each premises on the individual merits. Examples which may give rise to concern in respect of children would include premises:

- where entertainment or services of an adult or sexual nature are commonly provided,
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking,
- where there is a strong element of gambling on the premises (but not, for example the simple presence of a small number of gaming machines),

- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises, or
- where other concerns relating to this objective have arisen.

5.24. Alternative options to limiting access by children may include, but are not limited to:

- limits on the hours when children may be present,
- limits or exclusions on children when particular activities are taking place,
- limited access to parts of premises, or
- full exclusion of under-18s from the premises when any licensable activities are taking place.

5.25. Where a large number of children are likely to be present at a licensed premises, the licensing authority will expect an appropriate number of suitably-trained adult staff to be present, to control access and egress of children, and ensure their safety and protection from harm.

### **Representations:**

7.9. When considering whether a representation or ground is frivolous or vexatious, the authority will consider the ordinary dictionary definitions of these terms. It is not possible to give an exhaustive list of what may cause the authority to exclude a representation or ground under these provisions, but examples may include relying on a matter with no relevance to the licensing objectives (for example, the effect of an application on nearby house prices) or a matter which is unrelated to the operation of the premises concerned (for example, litter repeatedly left on a pavement near a premises which is unconnected to that premises).

7.10. Persons with business interests within a similar trade sector as the subject of their representation (or review application) will be expected to satisfy the licensing authority that their representation (or application) is not made vexatiously with the intent of limiting competition to their own business. This will typically be by way of suitable and sufficient evidence within their representation or review application to support the claims that are being made and evidence how they are linked to the subject business.

8.5. The licensing authority must have reasonable grounds in order to take action to refuse, to revoke or to suspend a licence. This means that it will usually need to see evidence which substantiates the grounds cited in representations or review applications if it is to act upon those grounds. Speculative grounds which cannot be substantiated have previously been found by the courts to carry little weight in the decision-making process, and it is therefore likely that the licensing authority would be unable to take action of a type referred to above if such grounds are the only ones cited in respect of an application.

### **Licence conditions:**

11.1. The licensing authority will seek to avoid imposing disproportionate conditions on premises. It will only impose conditions that it considers appropriate in order to promote the licensing objectives, and which are in themselves reasonable and proportionate.

11.2. Additionally, we will seek to ensure that conditions only pertain to matters which are within the direct control or the sphere of influence of the licence-holder.

11.3. When we set conditions, we will follow the SMART methodology, and aim to ensure that the conditions are:

- Specific – directly related to the premises and the licensable activities carried on; the condition clearly and unambiguously states what is required of the licence-holder;
- Measurable – that it is possible to confirm whether the condition is being satisfied; if compliance cannot be readily verified, it is likely that a court will rule a condition is unenforceable;
- Achievable – that the licence-holder is able to satisfy the measures required to comply with the requirement: it is not something which is outside his control;
- Reasonable – that the condition does not place unachievable, disproportionate or unrealistic requirements on the licence-holder;
- Time-bound – where appropriate (for example, if substantial new equipment will have to be purchased and installed) a time period will be stated for the licence-holder to achieve compliance with the requirement.

### **Fire Safety:**

25.1. The primary legislation in respect of fire safety in commercial premises is the Regulatory Reform (Fire Safety) Order 2005, which is enforced by fire and rescue authorities.

25.2. The licensing authority will seek to avoid duplication with this regulatory regime when exercising its licensing powers. In particular, we will not seek to attach conditions to licences and certificates which duplicate requirements under the Order, nor will we impose conditions which limit capacity within a licensed premises on fire safety grounds, although we may continue to set capacity limits if this is considered appropriate on another public safety ground.

### **National Guidance**

#### **Each application on its own merits**

1.17. Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy....Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

#### **Public safety**

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises

2.9. 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.

## **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.

## **Public nuisance**

Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods.

## **Protection of children from harm**

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.

## **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.

## **Children**

14.56 The 2003 Act does not automatically permit unaccompanied children under the age of 18 to have free access to premises where the consumption of alcohol is not the exclusive or primary activity or to the same premises even if they are accompanied, or to premises where the consumption of alcohol is not involved. Subject only to the provisions of the 2003 Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The 2003 Act includes no presumption of giving children access but equally, no presumption of preventing their access to licensed premises. Each application and the circumstances of individual premises must be considered on their own merits.

## 5. LICENSING OF ALCOHOL AND GAMBLING SUB-COMMITTEE PROCEDURE

### Introduction

The four licensing objectives, as established by the Licensing Act 2003, are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance and
- the protection of children from harm.

Each application that comes before the Sub-Committee will be treated on its own merits, and this Licensing Authority will take its decision based upon:

- the merits of the application;
- the promotion of the four licensing objectives;
- the policy of the Licensing Authority, a copy of which can be obtained from the Council's Licensing Officer;
- the guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State for Culture, Media and Sport in July 2004, as amended in July 2006 and as further amended in June 2007.

### Procedure

The procedure of the Sub-Committee will be as follows:

1. The Chairman will open the meeting by:
  - (a) Introducing the Members of the Sub-Committee, (at the same time indicating any change in membership), and the Officers present, to the parties and any other person in attendance, including any representative of the press;
  - (b) stating the nature of the matter to be considered, (including a reference to the name of the premises or place concerned) and
  - (c) explaining the procedure to be followed.
2. The Chairman will ask those present to introduce themselves and:
  - (a) if any party, without prior notice, fails to attend or to be represented, the Sub-Committee will consider whether or not it is necessary in the public interest to adjourn the hearing to a specified date;
  - (b) if any party is unaccompanied, the Chairman will clarify whether that party understood it was permissible to have a representative;
  - (c) the Chairman will establish whether it is proposed anyone speak as a spokesperson;

- (d) the Sub-Committee will consider:
  - (i) any properly made request by a party for permission for any other person, (not being a representative), to appear and
  - (ii) any request to provide late documentary or other information and will only take the same into account if the other parties consent.
- 3. The Chairman will ask whether any Member has an interest to declare and whether any Member has visited the premises or place the subject of the application.
- 4. The Chairman will establish whether all Members of the Sub-Committee have read the papers before them.
- 5. The Chairman will ask the Officers present to confirm whether there has been compliance with all relevant requirements and to summarise any relevant information, as necessary.
- 6. Members may ask any relevant question of any Officer.
- 7. The Chairman will ask each person who is to speak at the meeting for an indication of how much time he or she reasonably estimates is required to make relevant points concisely, and without undue repetition, and will consider a maximum period of time to be applied equally in the case of all the parties.
- 8. The Sub-Committee will hear from the Applicant (and any proposed Premises Supervisor, if applicable), any Responsible Authority and any Interested Party (in that order, except in the case of a Review where the order will be: the Interested Party or Responsible Authority which has made the application for Review, the Licence-Holder and any Interested Party and/or Responsible Authority which has not made the application for Review). Subject to 2 (d)(ii) above, those persons speaking may only raise points which have been made in writing prior to the meeting and/or give further information, by way of clarification of a point, if this has been sought by the Authority in the notice given by it prior to the hearing.
- 9. In every case at a suitable point, Members of the Sub-Committee may ask relevant questions of each party.
- 10. The Sub-Committee will consider any party's request to question/cross-examine another party and will not permit cross-examination unless it is of the view that it is required in order for Members to consider the representations, application or notice as the case may be.
- 11. The Chairman will invite any Interested Party, any Responsible Authority and the Applicant (in that order, except in the case of a Review where the order will be: any Interested Party and/or any Responsible Authority which has not made the application for Review, the Licence-Holder and the Interested Party or Responsible Authority which has made the application for Review), or those representing them, to summarise their points if they wish. At this stage, the Applicant will be afforded the opportunity to consider whether or not to propose amendments to the operating schedule with a view to addressing relevant issues and any such amendment would then fall to be discussed.

12. The Chairman will seek confirmation from all parties that they are satisfied they have made all the pertinent points which they wished to make.
13. Members of the Sub-Committee will discuss what has been said and written on the matter before them and make their decision.
14. The Chairman will confirm the decision, the reasons for the decision, and any condition placed upon the licence (if granted) and the licensing objective to which each condition relates.

Please Note

- All properly made applications, notices and representations received from absent parties will be considered.
- An Applicant has a right to appeal, details of which can be obtained via the Licensing Officer.
- The Authority has the right to require any person who, in its opinion, is behaving in a disruptive manner, to leave the hearing and may preclude, or impose conditions in relation to, that person's return.