

*Please reply to:*

Contact: Gillian Hobbs  
Service: Committee Services  
Direct line: 01784 444243  
E-mail: [g.hobbs@spelthorne.gov.uk](mailto:g.hobbs@spelthorne.gov.uk)  
Date: 12 April 2018

## **Notice of meeting**

### **Licensing Sub-Committee**

**Date:** Friday, 20 April 2018

**Time:** 10.00 am

**Place:** Council Chamber, Council Offices, Knowle Green, Staines-upon-Thames

#### **To the members of the Licensing Sub-Committee**

Councillors:

J.R. Boughtflower

R. Chandler

Q.R. Edgington

**Note:** In the event of one of the aforementioned Licensing Committee Members being unable to attend or serve on this Sub-Committee another Member of the Licensing Committee will be called to serve in their place.

**Spelthorne Borough Council, Council Offices, Knowle Green**

**Staines-upon-Thames TW18 1XB**

[www.spelthorne.gov.uk](http://www.spelthorne.gov.uk) [customer.services@spelthorne.gov.uk](mailto:customer.services@spelthorne.gov.uk) Telephone 01784 451499

## **AGENDA**

**Page nos.**

**1. Election of Chairman for meeting**

To elect a Chairman for the duration of the meeting.

**2. Disclosures of Interest**

To receive any disclosures of interest from members in accordance with the Members' Code of Conduct.

**3. To consider an application for a variation to the Premises Licence at MRH Shepperton, Walton Bridge Road, Shepperton, in the light of representations**

**3 - 42**

The Report of the Deputy Chief Executive is attached.

A procedure note which explains what happens at a Licensing Sub-Committee, follows.

## Licensing Act 2003

### Hearing procedure for Licensing Sub-Committee – premises licence variations

	<b>Introductions</b>
1.	The Chairman will open the meeting, introduce members of the Sub-Committee and officers present and explain the nature of the decision to be taken and the procedure to be followed.
2.	The Applicant or their representative will introduce themselves to the Sub-Committee.
3.	Any Responsible Authorities and/or Other Persons will introduce themselves to the Sub-Committee.
	<b>Summary of Application and Representations</b>
4.	The Council's Licensing Officer will outline the application, any relevant representations and highlight any points relevant to the Licensing Authority's Statement of Licensing Policy and statutory guidance OR summarise the salient points of the report on the agenda.
5.	The Applicant or their representative may ask the Licensing Officer <b>QUESTIONS</b> arising from what he/she has said or relating to the application. (The Applicant will have the opportunity to state his/her case later).
6.	Any Other Persons may ask relevant questions of the Council's Licensing Officer.
7.	The members of the Sub-Committee may ask relevant questions of the Council's Licensing Officer.
8.	The Council's Licensing Officer may respond to any new issues raised.
	<b>The Applicant's Case</b>
9.	The Applicant or their representative will present their case.*
10.	Any Other Persons may ask relevant questions of the Applicant or their representative.
11.	The members of the Sub-Committee may ask relevant questions of the Applicant or their representative.
12.	The Applicant may respond to any new issues raised.

	<b>The Other Persons Case</b>
13.	Any Other Persons will present their case, in turn.*
14.	The Applicant or their representative may ask relevant questions of the Other Persons.
15.	The members of the Sub-Committee may ask relevant questions of the Other Persons.
16.	The Other Persons may respond to any new issues raised.
	<b>Summing Up</b>
17.	The Chairman will invite the Licensing Officer to clarify any technical points.
18.	The Chairman will invite the Other Persons to briefly summarise their case if they so wish.
19.	The Chairman will invite the Applicant or their representative to briefly summarise their case if they so wish.
20.	The Chairman will then ask all parties if they are satisfied they have said all they wish to.
	<b>Decision</b>
21.	The members of the Sub-Committee will retire to reach a decision in private, accompanied by the Council's legal officer and Committee Manager.
22.	Members of the Sub-Committee return. The Chairman will announce the decision of the Sub-Committee with (summary or full) reasons for the decision.
23.	Meeting closed.
24.	The Council's legal officer will remain in the room to assist all parties should they require clarification of the decision and/or next steps.

### **GUIDANCE NOTES**

\*The Licensing Authority will allow the parties an equal maximum period of time in which to address the Sub-Committee, but request that all parties keep points pertinent and the discussion moving in the interests of cost and efficiency. However, the overriding principle for the Licensing Authority will be to ensure that all parties receive a fair hearing.

(a) Cross examination of parties is at the discretion of the Sub-Committee.

(b) When the Applicant questions the Licensing Officer or any other party he/she should not go into the merits of his/her case as he/she will have an opportunity to present it

at Stage 10. He/she should only ask questions relating to what the Licensing Officer or other person has said or relating to the application as a whole.

- (c) The Applicant or any other party may be represented by a friend or a professional person to speak on his/her behalf who will follow the same procedure as described above and who may call the Applicant as a witness.
- (d) The order or proceedings may be varied by the Chairman if he/she thinks that it is necessary to do so in the interests of affording the Applicant a fair hearing or in order to take into account all relevant considerations.
- (e) If, after the Sub-Committee has withdrawn to make their decision, they decide that they need to ask a question of any of the parties involved in the proceedings or to clarify any matter then they shall do so in the presence of all parties.
- (f) Members of the Sub-Committee must be present throughout the hearing and must not communicate with any party involved in the proceedings except for when they are in the presence of all of the parties and the remainder of the Sub-Committee.



# Licensing Sub-Committee

20 April 2018



<b>Title</b>	Application for a Full Variation to the Premises Licence at MRH Shepperton, Walton Bridge Road, Shepperton, TW17 8NE		
<b>Purpose of the report</b>	For determination		
<b>Report of</b>	Deputy Chief Executive	Ward	Shepperton Town
<b>Contact</b>	Lucy Hopkins, Licensing Officer, 01784 444295		

<b>Description and Location</b>	MRH Shepperton is a service station shop known as 'Esso', located nearby residential properties. A plan of the premises is attached as <b>Appendix A</b> .
<b>The Application</b>	<p>The application is to permit:</p> <ol style="list-style-type: none"> <li>1. The extension of the hours for the sale of alcohol to 24 hours daily</li> <li>2. The removal of conditions numbered 1, 2, 3, 4, 5, 6 and 7 from Annex 2 of the Premises licence</li> <li>3. The inclusion in Annex 2 the conditions in boxes b to e of section 16 of this application.</li> <li>4. alterations to the premises</li> </ol> <p>The current licence is attached as <b>Appendix B</b>. The application form is attached in full at <b>Appendix C</b>.</p>
<b>Representations</b>	One relevant representation has been received from a nearby resident on the grounds of prevention of crime and disorder / prevention of public nuisance and is attached at <b>Appendix D</b> .
<b>Options</b>	<ol style="list-style-type: none"> <li>1. The Sub-Committee is requested to consider the application for the grant of a premises licence on its merits.</li> <li>2. Having had regard to the representations, the Sub-Committee must decide on one or more of the following options as it considers appropriate for the promotion of the licensing objectives: <ul style="list-style-type: none"> <li>• <b>To grant the application subject only to such conditions as are consistent with the operating schedule and the mandatory conditions; or</b></li> </ul> </li> </ol>

	<ul style="list-style-type: none"> <li>• <b>To grant the application and modify the conditions of the licence, by alteration, addition or omission; or</b></li> <li>• <b>To exclude from the scope of the licence any of the licensable activities to which the application relates; or</b></li> <li>• <b>To refuse to specify a person in the licence as the premises supervisor; or</b></li> <li>• <b>To reject the whole or part of the application.</b></li> </ul>
--	--



## **1. Premises history**

- 1.1 An application was submitted by Malthurst Limited to transfer the premises licence on 14 July 2015 which took effect from 20 July 2015. The current premises licence is still in the name of Malthurst.
- 1.2 The Designated Premises Supervisor Sivalingam Kokulakannan has been in place since 1 July 2016.

## **2. Application Summary**

- 2.1 An application was received for a full variation to the premises licence on 22 February 2018 which was processed accordingly.
- 2.2 We received an email from the applicant's representative on 2 March 2018 advising that following discussion with Surrey Police they are amending the application submitted and want to replace conditions 1-6 in box (B) of the Application Form concerning CCTV. A copy of the email is at **Appendix E**.
- 2.3 Consultation notices were displayed in accordance with the Licensing Act 2003, at the premises itself and in the 2 March 2018 edition of the Chronicle and Informer Staines Edition (page 29).
- 2.4 The application in its entirety was also available for inspection via Spelthorne Borough Council's Licensing Online system, for the duration of the 28-day consultation period.
- 2.5 I have reviewed the complaint history from when the premises licence holder took over (20 July 2015) and there has been one complaint logged with the Environmental Health Team. The complaint made on 27 November 2015 was regarding noise from a parcel machine installed and a health and safety concern over gas bottles.
- 2.6 The Licensing Department has not received any complaints since the current licence holder came into effect. The opening hours on the premises licence currently are 24 hours, however alcohol is only allowed to be sold from 06.00-22.00 daily, with late night refreshment being 23.00-05.00 daily.
- 2.7 No representations have been received from any of the responsible authorities in respect of this application.

## **3. Promotion of the Licensing Objectives**

- 3.1 The Licensing Objectives, together with examples from Government Guidance, are set out below for information:

### **Prevention of crime and disorder**

- Criminal behaviour on, or directly attributable to, the premises
- Under age sales
- Anti-social behaviour on, or directly attributable to, the premises

### **Public safety**

- Overcrowding
- Fire safety
- Emergency exits
- Anything related to the safety of the public at the premises

### **Prevention of public nuisance**

- Noise / light or odour nuisance
- Litter

### **Protection of children from harm**

- In relation to sales of alcohol, the most relevant issue under this licensing objective is the prevention of sales of alcohol to under 18s

## **4. Representation**

- 4.1 The representation to the Full Variation application was received by email on 6 March 2018.
- 4.2 The grounds for objection are summarised below in relation to each Licensing Objective:

### **Prevention of crime and disorder**

- Potential for increased antisocial and disorderly behaviour
- Under age sales
- Public Urination

### **Prevention of public nuisance**

- Noise from deliveries and customers using the premises
- Increased litter
- Bottles and cans being thrown into gardens damaging property

- 4.3 Issues which are not relevant to the licensing objectives and cannot be taken into account by a Licensing Sub-Committee:
- Objections on the basis of need, or lack of need, for premises to sell alcohol
  - Parking, or other issues relating to general amenity rather than licensing objectives

## **5. Licensing Policy**

- 5.1 The following sections of the Council's Licensing Policy are relevant. A copy of the relevant parts are attached as **Appendix F**.
- Section 16.1 - General
  - Section 16.2 – Shops, stores and supermarkets
  - Section 24.0 - Crime and Disorder
  - Section 24.7.1 - Public Nuisance

## **6. National Guidance**

- 6.1 The relevant section of the National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 on determining Premises Licence applications is relevant in the consideration of this application, and is attached at **Appendix G**.

## **7. Making a decision**

- 7.1 In making its decision the Sub-Committee must promote the licensing objectives only, taking into account National Guidance and Spelthorne's Statement of Licensing Policy.
- 7.2 The Sub-Committee must give reasons for its decision.
- 7.3 It is only where additional and supplementary measures are appropriate to promote the licensing objectives that there will be a requirement for appropriate, proportionate conditions to be attached.
- 7.4 Conditions on licences must:
- be precise and enforceable;
  - be unambiguous;
  - not duplicate other statutory provisions;
  - be clear in what they intend to achieve; and,
  - be appropriate, proportionate and justifiable.
- 7.5 It is important in considering the promotion of the licensing objective on prevention of public nuisance, that the Sub-Committee focuses on any disproportionate or unreasonable effect the licensable activities at the premises, have on persons living and working in the area around the premises.
- 7.6 In determining the application, the Sub-Committee will need to consider whether there is actual evidence of problems in relation to the licensing objectives at this premises. Where the representations are unable to provide evidence of observed problems, as in the case of a new licence application, the Sub-Committee should be convinced that there is a very real threat of the fears or the dangers described in the representations actually occurring, before applying any conditions to address such fears or dangers.

## **Appendices:**

### **Appendix A – Location Plan**

### **Appendix B – Current Premises Licence**

### **Appendix C – Application**

### **Appendix D – Representation**

### **Appendix E- Email from Applicant re agreement with Surrey Police**

**Appendix F – Relevant sections from Licensing Policy**

**Appendix G- National Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003, on Determining Premises Licence Applications**



Crown Copyright. Licence Number: 100024284. Spelthorne Borough Council 2014 Wed Apr 11 2018 11:32:42 AM.

This page is intentionally left blank

**SPELTHORNE BOROUGH COUNCIL**  
Council Offices, Knowle Green, Staines, TW18 1XB.



**PREMISES LICENCE**

<b>Premises licence number</b> 13/00571/LAPRE
<b>Issue Date</b> 02 December 2013
<b>Latest Revision</b> 01 July 2016 (16/00476/LAPRE)

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>			
MRH Shepperton Shepperton Service Station Walton Bridge Road			
<b>Post town</b>	Shepperton	<b>Post code</b>	TW17 8NE
<b>Telephone number</b>	01932 259671		

<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 Late night refreshment
---

<b>The times the licence authorises the carrying out of licensable activities</b>  Sale by retail of alcohol from 06:00 to 22:00 Daily  Late night refreshment from 23:00 to 05:00 Daily
--

<b>The opening hours of the premises</b>  From 00:00    Until 24:00    (24 Hour)
--

<b>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</b>  Off the premises only
---

**Part 2**

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

Malthurst Limited  
Vincent House  
4 Grove Lane  
Epping  
Essex  
CM16 4LH

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

03445529

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

Sivalingam Kokulakannan  
41 Alexandra Avenue  
Sutton  
Surrey  
SM1 2PA

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

5870\0700457 – London Borough of Sutton

Signed \_\_\_\_\_

Deputy Chief Executive

**Dated** 19 July 2016



**Annex 1 - Mandatory conditions****Mandatory Condition: Where a premises licence authorises the supply of alcohol:**

1. No supply of alcohol may be made under the Premises 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
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

**The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014 (Age Verification Policy)**

- (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 sold alcohol, identification bearing their photograph, date of birth and either-
  - a) A holographic mark, or
  - b) An ultraviolet feature

**The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014 (Below Cost Selling Order)**

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1—
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
  - (b) “permitted price” is the price found by applying the formula:

$$P = D + (D \times V)$$

where—

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, 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;
- (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(7).

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

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Annex 2 - Conditions consistent with the Operating Schedule as Amended by the Licensing Sub Committee Decision Dated 02 December 2013.**

- (1) A suitable and efficient CCTV system with recording facilities will be in place at the site and will operate at all times that the premises is open for licensable activities. The Premises Licence Holder must ensure at all times that a DPS or appointed member of staff from the premises who can operate the system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show police recent data or footage with the minimum of delay when requested. (This may involve temporarily closing the premises when there is only one member of staff at the premises). The Premises Licence Holder must also ensure that at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a readable format, either disc or VHS, to the police / local authority within 48 hours of request.
- (2) During the hours of 4pm to 10pm, two members of staff will be on duty, one of whom will hold a personal licence.
- (3) Staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken. Training records will be made available for inspection upon reasonable request by the Police or other relevant officers of a responsible authority.
- (4) A refusals book will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon request.
- (5) Challenge 25 policy will be in operation at the premises.
- (6) Spirits will be located behind the counter.
- (7) A sign will be erected in a prominent place at the premises asking customers to respect the neighbours and dispose of litter considerately.
- (8) The Premises Licence Holder shall supply to the Licensing Authority on request and in any event within 14 days of such request a full report and statement including all relevant data to demonstrate the primary use of the premises. Such requests shall occur at intervals of no less than six months.

**Annex 3 – Plans**

Drawing No: SSSLHANDS/JUL13  
Dated: July 2013  
On File at SBC



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

For help contact  
[environmental.health.commercial@spelthorne.gov.uk](mailto:environmental.health.commercial@spelthorne.gov.uk)  
 Telephone: 01784 444202

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

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

Are you an agent acting on behalf of the applicant?

☐ Yes ☒ No

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

### Applicant Details

\* First name

\* Family name

\* E-mail

Main telephone number  Include country code.

Other telephone number

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

Are you:

☒ Applying as a business or organisation, including as a sole trader

☐ Applying as an individual

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

### Applicant Business

Is your business registered in the UK with Companies House? ☒ Yes ☐ No

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

Registration number

Business name

If your business is registered, use its registered name.

VAT number

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

Legal status

*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 (£)

67,500

**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.

A petrol forecourt store selling a broad range of groceries, household products and alcohol. Situated at Walton Bridge Road, Shepperton, TW17 8NE to be varied as follows:

- 1.To extend the hours for the sale of alcohol to 24 hours daily.
- 2.To remove conditions numbered 1, 2, 3, 4, 5, 6 and 7 from Annex 2 of the premises licence.
- 3.To include in Annex 2 the conditions in boxes b to e of Section 16 of this application.
- 4.To make alterations to the premises.

**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](#)

*Continued from previous page...*

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

[See guidance on regulated entertainment](#)

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

☐ Yes ☒ No

## Section 7 of 18

### PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

☐ Yes ☒ No

## Section 8 of 18

### PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide live music be subject to change if this application to vary is successful?

☐ Yes ☒ No

## Section 9 of 18

### PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

☐ Yes ☒ No

## Section 10 of 18

### PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

☐ Yes ☒ No

## Section 11 of 18

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

[See guidance on regulated entertainment](#)

*Continued from previous page...*

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?

☐ Yes ☒ No

## Section 12 of 18

### PROVISION OF LATE NIGHT REFRESHMENT

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

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.

##### TUESDAY

Start

End

Start

End

##### WEDNESDAY

Start

End

Start

End

##### THURSDAY

Start

End

Start

End

##### FRIDAY

Start

End

Start

End

##### SATURDAY

Start

End

Start

End

*Continued from previous page...*

SUNDAY

Start End Start End 

Will the 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.

The premises sells alcohol and other age restricted products.

**Section 15 of 18****HOURS PREMISES ARE OPEN TO THE PUBLIC****Standard Days And Timings**

MONDAY

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...*

## 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 

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.

*Continued from previous page...*

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

1. The hours for the sale of alcohol are currently restricted as follows:

Monday to Sunday: 0600 to 2200

2. The conditions numbered 1 to 7 in Annex 2.

The above conditions and restrictions would be removed as a consequence of the proposed variation.

☒ I have enclosed the premises licence

☐ 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.

b) The prevention of crime and disorder

1. A digital CCTV system will be installed, or the existing system maintained, such system to be fit for the purpose.

2. The CCTV system shall be capable of producing immediate copies on site. Copies of recordings will either be recorded digitally on to CD/DVD or other equivalent medium.

3. Any recording will be retained and stored in a suitable and secure manner for a minimum of 14 days and shall be made available, subject to compliance with Data Protection legislation, to the police for inspection on request.

4. The precise positions of the cameras may be agreed, subject to compliance with Data Protection legislation, with the police from time to time.

5. The system will display, on any recording, the correct time and date of the recording.

6. The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.

7. All staff engaged or to be engaged in the sale of alcohol on the premises shall receive the following training in age restricted sales:

- Induction training which must be completed and documented prior to the sale of alcohol by the staff member.

*Continued from previous page...*

- Refresher/reinforcement training at intervals of no more than 6 months.

Training records will be available for inspection by a police officer or other authorised officer on request.

8. All cashiers shall be trained to record refusals of sales of alcohol in a refusals book/register. The book/register will contain:

- details of the time and date the refusal was made;
- the identity of the staff member refusing the sale;
- details of the alcohol the person attempted to purchase.

This book/register will be available for inspection by a police officer or other authorised officer on request.

9. There shall be no self-service of spirits except for spirit mixtures.

#### c) Public safety

The premises licence holder will at all times maintain adequate levels of staff. Such staff levels will be disclosed, on request, to the licensing authority and police.

#### d) The prevention of public nuisance

Adequate waste receptacles for use by customers shall be provided in and immediately outside the premises.

#### e) The protection of children from harm

The premises licence holder will ensure that an age verification policy will apply to the premises whereby all cashiers will be trained to ask any customer attempting to purchase alcohol, who appears to be under the age of 25 years (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.

### 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.

Variation Fees are determined by the non domestic rateable value of the premises.

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

Band A - No RV to £4300	£100.00
Band B - £4301 to £33000	£190.00
Band C - £33001 to £8700	£315.00
Band D - £87001 to £12500	£450.00*
Band E - £125001 and over	£635.00*

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

Band D - £87001 to £12500	£900.00
Band E - £125001 and over	£1,905.00

If you own a large premise you are subject to additional fees based upon the number in attendance at any one time

Capacity 5000-9999	£1,000.00
Capacity 10000 -14999	£2,000.00
Capacity 15000-19999	£4,000.00
Capacity 20000-29999	£8,000.00
Capacity 30000-39000	£16,000.00
Capacity 40000-49999	£24,000.00
Capacity 50000-59999	£32,000.00
Capacity 60000-69999	£40,000.00
Capacity 70000-79999	£48,000.00
Capacity 80000-89999	£56,000.00
Capacity 90000 and over	£64,000.00

\* Fee amount (£) 315.00

**DECLARATION**

I/we understand it is an offence, liable on conviction to a fine up to level 5 on the standard scale, under section 158 of the

*Continued from previous page...*

\* licensing act 2003, to make a false statement in or in connection with this application.

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

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

\* Full name

\* Capacity

\* Date  /  /   
                   dd                   mm                   yyyy

[Add another signatory](#)

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/spelthorne/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

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

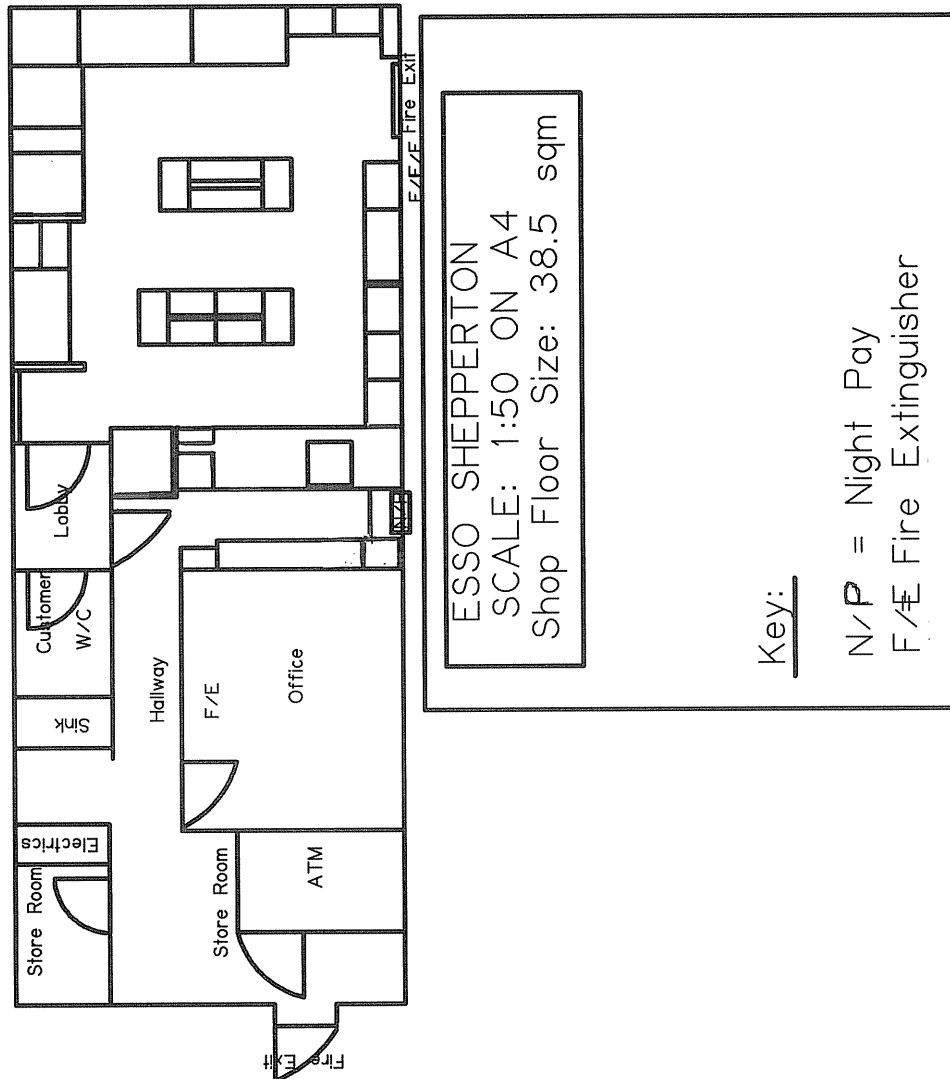
Date and time submitted

Approval deadline

Error message

Is Digitally signed ☐

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



THE ENTIRE PREMISES MAY BE USED FOR THE  
SALE OF ALCOHOL AND THE PROVISION OF  
LATE NIGHT REFRESHMENT

APPENDIX C

This page is intentionally left blank



Dear Sirs

Following discussion with the Police Licensing Enforcement Officer (Jacquie Clark) we are authorised to amend the application to vary the licence for the above premises to include the following condition:

*A suitable and efficient CCTV system with recording facilities will be in place at the site and will operate at all times that the premises is open for licensable activities. The Premises Licence Holder must ensure that at all times that a DPS or appointed member of staff from the premises who can operate the system shall be on the premises at all times when the premises is open to the public. This staff member shall be able to show police recent data or footage with the minimum of delay when requested. (This may involve temporarily closing the premises when there is only one member of staff at the premises). The Premises Licence Holder must also ensure that at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a readable format, either disc or VHS, to the police/local authority within 48 hours of request. The CCTV system will include a camera that covers the night pay window and is to the reasonable satisfaction of Surrey Police.*

The above condition will replace conditions 1-6 in box (b) of the operating schedule under the heading "The Prevention of Crime and Disorder".

Kind Regards

Andrew

---

**Andrew Sanders**  
**Licensing Assistant**

**T** +44 (0) 207 593 0250

**F** +44 (0) 207 593 5069

[asanders@wslaw.co.uk](mailto:asanders@wslaw.co.uk)

**Winckworth**  
Sherwood

[www.wslaw.co.uk](http://www.wslaw.co.uk)

### Cyber Crime Alert

Emails can be scammed. Please do not rely on email notification of bank account changes without direct verbal confirmation from a trusted source.

---

This page is intentionally left blank

## 16.1 General

Longer licensing hours can help to avoid the concentration of customers leaving premises at the same time, leading to friction at late night food outlets, taxi ranks and other sources of transport. It is also recognised that licensing hours should not restrict the development of safe evening and night-time entertainments that are important for investment and employment locally. However, providing consumers with greater choice and flexibility must always be balanced carefully against the rights of local residents to peace and quiet.

There is no general presumption in Spelthorne in favour of lengthening licensing hours: the overriding principle will be the promotion of the four licensing objectives.

Stricter measures for controlling noise are likely to be sought for late licences, particularly in residential areas and/or where there has been a history of noise complaints. Please also see measures outlined under the “Public Nuisance” heading below.

Consideration will always be given to the individual merits of any application.

## 16.2 Shops, stores and supermarkets

Shops, stores and supermarkets will generally be permitted to sell alcohol during the normal hours they are open for shopping. However, there may be very good reasons for restricting those hours. For example, a limitation on the hours that alcohol can be sold may be appropriate, following police representations, for shops known to be the focus of disorder and disturbance, or where youths gather and behave anti-socially

## 24.0 Crime and Disorder

**Shops and off licences** applying to sell alcohol will need to address the risks to crime and disorder with measures in their operating schedules. Examples include:-

- ☐ That there will be regular staff training (whether or not staff are paid) in relation to sale of alcohol to under age people and that training records shall be kept.
- ☐ All refusals to be recorded. in a refusals book. Refusals books shall consist of a bound book with consecutively numbered pages, and shall be held at the premises and available for inspection on demand at all times by the responsible authorities. Records shall include the reason for the refused sale, whether because the customer looked under 25 and could not provide ID, or the customer appeared to be intoxicated, or whether the sales assistant suspected that the sales may be made on behalf of someone who may be underage or intoxicated (known as proxy sales).
- ☐ Use of Electronic Point of Sale (EPOS) system to remind staff via a suitable visual prompt or audible warning. Alternatively stickers can be used over certain products to remind cashiers to check the customer's age.
- ☐ That there is CCTV coverage of the licensed premises and the immediate vicinity outside in accordance with Surrey Police's Operational Guidelines in the use of CCTV in licensed shops.
- ☐ That a personal licence holder may be required to be on duty at high risk times such as outside school hours and during the evenings, for example where a business has been prosecuted for underage sales and/or is a source of youth disorder.

- ☐ That staff shall not sell alcohol to any person they have reason to suspect may be buying the alcohol for a child and that there shall be signage to warn adults that it is an offence to buy alcohol on behalf of a child. This is known as “proxy sales”. Where there is evidence of such sales taking place, consideration should be given to ensuring CCTV coverage outside the shop.
- ☐ In areas with problems with alcohol related youth crime and disorder, that licence holders shall participate in “Bottlewatch” schemes, if requested to do so by responsible authorities.
- ☐ In areas where there is an Offwatch scheme, that licence holders sign up to such a scheme.

### **24.7.1 Noise**

It is recommended that operating schedules contain sufficient information for officers to form a view as to whether noise from licensable activities is likely to cause a problem to people living nearby. Applicants should provide details of proposed noise control measures, particularly if premises are in residential areas where regulated entertainment is being applied for late at night, or where there is a history of noise complaints. The licensing authority will normally apply stricter conditions in these circumstances where relevant representations have been received. Whilst each application will be considered on its individual merits it should be noted that restricting the hours of regulated entertainment may be necessary to prevent public nuisance.

Measures could include:

- ☐ A simple requirement to keep doors and windows at the premises closed when music is being played
- ☐ Limiting amplified music to a particular area of the building
- ☐ Moving speakers away from external walls or walls that abut private premises, or adjusting the direction of the speakers
- ☐ Installation of acoustic curtains, seals to doorways, rubber speaker mounts
- ☐ Fitting self-closing devices on doors so that they do not stay open.
- ☐ Monitoring noise levels at the perimeter of premises and taking action to reduce the volume if it is likely to disturb nearby neighbours, e.g. it could be too loud if the words of the song are clearly audible
- ☐ Noise limiters on amplification equipment (if proportionate to the premises – noise limiters are expensive and are likely to be a burden for smaller premises)
- ☐ Prominent clear and legible notices displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly
- ☐ The placing of bottles and cans into bins outside the premises to take place at times that will minimise disturbance to nearby premises

## **Licensing objectives and aims**

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

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

1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work.

They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

## **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; for example, if the application falls within the scope of a cumulative impact 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.

## Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

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

## **Public nuisance**

2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## Hearings

9.31 Regulations governing hearings may be found on the [www.legislation.gov.uk](http://www.legislation.gov.uk) website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.

9.33 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

9.34 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The



hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.

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

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

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

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

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

9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule.

Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow

certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

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

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

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

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

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