

**NOTICE OF HEARING
BY THE LICENSING SUB-COMMITTEE
under the
LICENSING ACT 2003**

**APPLICATION TO VARY A PREMISES LICENCE – FERNDALE
STORES, 36-38 FERNDALE ROAD, NEW MILTON**

Date and Time: WEDNESDAY, 22 JUNE 2016, AT 10.00 AM*

Place: COUNCIL CHAMBER, APPLETREE COURT,
LYNDHURST

Telephone enquiries to: Lyndhurst (023) 8028 5000
023 8028 5588 - ask for Melanie Stephens
E-mail: melanie.stephens@nfdc.gov.uk

These papers are also available on audio tape, in Braille, large print and digital format

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1. **APPLICATION TO VARY A PREMISES LICENCE - FERNDALE STORES, 36-38
FERNDALE ROAD, NEW MILTON (Pages 1 - 50)**

THE RELEVANT PAPERS ARE ATTACHED

A large scale map of the premises will be available at the hearing

To: Members of the Sub-Committee:

Cllr Ms L C Ford
Cllr R L Frampton

Cllr L E Harris

Parties to the Hearing:

Mr B Dissanayaka – Applicant
Ms G Barrett – Supporter
Ms L Yapp - Supporter
Mr and Mrs Bruce-Burgess - Objectors
Mr and Mrs D Gray - Objectors
Mr and Mrs A Hall - Objectors
Mrs and Mr R Kelly and Mr C Kelly -
Objectors
Mr and Mrs Phillimore - Objectors
Mr and Mrs J Rogerson - Objectors
Mr and Mrs Thomas - Objectors
Ms D Thorne - Objector
Mr and Mrs Wallace - Objectors

Copies for Information:

Cllr Mrs J Cleary and J G Ward –
Local Members
New Milton Town Council
Licensing – P Weston
Legal Services – Miss G O'Rourke /
Ms L Clark / Mrs R Rutins /
Mrs A Wilson

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LICENSING SUB-COMMITTEE - 22 JUNE 2016

APPLICATION TO VARY A PREMISES LICENCE - FERNDALE STORES, 36-38 FERNDALE ROAD, NEW MILTON

1. INTRODUCTION

- 1.1 The purpose of this report is to consider an application to vary a premises licence under section 34 of the Licensing Act 2003.

2. APPLICATION

- # 2.1 Mr Bandula Dissanayaka has made an application to vary the premises licence for Ferndale Stores, 36-38 Ferndale Road, New Milton. The application seeks to permit an earlier sale of alcohol from 06:00 hours daily and the removal of certain embedded restrictions inherited from the Licensing Act 1964.

The application is attached as **Appendix 1**.

3. REPRESENTATIONS

- 3.1 There are no representations from any of the Responsible Authorities.

- # 3.2 Representations have been received from 11 local residents, two supporting the application and nine objecting, these are attached as **Appendix 2**.

4. REQUIREMENTS FOR A HEARING

- 4.1 The Licensing Authority must hold a hearing to determine the application where relevant representations addressing the licensing objectives are made. These being:

- The prevention of Crime and Disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

- # 4.2 Guidance about the licensing objectives issued by the Home Office under section 182 of the Licensing Act 2003 is attached as **Appendix 3**.

- 4.3 In determining the application the Licensing Sub-Committee must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives;
- The relevant representations presented by all the parties;
- The Home Office guidance;
- The Council's own Statement of Licensing Policy.

- # 4.4 Additional guidance about determining actions that are appropriate for the promotion of the licensing objectives is attached as **Appendix 4**.

5. CONCLUSION

- 5.1 The Licensing Sub-Committee must, having regard to the application and any relevant representations, consider which of the following measures are appropriate for the promotion of the licensing objectives:

- Modify the conditions of the licence; or
- Reject the whole or part of the application.

6. RECOMMENDATION

6.1 That the Licensing Sub-Committee determines the application.

Further Information:

Paul Weston
Licensing Services
Tel: 023 8028 5505
Email: licensing@nfdc.gov.uk

Background papers:

Licensing Act 2003
Section 182 Guidance
NFDC Statement of Licensing Policy

LI CPR / OS / 00334

190.00



Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We BANDULA DISSANAYAKA

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number	43/5
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Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
FERNDALE STORES, 36-38 FERNDALE ROAD NEW MILTON			
Post town	HAMPSHIRE	Postcode	BH25 5EY

Telephone number at premises (if any)	01425618165
Non-domestic rateable value of premises	£ 11,000

Part 2 – Applicant details

Daytime contact telephone number	01425618165		
E-mail address (optional)			
Current postal address if different from premises address	SAME AS ABOVE		
Post town		Postcode	

Part 3 - Variation

Please tick as appropriate

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

Yes

No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY

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

EXTEND THE SALE OF ALCOHOL HOURS

THE SALE BY THE RETAIL OF ALCOHOL FOR CONSUMPTION OFF THE PREMISES ONLY - PROPOSED FOR MONDAY TO SUNDAY 6:00-23:00 (6:00AM TO 11:00PM)

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

N/A

Part 4 Operating Schedule

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

Provision of regulated entertainment

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

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

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

In all cases complete boxes K, L and M

A

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

B

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

C

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

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)</u>	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here (please read guidance note 3)</u> <u>State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4)</u> <u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)</u>		
Mon					
Tue					
Wed					
Thur					
Fri					
Sat					
Sun					

E

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

F

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

G

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

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 3)		
Wed					
Thur			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 4)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun					

1

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

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input checked="" type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4) <p style="text-align: center;">SAME AS PROPOSED STANDARD HOURS</p>		
Mon	6:00	23:00			
Tue	6:00	23:00			
Wed	6:00	23:00			
Thur	6:00	23:00			
Fri	6:00	23:00			
Sat	6:00	23:00			
Sun	6:00	23:00			
			Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5) <p style="text-align: center;">N/A</p>		

K

<p>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8).</p> <p style="text-align: center;">N/A</p>

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	6:00	23:00	N/A
Tue	6:00	23:00	
Wed	6:00	23:00	
Thur	6:00	23:00	
Fri	6:00	23:00	
Sat	6:00	23:00	
Sun	6:00	23:00	
			Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)
			N/A

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

CURRENT SALE OF ALCOHOL HOURS

MON 8:00-23:00
 TUE 8:00-23:00
 WED 8:00-23:00
 THUR 8:00-23:00
 FRI 8:00-23:00
 SAT 8:00-23:00
 SUN 8:00-22:30

PROPOSED SALE OF ALCOHOL HOURS

MON 6:00-23:00
 TUE 6:00-23:00
 WED 6:00-23:00
 THUR 6:00-23:00
 FRI 6:00-23:00
 SAT 6:00-23:00
 SUN 6:00-23:00

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

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

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

HERE I HAVE ENCLOSED THE COPY OF THE PREMISES LICENCE AND
THE RELEVANT PART

NOTE: I DO NOT HAVE THE ORIGINAL

M

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

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

- KEEP AN INCIDENT BOOK ON THE PREMISES
- CONTROL OF THE LITTER MEANS ALL REFUSE GENERATED BY THE PREMISES WILL BE STORED SECURELY IN A DESIGNATED AREA OR IN A BIN
- TAKE EXTRA CARE ON THE CHILDREN ADMISSION IN THE PREMISES

b) The prevention of crime and disorder

- INSTALL THE CCTV SYSTEM WITH CLEAR IMAGE NOTICE TO PREVENT THE CRIME OBJECTIVES
- MAKE SURE NOT TO SELL THE ALCOHOL TO THE DRUNK PERSON
- STAFFS WILL BE WELL TRAINED
- ROLLER METAL WINDOW SHUTTER WILL BE FIXED

c) Public safety

- INTERNAL AND EXTERNAL LIGHTING FIXED TO PROMOTE THE PUBLIC SAFETY
- RE-TRAINING AND IMPLEMENTATION OF UNDERAGE ID CHECK
- NO VIOLENT AND ANTI-SOCIAL BEHAVIOUR
- PREMISES WILL BE MAINTAINED AT ALL TIMES IN GOOD AND SAFTY CONDITION FOR PUBLIC USE

d) The prevention of public nuisance

- PLACE NOTICE AT THE ENTRANCE AND EXIT TO REMIND CUSTOMERS TO LEAVE QUIETLY
- PUT A BIN OUTSIDE THE ENTRANCE OF THE PREMISES
- MAKE SURE NO EMPTY BOTTLES, BIN AND RUBBISH AROUND THE PREMISES

e) The protection of children from harm

- RE- TRAIN THE STAFFS TO CHECK THE PROOF OF AGE (PASSPORT, DRIVING LICENCE AND CITIZEN CARD)
- UPDATE THE TILL TO WARN THE CASHIER TO ASK ID ON UNDERAGE PRODUCTS
- TRAIN THE STAFFS TO RECORD THE RUFUSAL BOOK UP TO DATE WITH THE CLEAR EXPLANATION

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 5 – Signatures (please read guidance note 10)

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

Signature	
Date	BANDULA DISSANAYAKA
Capacity	PROPRIETOR

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

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)

Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

Notes for Guidance

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

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



Licensing Act 2003

Premises Licence

Issued under Section 24 of the above Act

Premises Licence Number 43/6

Part 1 - Premises Details

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

Ferndale Stores 36-38 Ferndale Road New Milton BH25 5EY	Map Ref (E): 424823 318845901 Map Ref (N): 96066 2158552272 UPRN: 100062640338
Telephone Number: 01425 618165	

Where the licence is time limited the dates

This licence is NOT time limited

Licensable activities authorised by the licence

J) Sale or Supply of Alcohol

The times the licence authorises the carrying out of licensable activities

J - Sale or Supply of Alcohol			
Day	Start	Finish	
Mon	08:00	23:00	Further details: Alcohol shall not be sold or supplied except during permitted hours. Seasonal variations: Christmas Day, 12:00hrs - 15:00hrs and 19:00hrs - 22:30hrs Good Friday, 08:00hrs - 22:30hrs
Tues	08:00	23:00	
Tues	08:00	23:00	
Thur	08:00	23:00	
Fri	08:00	23:00	
Sat	08:00	23:00	
Sun	10:00	22:30	

The opening hours of the premises

N/A

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

Alcohol is supplied for consumption OFF the premises only



Part 2

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

Bandula Dissanayaka
208a Foundry Lane
Shirley
Southampton
Hampshire
SO15 3JX

Telephone:

Email:

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

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

Bandula Dissanayaka
208a Foundry Lane
Shirley
Southampton
Hampshire
SO15 3JX

Telephone:

Email:

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

2012/01594/02 SPEN
Southampton City Council

The licence is granted by New Forest District Council, as licensing authority pursuant to the Licensing Act 2003 and regulations made thereunder.

Date licence issued: 22/06/2015

Date licence commences: 22/06/2015

Date first licence came into force: 24/11/2005



Head of Public Health & Community Safety
(Authorised Officer)

Annex 1 - Mandatory conditions

Where licence authorises 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.

(Additional Condition with effect from 28 May 2014)

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;
 - (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.
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.

(Additional Condition with effect from 1 October 2014)

1. (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.

Annex 2 - Conditions consistent with the operating schedule

**Schedule of Conditions attached to a Part A Premises Licence
Embedded Restrictions transferred from the Licensing Act 1964**

**OFF LICENCES AND OFF SALES DEPARTMENTS OF
ON LICENSED PREMISES**

S.60, 63, 86, 164 Licensing Act 1964

Permitted Hours

Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:

- a) On weekdays, other than Christmas Day, 8am to 11pm
- b) On Sundays, other than Christmas Day, 10am to 10.30pm
- c) On Christmas Day, noon to 3pm and 7pm to 10.30pm
- d) On Good Friday, 8am to 10.30pm

Restrictions

The above restrictions do not prohibit:

- a) During the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- b) The ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- c) The sale of alcohol to a trader or club for the purposes of the trade or club;
- d) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Consumption

Alcohol shall not be sold in an open container or be consumed on the licensed premises.

Annex 3 - Conditions attached after a hearing by the licensing authority

N/A

Annex 4 - Plans

This licence permits the licensable activities stated at the premises addressed above in accordance with the plan(s) attached.

Plan of Premises	
Plan/Drawing No:	
Date of Plan:	Plan approved 22/06/2015

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Barrett

* Support

Sarah Wilsor

From: Licensing e-mail address
Subject: FW: Ferndale Stores application

> -----Original Message
 > From: Gill Barrett
 > Sent: 24 May 2016 14:41
 > To: Licensing e-mail address
 > Subject: Ferndale Stores application
 >
 > I just wanted to register my support for the change of hours application at Ferndale Stores. Opening from 6 am - 11 pm will be very useful to those of us working shifts and working generally.

My address is 10 Otters Walk, New Milton, BH25 5 RR

>
 > Regards
 > Gill Barrett
 >
 > Sent from my iPad
 >
 > *****
 >
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 >

Yapp

* Support

Sarah Wilson

From: Laura Yar
Sent: 24 May 2016 15:58
To: Licensing e-mail address
Subject: Ferndale Stores New Milton Application

Dear Sir / Madam,

I am writing to show my support for the licensing application for Ferndale Stores, 36-38 Ferndale Road, New Milton BH25 5EY.

I work shifts on the industrial estate in New Milton so having Ferndale Stores open earlier in the morning and later at night means that if I need to pick up something either on my way to work or on my way home - I would be able to instead of having to take a massive detour into town.

So, I would like to show my full support for the licensing application of Ferndale Stores - I believe it would be an asset and massive convenience as there are no shops open past 7 in our area. I don't have a car so if I need something from the store at say, 8pm, I'd have to walk for 40 minutes to get to a shop for whatever I need to pick up, and then 40 minutes to get back.

Please accept this email as my full backing and support for the extended hours.

Kind Regards,

Laura Yapp

10 Otters Walk
New Milton
Hampshire
BH25 5RR

Bruce-Burgess * Objection

Mr & Mrs Bruce-Burgess

35 Ferndale Road

New Milton

Hants

BH25 5EX

19th May 2016

New Forest District Council **FAO Licensing Dept**

Appletree Court

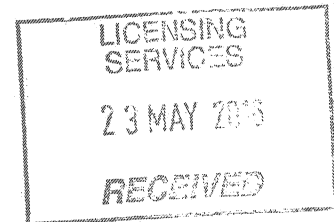
Beaulieu Road

Lyndhurst

Hants

SO43 7PA

Dear Sir



RE: Licence Application. Ferndale Stores New Milton

We live close to Ferndale Stores in Ferndale Road. We have just learnt that the proprietors have applied for permission to alter their opening hours. At present they open from 7am until 7pm Monday to Friday and 8am until 2pm on a Sunday. This has worked very well from the point of view of local residents.

I notice on the application that the following is stated and is incorrect.

to amend the hours for the sale of alcohol off the premises to 06:00hrs to 23:00hrs, Monday to Sunday. (Previously, 08:00hrs to 23:00hrs, Monday to Sunday). To remove inherent conditions relating to the old Licensing Act 1964.

It is incorrect to say they have previously been open until 11pm at night.

We strongly object to this proposal and would like you to note this objection. I am certain that if other local residents were aware of this they too would object to it. We cannot see any reference to it by the shop.

We look forward to hearing from you regarding this.

Hilary Bruce-Burgess

Michael Bruce-Burgess

* Objection

Mr & Mrs D Gray

"Oak Tree Lodge" 34 Ferndale Road, New Milton, Hampshire. BH25 5EY

Licensing Services
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA

18th May 2016

Dear Sir/Madam,

Re: Licensing Application for Ferndale Stores (36-38 Ferndale Road, New Milton)

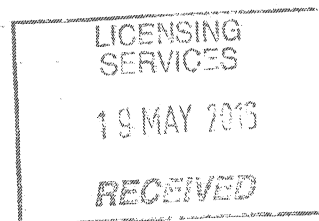
We are writing to voice our concerns at the extending opening hours of Ferndale Stores and, in particular, the sale of alcohol at those premises during those hours.

We do not understand why alcohol needs to be sold between 06:00 and 08:00 and we are surmising that the shop will therefore be opening at 06:00 in the future. As close neighbours of the shop, we are therefore concerned about the noise from delivery lorries and customers vehicles during these early hours.

We are also presuming that the Licensing hours up to 23:00 will be taken up by the new owners and we are very concerned regarding any crime and disorder which may occur if this happens. In previous years when the shop was open late into the evening, it became a gathering place for local youths being able to buy alcohol and cause a public nuisance. We do not wish to return to this unacceptable situation.

Yours faithfully,

Mr & Mrs D Gray



Hall

* Objection

Sarah Wilson

From: Joanne Luscombe on behalf of Customer Services
Sent: 23 May 2016 14:32
To: Licensing e-mail address
Subject: FW: Ferndale Stores - Variation Premises Licence

Joanne Luscombe
Customer Services Centre Manager
Business Improvement & Customer Services New Forest District Council
Tel: 023 8028 5588
Email: joanne.luscombe@nfdc.gov.uk
newforest.gov.uk

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From:
Sent: 23 May 2016 14:20
To: Customer Services
Subject: FW: Ferndale Stores - Variation Premises Licence

>-----Original Message
>From:
>Date: 23/05/2016 14:16
>To: <contact@nfdc.gov.uk>
>Subj: Ferndale Stores - Variation Premises Licence

>Dear Sirs,

>My wife and I (Alan and Brenda Hall) live at 43 Ferndale Road New Milton, BH25 5EX.

>We object to the extension of opening hours at the above premises. I believe that an extension to 11pm or even 10pm will attract the youth of the area to seek out alcohol late in the evening and the likelihood is that will consume the alcohol close to the store and our house.

>We have lived at this address since 1990 and recall a previous shop owner having extended licencing hours which resulted in the problem I have outlined. Mostly on a friday or saturday youths would congregate outside the shop and drink. That, if they are of age, is no problem in itself but they tended to get louder and louder and cause general noise well past 11pm.

>This problem caused lack of sleep for us and our children who were young at the time.

>A late licence will also attract more cars at a late time as I believe that people doing any last minute shopping will tend to do it earlier in the evening i.e. food for a late meal whereas some people who are seeking to continue earlier drinking will arrive between the hours of 10pm and 11pm.

>This is a mainly residential area and there are supermarkets supplying

alcohol with 1 to 2 miles that are not in such a residential area.

>

>Thank you for considering my objections.

>

>

>Mr A. Hall

>

Nelly

* Objection

27 OAKWOOD AVENUE
NEW MILTON, HAMPSHIRE.
BH25 5DZ.

LICENSING SERVICES,
NEW FOREST DISTRICT COUNCIL,
APPLETREE COURT,
LYNDHURST,
SO43 7PA.

19/05/2016.



Dear Sirs,

RE: FERNDALE STORES, 36-38 FERNDALE
ROAD, NEW MILTON, BH25 5EY;
PENDING LICENSING APPLICATION TO
VARY PREMISES LICENCE (S34)

It has just come to our attention that the Proprietor of the above premises has applied to the Council to amend the hours for the sale of alcohol of the premises to 23.00 hours, seven days a week.

We are therefore writing to voice our strongest objection to this proposal. With the exception of Ferndale Stores and an adjacent Hairdressers, this area is totally residential and as such very peaceful and quiet (mostly). We had an incident recently where part of our

Conservatory roof was damaged by a stone being thrown at it, which we understand was carried out by someone leaving a party in the road, and being in a drunken state. We believe that if alcohol is allowed to be sold until 11.30 pm every night, this will attract youngsters and which will then result in anti-social behaviour, noise and damage possibly being caused to residents' properties and cars.

We moved here 4 years ago now down from Twickenham, which had become too busy, noisy and where we also experienced a lot of anti-social behaviour and damage, caused primarily by young people coming from a nearby Public House. As you will appreciate therefore we are extremely anxious not to have the same thing happen here. There are plenty of Pubs, shops nearby where alcohol can be both drunk and bought, without Ferndale Stores selling it until 11.30 pm too. We truly believe that the welfare and peace of mind of all the residents in the immediate vicinity be put first, and not that of a commercial

3

enterprise, whose only interest is that of making money!

It would be an utter travesty if the peace and quiet of this beautiful area were to be destroyed as a by-product of alcohol, as is the case in so many other areas of the Country.

As such therefore we would urge you to consider carefully the whole scenario and your decision be weighted in favour of us residents (of whom we are not alone), as opposed to those of a commercial enterprise.

We understand from other residents who have lived in the road longer, that alcohol was once sold as late as is proposed now, which did result in problems with anti-social behaviour, noise and damage.

Yours faithfully,

(Mrs)

PATRICIA ANN KELLY

Mr. Chris Kelly

RAYMOND KELLY

5/12/2016

Phillimore

Gmail - Ferndale Stores

M Gmail

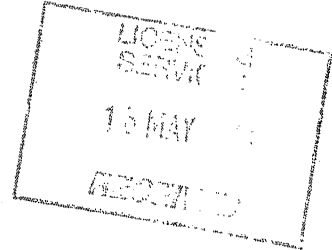
* Objection

Copy of email sent 12/5/16

Ferndale Stores

12 May 2016 at 17:09

Mrs & Mrs Phillimore
45, Ferndale Road
New Milton
Bh25 5EX
12th May 2016



Dear Sirs,

I have been made aware of the planning application for extending the opening hours of The following

FERNDAL STORES, 36-38 FERNDAL ROAD, NEW MILTON, BH25 5EY	Variation Premises Licence (S34)	27/04/2016
----------------------------------------------------------	----------------------------------	------------

We object most strongly for the following reasons.

The current hours have been adequate and of no nuisance to the residents of Ferndale Road for years. So why do they need to extend them, we have been told that the shop will not stay open longer than nine pm, so why extend to 11?

At present the parking is just about tolerable, the shop clients seem to think our garage area is available parking, and can be abusive when ask to move. At present the slamming doors and car noise is within an acceptable time frame, but nine pm or eleven no thank you. There is enough trouble parking at the moment but at least we know the shop will close at 7pm and there will be room to park.

The other nuisance Noise, being disturb early in the morning with traffic and parking, this is after all a residential area. And in the evening's it is liable to become the local meeting point with cans of beer etc. available and this noise would be completely unacceptable, we really do not want "lager louts and cans" outside our door.

The other noise factor is the morning dog run, every morning at 7 we have the dog tied up barking his head off, we also have the daily ones, but we live with it BUT not at 6am in the morning. Has consideration been shown for the families living above the Ferndale Store, there are young children above the premises.

Thank you for your attention I am also sending a copy of this e-mail via the post.

Rogerson

* Objection

Mr & Mrs J Rogerson
1 Ferndale Road
New Milton
BH25 5EX

May 21st 2016

Licensing Services
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA



Re: Licensing Application for 36/38 Ferndale Stores, Ferndale Road, New Milton

We are writing to express our concern at the above application, namely to keep the the shop open and to sell alcohol up to 11 pm.

We feel this is opening up the possibility of young people not only buying alcohol at this late hour, but hanging about the shop drinking and noisily working their way down the road, possibly drunk and possibly committing acts of vandalism.

This is a quiet residential area and those in the neighbourhood are mainly retired people.

There is already a late night opening shop nearby – namely McColls in Station Road and we cannot see the need for another one.

We ask on behalf of our neighbourhood that you would give this serious consideration.

Yours sincerely

Joan and John Rogerson

Thomas

* Objector

Sarah Wilson

From:
Sent: 23 May 2016 20:59
To: Licensing e-mail address
Subject: Alcohol license

39 Ferndale Road
New Milton
Hants
Bh25 5ex. Date 23/05/2016

Ref Premier Shop @ 36-38 Ferndale Road Application Mr B Dissanyaka.
Application to extend Alcohol license to 6am to 11pm.

Hi i am a resident which lives opposite the shop and am not happy as the shop is going to extend there opening times to 6am to 11pm seven days a week if this license gets the go ahead. At present it open's from 7am to 7pm six day's a week and Sunday from 8am to 2pm. These hour's are more than adequate for a corner shop.

The new hour's will only attract anti social behavior which we had a problem with when it use to stay open till 9pm and they removed the bench so they could not hang around it and the old people lost there seat to sit on when they came out of hairdresser's. It will only attract people to stock up on drink.

We have a cut way to Brooke Avenue which is unlit one house away from us which we already get a problem with empty bottles and cans and rubbish are dumped, also rubbish is put in people's hedges and it is horrible to see and we could end up with people hanging around there .As it is a nice area to live we have been here for 19 years and are happy.

I would ask you to refuse the extension on the above ground's and keep the peace in our residential area .

Thank you Mr & Mrs Thomas.

Thorne

* Objection

Sarah Wilson

From: Ella Ritchie on behalf of Development Control Administration
Sent: 17 May 2016 12:08
To: Licensing e-mail address
Subject: FW: Ferndale stores

-----Original Message

From: Debbie Thorne
Sent: 17 May 2016 11:44
To: Development Control (Dev Control)
Subject: RE: Ferndale stores

Thank you my address is 42a Ferndale Road New Milton BH25 5EY

The site is registration and pending application and it is for variation premises licence S34 for Ferndale Stores under the name Mr B Dissaayaka.

As you can see we live next to the shop so it will affect us greatly

Thank you

Debbie Thorne

Lenovo TAB 2 A10-300n 17 May 2016 11:15, "Development Control (Dev Control)"
<Dev.Control@NFDC.gov.uk> wrote:

>
> Good morning
>
> In order for us to register your objection please forward your address.
>
> Also please provide the application number or site address to which your objection refers.
>
> Many thanks
>
>
> Hayley Roppolo
> Administration Officer
> Planning
> New Forest District Council
> Tel: 023 8028 5345 Option 1
> Email: hayley.roppolo@nfdc.gov.uk
> newforest.gov.uk
>
>
> Download our app
> New Forest In Touch
>
>
>
> -----Original Message-----
> From: Debbie Thorne [r
> Sent: 17 May 2016 10:00
> To: Development Control (Dev Control)
> Subject: Ferndale stores
>
>

> I would like to log an objection to the proposed opening hours of the new premier shop at Ferndale Stores.
>
> 6am - 11 am is not acceptable in a residential area, I have 2 young children 1 of which has her bedroom in the front. The noise from the early start and late night will be unacceptable.
>
> The current opening hour from 7am - 7pm are adequate as it is only a paper shop/minor food shop and a post office.
>
> Please consider my objection
>
> Thank you
>
> Debbie Thorne

>
> Lenovo TAB 2 A10-30

> *****

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Wallace

* Objection

Mr. & Mrs. S Wallace
1A Ferndale Road
New Milton
Hampshire
BH25 5EX

17/05/16



Dear Sir/Madam,

RE: Licensing Application for 36/38 Ferndale Stores, Ferndale Road, New Milton, Hampshire, BH25 5EY.

We are writing to register our objection to the above premise to extending their times to the sale of alcohol. The basis for this opposition is a real concern, particularly the prevention of crime, disorder and antisocial behavior.

Residents in this area are mainly elderly and young families, so therefore this is a genuine concern that the extending hours will have a very negative impact on the quality of their/our daily lives i.e. – times of delivery lorries, increase in traffic to and from the shop, noise and anti-social behavior which I believe was a real issue in the past when the store closed late.

I would please urge the Committee to consider the impact this would create on the surrounding local community which has enjoyed a relatively peaceful existence up to now if the proposal is granted.

Yours faithfully,

S Wallace

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HOME OFFICE

AMENDED GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003

MARCH 2015

THE LICENSING OBJECTIVES

Crime & 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. 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.

Public safety

- 2.6 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.7 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.11-2.12, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.8 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.33- 8.41), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

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

Maintenance and repair

- 2.10 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of

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

Safe capacities

- 2.11 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.12 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.13 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public Nuisance

- 2.14 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.

- 2.15 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.
- 2.16 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 15). 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.
- 2.17 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.
- 2.18 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.
- 2.19 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.
- 2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Protection of Children from Harm

- 2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.23 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.24 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.25 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.26 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
 - restrictions on the parts of the premises to which children may have access;
 - age restrictions (below 18);
 - restrictions or exclusions when certain activities are taking place;
 - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
 - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.27 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.28 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.29 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.
- 2.30 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

HOME OFFICE

AMENDED GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003

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

- 9.41 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.
- 9.42 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.
- 9.43 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.

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