

**APPLICATION TO VARY A PREMISES LICENCE - THE FUSION INN,
QUEEN STREET, LYMINGTON**

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 Nicholas Judd on behalf of Siam Corporation Ltd. has made an application to vary the premises licence for the Fusion Inn, Queen Street, Lymington, SO41 9NG.

The current licence permits the following:

Regulated Entertainment (Recorded Music)
Saturday - 23:00 to 00:45 (every other Saturday)

Sale of Alcohol
Sunday to Thursday - 10:00 to Midnight
Friday & Saturday - 10:00 to 01:00 hours
Plus 10 occasions per calendar year for 24 hour opening where notice is given.

Opening Hours
Sunday to Thursday – 10:00 to 00:30 hours
Friday & Saturday – 10:00 to 01:30 hours
Plus 10 occasions per calendar year for 24 hour opening where notice is given.

The application seeks to vary the licence to additionally permit:

Late Night Refreshment
Friday & Saturday - 23:00 to 01:30 hours

Sale of Alcohol
Friday & Saturday - 10:00 to 02:00 hours
Christmas Eve & New Years Eve - 10:00 to 02:00 hours

Opening Hours
Sunday to Thursday – 10:00 to 00:30 hours
Friday & Saturday – 10:00 to 02:30 hours
Christmas Eve & New Years Eve – 10:00 to 02:30 hours

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

- # 2.2 Proposed conditions to be added to all those currently on the licence, have been agreed with Environmental Health (pollution). The list of agreed conditions and all other conditions proposed by the applicant for this application are attached as **Appendix 2**.

3. REPRESENTATIONS

- 3.1 There are no representations from any Responsible Authorities.

- # 3.2 Representations have been received from three other parties. These are attached as **Appendix 3**.

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 4**.

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 5**.

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;
- Reject part of the application;
- Reject the whole 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

LICPR/OS/00045

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 Nicholas Judd on behalf of Siam Corporation Ltd
(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
1330/4

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description The Fusion Inn Queen Street			
Post town	Lymington	Postcode	SO41 9NG
Telephone number at premises (if any)	01590 672139		
Non-domestic rateable value of premises	£31750.00		

LICENSING
SERVICES

15 JUN 2015

RECEIVED

Part 2 – Applicant details

Daytime contact telephone number			
E-mail address (optional)			
Current postal address if different from premises address			
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

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?
 (Please see guidance note 1) Yes No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)
 I wish to extend my sale of alcohol on and off site from 10.00-01.00 to 10.00- 02.00 Friday and Saturday nights, and my late night refreshment extended till 01.30 on site Friday and Saturday nights.

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

--

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)

Supply 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 7)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	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 4)		
Mon	-----	-----			
Tue	-----	-----			
Wed	-----	-----	<u>State any seasonal variations for performing plays</u> (please read guidance note 5)		
Thur	-----	-----			
Fri	-----	-----	<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 6)		
Sat	-----	-----			
Sun	-----	-----			

B

Films Standard days and timings (please read guidance note 7)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input type="checkbox"/>			
				Outdoors	<input type="checkbox"/>			
				Both	<input type="checkbox"/>			
Day	Start	Finish	Please give further details here (please read guidance note 4)					
Mon								
Tue								
Wed						State any seasonal variations for the exhibition of films (please read guidance note 5)		
Thur								
Fri						Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 6)		
Sat								
Sun								

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Tue			
Wed			<u>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</u> (please read guidance note 6)
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 7)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 3)		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 4)			
Mon						
Tue						
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 5)			
Thur						
Fri			<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</u> (please read guidance note 6)			
Sat						
Sun						

E

Live music Standard days and timings (please read guidance note 7)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 3)	
			Indoors	<input type="checkbox"/>
			Outdoors	<input type="checkbox"/>
			Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)	
Mon				
Tue				
Wed				
Thur				
Fri				
Sat				
			State any seasonal variations for the performance of live music (please read guidance note 5)	
			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 6)	
Sun				

F

Recorded music Standard days and timings (please read guidance note 7)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 3)		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 4)			
Mon						
	-----	-----				
Tue						
	-----	-----	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 5)			
Wed						
	-----	-----				
Thur						
	-----	-----	<u>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</u> (please read guidance note 6)			
Fri						
	-----	-----				
Sat						
	-----	-----				
Sun						
	-----	-----				

G

Performances of dance Standard days and timings (please read guidance note 7)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 4)		
Tue					
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 5)		
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 6)		
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 7)			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 3)	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 4)		
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 5)		
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 6)		
Sun					

I

Amended as per tel con with Nick Judd

Late night refreshment Standard days and timings (please read guidance note 7)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 4)		
Mon					
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 5)		
Thur			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 6)		
Fri	10.00	01.30			
Sat	10.00	01.30			
Sun					

J

Supply of alcohol Standard days and timings (please read guidance note 7)			Will the supply of alcohol be for consumption -- please tick (please read guidance note 8)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 5)		
Mon	10.00	24.00			
Tue	10.00	24.00			
	10.00	24.00			
Wed	10.00	24.00			
Thur	10.00	24.00			
Fri	10.00	02.00			
Sat	10.00	02.00			
Sun	10.00	24.00			

K

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 9).

L

Hours premises are open to the public Standard days and timings (please read guidance note 7)			State any seasonal variations (please read guidance note 5)
Day	Start	Finish	
Mon	10.00	00.30	
Tue	10.00	00.30	
Wed	10.00	00.30	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 6) Christmas Eve 10.00-02.30 New Years Eve 10.00-02.30
Thur	10.00	00.30	
Fri	10.00	02.30	
Sat	10.00	02.30	
Sun	10.00	00.30	

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.
No patrons carrying bottles, either sealed or opened, will be permitted to enter the premises at any time that the premises are open

[Empty box for identifying conditions to be removed from the licence]

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.

[Empty box for providing reasons for not including the licence or part of it]

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 10)

I have just recently started up a door supervisors company that cover all 3 bars that use door staff and the local kebab shop, once these close the door staff will come up to The Fusion Inn and provide addition support. All staff are and will be doing courses in, Age verification, award in under age sales, conflict management, award for licenced premises(includes recognising intoxicated people) and drugs awareness. I will also change my challenge 21 to challenge 25. I am more than happy to add, CCTV, incident book, refusals book and staff training into my conditions as I have had these in place for some time now.

b) The prevention of crime and disorder

Door staff will be inside and out checking for suspicious behaviour and are in touch with the other bars in town via our walkie-talkies. We have in place our own CCTV and Nightwatch radio which gives as instant communication with Lyndhurst CCTV operatives. I attend both Lymington and New Milton Pubwatch on a monthly basis. Staff training as above

c) Public safety

Staff are trained in evacuation procedures. Same as above with staff training.

d) The prevention of public nuisance

Same as current licence. Last entry will be 24.00. Last fresh air/smoking time 01.15, kept to the right of the building as you leave, Jennings & Son bakery direction which is unoccupied.

e) The protection of children from harm

Children are not permitted past 9pm and pathways around the area will be checked for broken glass etc. Challenge 25 will be put in place. Staff learning as stated courses as above.

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee; or
I have not made or enclosed payment of the fee because this application has been made in
relation to the introduction of the late night levy.
- 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 11)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 12). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	12-6-15
Capacity	250

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 13). 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 14)

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)			

1) CCTV

The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas.

CCTV warning signs to be fitted in public places.

The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation.

The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.

Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained.

The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected.

There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity. Any images recovered must be in a viewable format on either disc or VHS. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Hampshire Western Police Licensing Unit within 24 hours.

2) Incident book

An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to police for inspection upon request.

Any incidents that include physical altercation or disorder, physical ejection, injury, id seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known). Should there be any physical interaction by members of staff and the public the entry

will include what physical action occurred between each party. The entry shall be timed, dated and signed by the author.

If the member of staff creating the entry has difficulties reading or writing then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry.

At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred the duty manager will de-brief door staff at the close of business. Should there be no incidents then this will also be recorded at the close of business in the incident book.

3) Refusals book

A written log shall be kept of all refusals including refusals to sell alcohol. The Premises Licence Holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the store manager/manageress.

The refusals log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any responsible authority.

The record of refusals will be retained for 12 months.

4) Challenge 25

There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older.

Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the "PASS" logo and the persons date of birth.

If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

'Challenge 25' posters shall be displayed in prominent positions at the premises.

5) Training-

Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.

All staff will receive refresher training every six months as a minimum and records are to be kept of this refresher training which should be signed and dated by the member of staff who received that training.

In addition to their training a written test related to the training given will be conducted before the staff member is permitted to sell or authorise alcohol. The test will consist of a minimum of ten questions of which the pass rate is 80%. Anyone who fails to reach the prescribed pass rate will be retrained and re-tested. Anyone not attaining the pass rate will not be permitted to sell or authorise the sale of alcohol until the pass rate is attained. There will be a minimum of two sets of questions to be used in the training which will be rotated upon each subsequent six month training session.

All training records will be made immediately available for inspection by Hampshire Constabulary and any responsible Authority upon request. Training records will be kept for a minimum period of two years. Training records will be kept on the licensed premises to which they relate to.



Licensing Act 2003

Premises Licence

Issued under Section 24 of the above Act

Premises Licence Number	1330/4
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Part 1 - Premises Details

Postal address of premises, or if none, ordinance survey map reference or description	
The Fusion Inn Queen Street Lymington Hampshire SO41 9NG	Map Ref (E): 431927.382773864 Map Ref (N): 95433.5985426285 UPRN: 100062001408
Telephone Number: 01590 672139	

Where the licence is time limited the dates
This licence is NOT time limited

Licensable activities authorised by the licence
E) Performance of Live Music F) Playing of Recorded Music J) Sale or Supply of Alcohol - On and Off the Premises

The times the licence authorises the carrying out of licensable activities				
E - Performance of Live Music	Performance of live music may take place:		Indoors	Y
			Outdoors	
			Both	
Day	Start	Finish	Further details:	
Mon	20:00	23:00	The number of events permitted involving live music is restricted to two per week Seasonal variations: Non standard timings:	
Tues	20:00	23:00		
Wed	20:00	23:00		
Thur	20:00	23:00		
Fri	20:00	23:00		
Sat	20:00	23:00		
Sun	20:00	23:00		



F - Playing of Recorded Music			Playing of recorded music may take place:	Indoors	Y
				Outdoors	
				Both	
Day	Start	Finish			
Sat	20:00	00:45	Further details: Recorded music is permitted every other Saturday evening Seasonal variations: Non standard timings:		

J - Sale or Supply of Alcohol - On and Off the Premises					
Day	Start	Finish			
Mon	10:00	24:00	Further details: Seasonal variations: Non standard timings: This licensable activity and premises opening will be permitted between 24:00hrs (or 01:00hrs) and 10:00hrs (24 hours opening) on a maximum of 10 occasions per calendar year, provided that such events: 1) Are notified to the Police and the Licensing Authority at least 7 days in advance of the date of each event and; 2) Are not vetoed by the Police		
Tues	10:00	24:00			
Wed	10:00	24:00			
Thur	10:00	24:00			
Fri	10:00	01:00			
Sat	10:00	01:00			
Sun	10:00	24:00			

The opening hours of the premises

L - Opening Hours

Day	Start	Finish			
Mon	10:00	00:30	Seasonal variations: Non standard timings: The licensable activity detailed at Section - Supply of Alcohol) and premises opening will be permitted between 24:00hrs (01:00hrs) and 10:00hrs (24 hours opening) on a maximum of 10 occasions per calendar year, provided that such events: 1) Are notified to the Police and Licensing Authority at least 7 days in advance of the date of each event and; 2) Are not vetoed by the Police		
Tues	10:00	00:30			
Wed	10:00	00:30			
Thur	10:00	00:30			
Fri	10:00	01:30			
Sat	10:00	01:30			
Sun	10:00	00:30			

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

Alcohol is supplied for consumption both ON and OFF the premises

Part 2

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

Siam Corporation Ltd
The Fusion Inn
Queen Street
Lymington
Hampshire
SO41 9NG

Telephone: 01590 672139

Email:

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

7130873

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

Nicholas Judd
2 Colborne Close
Lymington
Hampshire
SO41 9LN

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

New Forest District 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: 02/09/2014

Date licence commences: 30/08/2014

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



Head of Public Health & Community Safety
(Authorised Officer)

Annex 1 - Mandatory conditions

Where licence authorises door supervision:

- (1) Each individual at the premises to carry out a security activity must:

Be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001;

or

Be entitled to carry out that activity by virtue of section 4 of that Act.

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 Conditions with effect from 6 April 2010)

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

(i) the outcome of a race, competition or other event or process, or
(ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

(Additional Condition with effect from 1 October 2010)

4. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

5. The responsible person shall ensure that—
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

(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(a);
 - (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(b).
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

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

b) The prevention of crime and disorder

The premises is a member of the Pubwatch Scheme.

No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.

No irresponsible sales promotions of alcoholic beverages shall be offered to customers.

c) Public safety

All escape routes and exits will be kept unobstructed, in good order with non slippery and even surfaces, free of trip hazards and clearly identified.

All staff are trained and made aware of the evacuation procedure in the event of a fire occurring.

d) The prevention of public nuisance

So as to minimise disturbance to local residents late at night staff will be given appropriate instructions and training to encourage customers to leave the premises quietly and not to loiter in the vicinity of the premises.

A noise limiting device (the specification and design to be approved with New Forest District Council's Environmental Health Officer) shall be fitted so that all amplified regulated entertainment is channelled through the device(s). The maximum noise levels shall be approved by New Forest District Council's Environmental Health Officer and will be reviewed from time to time as appropriate.

The noise limiting device shall be sealed after commissioning, so that sound operators cannot override the system.

Doors and windows shall be kept closed during periods of regulated entertainment except for access and egress.

e) The protection of children from harm

Anyone who appears to be under 21 and who is attempting to buy alcohol must be required to produce proof of age before such sale is made.

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

General condition:

1. Notices shall be displayed in prominent positions both within and outside the premises requiring patrons to leave quietly and respect local residents.
2. No patrons carrying bottles, either sealed or open, will be permitted to enter the premises at any time that the premises are open.
3. The licensable activity permitted at Section E (live music) above shall not be permitted to take place in the garden or any other external area of the premises.
4. The licensable activity permitted at Section E (live music) above shall be permitted on no more than two occasions per week.
5. No regulated entertainment whatsoever shall be permitted to take place in the garden or any other external area of the premises.
6. The designated premises supervisor or his nominated representative shall receive and respond to complaints at all times that the premises are open to the public.

7. No patrons will be permitted to enter or remain in the garden or any other external area of the premises between 23:00 and 09:00 hours.
8. Bottles, waste and other refuse shall not be placed or disposed of into external storage receptacles between 22:00 and 07:00 hours.
9. No waste collection contractors will be permitted to collect waste from the premises between 19:00 and 07:00 hours.
10. No deliveries of consumables to the premises shall take place between 19:00 and 07:00 hours.
11. All windows and doors will be kept closed between 23:00 and 08:00 hours each day, except for access and egress.
12. All music noise emanating from the premises, whilst audible shall be so low that distinct tunes, lyrics, musical instruments and any base beat shall not be recognised at the boundary of all noise sensitive premises*.
13. No licensable activities or consumption of alcohol will take place externally after 23:00 hours.

* For the purposes of condition 12 above, the definition of "noise sensitive premises" shall include premises used for residential purposes, hospitals or similar institutions, educational establishments (when in use), places of worship (during recognised times and days of worship) and any other premises used for any other purpose likely to be affected by the music noise.

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:	2281/8CP7739
Date of Plan:	18/07/2005

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

All staff will be doing courses in age verification, awards in under age sales, conflict management, award for licensed premises (includes recognising intoxicated people) and drugs awareness.

b) The prevention of crime and disorder

Door staff will be inside and out checking for suspicious behaviour and are in touch with the other bars in town via walkie talkies. The premises have in place CCTV and Night watch radio which gives an instant communication with Lyndhurst CCTV operatives. The Designated Premises Supervisor attends both Lympington and New Milton Pubwatch on a monthly basis.

CCTV

The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas.

CCTV warning signs to be fitted in public places.

The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation.

The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.

Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained.

The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e., password protected.

There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity. Any images recovered must be in a viewable format on either disc or VHS. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.

In the event of technical failure of the CCTV equipment the premises licence holder/DPS MUST report the failure to the Hampshire Western Police Licensing Unit within twenty four hours.

Incident Book

An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to police for inspection upon request.

Any incidents that include physical altercation or disorder, physical ejection, injury, ID seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is now known). Should there be any physical interaction by members of staff and the public the entry will include what physical action occurred between each party. The entry shall be timed, dated and signed by the author.

If the member of staff creating the entry has difficulties reading or writing then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry.

At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred the duty manager will de-brief door staff at the close of business. Should there be no incidents then this will also be recorded at the close of business in the incident book.

Refusals Book

A written log shall be kept of all refusals including refusals to sell alcohol. The premises licence holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the store manager/manageress.

The refusals log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any responsible authority.

The record of refusals will be retained for 12 months.

Challenge 25

There will be a Challenge 25 policy operating at the premise. Challenge 25 means that the holder of the premises licence shall ensure that every individual who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older.

Acceptable identification for the purposes of age verification will include a driving licence, passport or photographic identification bearing the 'PASS' logo and the persons date of birth.

If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

Challenge 25 posters shall be displayed in prominent positions at the premises.

Training

Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and systems of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.

In addition to their training a written test related to the training given will be conducted before the staff member is permitted to sell or authorise alcohol. The test will consist of a minimum of ten questions of which the pass rate is 80%. Anyone who fails to reach the prescribed pass rate will be retrained and retested. Anyone not attaining the pass rate will not be permitted to sell or authorise the sale of alcohol until the pass rate is attained. There will be a minimum of two sets of questions to be used in the training which will be rotated upon each subsequent six month training session.

All training records will be made immediately available for inspection by Hampshire Constabulary and any responsible Authority upon request. Training records will be kept for a minimum period of two years. Training records will be kept for a minimum period of two years. Training records will be kept on the licensed premises to which they relate to.

c) Public safety

Staff are trained in evacuation procedures.

d) The prevention of public nuisance

Last entry will be 24:00hrs.

Last fresh air/smoking time 01:15hrs and kept to the right of the building as you leave, Jennings & Son bakery direction which is unoccupied.

The noise limiting device installed shall be retained and maintained in good working order and all recorded amplified regulated entertainment shall be channelled through that device. The maximum noise level set by Environmental Health Officers from New Forest District Council shall be reviewed as required by Environmental Health Officers from New Forest District Council.

The noise limiting device shall be sealed to avoid tampering.

Doors and windows shall be kept closed during periods of regulated entertainment except for access and egress.

Customers shall not be permitted to take open drinks or food purchased at the premises for consumption outside the front entrance of the premises leading onto Queen Street, Lymington. Signage advising customers of this restriction shall be placed adjacent to the front entrance of the premises.

An area designated for smoking at the front of the premises shall be submitted to New Forest District Council's Environmental Health Officer for approval within 1 month of the issue date of the premises licence. The approved area and associated noise shall be managed by staff from the Fusion Inn.

After 23:00hrs customers from the Fusion Inn shall only smoke in the approved designated smoking area.

After 01:00hrs customers shall not re-enter the premises once they have exited the premises.

Last entry to the public shall be at 24:00hrs.

Signage shall be placed by the front entrance of the premises to remind customers of the need to respect local residents and to keep quiet during times of smoking, when leaving the premises and in the immediate vicinity.

After 22:00hrs door staff shall encourage customers to leave the Fusion Inn quietly and disperse from the vicinity of the premises quickly.

After 22:00hrs door staff shall prevent customers from congregating outside the premises and manage customers queuing to enter the premises.

Door staff of the Fusion Inn shall remain outside the premises for up to 20 minutes after the premises has closed to ensure all customers disperse quietly and quickly from the vicinity of the premises. If all customers have dispersed within the 20 minute period staff can return to the Fusion Inn.

e) The protection of children from harm

Children will not be permitted past 9pm and pathways around the area will be checked for broken glass etc.

Challenge 25 will be put in place.

* Objection

Sarah Wilson

From: Paul Weston on behalf of Licensing e-mail address
Sent: 22 June 2015 11:51
To: Sarah Wilson
Subject: FW: Variation Premises Licence (S34) RE: Fusion Inn Queen Street

Representation – public nuisance

Paul Weston

Licensing Services
 Public Health & Community Safety
 New Forest District Council
 Tel: **023 8028 5505**
 Email: licensing@nfdc.gov.uk
newforest.gov.uk



[Download our app](#)
New Forest In Touch

From: Keith Hardy [mailto:keith.hardy@nfdc.gov.uk]
Sent: 22 June 2015 11:44
To: Licensing e-mail address
Subject: Variation Premises Licence (S34) RE: Fusion Inn Queen Street

Application: FUSION INN *To extend the sale of alcohol, on and off the premises from 10:00hrs - 01:00hrs to 10:00hrs - 02:00hrs Friday and Saturday nights and late night refreshment extended until 01:30hrs on the premises, Friday and Saturday nights.*

Dear Sir,

I am writing to object to the variation of Premises Licence which would result in increased trading hours. My objections can be summarised as follows:

1. There is no need for such an extension.
2. Local residents already suffer from late night noise, nuisance, damage and litter from persons exiting the premises and making their way home until after 02.30 in some cases.
3. Any extension to existing will create more nuisance in respect of persons loitering in the vicinity even later in the mornings.
4. A successful extension would see even later trading hours from the kebab shops in Queen street and further noise nuisance damage and litter in this dense residential area.

I also object to any conditions being removed from this licence as the reasons they were imposed are still valid..

Yours Sincerely,

Keith Hardy

10 Eastern Road
 Lymington
 Hampshire

S0419HG

* Objection *

Paul Weston

From: Roger Pat Lee [
Sent: 07 July 2015 18:07
To: Licensing e-mail address
Subject: The Fusion Inn, Queen Street, Lymington, Hampshire.

Dear Sir

As an adjoining neighbour to The Fusion Inn, we strongly object to the extra hour of opening until 2.00 am on Fridays and Saturdays.

As the current situation stands, we have with the aid of Environmental Health, N.F.D.C. only just achieved a music volume (which penetrates our walls) that is generally acceptable.

However as Mr Judd is well aware, with the current license at 1.00am people leave The Fusion at 1.30am and even if not always raucous, the general merriment in the street directly below our window is totally unacceptable and can go on to 1.45 or 2.00am. We have approached Mr Judd with this problem and although he is sympathetic, the lack of taxis at this time of night means customers have to hang around waiting.

If you allow the extension until 2.00 am we will be awoken at 2.30am as customers leave. We would imagine that the taxi service at this time in a small town such as Lymington would be very spasmodic, hence the disruption of our sleep in a residential area could easily be from 2.30 to 3.30am. We are not prepared to tolerate this level of disturbance and we do on many occasions over the weekend have grandchildren to stay so this will be totally unacceptable. We have a human right to a decent night's sleep.

Nightclub hours in a residential area in a small market town are bound to cause major disruption to all residents. We therefore ask you to reject the application.

Yours faithfully

Roger and Pat Lee
24a Queen Street
Lymington
Hants..
S041 9NG
Sent from my iPad

Licensing Services * Objection * 8. Eastern Rd

NFDC

App. No S34 15 JUN 15



Lymington
80 41 9th.
6th JUL 15

Dear Sirs

Ref Fusion Inn Lymington, application
to extend opening hours.

I wish to object to the
application.

Eastern Road is favoured by late
night patrons of local public houses as
a place to congregate after the pubs
close. They do this to avoid observation
by CCTV in Southampton Rd & Queens St
and the police patrols that seem to
confine themselves to the main roads.

These people are already a noise nuisance
and boisterous.

This road is populated by
elderly people - mainly living on their own,
and younger families with small children.

Please do not extend our discomfort!!!

Yours
Sincerely Roger Neave.



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

MARCH 2015

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.