

**Name of meeting:** Licensing Panel

**Date:** Monday 5<sup>th</sup> June 2023

**Title of report:** Licensing Act 2003 – Application for the Grant of a Premises Licence: 20 Holmfirth Road, Meltham, Holmfirth, HD9 4ES

**Purpose of report:** To determine the application

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Not applicable
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports?)</u>	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Strategic Director</u> & name	Fiona Goldsmith – on behalf of Colin Parr Strategic Director (Environment and Climate Change)
Is it also signed off by the Service Director (Finance)?	Not applicable
Is it also signed off by the Service Director for Legal Governance and Commissioning?	Not applicable
Cabinet member <u>portfolio</u>	Cllr Will Simpson

**Electoral wards affected:** Holme Valley North

**Ward councillors consulted:** Cllr Charles Greaves  
Cllr Tony McGrath  
Cllr Paul Whitehouse

**Public or private:** Public

**GDPR Implications:**

GDPR has been considered and appropriate sections of the report have been amended.

## 1 Summary

The purpose of this report is to inform Members of an application for the grant of a premises licence, which because of 3 objections received, has been referred to this Panel for determination.

## 2 Information required to take a decision

### 2.1 Application

2.1.1 On 06<sup>th</sup> April 2023 the Licensing department received an application for the grant of a premises licence for T' Wine bar. A copy of the application and plans of the premises can be seen at **Appendix A**.

2.1.2 The licensable activities applied for by the applicant are as follows.

Supply of Alcohol (Both)  
Monday - Sunday 11:00 – 23:00

Live music (Indoors)  
Monday – Sunday 11:00 – 23:00

Recorded music (Both)  
Monday – Sunday 11:00 – 23:00

The applicant has also applied by means of a seasonal variation, to extend their sale of alcohol hours on Bank Holidays to 24.00 hours.

2.1.3 In total, 4 representations have been received during the consultation period.

2.1.4 Representations made include responsible authority Environmental Health's Noise Pollution, 2 Local ward Members and a representation from Public Health.

2.1.5 The premises was previously operated as Beauty Cottage hair salon. The new premises T' Wine bar have used 9 Temporary events notices (TEN) this calendar year. Each TEN applied for was for the sale of alcohol only. Regulated entertainment was not applied for on any of the TEN's. The date range that the TEN's ran from was 14<sup>th</sup> of January 2023 to 12<sup>th</sup> May 2023. I can confirm after speaking with colleagues within the noise and pollution team, they did not receive any noise complaints whilst the TEN's were in operation. A copy of the dates, timings and activities for the TEN's can be seen at **Appendix B**.

2.1.6 The representations that have been received consider that the following licensing objectives would not be met should this licence be granted:

- Public Safety

- Prevention of crime & disorder
- Prevention of public nuisance

A copy of the correspondence from responsible authority Environmental Health noise pollution and representations from local ward members, can be seen at **Appendix C.**

## 2.2 Licensing Policy

Members considering the application should take note of the Authority's Statement of Licensing Policy, which provides the following guidance on how Members should approach the application and representation:

### **1.0 – Executive Summary**

1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly.

The council will have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.

### **2.0 – Purpose and Scope of the Licensing Policy**

2.7 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. If no relevant representations are made in respect of an application, the Licensing Authority is obliged to issue the licence on the terms sought.

#### **Licensing Objectives.**

1. Public Safety
2. Prevention of crime & disorder
3. Prevention of public nuisance
4. Protection of children from harm

## 2.3 Secretary of State Guidance

Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003. As the representations related to 3 of licensing objectives, Member's attention is drawn to Section 2 of this Guidance, the relevant parts of which may be found at **Appendix D.**

## 3 **Implications for the Council**

### 3.1 **Working with People**

Residents of Kirklees need to be confident that under the Licensing Act 2003 licence holders under the Licensing Act 2003 are in a position to uphold the four licensing objectives. The committee is required to take appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003. This will support both the licensing objectives and support the corporate outcomes of citizens in Kirklees living in cohesive communities, feeling safe and protected from harm.

### **3.2 Working with Partners**

The Council's licensing team work closely with partnering agencies, named 'Responsible Authorities' under the Licensing Act 2003. Responsible authorities include Planning, West Yorkshire Police, Trading Standards, Environmental Health, Fire Service, and Safeguarding Children team.

### **3.3 Place Based Working**

Working closely with Responsible Authorities the Licensing Authority can address issues within the districts that make up Kirklees.

### **3.4 Climate Change and Air Quality**

There are no climate change or air quality implications contained in this report.

### **3.5 Improving outcomes for children**

A key objective of the Licensing Act is the protection of children from harm, and any decision made by the Council, in its capacity as Licensing Authority, will have to have regard to this objective.

### **3.6 Financial Implications for the people living or working in Kirklees**

The decision members make may have financial implications for the applicant/existing licence holder.

### **3.7 Other (eg Integrated Impact Assessment (IIA)/Legal/Financial or Human Resources) Consultees and their opinions**

In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of States Guidance. The applicant or any other person who made the relevant representations in relation to the application have a right of appeal to the Magistrates Court.

Under the provisions of the Licensing Act 2003 there is no requirement for an IIA, while licence conditions should not duplicate other statutory provisions, members should be mindful of requirements and responsibilities placed on them by other legislation, which may include:

- The Gambling Act 2005
- The Environment Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work etc. Act 1974
- The Equality Act 2010
- The Immigration Act 2016
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

## **4 Next steps and timelines**

4.1 When determining the application Members, having had regard to the representation, may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps are

- grant the application,
- grant the application with the appropriate conditions,
- exclude from the scope of the licence any of the licensable activities which relate to this application, or
- reject the application.

4.2 Findings on any issues of fact should be on the balance of probability.

4.3 In arriving at a decision Members must have regard to the relevant provisions of statutory guidance and the licensing policy statement and reasons must be given for any departure.

4.4 The decision should be based on the individual merits of the application.

## **5 Officer recommendations and reasons**

5.1 Members of the Panel are requested to determine the application.

## **6 Cabinet portfolio holder's recommendations**

Not applicable

## **7 Contact officer**

Craig Heywood, Licensing Officer, Licensing Service  
Tel: 01484 221000 ext. 77067  
Email: [craig.heywood@kirklees.gov.uk](mailto:craig.heywood@kirklees.gov.uk)

## **8 Background Papers and History of Decisions**

8.1 Appendix A – Application for the Grant of a Premise Licence for T' Wine Bar

8.2 Appendix B – Copy of 9 Ten's used from 14<sup>th</sup> January 2023 – 12<sup>th</sup> May 2023.

8.3 Appendix C – Correspondence and objections from Environmental Health and local ward members.

8.4 Appendix D – Relevant sections of Secretary of State Guidance – Section 182 of Licensing Act 2003

## **9 Service Director responsible**

Katherine Armitage  
Service Director – Climate Change and Environmental Strategy  
Tel: 01484 221000  
Email: [katherine.armitage@kirklees.gov.uk](mailto:katherine.armitage@kirklees.gov.uk)



# Appendix A

## New Premises Licence

### Premises Details

Premises Address \*

BEAUTY COTTAGE 20 HOLMFIRTH ROAD MELTHAM  
HOLMFIRTH KIRKLEES HD9 4ES

Telephone number at premises (if any)

Non-domestic value of premises. \*

£ 4800

### Applicant Details

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

Please state whether you are applying for a premises licence as:

a person other than an individual -as a limited company/  
limited liability partnership

### Applicant Details

If you are applying as a person described in one of the above please confirm: \*

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

### Other Applicant (Non Individual)

Name \*

Registered Address \*

Town/City \*



### Other Applicant (Non Individual)

County		
Postcode *		
Registered Number (where applicable)		
Description of applicant (for example partnership, company, unincorporated association, etc) *		
Telephone Number		
Email *		

### Operating Schedule

When do you want the premises licence to start? *	04/05/2023
If you wish the licence to be valid only for a limited period, when do you want it to end?	
Please give a general description of the premises. *	Mid-Terraced Cottage
If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.	

### Operating Schedule

What licensable activities do you intend to carry on from the premises? \* (Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2) \*

- Plays
- Films
- Indoor Sporting Events
- Boxing or Wrestling

## Operating Schedule

- Live Music
- Recorded Music
- Performances of Dance
- Anything of a similar description falling under Music or Dance
- Provision of late night refreshment
- Supply of Alcohol

## Live Music Standard Times

Standard days and timings, where you intend to use the premises for the performance of live music. (please read guidance note 7) \* Please enter times in 24hr format (HH:MM)

Day *	Every Day
	11:00
	23:00

## Live Music

Will the Performance of Live Music take place indoors or outdoors or both? (please read guidance note 3) *	Indoors
Please provide further details. (please read guidance note 4)	Infrequent live music performances inside
State any seasonal variations for the Performance of Live Music. (please read guidance note 5)	N/A
Please state any non-standard timings, where you intend to use the premises for the performance of live music at different times from the Standard days and times listed? (please read guidance note 6)	Infrequent Weekends, typically after 6 but finished before 10

## Recorded Music Standard Times

Standard days and timings, where you intend to use the premises for the performance of recorded music. (please read guidance note 7) \* Please enter times in 24hr format (HH:MM)

Day *	Every Day
	11:00
	23:00

## Recorded Music

Will the playing of recorded music take place indoors or outdoors or both? (please read guidance note 3) *	Both
--	------

Please provide further details.(please read guidance note 4)	Subtle background noise, both inside and outside
--	--

State any seasonal variations for the playing of recorded music. (please read guidance note 5)	N/A
--	-----

Please state any non-standard timings, where you intend to use the premises for the performance of recorded music at different times from the Standard days and times listed? (please read guidance note 6)	
---	--

## Supply of Alcohol Standard Times

Standard days and timings, where you intend to use the premises for the supply of alcohol. (please read guidance note 7)\* Please enter times in 24hr format (HH:MM)

Day *	Every Day
	11:00
	23:00

## Supply of Alcohol

Will the supply of alcohol be for consumption on premises or off premises or both? (please read guidance note 8) *	Both
--	------

State any seasonal variations for the supply of alcohol. (please read guidance note 5)	N/A
--	-----

Please state any non-standard timings, where you intend to use the premises for the supply of alcoholat different	We would like to open later for Bank Holiday Weekends, Friday, Saturday and Sunday
---	--

## Supply of Alcohol

times from the Standard days and times listed?(please read guidance note 6)

## Designated Premises Supervisor

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form)

Title \*

First name \*

Surname \*

Street address \*

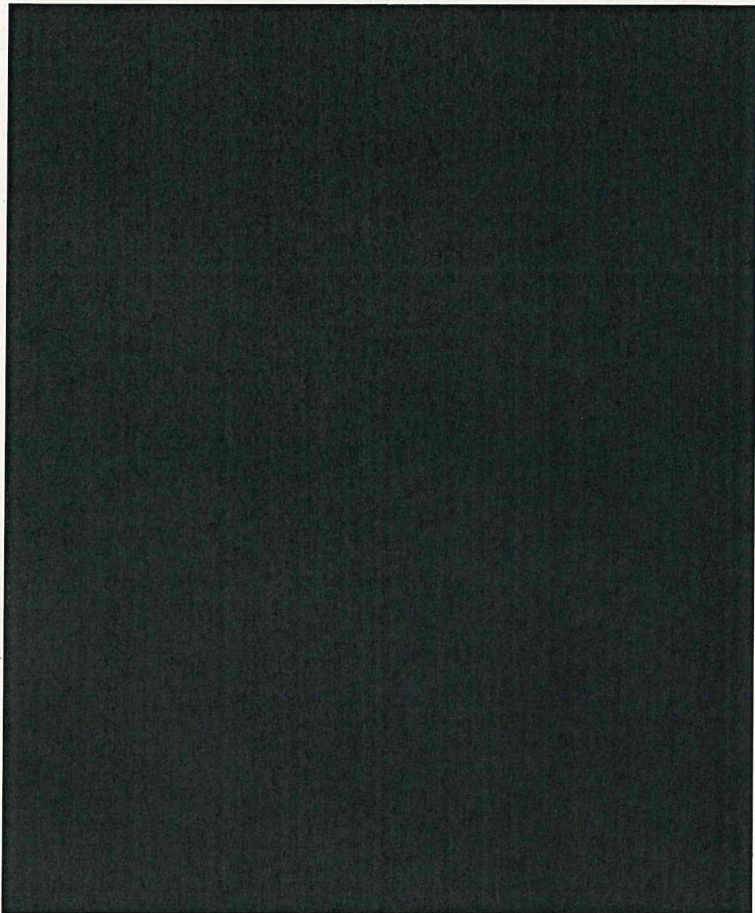
Town/City \*

County

Postcode \*

Personal Licence Number (if known)

Issuing Licensing Authority (if known)



## Adult Entertainment

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).

No, we will not be running any events of the sort

## Opening Hours Standard Times

Standard days and timings, where the premises are open to the public. (please read guidance note 7) \* Please enter times in 24hr format (HH:MM)

Day \*

Every Day

## Opening Hours Standard Times

11:00

23:00

## Licensing Objectives

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)

We will be monitoring the noise level and eradicating any illegal or peace disturbing behaviour. All staff will be trained sufficiently to identify illegal behaviour and how to help resolve and keep customers safe.

b) The prevention of crime and disorder

CCTV cameras will be installed to prevent illegal activity. We will be monitoring the customer activity and reducing the risk of tension by maintaining a clean environment and ensuring it is safe and accessible at all times

c) Public safety

As mentioned above, we will install CCTV cameras and maintain a clean and safe environment

d) The prevention of public nuisance

As above

e) The protection of children from harm

We will be operating a safe and friendly bar which will be safe for young people, we will be applying a fixed no children after 8pm to remove the chance of children being harmed

## Declarations

Declaration Type \*

Sole Applicant - Individual or Other

## Declarations

I have uploaded a copy of the plan of the premises. I have uploaded a copy of the consent form completed by the individual I wish to be designated premises supervisor, if applicable. I understand I must now advertise my application. I understand that if I do not comply with the above requirements my application will be rejected. Applicable to all individual applicants, including those in partnership which is not a limited liability partnership, but not companies or limited liability partnerships I have included documents demonstrating my entitlement to work in the United Kingdom (please read note 15)

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT 'IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION

## Declarations

21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Signature/Declaration of applicant or applicant's solicitor or other duly authorised agent (see Guidance Note 11 & 12). If signing/applying on behalf of the applicant, please state your name and in what capacity you are authorised to sign/apply. When submitting an on-line application form the 'Declaration made' checkbox must be selected.

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).

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

Full Name \*

Date \*

Capacity \*

Declaration made

Do you wish to provide alternative correspondence details? \* No

## Email confirmation

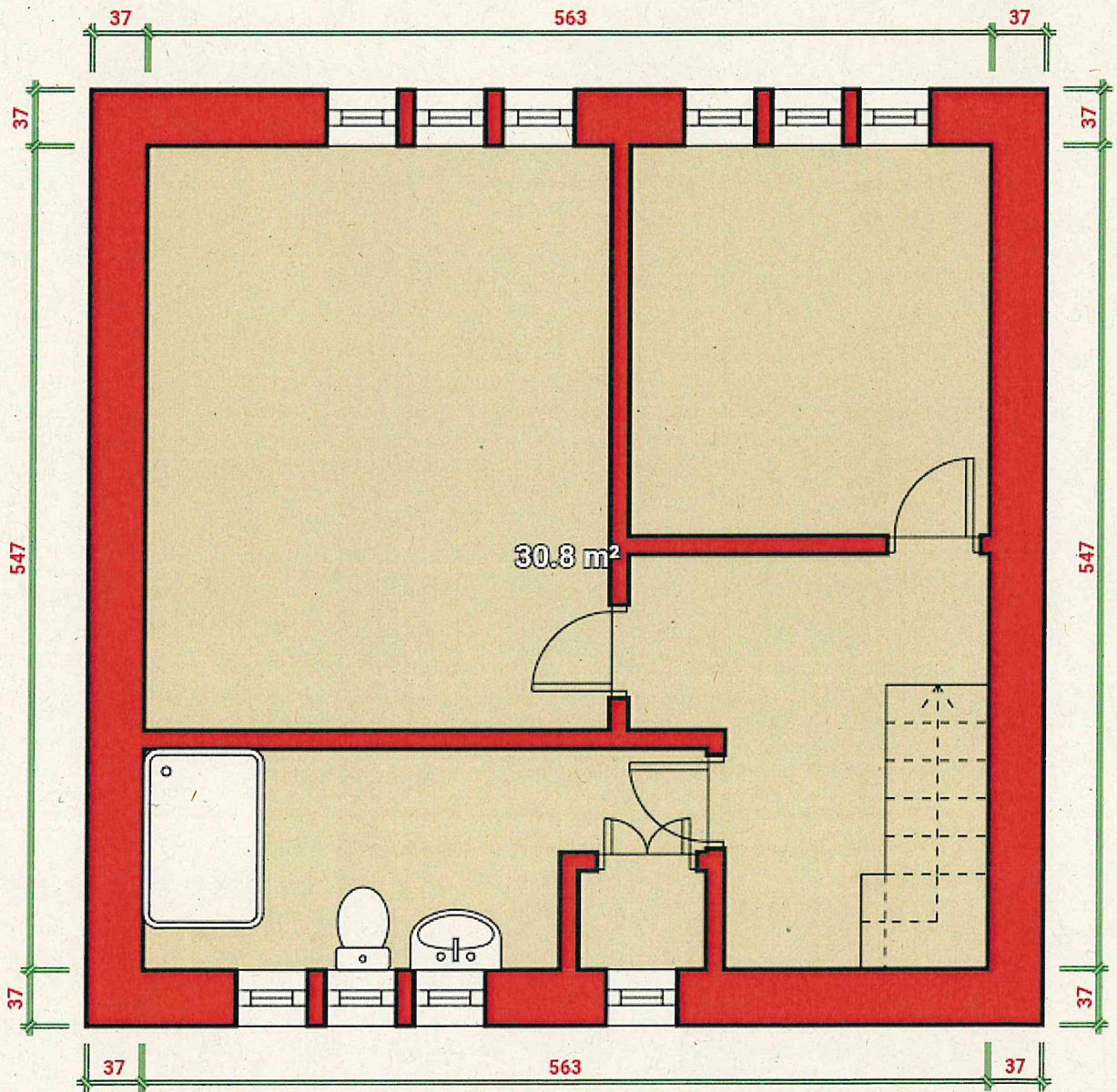
On submission an email confirmation will be sent using the details below

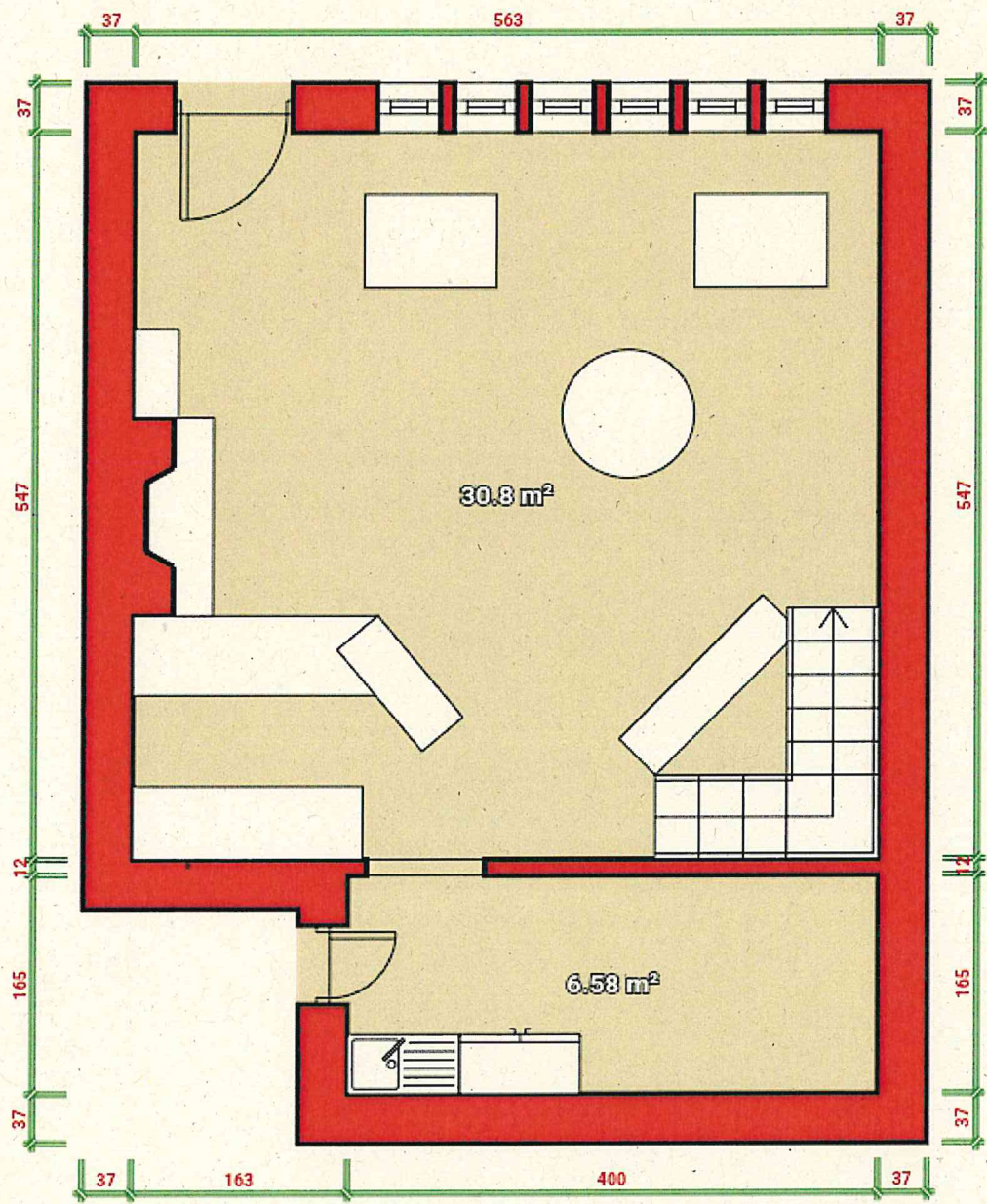
Forename

Surname /Company Name

Email \*

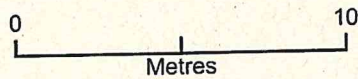
Telephone








20 Holmfirth Road



Plan Produced for: Kirklees - Kathryn Delahunty  
Date Produced: 12 Feb 2023  
Plan Reference Number: TQRQM23043194554392  
Scale: 1:200 @ A4

 BEER GARDEN

\* WC / BATHROOM  
(Second Floor only)

# Appendix B

Premises T' Wine Bar Ten's applications from 14.01.2023 - 12.05.2023.

1, TEN02054 (14.01.2023 – 15.01.2023) Timings: 10:00 – 18:00 for the Sale of alcohol, no complaints received.

2, TENL/16274/23 (11.02.2023 – 12.02.2023) Timings: 18:00 – 22:00 for the Sale of alcohol, no complaints received.

3, TENL/16605/23 (11.03.2023 – 13.02.2023) Timings: 18:00 – 22:00 For the sale of alcohol, no complaints received.

4, TENL/16678/23 (17.03.2023 – 18.03.2023) Timings: 18:00 – 00:00 For the sale of alcohol, no complaints received.

5, TEN02119 (24.03.2023 – 25.03.2023) Timings: 18:00 – 00:00 For the sale of alcohol, no complaints received.

6, TEN02147 (07.04.2023 – 09.04.2023) Timings: 15:00-23:00 For sale of alcohol, no complaints received.

7, TEN02210 (29.04.2023 – 01.05.2023) Timings 11:00 – 23:00 For sale of alcohol, no complaints received.

8, TENL/17236/23 (06.05.2023 – 07.05.2023) Timings 11:00 – 23:00 For sale of alcohol, no complaints received.

9, TENL/17237/23 (12.05.2023 – 13.05.2023) Timings 11:00 – 23:00 For the sale of alcohol, no complaints received.

There are 11 Tens left. No late Tens left.

# Appendix C

Thank you for inviting Public Health to review and respond to this application.

Please be aware that our input as a responsible authority is limited to applications with an alcohol-related component and will focus on actions to support the four licensing objectives. We are not a responsible authority in relation to other types of application (e.g., gambling) where there is no alcohol-related component. We do not provide specialist technical advice or feedback on licensing applications in relation to matters such as noise or air quality. This responsibility lies with other council teams and their responses will be provided separately.

We note that the information given against the licensing objectives in this application is limited and, as such, we cannot be assured that the objectives will be achieved based on the information available. We would ask that the applicant considers implementing the below recommendations, in order to deliver against the licensing objectives and mitigate any potential public health impacts.

### **Staff training**

We recommend that training in place for staff involved in the sale of alcohol should cover the below as a minimum: -

- The Licensing Act 2003 – This legislation sets out the offences, defences and penalties that relate to underage sales of alcohol.
- Allowing the sale of alcohol to children - A person who works at a premises in a capacity that authorises them to prevent the sale of alcohol to an individual under 18 commits an offence if they knowingly allow the sale of alcohol to take place. People serving alcohol should be advised that they might be personally liable if they sell to young persons in breach of legal requirements.
- Persistently selling alcohol to children - It is an offence for a 'responsible person' (the premises licence holder) to unlawfully sell alcohol to an individual under 18 at the same premises on two or more different occasions within a period of three consecutive months.
- Proxy sales of alcohol - 'Proxy sales' is a term used to describe the purchase of alcohol on behalf of children. A person commits an offence if they buy or attempt to buy alcohol on behalf someone under 18. It is also an offence for a person to buy or attempt to buy alcohol for someone under 18 to drink on licensed premises.

### **Challenge 25**

We recommend that the applicant considers implementing Challenge 25 or another age verification scheme in the premises. Information on Challenge 25 and considerations in terms of implementation are given below for reference.

Challenge 25 is a retailing strategy that encourages anyone who is over 18 but looks under 25 to carry acceptable ID (a card bearing the PASS hologram, a photographic driving license or a passport) if they wish to buy alcohol. Staff and those responsible

for selling alcohol should fully understand the appropriate means of age verification and how to apply the operational aspects of Challenge 25 (<https://challenge25.co.uk/index.html>).

It is recommended that the following areas are considered: -

- Training – It is important to have programmes in place to regularly train staff about the Challenge 25 scheme, including who to challenge and how. This will help to ensure that staff are confident in making challenges and that the policy is consistently applied in the licensed premise/place. It is also useful to keep training records to ensure staff have their training refreshed on a regular basis.
- Advertise - Display posters and appropriate signage in prominent places throughout the premises to advertise your proof of age policy, alongside a statement regarding the refusal of alcohol sales. This will not only help to deter potential underage customers, but also act as a backup to staff members who make challenges.
- Support staff – Challenge 25 only works if the staff have confidence that the decisions they make will not be undermined. It is therefore important to ensure that difficult decisions staff have made are not challenged and overturned.
- Keep records – It is useful to keep records of all failed attempts to buy alcohol of those without ID who look under 25 as this could help with police or trading standards operations. You can use the Wine and Spirit Trade Association model template book by clicking on this link: <https://www.wsta.co.uk/wp-content/uploads/2019/01/Refusalsbook.pdf>
- Be clear about what ID is acceptable –The standard Challenge 25 scheme suggests accepting Passports, Driver's Licences and PASS approved cards. While individual premises can accept anything with the law (ID that includes a hologram, name, date of birth and photo) it is important to make a decision about what you will accept and publicise this clearly.
- Be aware of fake ID – The Home Office has produced guidance for retailers to help them understand how to spot fake ID ([https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/183495/False\\_ID\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/183495/False_ID_guidance.pdf)). It will be important to ensure staff are trained about the types of ID that are acceptable and how to look out for fakes.

### **Refusals book**

We recommend that all refusals of the sale of alcohol are recorded in a refusals book. This will help to demonstrate that the applicant actively refuses sales and has an effective system in place underpinning this.

As a minimum, entries should include details of the incident, including date, time, a description of potential buyer and any action taken. Books should be checked on a

regular basis by the designated premises supervisor to ensure that all members of staff are using them.

You can use the Wine and Spirit Trade Association model template book by clicking on this link: <https://www.wsta.co.uk/wp-content/uploads/2019/01/Refusalsbook.pdf>

### **Prevention of crime, disorder and public nuisance**

We recommend that the applicant commits (by having a process in place) to not serving intoxicated customers, in the interests of prevention of public disorder and individual harm.

Where appropriate, additional training for staff should also be considered in terms of managing the impact on the local area of people entering and leaving the premises, especially at late hours (i.e., after 11pm) or where people are intoxicated. Where people are leaving the premises in an intoxicated or otherwise vulnerable state, staff should also be able to manage any immediate concerns re: safety of those individuals.

### **Online sales and delivery**

We recommend that there are processes in place and due diligence applied by the applicant to prevent online sales of alcohol to anyone who is under 18. This should either be at the point of sale or at the point of delivery.

For more information, please click on this link: [http://rasg.org.uk/wp-content/uploads/2021/05/210524\\_OnlineSalesGuide.pdf](http://rasg.org.uk/wp-content/uploads/2021/05/210524_OnlineSalesGuide.pdf)

### **Other restrictions**

We recommend that the applicant considers restricting the sale or supply of super strength beers, lagers, and ciders (i.e., those with an abv of 6.4% or more) and ensuring that they stock and sell low and no alcohol alternatives.

### **Useful sources of information**

Drinkaware - <https://www.drinkaware.co.uk/>

Alcohol Education Trust - <https://alcoholeducationtrust.org/>

Alcohol Change UK - <https://alcoholchange.org.uk/>



# Representation's

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**Subject:** Re: Premise Licence Application - PR00363 - Beauty Cottage (T'Wine Bar)

Thanks [REDACTED]

My objection would be under Prevention of Public Nuisance, in particular, the impact on residential amenity and noise nuisance.

[REDACTED]

[REDACTED] Cottage (T'Wine Bar)

Good Afternoon [REDACTED]

Thank you for your below comments on the [REDACTED]. As you know we cannot refuse an application on the grounds that planning permission does not run co-inside with the timings that has been applied for under the Licensing Act 2003. However if the correct planning permission is not in place then the applicant should not be trading outside of the permitted timings.

In terms of your request for reduced hours we will most certainly speak with the applicant asking if they would consider your proposed times, however we cannot make them. If once we have spoken to the applicant they still want to keep the application as applied for, you would have to submit a relevant objection explaining which one (or more) of the 4 licensing objectives would not be met if the application was to be granted. These are;

1. Public Safety
2. Prevention of Public Nuisance
3. Prevision of Crime and Disorder
4. Protecting Children from halm.

My colleague Craig will speak with the applicant very shortly and we will update you in due course.

If you require any further assistance with this application, please feel free to contact [REDACTED].

Kindest regards

**From:** [REDACTED] <>  
**Sent:** 25 April 2023 16:54  
**To:** [REDACTED] <>  
**Cc:** [REDACTED] <>; [REDACTED] <  
**Subject:** Re: Premise Licence Application - PR00363 - Beauty Cottage (T'Wine Bar)

Hello [REDACTED],

The property was known as [REDACTED], until it was changed in to a beauty therapist's a few years ago. That business and trading name was "Beauty Cottage". "Beauty Cottage" is not the traditional name of the property.

I am happy for them to have a licence, but the hours of operation / licensing for a new site in a semi-residential area ought to be limited and subject to review.

Whilst they do not appear to have submitted a change of use planning application, I would suggest the following which is similar to the restrictions on the Hooley House in Honley:

Planning Hours from 11am to close 10.30pm Sunday to Thursday, 11.30pm Friday & Saturday.

Outside area - from 11am to close 9pm all days.

Live Music outside - not permitted.

Recorded music outside - not permitted.

Sale of Alcohol outside - not permitted.

Performance of Dance - not permitted.

Live Music indoors - from 11am to end 9.30pm Sunday to Thursday, 10.30pm Friday & Saturday.

Recorded music indoors - from 11am to end 10pm Sunday to Thursday, 11pm Friday & Saturday.

Saturday.

Sale of Alcohol indoors - from 11am to end 10pm Sunday to Thursday, 11pm Friday & Saturday.

I think it is vital that the applicant is also made aware that their actual operating hours are whatever is the lesser of the hours for licensing and the hours of planning.

Thanks,

[REDACTED]

[REDACTED]

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**From:** [REDACTED]  
**Sent:** 12 April 2023 09:03  
**To:** [REDACTED] [REDACTED] [REDACTED]  
**Subject:** Premise Licence Application - PR00363 - Beauty Cottage

Good evening,

I would like to echo [REDACTED]' concerns. Its location would make it a public nuisance. It is literally connected to residential properties unlike the numerous other establishments nearby and in my opinion an inappropriate property for another drinking establishment.

The prevention of Crime and disorder would also be a reason this should be questioned. The more licensed establishments in a close proximity the more alcohol will be drunk by individuals on a "pub crawl". It is fair to say the more alcohol served the higher the risk of crime. There are already issues with antisocial behaviour and on occasion violent crime stemming from drinking in the village.

I also have concerns over the enforcement of planning permissions when licensing has been granted. It would appear that some places are visited by officers about noise at a venue that has no planning permission to be open at that time but does have a license. We have had an example of this very recently in Marsh. (This violence was in the Swan pub but not reported as such <https://www.examinerlive.co.uk/news/west-yorkshire-news/two-arrested-after-brutal-meltham-26282081>)

[Two arrested after brutal Meltham attack as person rushed to hospital](https://www.examinerlive.co.uk/news/west-yorkshire-news/two-arrested-after-brutal-meltham-26282081)  
West Yorkshire Police officers attended incident last night in Meltham, near Huddersfield  
[www.examinerlive.co.uk](https://www.examinerlive.co.uk)

I hope these matters are taken into consideration when making any decisions on this.

Thanks

[REDACTED]

**Licensing Act 2003  
Response to Building Control & Licensing Service  
From Environmental Health**

<b>Reference:</b>	[REDACTED]
<b>Premises:</b>	Beauty Cottage, 20 Holmfirth Road, Meltham, Holmfirth, HD9 4ES

Licensable Activity (place X in relevant box)			
Sale by retail of Alcohol	X	Provision of regulated entertainment	X
Provision of entertainment facilities (music, dancing, etc)	X	Provision of late-night refreshment	

OBSERVATIONS			
<b>Public Safety</b>		Standard Letter to be sent	
<b>Date:</b>	20 April 2023	<b>Officer/Ext:</b>	[REDACTED]
<b>Prevention of Public Nuisance</b>		<p>I have reviewed the information submitted by the applicant.</p> <p>There is currently no planning permission granted to convert the premises to a bar. If a planning application was received, we would be asking for a noise report to prevent a statutory nuisance from occurring or a loss of amenity to nearby residents.</p> <p>I am concerned regards a statutory nuisance from noise or a loss of amenity affecting nearby residential premises due to the hours/licensed activities the premises would like to operate, therefore I would recommend refusal.</p> <p>If the premises licence is granted at committee by elected members, I would recommend the following conditions are applied to the licence:</p>	

- 1) Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment emanating from inside the premises shall be controlled so as to be inaudible inside any noise-sensitive location in the vicinity of 20 Holmfirth Road, Meltham, Holmfirth, HD9 4ES

To enable the applicant to check whether this condition is being met, suitable monitoring position(s) may be agreed with the Responsible Authority. To comply with the condition, noise from the premises shall not be audible at this point.

**Informative Note:**

Licensees are advised to carry out a simple "sound check" outside the nearest noise sensitive property by listening to the music etc. coming from regulated entertainment. If the music etc. is clearly audible then it is likely that this condition is being breached. Therefore steps should be taken to reduce the volume of the noise.

In case of dispute, the applicant can verify inaudibility by demonstrating

- zero increase in the  $L_{Aeq, 1 \text{ min}}$  (music playing) over the background  $L_{A90}$  (music off) and
  - zero increase in the  $L_{10, T}$  VS  $L_{90, T}$  exceedance in each 1/3 octave band between 40Hz and 160Hz.
- 2) Clear and conspicuous notices shall be displayed at all entrances, exits and in outdoor areas (e.g. beer gardens) requesting patrons to respect the needs of the local residents and to leave the premises and area quietly. All staff shall be trained in ensuring the quiet dispersal of patrons.
  - 3) All external doors and windows to the room/s where regulated entertainment is provided shall remain closed (other than for normal access and egress) during the course of the entertainment.
  - 4) No loudspeaker used to relay singing, speech and amplified music provided as part of the regulated entertainment shall be positioned outside the premises of the building. Internal loudspeakers shall not be positioned so that the sound they produce is directed through external doors, windows or any other openings in the structure.
  - 5) The disposal of waste bottles, glass and other materials into external receptacles shall not take place between 22:00 and 08:00 hours and any such waste receptacle shall not be removed from the premises between those hours.
  - 6) All odours and fumes produced from the cooking of foodstuffs shall be extracted from the premises via an air extraction system. This system shall be installed to the satisfaction of the Responsible Authority for Public Nuisance.

		<p>The extraction system shall be maintained and cleansed to ensure to its effective operation. No alterations shall be made to the extract system without the approval of the Responsible Authority.</p> <p>7) All waste-water from food preparation areas shall discharge into the sewerage system via a suitable grease interceptor. The interceptor shall be maintained and cleansed to ensure to its effective operation.</p>	
<b>Date:</b>	05 May 2023	<b>Officer/Ext:</b>	████████████████████

# Appendix D

**Relevant Sections of Secretary of State Guidance – Under Section 182 of Licensing Act 2003**

**Crime and disorder**

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

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

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

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

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



where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

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

### **Public safety**

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (*be ultra vires*) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

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

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

## **Public nuisance**

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

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

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

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

2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the morning.

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

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