

**REPORT TITLE:**

Licensing Act 2003 – Application for the Grant of a New Premises Licence: Mapplewell Bottle Shop Ltd, 337 - 339 Wakefield Road, Denby Dale, Huddersfield HD8 8RT

<b>Meeting:</b>	Licensing Panel
<b>Date:</b>	15th July 2024
<b>Cabinet Member</b> (if applicable)	Councillor Adam Zaman
<b>Key Decision Eligible for Call In</b>	No No
<b>Purpose of Report</b> To determine the application.	
<b>Recommendations</b> <ul style="list-style-type: none"> <li>Members of the panel are requested to determine the application.</li> </ul> <b>Reasons for Recommendations</b> <ul style="list-style-type: none"> <li>In accordance with the requirements as set out in the Licensing Act 2003, where relevant representations are received by either a responsible authority or any other person, the matter is referred to the panel for a decision.</li> </ul>	
<b>Resource Implications:</b> There are no resource implications.	
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>  <b>Is it also signed off by the Service Director for Finance?</b>  <b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	Fiona Goldsmith – on behalf of Rachel Spencer-Henshall Strategic Director for Corporate Strategy, Commissioning and Public Health  Not applicable  Not applicable

**Electoral wards affected:** Denby Dale

**Ward councillors consulted:** Cllr Timothy Bamforth  
 Cllr Hannah Mckerchar  
 Cllr Will Simpson

**Public or private:** Report to be heard in Public.

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

## 1. Executive Summary

1.1 The purpose of this report is to inform Members of an application for the Grant of a premises licence, 5 representations have been received, and is therefore referred to this Panel for determination.

## 2. Information required to take a decision.

### 2.1 Application

2.1.1 Received on 29.04.2024:  
337 - 339 Wakefield Road  
Denby Dale  
Huddersfield  
HD8 8RT  
a copy of application and plan shown at **Appendix A**

2.1.2 Details of licensable activities applied for:

Retail Sale of Alcohol (On and Off)  
Monday – Sunday: 00:00- 23:59 (24 hrs)

Live Music (Indoors and Outdoors)  
Sunday – Thursday: 15:00 – 20:00

Recorded Music (Indoors and Outdoors)  
Sunday – Thursday: 10:00 – 23:00  
Friday – Saturday: 10:00 – 00:00

2.1.3 A total of 5 representations have been received in respect of this application, 1 from Environmental Health, the remaining have been received from residents.

2.1.4 These representations consider the following licensing objectives would not be met should this licence be granted:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance

A copy of the representations may be seen at **Appendix B**

2.1.5 The application is for the grant of a new licence, at a former newsagent. Planning permission has not been applied for; however, this should not prevent this application being heard today. The premises has never had a premises licence attached to it historically.

2.1.6 A location plan is attached 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(s):

### **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 statement and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their own 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.

2.4 The Licensing Authority will carry out its functions under the Licensing Act 2003 with a view to promoting the four licensing objectives contained in the Act and each has equal weight.

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance

2.13 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 an application is lawfully made and no relevant representations are made in respect of an application, the Licensing Authority is under a duty to grant the licence on the terms sought. Only if relevant representations are made will the Council's discretion be engaged.

## 2.3 Secretary of State Guidance

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

In addition, members are also referred to Section 16 of the Section 182 Guidance which clarifies circumstances in which entertainment activities are no longer licensable, the relevant parts may be found at **Appendix E**

## **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 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 the Licensing Authority, will have regard to this objective.

### **3.6 Financial Implications**

There are no financial implications in relation to this report.

### **3.7 Legal Implications**

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 relevant representations in relation to the application have a right of appeal to the Magistrates Court.

### **3.8 Other (eg Risk, Integrated Impact Assessment or Human Resources)**

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 Consultation

4.1 Consultation has taken place in accordance with the requirements set out in the Licensing Act 2003. 3 Representations have been received as detailed above.

## 5 Engagement

5.1 Engagement is not a requirement as set out in the Licensing Act 2003.

## 6 Options

### 6.1 Options considered

Members of the Panel are requested to determine the application.

### 6.2 Reasons for recommended option

In accordance with the requirements as set out in the Licensing Act 2003, where relevant representations are received by either a responsible authority or any other person, the matter is referred to the panel for a decision.

## 7 Next steps and timelines

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

- Grant the application
- Grant the application with appropriate conditions
- Exclude from the scope of the licence any of the licensable activities which relate to this application, or
- Reject the application

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

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

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

## 8 **Contact officer**

Anwar Butt, Licensing Officer  
01484 221000 ext 70525.  
[anwar.butt@Kirklees.gov.uk](mailto:anwar.butt@Kirklees.gov.uk)

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

[Revised guidance issued under section 182 of Licensing Act 2003 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

[Licensing Policy \(kirklees.gov.uk\)](http://kirklees.gov.uk)

## 10 **Appendices**

Appendix A – Grant Application.

Appendix B – Representations.

Appendix C – Location Plan.

Appendix D – Section of 182 Guidance – Licensing Objectives.

Appendix E – Section of 182 Guidance – Circumstances in which Entertainment activities are no longer licensable.

## 11 **Service Director responsible**

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

## APPENDIX A

## Application for a premises licence to be granted 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	Jonathan Ashton, Director of Mapplewell Bottle Shop Ltd
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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

### Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description			
<b>337-339 Wakefield Road, Denby Dale HD8 8RT</b>			

Telephone number at premises (if any)	07938 162441
Non-domestic rateable value of premises	<b>£14,400</b>

### Part 2 - Applicant details

Please state whether you are applying for a premises licence as **Please tick as appropriate**

a)	an individual or individuals *		please complete section (A)	
b)	a person other than an individual *			
i	as a limited company/ limited liability partnership	<input checked="" type="checkbox"/>		please complete section (B)
ii	as a partnership (other than limited liability)	<input type="checkbox"/>		please complete section (B)
iii	as an unincorporated association or	<input type="checkbox"/>		please complete section (B)
iv	other (for example a statutory corporation)	<input type="checkbox"/>		please complete section (B)
c)	a recognised club		please complete section (B)	

d)	a charity		please complete section (B)	
e)	the proprietor of an educational establishment		please complete section (B)	
f)	a health service body		please complete section (B)	
g)	a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales		please complete section (B)	
ga)	a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England		please complete section (B)	
h)	the chief officer of police of a police force in England and Wales		please complete section (B)	

* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):		
• I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or	<input checked="" type="checkbox"/>	
• I am making the application pursuant to a		
•	statutory function or	
•	a function discharged by virtue of Her Majesty's prerogative	

**(A) individual applicants** (fill in as applicable)


	Other Title (for example, Rev)		
<b>Surname</b>	<b>First names</b>		
<b>Date of birth</b>	I am 18 years old or over	Please tick yes	
<b>Nationality</b>			
Current residential address if different from premises address			
Post town		Postcode	
<b>Daytime contact telephone number</b>			
<b>E-mail address (optional)</b>			
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 'share code' provided to the applicant by that service (please see note 15 for information)			

Mr		
Mrs		
Miss		
Ms		

**Second individual applicant (if applicable)**


	Other Title (for example, Rev)		
<b>Surname</b>	<b>First names</b>		
<b>Date of birth</b> I am 18 years old or over		Please tick yes	
<b>Nationality</b>			
Current residential address if different from premises address			
Post town		Postcode	
<b>Daytime contact telephone number</b>			
<b>E-mail address (optional)</b>			
Where applicable (if demonstrating a right to work via the Home Office on-line right to work checking service), the 'share code' provided to the applicant by that service: (please see note 15 for information)			

Mr		
Mrs		
Miss		
Ms		

**(B) Other applicants**

**Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.**

Name: Jonathan Ashton, Director of Mapplewell Bottle Shop Ltd
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Address	[REDACTED]
Registered number (where applicable):	11935993
Description of applicant:	Limited Company
Telephone number (if any)	[REDACTED]
E-mail address (optional)	[REDACTED]

**Part 3 Operating Schedule**

When do you want the premises licence to start?	24th June 2024
If you wish the licence to be valid only for a limited period, when do you want it to end?	

DD	MM	YYYY	
DD	MM	YYYY	

**Please give a general description of the premises (please read guidance note 1):**  
 A former newsagents (change of use is also being applied for), you will enter a micro bar on the ground floor street level (Level 0) that's approx. 41m<sup>2</sup> of bar leisure, retail and serving space. An Accessible toilet with baby change and the 'back of house' storage will also be on Level 0.

A staircase will take you down to Level -1 where there will be two further toilets, additional seating and standing area and access out to a South facing beer garden at the rear of the property.

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.	



What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)	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)	<input checked="" type="checkbox"/>
f)	recorded music (if ticking yes, fill in box F)	<input checked="" type="checkbox"/>
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)	
<b><u>Provision of late night refreshment</u></b> (if ticking yes, fill in box I)		
<b><u>Supply of alcohol</u></b> (if ticking yes, fill in box J)		
		<input checked="" type="checkbox"/>

**In all cases complete boxes K, L and M  
A**

<b>Plays</b> Standard days and timings (please read guidance note 7)	<b><u>Will the performance of a play take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	In-doors		
		Out-doors		
Day	Start	Finish		Both
Mon			<b><u>Please give further details here</u></b> (please read guidance note 4)	

Tue					
Wed			<b><u>State any seasonal variations for performing plays</u></b> (please read guidance note 5)		
Thur					
Fri					
Sat			<b><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></b> (please read guidance note 6)		
Sun					

## B

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

## C

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

## D

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)	<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	In-doors		
		Out-doors		
Day	Start	Finish		Both
Mon			<b><u>Please give further details</u></b>	

			<b>here</b> (please read guidance note 4)		
Tue					
Wed			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 5)		
Thur					
Fri			<b><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></b> (please read guidance note 6)		
Sat					
Sun					

## E

<b>Live music</b> Standard days and timings (please read guidance note 7)	<b><u>Will the performance of live music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	✓
		Outdoors	✓
Day	Start	Finish	
Mon			<b><u>Please give further details here</u></b> (please read guidance note 4)
Tue			Although amplified, small-scale acts are expected. For instance a duo with vocal + guitar + kahone. It is anticipated that middle-of-the-road, light rock and pop + chill out music will be played (as opposed to more specialist genres such as heavy metal / punk).
Wed			<b><u>State any seasonal variations for the performance of live music</u></b> (please read guidance note 5)
Thur	15:00	20:00	Live acts will mostly be indoors on Level 0, but in finer weather, there is provision for acts to perform in the garden.

Fri	15:00	20:00	<b><u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6) Bank Holiday Mondays between 15:00 and 20:00
Sat	15:00	20:00	
Sun	15:00	20:00	

## F

<b>Recorded music</b> Standard days and timings (please read guidance note 7)	<b><u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	✓
		Outdoors	✓
Day	Start	Finish	
Mon	10:00	23:00	<b><u>Please give further details here</u></b> (please read guidance note 4) Several speakers in the building will play music at a background level so it's easy to talk whilst also hearing music - as opposed to two big speakers at one end of a room at a high amplitude.  A couple of external speakers will deliver ambient background music into the garden but will be turned off by 22:00.
Tue	10:00	23:00	
Wed	10:00	23:00	<b><u>State any seasonal variations for the playing of recorded music</u></b> (please read guidance note 5)
Thur	10:00	23:00	
Fri	10:00	00:00	<b><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></b> (please read guidance note 6)
Sat	10:00	00:00	
Sun	10:00	23:00	

## G

Performances of dance Standard days and timings (please read guidance note 7)	<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	In-doors			
		Out-doors			
Day	Start	Finish		Both	
Mon			<b><u>Please give further details here</u></b> (please read guidance note 4)		
Tue					
Wed			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 5)		
Thur					
Fri			<b><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></b> (please read guidance note 6)		
Sat					
Sun					

## H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 7)	Please give a description of the type of entertainment you will be providing				
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Day	Start	Finish	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	In-doors	Out-doors	Both
Mon						
Tue			<b><u>Please give further details here</u></b> (please read guidance note 4)			
Wed						
Thur			<b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 5)			
Fri						
Sat			<b><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></b> (please read guidance note 6)			
Sun						

**I**

Day	Start	Finish	<b><u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	In-doors	Out-doors	Both
Mon						
Tue						
Wed			<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guid-			

Thur			ance note 5)		
Fri			<b><u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Sat					
Sun					

## J

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)	<b><u>Will the supply of alcohol be for consumption – please tick</u></b> (please read guidance note 8)	On the premises	✓
		Off the premises	✓
Day	Start	Finish	
			<b><u>Please give further details here</u></b> (please read guidance note 4) Supply of alcohol Seven days a week from 00:00 until 23:59 to allow online sales.
Mon	0:00	23:59	<b><u>State any seasonal variations for the supply of alcohol</u></b> (please read guidance note 5)
Tue	0:00	23:59	
Wed	0:00	23:59	
Thur	0:00	23:59	
Fri	0:00	23:59	
Sat	0:00	23:59	
Sun	0:00	23:59	



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):

<b>Name</b>	Jonathan Ashton
<b>Date of birth</b>	[REDACTED]
<b>Address</b>	[REDACTED]
<b>Postcode</b>	[REDACTED]
<b>Personal licence number (if known)</b>	91177
<b>Issuing licensing authority (if known)</b>	Barnsley Metropolitan Borough Council

## 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)	<b><u>State any seasonal variations</u></b> (please read guidance note 5)		
	Start	Finish	
Mon	10:00	23:00	<b><u>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</u></b> (please read guidance note 6) Until 01:00 on Christmas Eve and New Years Eve
Tue	10:00	23:00	
Wed	10:00	23:00	
Thur	10:00	23:00	
Fri	10:00	00:00	
Sat	10:00	00:00	
Sun	10:00	23:00	

## M

Describe the steps you intend to take to promote the four licensing objectives:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)**

Generally, the bar will be operated by an experienced Limited Company headed up by Jonathan 'Jay' Ashton who has operated out of Mapplewell near Barnsley since 2019 with zero 'issues' and a 4.9-star review history on Google. Initially an off-trade shop with occasional events operated under a Temporary Events Notice, on-trade was added in 2021 with the addition of some external seating at the front of the building.

The Mapplewell site has forged a good reputation within the community and it's hoped that the same can be said for the Denby Dale establishment within the next five years.

**b) The prevention of crime and disorder**

A) CCTV will be installed inside and outside the premises for security and as a crime prevention deterrent. The cameras will cover all internal areas accessible to the public and areas immediately outside. The date and time settings on the system will be correct. The recordings will be in real time, recorded digitally with the availability to copy for agencies such as the police.

Recordings will be kept for a minimum period of 14 days.

B) The nature of the products on offer will deter a particular customer profile that historical evidence suggests can bring crime and disorder (eg no 2-4-1 cocktails or alcohol shots of-fers).

C) There will be a zero tolerance drugs policy.

**c) Public safety**

A) As above, CCTV to be installed to aid public safety.

B) A refusals book shall be kept that will contain the date and time of any non-refusal or potential public safety incidents plus a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused / nature of the incident.

The book will be made available to Police and authorised Council officers on request.

The book will be reviewed on a regular basis to see if any patterns emerge.

C) Health and Safety Risk Assessment carried out on site; updated with any on-site changes and observations. Staff will be trained to observe and adhere to the document.

D) Experts consulted prior to opening particularly in respect to an internal staircase.

E) Procedures followed in respect to food hygiene and best cleaning practices.

F) Drink-aware information to be displayed reminding customers of the unit content in alcoholic drinks and the safe alcohol consumption limits.

G) The property has fire boarded walls and ceilings. Fire extinguishers (water and Co2) available on both levels. There are two exit points from the building - 1 x upstairs, 1 x downstairs.

#### d) The prevention of public nuisance

A) A Noise Management Plan shall be adhered to. The main concerns are:

Commercial deliveries, collections and storage / disposal of waste in external areas will be requested to between the hours of 8am and 8pm where possible.

The outside garden at the rear shall be closed from 22:00h.

The outside area to the front shall be restricted to a smoking area only after 22:00 on any day.

There are few residential properties nearby but polite requests will be made to customers to exit quietly and responsibly at the end of a night.

There is a resident in a flat above the premises owned and operated by the same landlord.

There is sound proofing material + fireboard in the ceiling of the proposed premises.

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

A) The premises will operate a strict "Challenge 25" - 'No ID - No Sale' policy.

The scheme serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.

The 'Challenge 25' scheme gives staff additional support and encouragement to ask for ID from any person appearing to be under 25 years of age to prove that they are over 18.

Only photographic driving licences, passports or PASS (Proof of Age Standards Scheme) cards shall be accepted as means of ID. Any other form of ID such as EU National ID cards, must bear a photograph, date of birth and holographic mark.

The Challenge 25 scheme will be prominently advertised in the premises so that customers are aware - particularly at the point of sale.

A refusals book to be kept on the premises and completed whenever a sale is refused to a person who cannot prove they are over the age of 18.

B) Under 18s to be accompanied by an adult and to have vacated the premises by 8pm.

#### Checklist:

Please tick to indicate agreement		
	I have made or enclosed payment of the fee.	✓
	I have enclosed the plan of the premises.	✓
	I have sent copies of this application and the plan to responsible authorities and others where applicable.	✓
	I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.	
	I understand that I must now advertise my application.	✓

	<p>I understand that if I do not comply with the above requirements my application will be rejected.</p> <p>[Applicable to all individual applicants, including those in a 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 or my share code issued by the Home Office online right to work checking service (please read note 15).</p>	✓
--	--	---

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 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.

**Part 4 – Signatures** (please read guidance note 11)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

<b>Declaration</b>	<p>•[Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] 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).</p> <p>•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, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)</p>	
Signature		
Date	29 / 04 / 2024	
Capacity	Director, Mapplewell Bottle Shop Ltd	

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> 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 postal 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)			

## Notes for Guidance

1. Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

2. In terms of specific regulated entertainments please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.

- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.

- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.

- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.

- Live music: no licence permission is required for:

- a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.

○ a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

○ a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.

○ a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

○ a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

• Recorded Music: no licence permission is required for:

○ any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.

○ any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.

○ any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

• Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.

• Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:

○ any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;

○ any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;

○ any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and

○ any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

1. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).

2. For example the type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

3. For example (but not exclusively), where the activity will occur on additional days during the summer months.

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

5. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
6. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
7. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
8. Please list here steps you will take to promote all four licensing objectives together.
9. The application form must be signed.
10. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
11. Where there is more than one applicant, each of the applicants or their respective agent must sign the application form.
12. This is the address which we shall use to correspond with you about this application.
13. Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be issued to an individual or an individual in a partnership which is not a limited liability partnership who is resident in the UK who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the carrying on of a licensable activity.

Any licence issued in respect of an application made on or after 6 April 2017 will become invalid if the holder ceases to be entitled to work in the UK.

Applicants must demonstrate that they have the right to work in the UK and are not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

They do this in one of two ways:

- 1.
- 2.

### **Home Office online right to work checking service.**

As an alternative to providing a copy of original documents, applicants may demonstrate their right to work by allowing the licensing authority to carry out a check with the Home Office online right to work checking service.

To demonstrate their right to work via the Home Office online right to work checking service, applicants should include in this application their share code (provided to them upon accessing the service at <https://www.gov.uk/prove-right-to-work>) which, along with the applicant's date of birth, will allow the licensing authority to carry out the check.

In order to establish the applicant's right to work, the check will need to indicate that the applicant is allowed to work in the United Kingdom and is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity.

An online check will not be possible in all circumstances because not all applicants will have an immigration status that can be shared digitally. The Home Office online right to work checking service sets out what information and/or documentation applicants will need in order to access the service. Applicants who are unable to obtain a share code from the service should submit copies of documents as set out above.

Your right to work will be checked as part of your licensing application and this could involve us checking your immigration status with the Home Office. We may otherwise share information with the Home Office. Your licence application will not be determined until you have complied with this guidance.



# **BOTTLE & CO (DENBY DALE)**

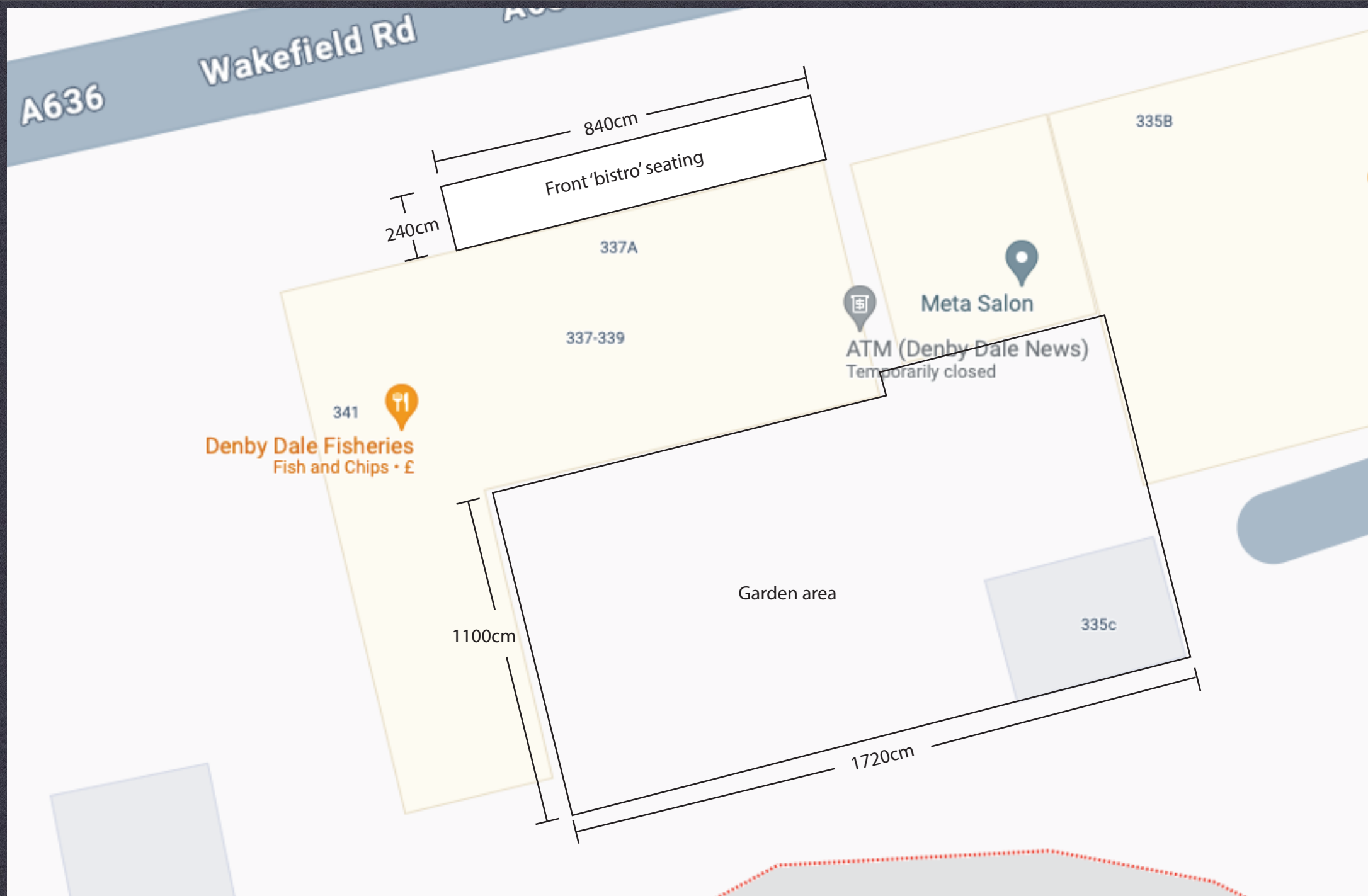
**FLOOR PLANS + LAYOUTS**





# NEW SIGNAGE AND SHOP FRONT

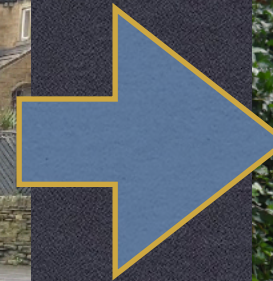




# OVERALL SITE PLAN

## INDICATING AREAS TO BE LICENSED





**IDEA!**



**IDEA!**

# FRONT BISTRO SEATING AREA

840CM X 240CM UP TO THE PUBLIC PAVEMENT. EXTERIOR SEATING (UNTIL 10PM) + SMOKING AREA (UNTIL CLOSE).

EXTERIOR CANOPY SUBJECT TO PLANNING CONSENT AND BUDGET.





PROJECT

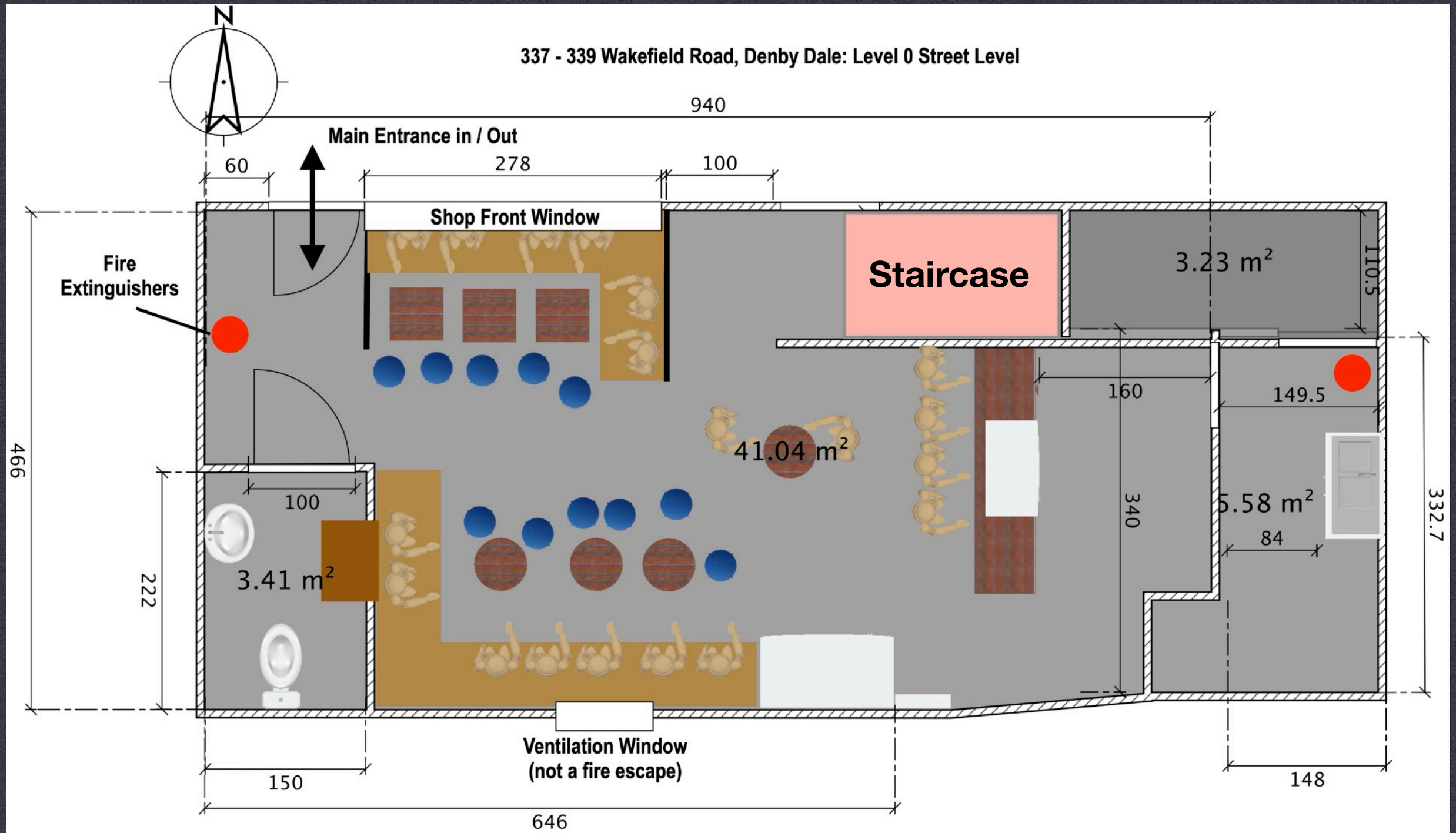
# REAR BEER GARDEN

WITH FESTOON LIGHTING AND RELAXED ATMOSPHERE.

OPEN UNTIL 10PM.



337 - 339 Wakefield Road, Denby Dale: Level 0 Street Level



PROJECT

# GROUND FLOOR

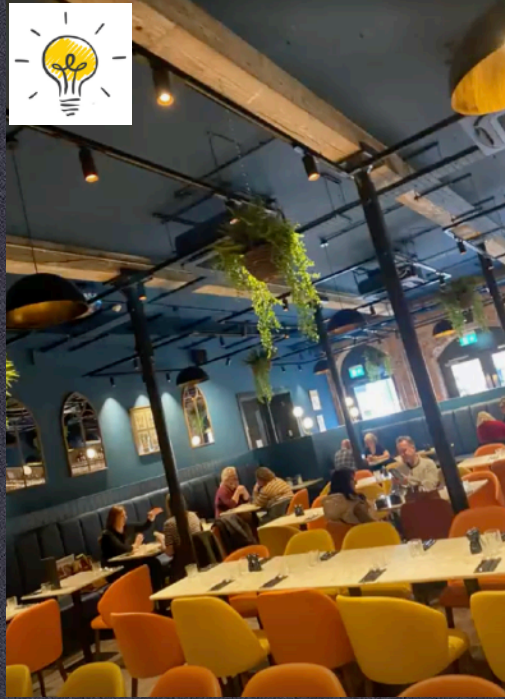
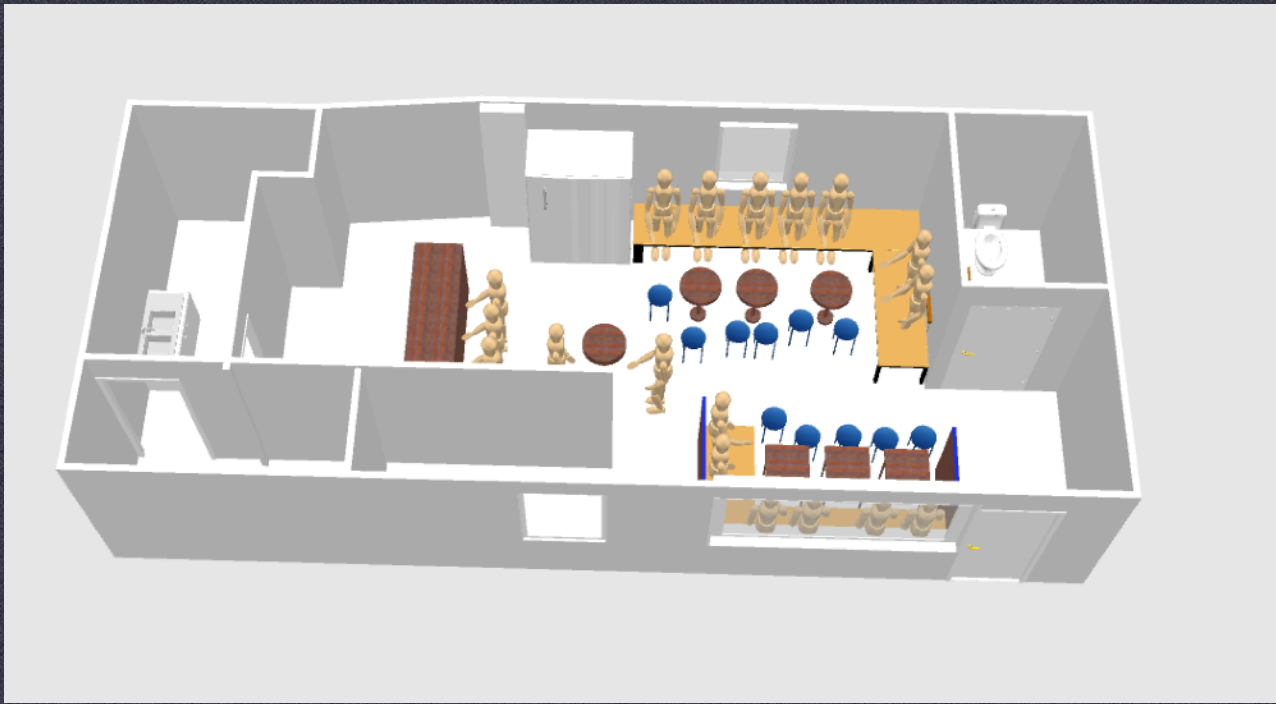
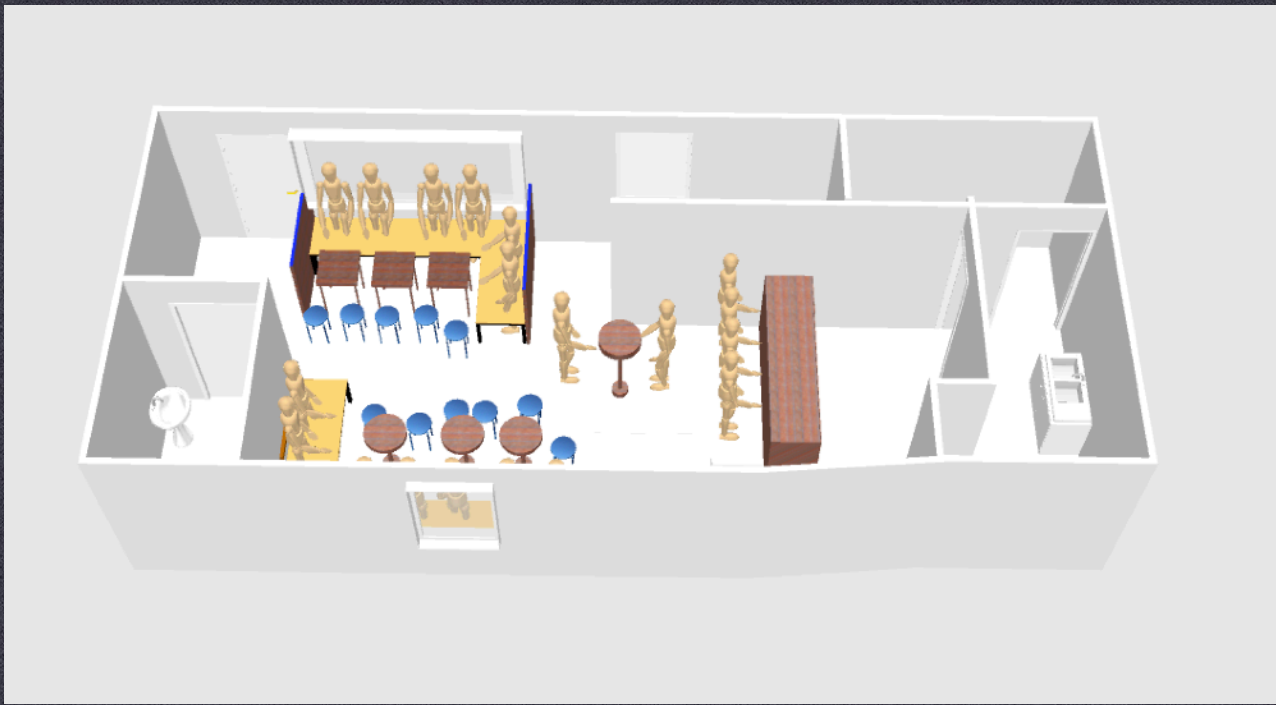
DATE

DATE

CLIENT

NAME



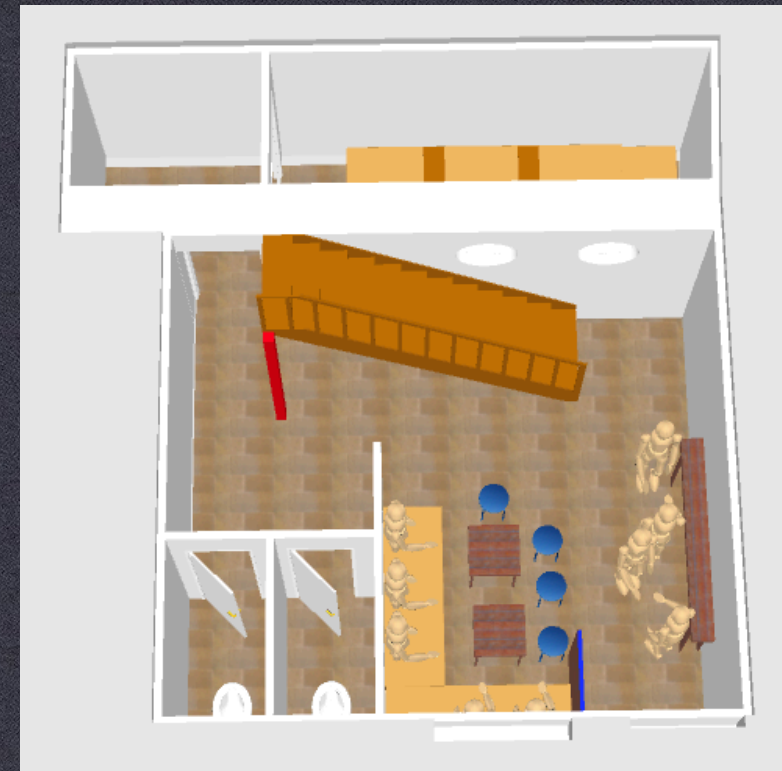
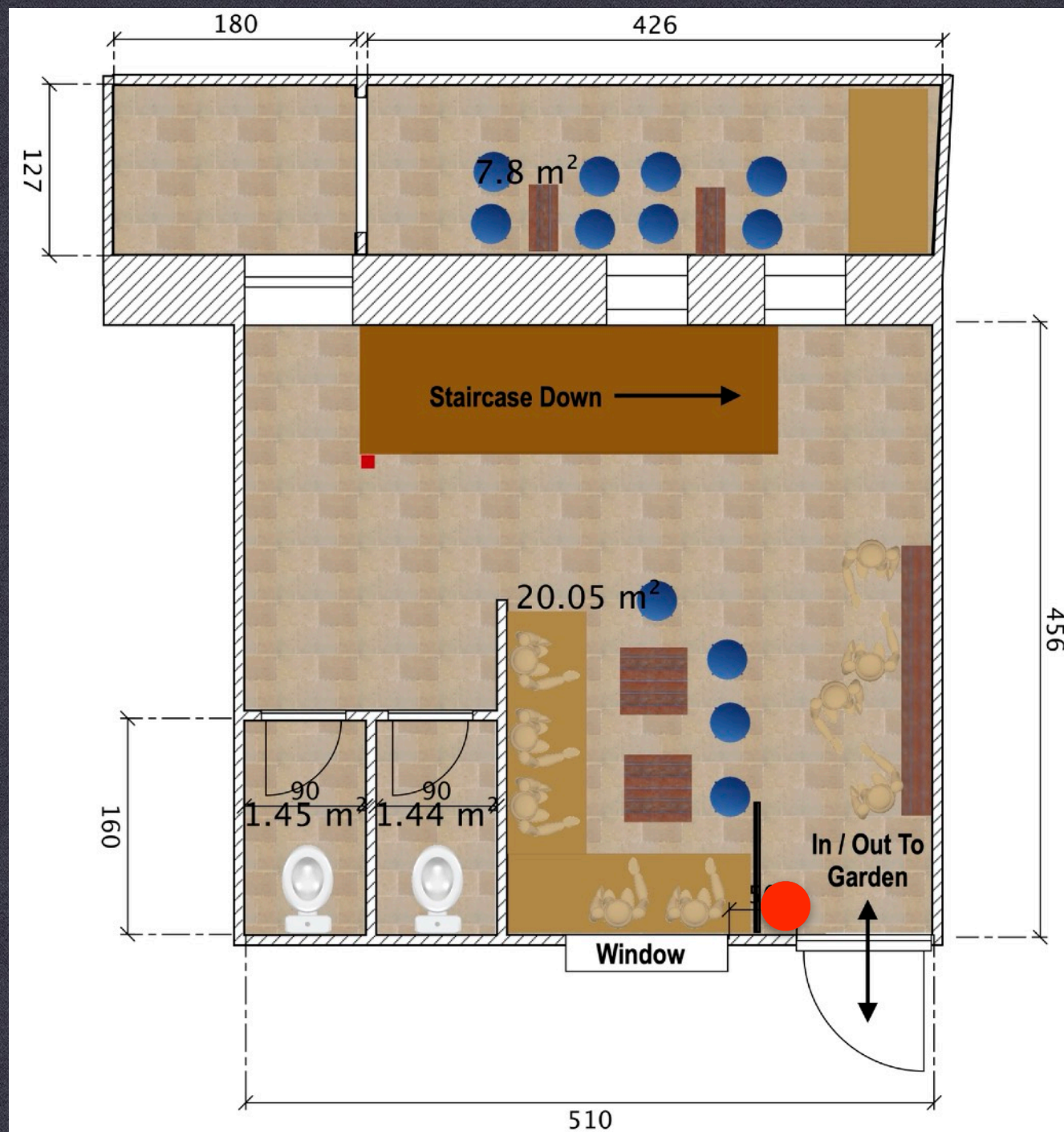


PROJECT

# GROUND FLOOR

RELAXED ATMOSPHERE, BACKGROUND MUSIC, NO TV, MIX OF BENCH SEATING AND STOOLS.



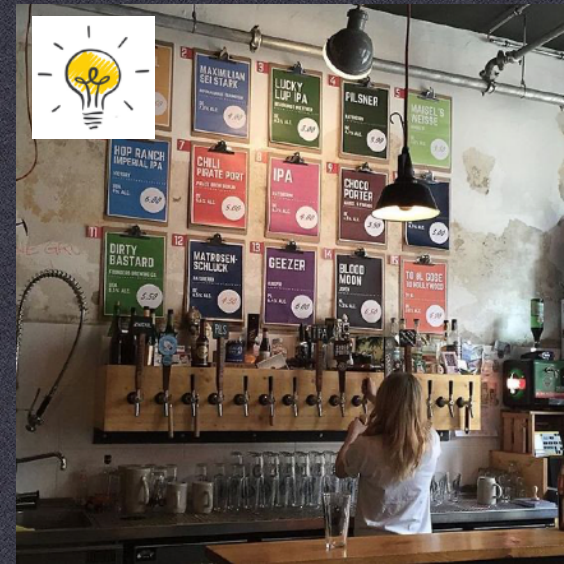
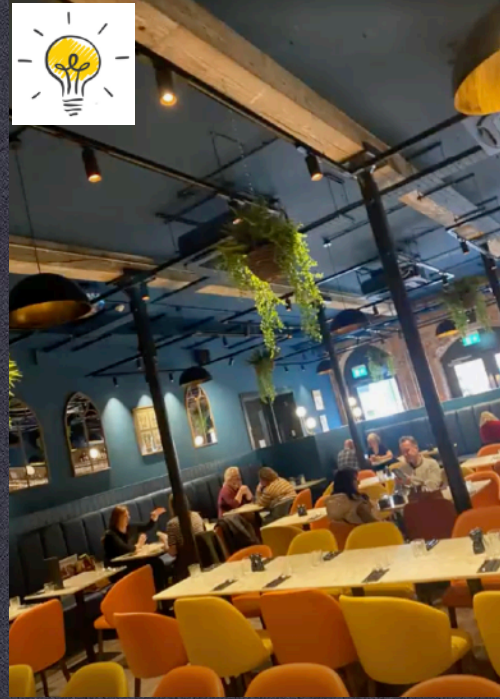
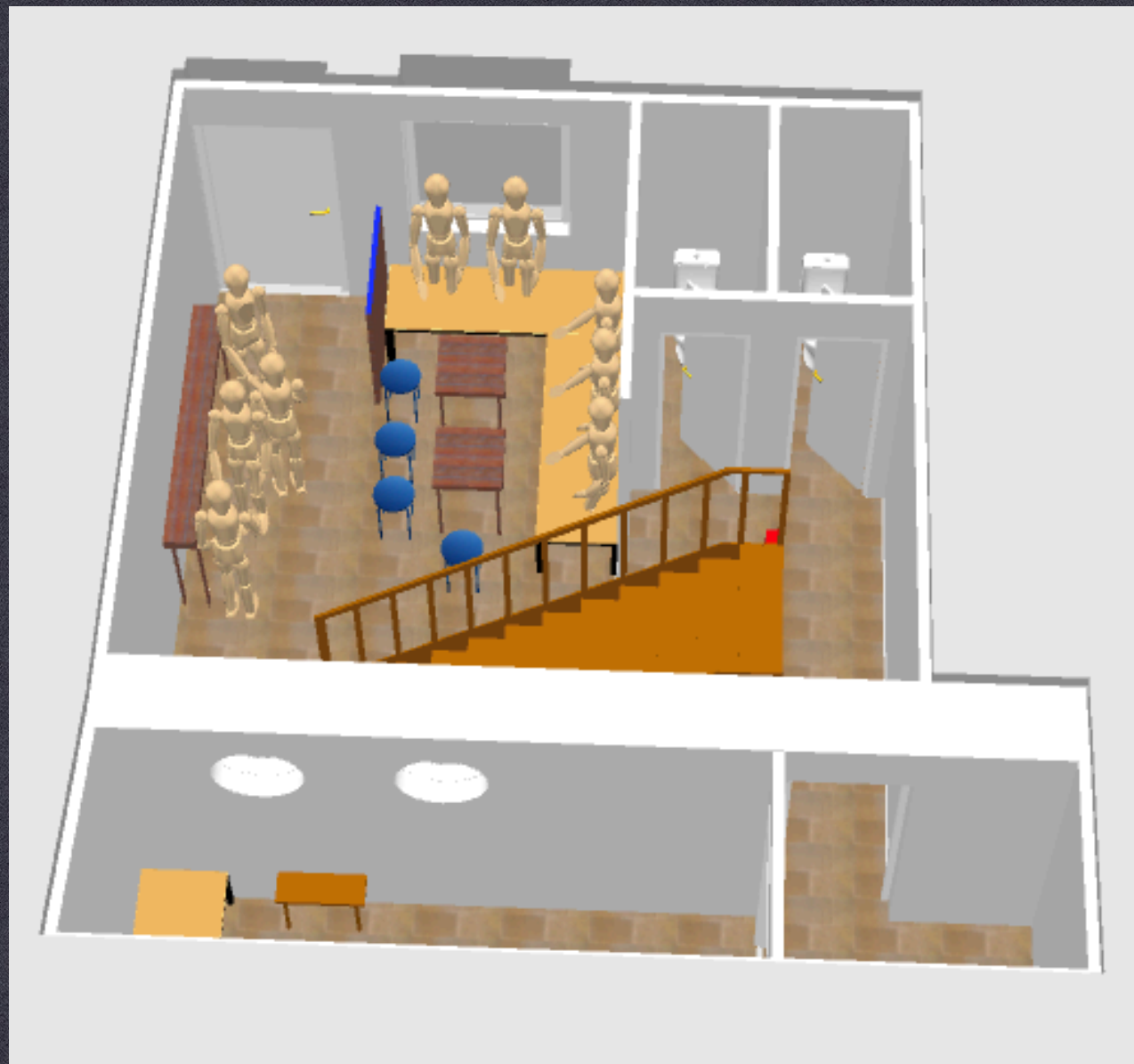


PROJECT

# DOWNSTAIRS, LEVEL-1

TOILETS, SEATING, LEANING DRINKING SHELF + ACCESS TO GARDEN





PROJECT

# GROUND FLOOR

RELAXED ATMOSPHERE, BACKGROUND MUSIC, NO TV, MIX OF BENCH SEATING AND STOOLS.



## APPENDIX B

## Representation No1

I'm contacting you in respect of licensing application by Bottle & Co, Mapplewell, Barnsley.

Notices have appeared in the windows of the former news agents, 337 - 339 Wakefield Road Denby Dale Huddersfield HD8 8RT, to convert the shop to a micro bar and bottle shop.

There are concerns being raised by residents of Sunnybank, Denby Dale which is to the rear of the proposed "Micro bar and bottle shop" on Wakefield Road, Denby Dale.

Some of the concerns being raised by the residents of Sunnybank are;

The playing of live music outside which we are led to believe not only inside the premises but also outside and to the rear. There are properties which adjoin the rear of 337 - 339 Wakefield Road, which have elderly residents.

Noise of patrons of the micro bar when sat outside and again we are led to believe that there will be a seating area at the rear of this property which adjoins afore mentioned Sunnybank dwellings.

The possibility of the noise increasing and possibly foul language and verbal disputes stemming from consuming too much alcohol.

Concerns of litter if left and blowing into resident's gardens.

Sunnybank is a long terrace as such there's an access path to the rear of those properties. Concerns I have are around patrons of the micro bar using said path as a short cut to access the property on Wakefield Road. This is further compounded by the thought of people who have frequented the micro bar use the path in a drunken state and become rowdy. To emphasise this point, our kitchen windows are on a level with the access path so people can see into our properties, furthermore we have had first hand experience of people that are in an intoxicated state as we live only a few doors down from the Social Club on Norman Road Denby Dale. Although it doesn't happen often it does and has happened.

## Representation 2.

To Whom It May Concern,

Please see the below objection to PR00431 | Premises Licence | 337 – 339 Wakefield Road Denby Dale Huddersfield HD8 8RT

I am writing on behalf of my partner and myself, who live [REDACTED] to the property subject to the Premises License Application referenced above. Our home and persons will be directly and negatively impacted if the application were to be approved and we wish to object in the strongest possible terms. Should you require any further information or clarification such as proof of residence, please contact me at this email address [REDACTED] and I will be happy to assist.

We also strongly believe that the local community and Denby Dale more broadly will be negatively impacted if the application were approved.

As it currently stands there are FIVE licensed premises within a 500m radius of each other within the centre of Denby Dale. There are an additional TWO licensed premises within an additional 500m radius.

While the greater Denby Dale Parish has a population of approximately 16,000 people (this includes Scisset, Skelmanthorpe and Emley who all have additional and numerous licensed premises), the population within a 1000m radius of the village centre is approximately 2000 people. With an additional licensed premises, bringing the total to EIGHT within that 1000m radius, we would have MORE LICENSED PREMISES PER PERSON THAN LEEDS. That is not okay. We do NOT need any more.

-----  
Incidents of alcohol related crime and disorder have increased in the 10+ years we have been present at this address. In the last few years we have witnessed multiple violent altercations directly related to alcohol consumption within the centre of Denby Dale; further we have, quite literally, heard countless other altercations, as screaming and abusive language is heard across the entire village centre, undoubtedly being heard by the many young children and families that call Denby Dale home.

Approval of PR00431 will directly contribute to this issue by simple virtue of supplying alcohol, attracting additional drinkers and further increasing the likelihood of alcohol related crime and disorder. More alcohol = More crime.  
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-----  
Smashed glassware and bottles have become prevalent around the currently licensed premises and is not cleaned up in a timely manner, if at all. Food waste is common, with discarded take-away littering the streets as a result of drinkers. This waste has attracted invasive and unsanitary pests including rats, which are not being managed by the council, nor the currently licensed premises or food retailers. These have created an obvious health hazard for anyone in Denby Dale, and particularly children who are most at risk of sharp objects littering their homes and pests who carry disease.

Approval of PR00431 will directly contribute to this in multiple ways: Patrons of PR00431 will further increase the prevalence of broken glass, it is an inevitability when the premises serves alcohol in glass containers. Patrons of PR00431 will further increase the prevalence of discarded food, specifically the applicant for PR00431 has made explicitly clear that he intends to allow patrons to receive and consume take-away on the premises, thus encouraging more opportunity for food waste to be discarded and attract more pests. There are no reasonable resolutions to this; inebriated persons are more likely to break glass, and it is simply not cleaned up. Food waste is often discarded

improperly no matter how robust the availability of waste disposal is. You need only look at any town high street on a weekend to see that these are true and inevitable.

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Denby Dale has been for the entire time we have lived here, a sleepy village; this is how we, as residents, wish it to remain. Having spoken with many of our neighbours I can say that this perspective is echoed by every single one. Loud noise, late into the night, is an inevitability with additional licensed premises and will cause unreasonable harm to residents. There is also the concern of parking; Denby Dale has limited parking and cases of nuisance parking have only continued to increase, with people's homes being blocked by parked cars. Lanes and roads being double parked. Private parking being used without permission. Illegal parking on double-yellow lines and no parking zones. There is no little to no traffic enforcement taking place within village as it currently stands and further exacerbation is untenable.

Approval of PR00431 will directly contribute to this in multiple ways: They have applied to play music outdoors until 23:00 every single night of the week, midnight on Friday/Saturday. They have made clear that they intend to play music in the outdoor space at the rear of the building which is separated from the back gardens of at least five homes by nothing more than a short hedge. This is wholly unacceptable and intolerable, it would remove from residents their right to access their back gardens in peace and privacy. Being subjected to whatever loud music the premises wishes to impose on them, every single night of the week until as late as midnight, an absolutely outrageous imposition and one that is by its very definition a nuisance. There is no remedy for this, no fence or property alteration can mitigate these issues to an acceptable degree. In regards to parking, more people = more cars, more cars = more nuisance parking. The premises does not have private parking and their patrons will inevitably use public parking, and when that is unavailable (or inconvenient) they will begin to park as outlined above.

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Denby Dale is a village filled with families, with children. Exposing them to further incidents of alcohol related disorder, violence, crime and nuisance can only be described as causing harm. They cannot possibly benefit from these things increasing in prevalence. There is already ample licensed premises and families will only be negatively affected if more are imposed upon them.

We ask that the application be DENIED.

Please can you respond to confirm that this objection has been received and will be duly considered.

Thank You,  
Residents of Sunnybank, Denby Dale, HD8 8TJ

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In addition to the objection provided May 21, 2024, I would like to provide additional material to be included with that objection, which is as below and the attached image:

The area highlighted in RED is the outdoor area that the applicant wishes to utilise for LIVE CONCERTS and MUSIC.

The areas highlighted in various colours with numbers are the GARDENS of RESIDENTIAL PROPERTIES separated by essentially nothing, the occupants of which include:

A family with children, an elderly person, a couple one of whom is ill, an elderly and widowed person, an elderly couple one of whom is seriously ill, an elderly person, and a family with children.

As you can see from the provided image, the outdoor location that would play host to loud music is directly adjacent to the gardens of all these people. There is no question that approval of the license application, and the ensuing loud noise, would cause material harm and damages to any nearby

resident who would be subjected to said loud music, late into the night, potentially every night of the week.

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### Representation 3.

Good Afternoon,

I am contacting you to discuss my concerns regarding this application. I live [REDACTED] Sunnybank, the street behind 337-339 Wakefield Road and I do not believe this is an appropriate venue to have a bar open everyday serving alcohol for 12 hours per day on certain days.

It is a very small venue and has a small outdoor space which backs right on to mine and my neighbours private gardens. We do not want to listen to live music and people drinking on a daily basis. I believe they want to put tables and chairs outside on the pavement which just isn't appropriate in a small village.

On bottle and co's website it says people can take their own food. There is already a problem with rats in that area in particular and it's just going to make the problem worse in my eyes with people's leftover food lying around.

I have children who go to bed at 8pm and I really don't want live music and noisy crowds of people outside to affect this.

I would appreciate it if you could take my views in to consideration.

## Representation 4.

Re-Licensing Application PR00431

We wish to state our opposition to the application for alcohol and music licences on application PR00431.

We live directly behind 337-339 Wakefield Road Denby Dale. Where the applicant has requested a licence to play recorded/live music up to 7 days a week. The applicant Mr Jonathan Ashton is planning a beer garden at the rear of these premises, this will back on to ours and other residential properties. The "beer garden" he is proposing was a parking area for the property when it was council offices and then a newsagents. There is nothing that would minimize the noise from live/recorded music or from his clientele in place.

The majority of the residents that would be directly affected are retired/elderly people. Is it not unreasonable for us all to not want to have our gardens and homes constantly flooded with music up to 14 hours a day?

This building and external area was never intended for the use Mr Ashton is proposing. Our standard of living and the enjoyment of our gardens and external spaces is going to be severely impacted should this licence application be granted.

I communicated all these issues by email to Mr Ashton. None of my concerns were diminished by his reply. I am more than happy to present these emails should the licensing board need them.

Within 100 metres of this proposed business there is a supermarket selling alcohol already. There is also within a quarter of a mile a Working Men's Club, a Public House and a bar in the Denby Dale Pie Hall. Do the residents of this village need another establishment selling alcohol?

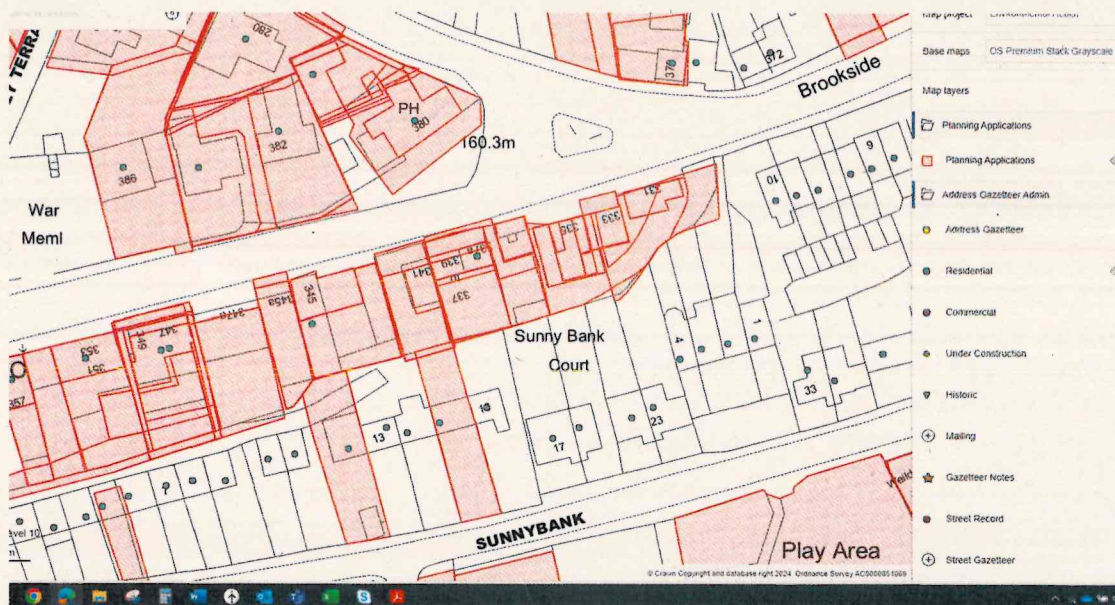
We hope you would give this opposition your attention.



## Noise

Having considered this premises licence application, I raise the following concerns regarding the proposed outdoor activities:

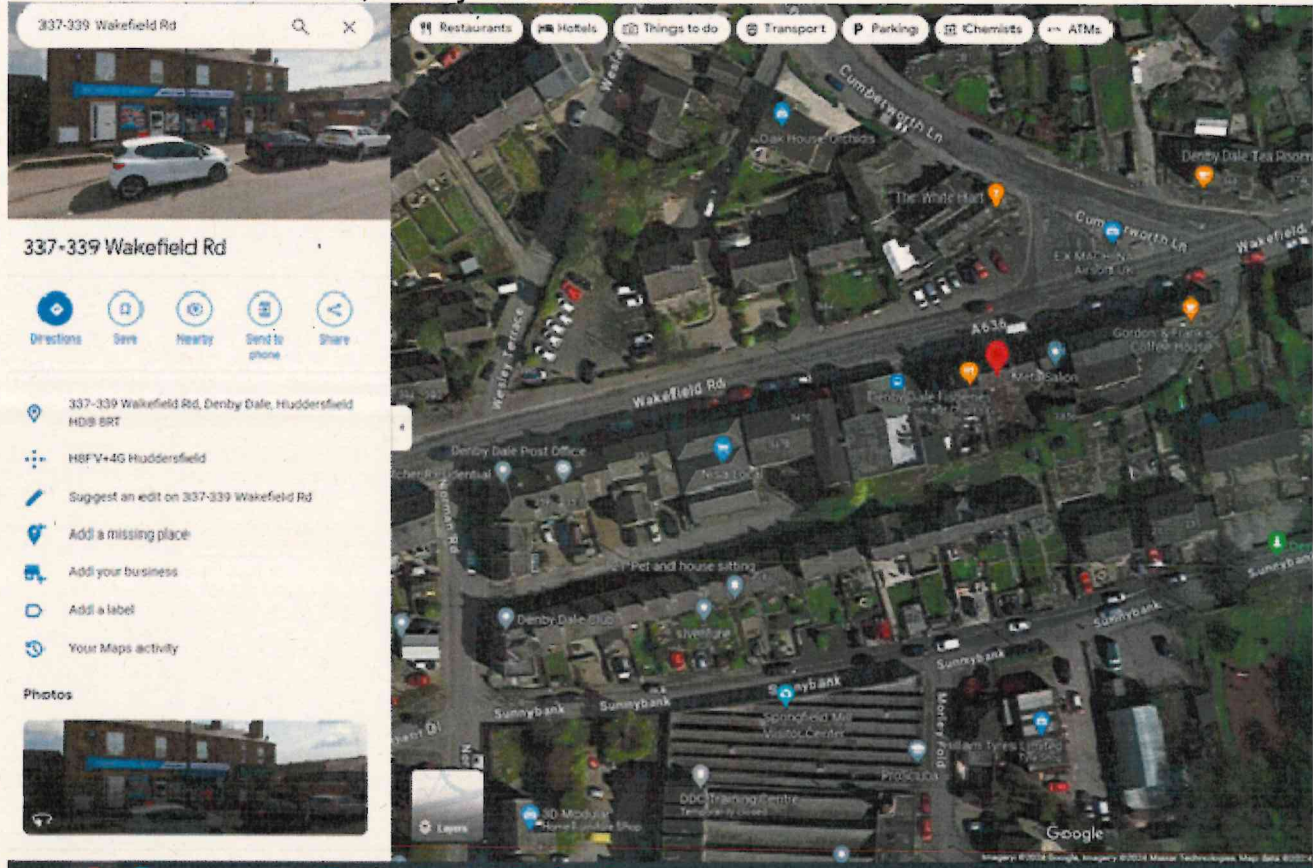
- The premises have adjacent resident properties, gardens/outdoor living space and buildings; to the NE, NW, E,W & S.
- Potential for intrusive levels of noise from customers consuming drinks in the outdoor space to the rear, which is an uncontrollable noise source which cannot be regulated or mitigated to prevent potential noise nuisance.
- The potential for intrusive levels of noise from record music or live music via speakers located in the garden, and from live bands,
- Resulting in loss of amenity and potential statutory nuisance



(The above map id's the location of residential dwellings highlighted with a light blue dot).



Mark Chapman Saturday 25.05.2024  
Premises Licence Application in respect of  
337-339 Wakefield Road, Denby Dale HD8 8RT



( The above ariel view of the area shows the residential properties to the N,S,E & W).

Therefore, I am making an **OBJECTION TO THE USE OF THE OUTDOOR AREA** other than TENS 3 times per year, avoiding Sundays before Bank Holidays and Bank Holiday Mondays.

I have telephoned the applicant and left a voice mail asking him to call me to discuss. I have suggested that he with draw his application and amend it to save losing his application fee.

For your information: There is no planning application submitted for change of use from retail to bar/drinking establishment. When the panning application is submitted, I will be making objections to the use of outdoor space. I will be recommending no outdoor space due to the close proximity of residential dwellings, which will resulting in the loss of amenity and potential for statutory nuisance. Limit the activities to the indoor premises only.

As part of the planning application process a noise report will be requested, having tested the sound insulation of the structure of the premises will be requested so prevent noise transferring through the structure or breaking out of the structure of the building to neighbouring premises.

Can consideration be given to this? At Licensing Committee, the elected members have requested that licencing and Planning consult each other on such applications. Should the Planning Service be consultee?



Mark Chapman Saturday 25.05.2024

Premises Licence Application in respect of  
337-339 Wakefield Road, Denby Dale HD8 8RT

**In respect of activities inside the premises I wish to submit the following conditions to include on premises licence:**

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 the 337-339 Wakefield Road, Denby Dale HD8 8RT.

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  $L_{90, T}$  exceedence in each 1/3 octave band between 40Hz and 160Hz.

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.

There shall be a 15-minute 'cooling down' period at the end of the evening when the regulated entertainment shall cease. This will allow customers hearing to adjust before they leave the premises and will mean they are more likely to be quieter as they leave. The aim of the 'cooling down' period is to stagger the departure of the customers to help prevent public nuisance.

All noise creating activities that are associated with the regulated entertainment shall only be carried out inside the premises except with the prior written approval of the Licensing Authority, via a Temporary Events Notice (TENs)

External areas of the premises shall not be used by customers other than except with the prior written approval of the Licensing Authority, via a Temporary Events Notice (TENs)



Mark Chapman Saturday 25.05.2024

Premises Licence Application in respect of  
337-339 Wakefield Road, Denby Dale HD8 8RT

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.

All external doors to the premises (including fire doors and patio doors) shall be kept closed (other than for normal access and egress) during the course of regulated entertainment or live music or recorded music being played.

Any noise that arises from regulated entertainment shall be monitored at least once an hour whilst occurring, between 10:00 and 20:00 hours, as specified in the premises licence application, by the licensee, or their representatives. This monitoring shall take place at positions (accessible by the public) adjacent to noise sensitive properties in the vicinity of the licensed premises. If noise is audible at these monitoring positions action shall be taken by the licensee or their representative shall take action to reduce the level of noise. A written log of this monitoring shall be kept and will include; the date, time and place of the monitoring, the person carrying out the monitoring, a description of any noise and a description of remedial action taken. This log shall be readily available to the Responsible Authority.

The disposal of waste bottles, glass and other materials into external receptacles shall not take place between 20:00 and 08:00 hours and any such waste receptacle shall not be removed from the premises between those hours.

## **Odour**

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. 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.

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.

The external refuse and waste bottle receptacles and surrounding storage areas shall be inspected daily, cleansed where necessary and cleansed on at least a weekly basis.

Mark Chapman Saturday 25.05.2024  
Premises Licence Application in respect of  
337-339 Wakefield Road, Denby Dale HD8 8RT

All external doors to the premises (including fire doors and patio doors) shall be kept closed (other than for normal access and egress) during the cooking of food to prevent odours and fumes escaping the premises.

## **Light Pollution**

All external lighting shall be directed so as not to cause intrusive illumination or glare to neighbouring residents, business or road users.

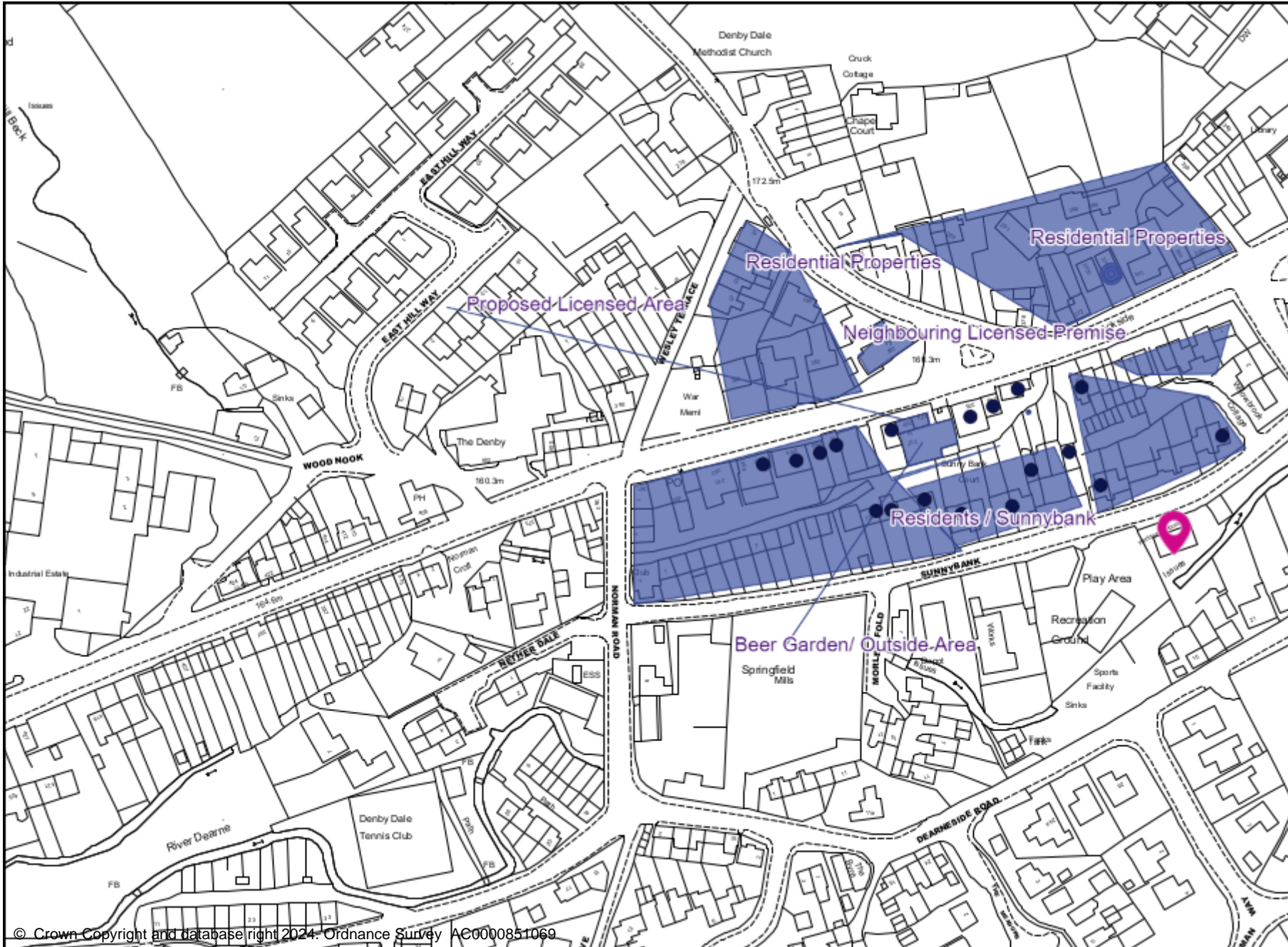
### **Reasons for conditions:**

These conditions are requested to prevent public nuisance at noise sensitive properties near to 337-339 Wakefield Road, Denby Dale HD88RT. These conditions are proportionate and reasonable due to the proximity of the noise sensitive properties coupled with the hours requested for regulated entertainment.

## APPENDIX C



# Mapplewell Bottle Shop Ltd 337 -339 Wakefield Road, Denby Dale



Scale = 1:1905.120

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Ordnance Survey  
AC0000851069

maps@kirklees.gov.uk

# Annotations (1)

LineString: LineString2

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## 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.

2.10 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.

2.11 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.

2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

2.13 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 Act<sup>1</sup>, 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.

2.14 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**

2.15 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.*

## APPENDIX E

# 16. Regulated entertainment

## Types of regulated entertainment

- 16.1 Schedule 1 to the 2003 Act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable and those activities which are not and therefore exempt from the regulated entertainment regime. Changes to regulated entertainment took effect on 6 April 2015.
- 16.2 The descriptions of entertainment activities licensable under the 2003 Act are:
- a performance of a play;
  - an exhibition of a film;
  - an indoor sporting event;
  - a boxing or wrestling entertainment;
  - a performance of live music;
  - any playing of recorded music;
  - a performance of dance; and
  - entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- 16.3 To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:
- take place in the presence of a public audience, or
    - be provided exclusively for the members of a club or for the club members and their guests, or
  - where that activity takes place in private, be the subject of a charge made with a view to profit.
- 16.4 Guidance around what constitutes audiences and private events is at paragraphs 16.11-16.14.

## Overview of circumstances in which entertainment activities are not licensable

- 16.5 There are a number of exemptions that mean that a licence (or other authorisation<sup>18</sup>) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:
- activities which involve participation as acts of worship in a religious context;
  - activities in places of public religious worship;
  - education – teaching students to perform music or to dance;
  - the demonstration of a product – for example, a guitar – in a music shop;
  - the rehearsal of a play or performance of music for a private audience where no

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<sup>18</sup> The word 'licence' is typically used as a reference to all forms of authorisation

charge is made with a view to making a profit;

- Morris dancing (or similar)<sup>19</sup>;
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity<sup>20</sup>;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity<sup>21</sup>;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors)<sup>22</sup>.

16.6 As a result of deregulatory changes that have amended the 2003 Act<sup>23</sup>, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500<sup>24</sup>.
- Films: no licence is required for ‘not-for-profit’ film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
  - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises,

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<sup>19</sup> Including any live music or playing of recorded music as an integral part of a performance of Morris dancing, or similar activity.

<sup>20</sup> See paragraphs 16.57-16.61

<sup>21</sup> See paragraphs 16.65-16.68

<sup>22</sup> This was previously licensable under the 2003 Act until the commencement of the Live Music Act 2012.

<sup>23</sup> The Live Music Act 2012 (“2012 Act”) <http://www.legislation.gov.uk/ukpga/2012/2>; Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 (“2013 Order”) <http://www.legislation.gov.uk/uksi/2013/1578/contents/made>; The Legislative Reform (Entertainment Licensing) Order 2014 (“2014 Order”) <http://www.legislation.gov.uk/uksi/2014/3253/introduction/made>; and the Deregulation Act 2015 (“2015 Act”).

<sup>24</sup> But see paragraphs 16.47 -16.48 in relation to dance that is adult entertainment and remains licensable.



provided that the audience does not exceed 500<sup>25</sup>.

- a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace<sup>26</sup> that does not have a licence, provided that the audience does not exceed 500.
- a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
  - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500<sup>27</sup>.
  - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - any entertainment (excluding films and a boxing or wrestling entertainment)

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<sup>25</sup> Provided that a number of other important conditions are satisfied (see paragraphs 16.326-16.29).

<sup>26</sup> The Live Music Act 2012 provides that if premises are licensed under the 2003 Act, they cannot also be treated as a workplace for the purpose of the 2012 Act.

<sup>27</sup> Provided that a number of other important conditions are satisfied, see paragraphs 16.33.

taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

- 16.7 The deregulatory changes mean that, for example, an indoor sporting event that takes place between 07.00 and 23.30 on a particular day is licensable in respect of activities taking place between 07.00-08.00 and 23.00-23.30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500. If organisers are uncertain as to audience sizes or if audience migration is likely<sup>28</sup>, it might be easier and more flexible to secure an appropriate authorisation. Examples of where a Temporary Event Notice (TEN)<sup>29</sup> could still be required include if the activity is the playing of recorded music or the exhibition of a film that requires an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.
- 16.8 Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning).<sup>30</sup> Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.
- 16.9 The various effects of the changes made to entertainment licensing by the set of deregulatory changes between 2012 and 2015<sup>31</sup> are described in greater detail in subsequent paragraphs:
- Music entertainment, see in particular paragraphs: 16.20-16.21; 16.26-16.33; and 16.36-16.44;
  - Plays, dance, and indoor sporting events, see in particular paragraphs: 16.34-16.35 and 16.45-16.48;
  - Local authority, hospital and school premises, see in particular paragraphs: 16.16-16.20
  - Community premises, see in particular paragraphs: 16.21-16.24
  - Circuses, see in particular paragraph 16.25
  - Boxing or wrestling entertainment, see in particular paragraphs: 16.49-16.51.

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<sup>28</sup> See paragraph 16.12

<sup>29</sup> See chapter 7

<sup>30</sup> See paragraphs 16.70-16.72 in relation to other licensing regimes

<sup>31</sup> An entertainment activity may meet the conditions of more than one exemption

presence of an audience of more than 500 people; and

- where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act (as amended).<sup>61</sup>

## Plays and dance

16.34 No licence is required for a performance of a play or dance to the extent that certain qualifying conditions<sup>62</sup> are satisfied. However a performance of a play or dance remains licensable:

- where the performance takes places before 08.00 or after 23.00 on any day; or
- where the performance takes place in the presence of an audience of more than 500 people.

## Indoor Sport

16.35 No licence is required for an indoor sporting event to the extent that certain qualifying conditions<sup>63</sup> are satisfied. However an indoor sporting event remains licensable:

- where the event takes places before 08.00 or after 23.00 on any day;
- where the event takes place in the presence of more than 1000 spectators.

## Licence conditions

### Live Music or recorded music

16.36 Any existing licence conditions<sup>64</sup> (or conditions added on a determination of an application for a premises licence or club premises certificate<sup>65</sup>) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the music is amplified, it takes place before an audience of no more than 500 people; and
- the music takes place between 08.00 and 23.00 on the same day.

16.37 Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of regulated entertainment all doors and windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.

16.38 More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g.

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<sup>61</sup> This would be by way of imposing a condition on a premises licence or club premises certificate as a result of a licence review, see paragraphs 16.55-16.56

<sup>62</sup> See paragraphs 16.6 and 16.45-16.48

<sup>63</sup> See paragraph 16.6.

<sup>64</sup> In relation to relevant licensed premises, see paragraph 16.32

<sup>65</sup> See paragraphs 16.39-16.40

signage asking patrons to leave quietly) will continue to have effect.

- 16.39 Chapter 9 of this Guidance sets out how a licensing authority must determine applications for a new licence or to vary an existing premises licence. Licence conditions imposed, in accordance with paragraphs 9.42 to 9.44, for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23.00 and 08.00.
- 16.40 These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.
- 16.41 Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.<sup>66</sup>

## Beer gardens

- 16.42 Beer gardens are often included as part of a premises licence or club premises certificate. Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided the beer garden is included in the licence or certificate applying to the relevant licensed premises, and the performance takes place between 08.00 and 23.00 on the same day before an audience of 500 people or fewer.
- 16.43 Where a beer garden does not form part of the relevant licensed premises and so is not included in plans attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace<sup>67</sup>. Paragraph 12B of Schedule 1 to the 2003 Act says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08.00 and 23.00 on the same day in front of an audience of no more than 500 people. Note that the exemption in paragraph 12B does not apply to the playing of recorded music.
- 16.44 However, a licensing authority may, where justified<sup>68</sup>, impose a licence condition that relates to the performance of live music in an unlicensed beer garden being served by any associated premises licence or club premises certificate. Provided such a condition is lawfully imposed, it takes effect in accordance with its terms.

## Plays, dance and indoor sport

- 16.45 Where qualifying conditions are satisfied<sup>69</sup>, any current licence condition that relates to a performance of a play or dance, or an indoor sporting event for which a licence is no longer required will (except in the circumstances described in the next paragraph) have no effect.
- 16.46 Where, however, these non-licensable activities take place at the same time as other

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<sup>66</sup> See paragraphs 16.55-16.56 and chapter 11.

<sup>67</sup> A beer garden is one example of a potential workplace, see paragraph 16.31. Whether other outdoor spaces (such as seating adjacent to a premises, a smoking shelter, or a car park) constitute a workplace, part of the licensed premises, or neither, will be a matter of fact in each case.

<sup>68</sup> Including on a licence review

<sup>69</sup> See paragraph 16.6

activities for which a licence is required (e.g. the sale or supply of alcohol for consumption on the premises), conditions included in a licence may nevertheless apply to the non-licensable activities in the circumstances set out in paragraphs 16.52 and 16.53 (conditions relating to other non-licensable activities).

16.47 Dance that is sufficiently sexual in nature continues to be regulated. Performances of dance which are “relevant entertainment” within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) are not deregulated, regardless of the size of the audience or the time of day. “Relevant entertainment” is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.<sup>70</sup>

16.48 In almost all cases where a performance of dance is potentially licensable as both the provision of **relevant** entertainment (under the 1982 Act) and **regulated** entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act rather than the 1982 Act will continue to be required where:

- the premises are not licensed as a sex entertainment venue under the 1982 Act, and
- relevant entertainment has been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.

### **Boxing or wrestling entertainment and conditions relating to combined fighting sports**

16.49 An indoor boxing or wrestling entertainment cannot also be an indoor sporting event, and any contest, exhibition or display that combines boxing or wrestling with one or more martial arts (‘combined fighting sports’) is – whether indoors or not – a boxing or wrestling entertainment.

16.50 Where a premises licence or club premises certificate purports to authorise a boxing or wrestling entertainment or combined fighting sports as an ‘indoor sporting event’, the 2013 Order provides that the authorisation will be treated as having authorised those activities as a boxing or wrestling entertainment. Those activities will continue to be subject to any relevant conditions attached to that authorisation.

16.51 A contest, exhibition or display of Greco-Roman wrestling, or of freestyle wrestling, between two participants (regardless of their sex) does not require a licence provided that certain qualifying conditions are met. They are that:

- it takes place in the presence of no more than 1,000 spectators;
- it takes place between 08.00 and 23.00 on the same day; and
- it take place wholly inside a building and the spectators present at that entertainment are accommodated wholly inside that building.

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<sup>70</sup> Home Office Guidance is available at: <http://webarchive.nationalarchives.gov.uk/20100413151441/http://crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>

## Conditions relating to other non-licensable activities

- 16.52 If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, could create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.
- 16.53 Similarly, while karaoke no longer needs licensing as the provision of entertainment facilities<sup>71</sup> (and will generally be classed as a performance of live music<sup>72</sup>) it might, for example, be possible on review to limit the use or volume of a microphone made available for customers on an ‘open-mic’ night (which encompasses more than just live music), if a problem had occurred because of customers purchasing alcohol for consumption on the premises becoming louder and less aware of causing noise nuisance later in the evening. Another example might be a condition restricting access to a dance floor at certain times, where the presence of customers in close proximity who had been consuming alcohol on the premises had led to serious disorder. In the first instance it is for the licensing authority to satisfy itself that a particular condition is appropriate and lawful in each case.

## Removing licence conditions

- 16.54 A licence holder who wishes to remove conditions relating to activities that are no longer licensable<sup>73</sup> may apply to the licensing authority for a licence variation. In the course of considering such applications, licensing authorities should remove such conditions unless there are sufficiently serious and specific concerns about the effects of hosting deregulated entertainment activities along with the remaining licensable activities taking place in the premises.

## Licence reviews: Live and recorded music

- 16.55 On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension<sup>74</sup> and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.

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<sup>71</sup> As a result of the 2012 Act

<sup>72</sup> Karaoke is generally classed as a ‘performance of live music’, and provided that it is genuinely taking place, it is not likely to be classed as the ‘playing of recorded music’

<sup>73</sup> A licence holder may favour removal if the previously licensable activity has “grandfather” conditions that are out of date, or unclear. Where such a condition in relation to live or recorded music is suspended, then the licence holder may wish to avoid any prospect of the condition being given renewed effect (were a suspension to be lifted following a licence review).

<sup>74</sup> See paragraph 16.36.



16.56 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements<sup>75</sup>.

## Incidental music

16.57 The performance of live music or playing of recorded music is not regulated entertainment under the 2003 Act if it is 'incidental' to another activity "which is not itself a description of entertainment falling within paragraph 2" of Schedule 1 to the 2003 Act.

16.58 The incidental music exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required, as it takes place between 08.00 and 23.00 on the same day and before an audience which does not exceed the relevant limit. This is because such an activity is no longer a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act. This means that, while a performance of live music or the playing of recorded music cannot be incidental to a boxing or wrestling entertainment<sup>76</sup> such music may be within the scope of the incidental music exemption for an indoor sporting event or performance of a play or dance for which no licence is required.

16.59 Whether or not music is "incidental" to another activity will depend on the facts of each case. In considering whether or not live or recorded music is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of music will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. Other factors might include some or all of the following:

- Is the music the main, or one of the main, reasons for people attending the premises and being charged?
- Is the music advertised as the main attraction?
- Does the volume of the music disrupt or predominate over other activities, or could it be described as 'background' music?

16.60 Conversely, factors which would not normally be relevant in themselves include:

- the number of musicians, e.g. an orchestra providing incidental music at a large exhibition;
- whether musicians are paid;
- whether the performance is pre-arranged; and
- whether a charge is made for admission to the premises.

16.61 In any disputed case, it will be for the licensing authority initially and, ultimately, for the courts to consider whether music is "incidental" in the individual circumstances of any case.

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<sup>75</sup> See Chapter 11 for more information about reviews under the 2003 Act.

<sup>76</sup> And as such, the music entertainment needs to be authorised under the 2003 Act. This would include music during a Greco-Roman or freestyle wrestling entertainment. While, depending on the circumstances, the Greco-Roman or freestyle wrestling may, or may not be licensable, it is still within the 'description' of a 'wrestling entertainment'.