

**REPORT TITLE:**

Licensing Act 2003 – Application for the Grant of a New Premises Licence: Honley Wine Bar Ltd, 23 Westgate, Honley, Holmfirth, HD9 6AA

<b>Meeting:</b>	Licensing Panel
<b>Date:</b>	25 <sup>th</sup> November 2024
<b>Cabinet Member</b> (if applicable)	Cllr Tyler Hawkins
<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>Executive Director</u> &amp; name</b>	Fiona Goldsmith – on behalf of David Shepherd Executive Director for Place
<b>Is it also signed off by the Service Director for Finance?</b>	Not applicable
<b>Is it also signed off by the Service Director for Legal and Commissioning (Monitoring Officer)?</b>	Not applicable

**Electoral wards affected:** Holme Valley North

**Ward councillors consulted:** Cllr Donna Bellamy  
 Cllr Charles Greaves  
 Cllr Tony McGrath

**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 as a representation has been received and is therefore referred to this Panel for determination.

## 2. Information required to take a decision

### 2.1 Application

2.1.1 An application for the grant of a Premises Licence for Honley Wine Bar, 23 Westgate, Honley was received on 30<sup>th</sup> September 2024. A copy of this application along with a plan of the premises can be seen at **Appendix A**. Accompanying the application, the applicant has also provided some supplementary information on the local area and highlighted the location of other commercial premises. This can be seen at **Appendix B**

2.1.2 The licensable activity applied for on this application is: -

The retail sale of alcohol for consumption on and off the premises, every day from 09.00 to 23.00

2.1.3 During the consultation period, a representation has been received from a member of the public.

2.1.4 The representation considers the following licensing objectives would not be met should this licence be granted:

- The Prevention of Public Safety
- The Prevention of Public Nuisance

A copy of the representation may be seen at **Appendix C**

2.1.5 In their capacity as a responsible authority, the Council's Environmental Health team have requested some conditions be applied to the licence should it be granted. The conditions relate to noise prevention measures. The applicant has agreed to these conditions being applied to the licence. The conditions can be seen at **Appendix D**

2.1.6 There is a long history of a commercial premises being located at 23 Westgate, Honley, with a café recently trading from the site. I can confirm that an application has been submitted to the Council's planning department to change the use of 23 Westgate from a Café to a Wine Bar. That application is yet to be decided. However, despite this, there is no reason why the panel cannot determine the outcome of the application for a premises licence at the hearing today.

## 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 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 2 of the licensing objectives, member's attention is drawn to Section 2 of this guidance, which can be seen at **Appendix E**.

## 3. Implications for the Council

### 3.1 Council Plan

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 Financial Implications**

There are no financial implications in relation to this report.

### **3.3 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. A representation has been received as detailed above.

4.2 Environmental Health have requested conditions be applied to the licence should it be granted. These conditions have been agreed by the applicant.

4.3 No other representations or comments were received from the other responsible authorities.

## **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

Rox Javaid – Licensing Officer  
01484 221000 ext 70545  
[rox.javaid@kirklees.gov.uk](mailto:rox.javaid@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 – Supplementary Information

Appendix C – Representation from a member of the public

Appendix D – Environmental Health Conditions

**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

## New Premises Licence

### Premises Details

Premises Address \*

23 Westgate Honley WEST YORKSHIRE HD9 6AA

Telephone number at premises (if any)

Non-domestic value of premises. \*

£ 7700

### Applicant Details

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

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

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

### Applicant Details

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

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

### Other Applicant (Non Individual)

Name \*

Honley Wine Bar Ltd

Registered Address \*

Town/City \*

County



**Other Applicant (Non Individual)**

Postcode \*

Registered Number (where applicable)

Description of applicant (for example partnership, company, unincorporated association, etc) \*

Telephone Number

Email \*

**Operating Schedule**

When do you want the premises licence to start? \*

01/11/2024

If you wish the licence to be valid only for a limited period, when do you want it to end?

Please give a general description of the premises. \*

Ground floor premises formerly used as a café, with basement storage and entrance to the front on Westgate and fire exits to Concord Street at the rear. Premises to be used as a wine bar.

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

**Operating Schedule**

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

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

Plays

Films

Indoor Sporting Events

Boxing or Wrestling

## Operating Schedule

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

## Supply of Alcohol Standard Times

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

Day \*

Every Day

09:00

23:00

## Supply of Alcohol

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

Both

Is the premises used exclusively or primarily for supply of alcohol for consumption on the premises? \*

Yes

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

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

Supply of alcohol as a bar will be during a subset of the standard days and times listed (Thursday and Friday from 16:00 to 23:00 with last orders at 22:30, Saturday from 14:00 to 23:00 with last orders at 22:30, and Sunday from 14:00 to 20:00 with last orders at 19:30) however group bookings for wine tasting courses and experiences will be carried out

## Supply of Alcohol

during the other hours included in the standard days and times.

## Designated Premises Supervisor

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

Title \*

First name \*

Surname \*

Street address \*




Town/City \*

County

Postcode \*

Personal Licence Number (if known)

Issuing Licensing Authority (if known)

## Adult Entertainment

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).

None (except the retail supply of alcohol to adults)

## Opening Hours Standard Times

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

Day \*

Every Day

## Opening Hours Standard Times

09:00

23:00

## Opening Hours

State any seasonal variations. (please read guidance note 5)

Please state any Non-standard timings, where you intend the premises to be open to the public at different times from the Standard days and times listed? (please read guidance note 6)

Regular opening will be Thursday to Sunday, \*within\* the standard times specified. Pre-booked courses and educational activities (e.g. wine tasting certifications) will take place on other days, still within the standard times.

## Licensing Objectives

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) \*

Providing a good range of non-alcoholic beverages and promoting responsible drinking. Offering wine in a range of smaller measures to encourage responsible consumption. Displaying information about responsible alcohol consumption and local taxi services. Engaging positively with neighbours, councillors and the local business association to ensure we're a good neighbour and providing a safe, inclusive and welcoming space to enjoy alcohol responsibly and in keeping with the licensing objectives.

b) The prevention of crime and disorder \*

Installing and maintain a high-quality CCTV system covering all areas of the premises. Ensuring staff are properly trained in conflict management and de-escalation techniques. Implementing a clear policy on refusing service to intoxicated patrons. Sharing information with other local venues on those causing disorder or attempting to carry out illegal activities. Maintaining an incident log to record any issues or disturbances.

c) Public safety \*

Conducting regular risk assessments of the premises and activities. Ensuring proper fire safety measures are in place, including clearly marked fire exits. Maintaining a safe capacity limit and prevent overcrowding. Providing adequate lighting both inside and outside the premises. Ensuring glassware is collected regularly to prevent accidents, and not permitting the taking of glassware off the premises.

d) The prevention of public nuisance \*

Implementing a noise management plan to monitor and control sound levels. Installing soundproofing measures if needed, such as acoustic tiling on the roof and walls. Signs & asking patrons to leave quietly and reminding them of the need to be good neighbours. Regularly monitoring and cleaning the area immediately outside the premises. Not

## Licensing Objectives

e) The protection of children from harm \*

permitting the area to the rear of the property, on Concord Street, to be used by patrons at any time.

Challenge 25 signage on the premises. Training staff thoroughly in age verification procedures. Maintaining a refusals log for failed ID checks. Ensuring children are not exposed to strong language or inappropriate behaviour by maintaining a civil and pleasant environment and taking action to curb the behaviour of those disrupting it. Under-18s will be allowed on the premises only when accompanied by a responsible adult, and shall in any case be required to vacate the premises by 8pm.

## Declarations

Declaration Type \*

Sole Applicant - Individual or Other

## Declarations

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

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT 'IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

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

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

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

Full Name \*

[Redacted Name]

Date \*

30/09/2024

## Declarations

Capacity \*

Authorised Agent



Declaration made

Do you wish to provide alternative correspondence details? \*

No

## Email confirmation

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

Forename

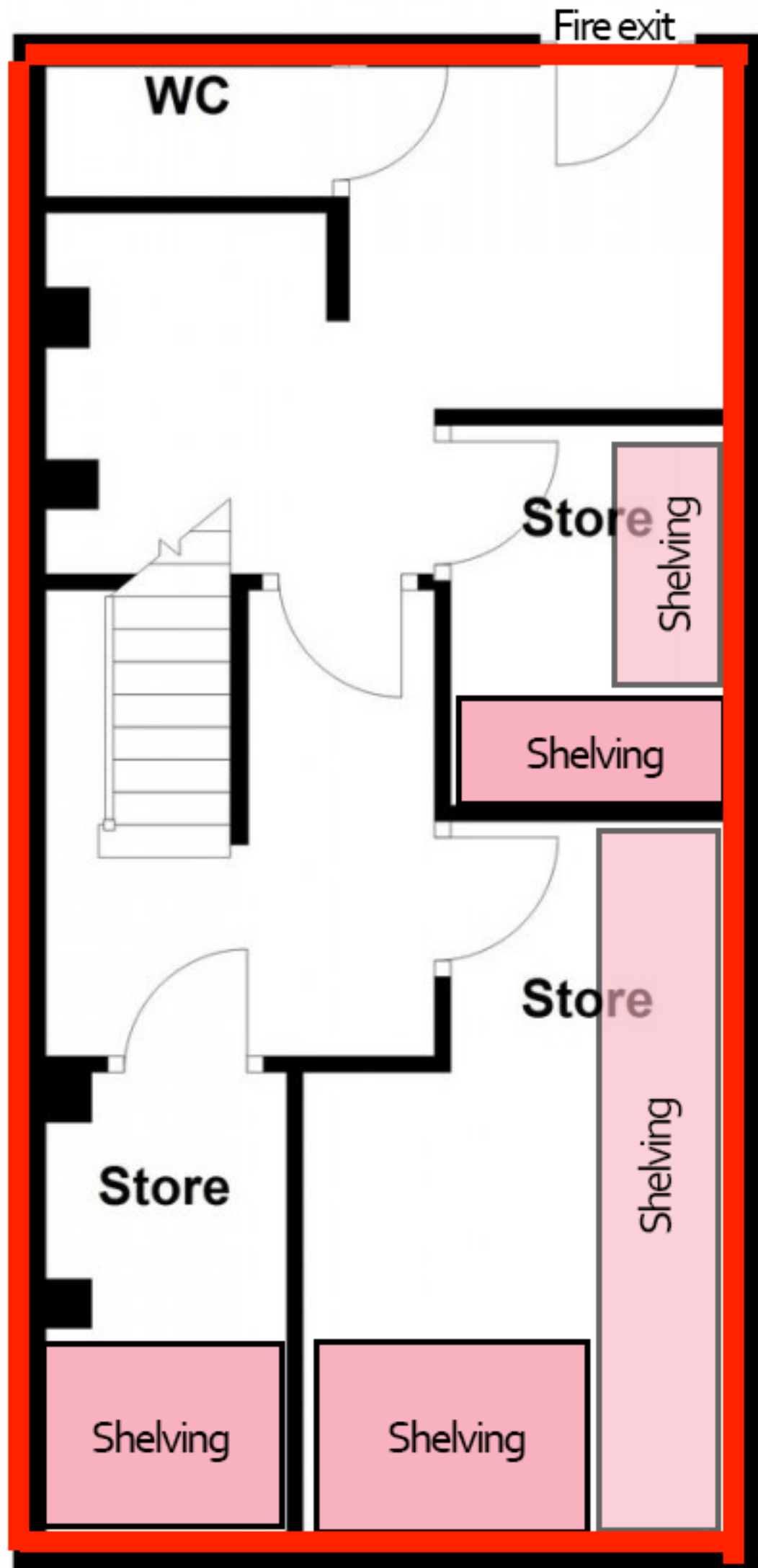
Surname /Company Name

Email \*

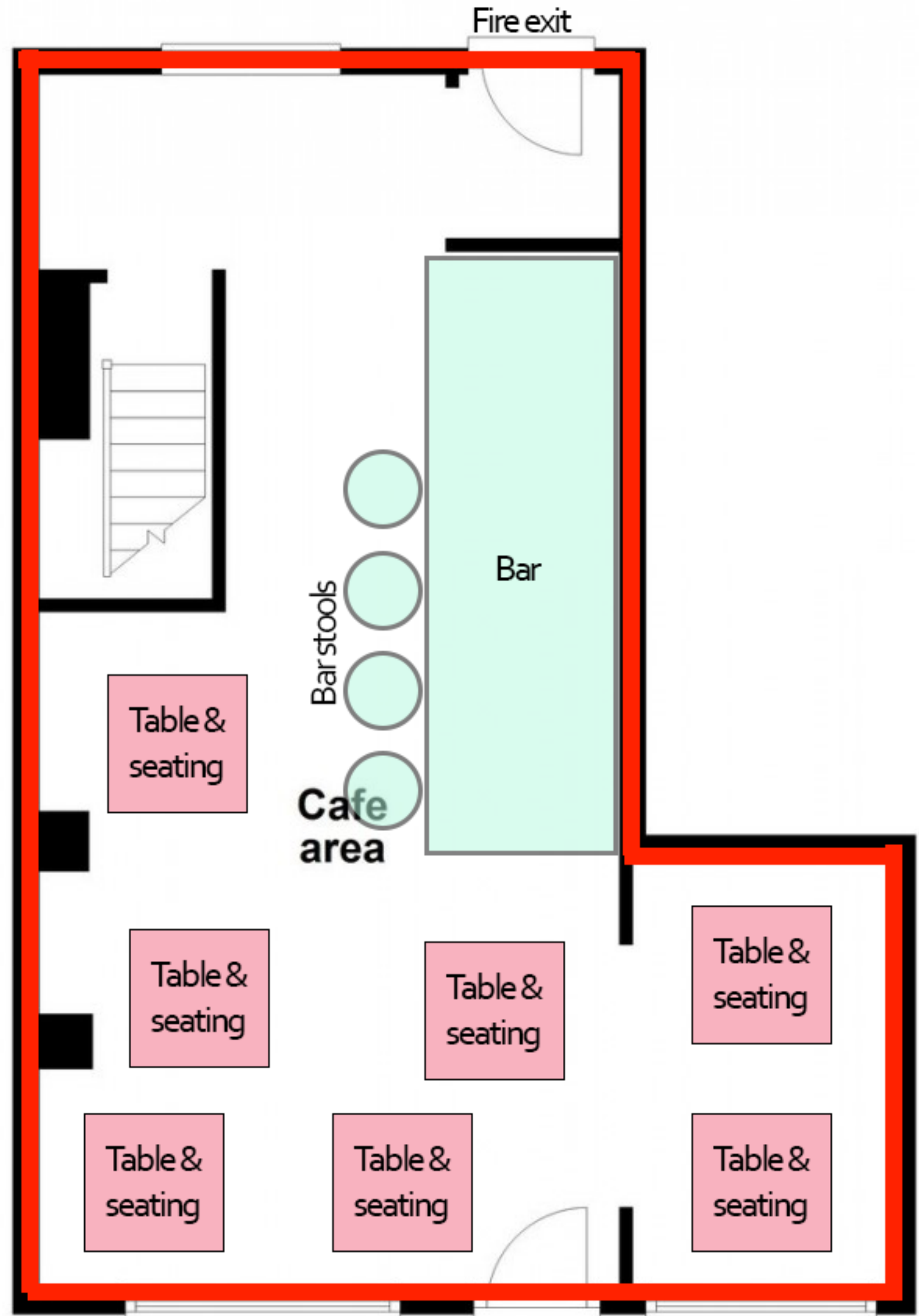
Telephone



# Basement



# Ground Floor



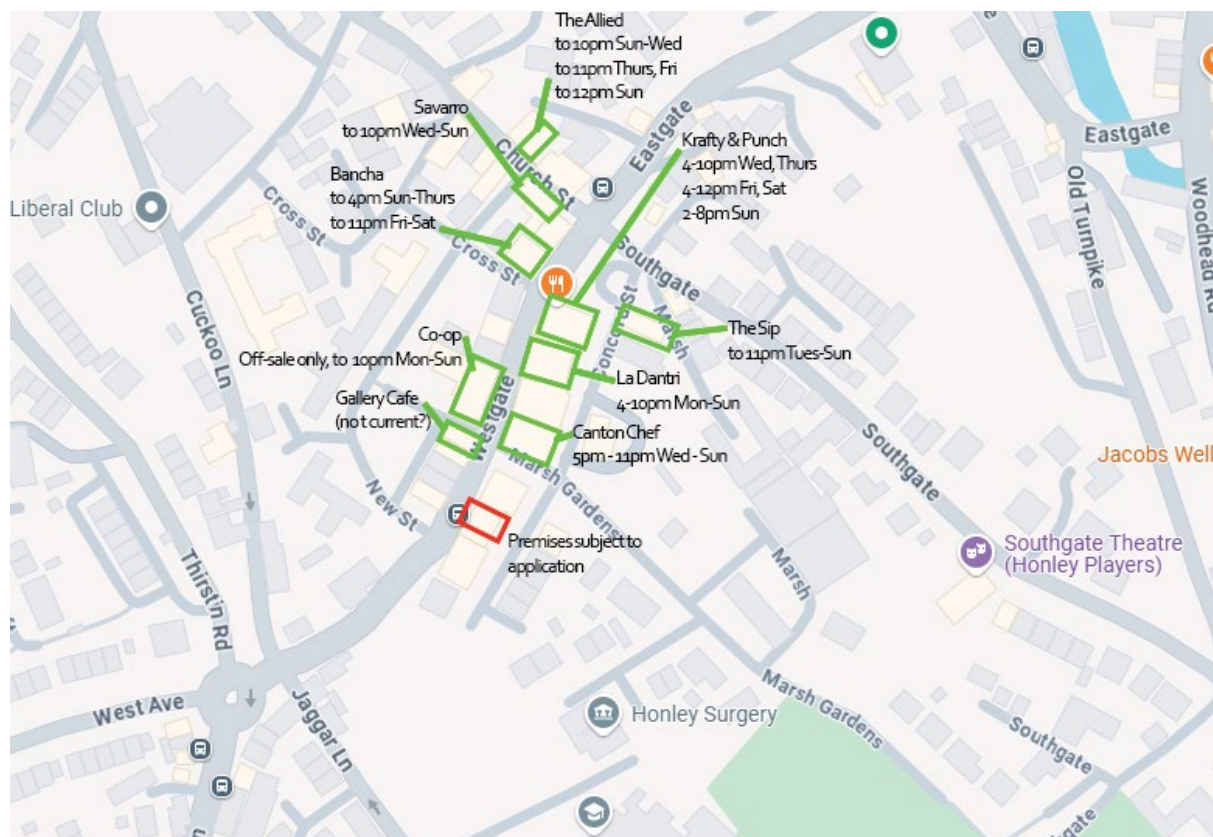
# Appendix B



## 23 Westgate – photos/maps in support of licensing application

The proposed location sits on the central section of the high street in Honley, which is itself identified in the Local Plan as an important district centre.

The premises subject to the application is marked in red on the below map, while the green areas indicate licensed premises<sup>1</sup>.



The distances from 23 Westgate to each of the premises in the immediate vicinity (all of which are within 2 minutes walking distance as calculated by Google) are as follows:

- Canton Chef: 118ft
- Co-Op: 141ft
- La Dantri: 200ft
- Krafty: 236ft
- Punch Bar & Tapas: 266ft
- Bancha: 308ft
- The Sip: 413ft
- Savaro: 469ft
- The Allied: 0.1miles

<sup>1</sup> The Gallery Café is no longer a licensed premises but was successfully used as one until 2020 with neither incident nor complaint, and sits almost directly across the street from 23 Westgate

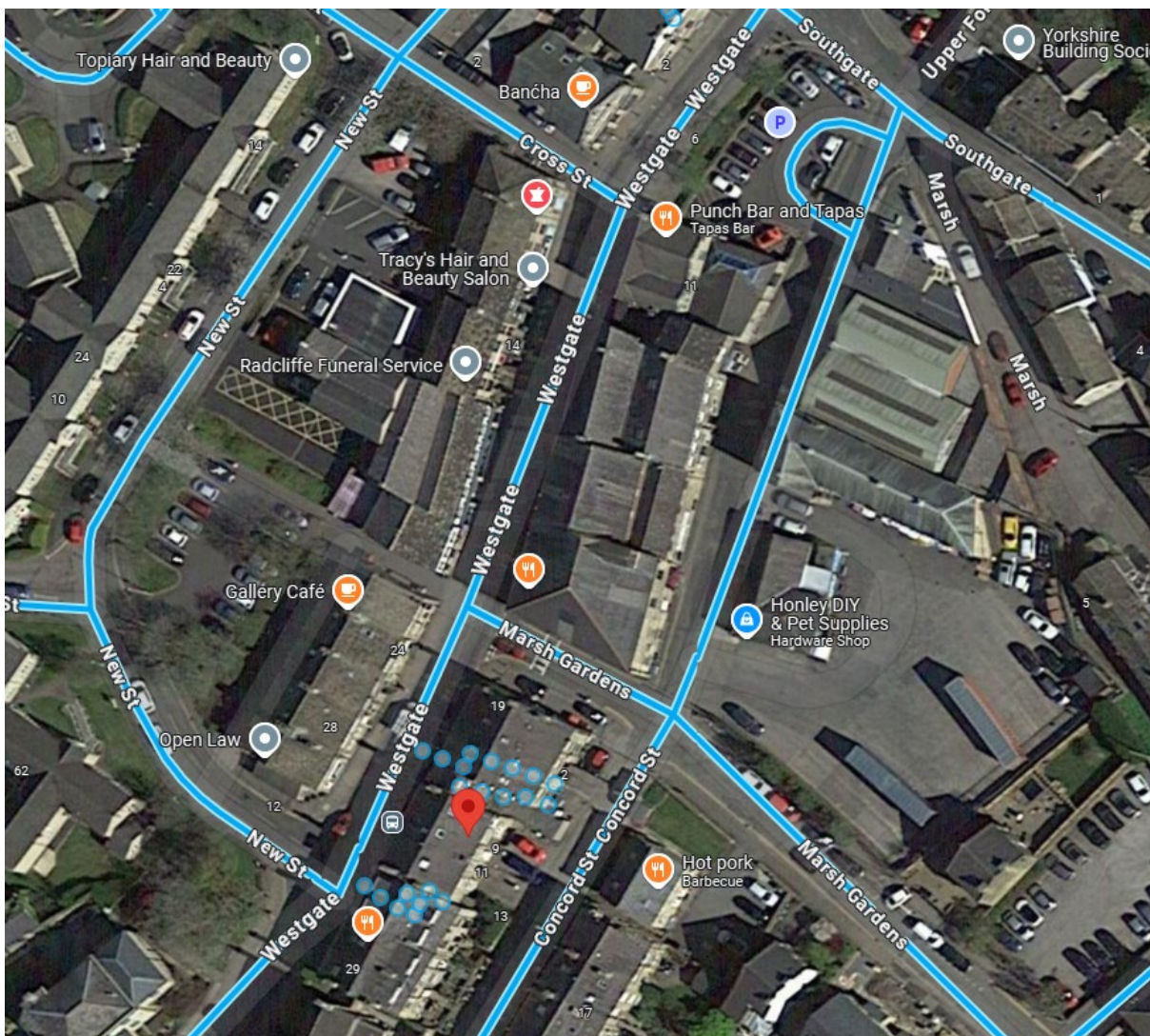
It is also worthy of note that The Forester's Arms and Blue Tiger restaurant is 0.2 miles from the premises in the opposite direction to the others (to the bottom left of the map above) and existing village footfall includes a number of people who walk between the village centre and The Forester's Arms/Blue Tiger and vice-versa.

The Jacob's Well – a popular destination for Sunday lunch for village residents and visitors alike – is 0.2 miles (around 9 minutes walk) down Eastgate.

The premises subject to application is clearly and unambiguously located in the "centre" of the village, along with other similar venues.

### Closer view of main high street

A zoomed in version of this clearly shows Punch Bar and Bancha labelled and #23 Westgate marked with the red pointer. Krafty (next to Punch, toward #23) and La Dantri (next to Krafty) are not labelled but occupy the space between Punch and the Canton Chef (shown with the restaurant icon but not named). The Sip, also not marked, is adjacent to the small car park, at the junction of Concord Street and Southgate.





## View of Westgate showing the premises and other venues



From outside the Co-Op, #23 may be seen (highlighted in Green) on the left of the street just a couple of doors up, with the Canton Chef clearly visible on the left of the picture in the foreground.



# Appendix C

**From:**

**Sent:** 29 October 2024 14:26

**To:** Rox Javid <[Rox.Javid@kirklees.gov.uk](mailto:Rox.Javid@kirklees.gov.uk)>

**Subject:** Re: Honley Wine Bar, 23 Westgate, Honley

**CAUTION:** External email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Rox

Thank you. If it is possible to withhold my name and address from the licensing committee I would be grateful. My objection is:

"I am among the residents most immediately affected by the proposal and strongly object to a licensed operation in this particular location. The proposed premises are mainly on the ground floor, but immediately above is a residential apartment occupied by a long standing tenant with a family and the apartment adjacent is occupied by me. The café business operating until recently always closed by mid to late afternoon and preserved the relative peace and quiet of this area of the street in contrast to the cluster of night time uses further along Westgate.

To the rear of the application premises is an open yard which is used for parking vehicles belonging to the residential occupiers of the upper floor apartments (one space each). There is also a single space for the business tenant (ie the proposed licensee). Due to the number of waste bins permanently in the yard it is impracticable to assume more than 1 space will be available for this tenant at any one time. The spaces allocated for the residential use (including mine) are allocated specifically in accordance with the terms of the letting agreements. Therefore, the remaining space would be wholly inadequate for the needs of the proposed development in terms of deliveries and parking which would be of an entirely different scale and intensity to the limited café use. In turn this will give rise to a marked increase in activity that will pose a danger to users of the road network.

The proposal would also unacceptably exacerbate conflict between the residential use of the allocated spaces within the yard and the proposed use. Concord Street at this point is usually full of parked cars on one side of the road belonging to nearby residents who do not have off street parking, or vehicles whose users have business during the day in the village. The proposed night time use would significantly increase the likelihood of congestion at this sensitive location with the attendant danger to highway users, as well unacceptably undermining the predominantly residential and peaceful character of the rear of the premises.

To the front of the application premises there is a layby. This is now constantly in use during the day and evening time by those parking temporarily, mainly to visit the facilities including the commercial and night time facilities further up the road. The intensification of hours of

use proposed will clearly have the potential to increase traffic and parking problems without any effective control being exercised through appropriate conditions. Honley is a reasonably affluent village and spread out beyond its centre. Therefore, it is unrealistic to pretend that the intended patrons would come largely on foot or by public transport. The proposal is liable to undermine public safety objectives of convenient, safe and secure accessibility for network users including pedestrians and cyclists.

I am particularly concerned as to the effect of the proposal on my neighbour who lives directly above the premises. The unit above the intended bar is a three-bedroomed family home and used as such. I seriously doubt whether it can be demonstrated with any high level of confidence that soundproofing would satisfactorily ensure that living conditions would not be severely impacted by such a use and indeed others living nearby. Furthermore, there are residential properties on both sides of the road in close proximity to the application premises which are likely to be impacted adversely by this night time commercial use in terms of noise and disturbance, as well as several residential properties to the rear of the premises where there is no active commercial use.

Thank you"

# Appendix D

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

<b>Reference:</b>	Honley wine Bar LTD
<b>Premises:</b>	23 Westgate, Honley ,West Yorkshire, HD9 6AA

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

<b>OBSERVATIONS</b>
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<b>Public Safety</b>	No observations
<b>Prevention of Public Nuisance</b>	<p><b>LC1</b> 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 Honley Wine Bar</p> <p>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.</p> <p><b>Informative Note:</b> 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.</p> <p><b>LC2</b> Clear and conspicuous notices shall be displayed at all entrances, exits and in outdoor areas (e.g. beer gardens) requesting patrons to</p>



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.

**LC4**

All external doors and windows to the room/s where regulated entertainment is provided shall remain closed (other than for normal access and egress) during the course of the entertainment.

**LC12**

The disposal of waste bottles, glass and other materials into external receptacles shall not take place between 22:00 and 08:00 hours and any such waste receptacle shall not be removed from the premises between those hours.

**LC6**

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.

**LC7**

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.

**LC8**

All amplified music, singing and speech provided as part of the regulated entertainment shall be played through a sound system that incorporates a sound limiting device that has been installed and set to the satisfaction of the Responsible Authority for the prevention of Public Nuisance. The sound limiting device shall be retained, maintained and no alteration to the approved setting shall be made without the approval of the Responsible Authority.

**LC9**

All amplified music, singing and speech provided as part of the regulated entertainment (including that provided by a third party) shall only be played through the in-house sound amplification system.

<b>Date:</b>	2024	<b>Officer/Ext:</b>	Laura Donovan 01484 221000
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# Appendix E

## **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.*

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

*2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.*

*2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:*

- adult entertainment is provided;*
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);*
- it is known that unaccompanied children have been allowed access;*
- there is a known association with drug taking or dealing; or*
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.*

*2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to*

*consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.*

*2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.*

*2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.*

*2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:*

- restrictions on the hours when children may be present;*
- restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;*
- restrictions on the parts of the premises to which children may have access;*
- age restrictions (below 18);*
- restrictions or exclusions when certain activities are taking place;*
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult);*
- full exclusion of people under 18 from the premises when any licensable activities are taking place.*

*2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.*

*2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons*



*under 18 years old with alcohol- related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.*

*2.30 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.*

*2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.*

*2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.*