Agenda Item 3

Strategic Leadership Team Lead: Piers Mason
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Email: licensing@molevalley.gov.uk
Date: 13 January 2021
Ward(s) affected: Leatherhead North Ward

SUBJECT:

Recommendation(s):

It is recommended that the application for a premises licence at 1-3 High Street, Leatherhead KT22 8AA be determined by the Sub-Committee in light of the representation received.

The Licensing Sub-Committee has the authority to determine the Recommendation(s)

As set out in the Part 3 of the Council’s Constitution.

Executive Summary:

An application has been made for a premises licence for 1-3 High Street, Leatherhead to authorise licensable activities. A valid representation has been received on the likely effect of the licence on the licensing objectives, and the application must now be determined in light of that representation.
Council Strategy Priority Outcomes:

The Licensing Act 2003 provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

The licensing objectives are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They can be aligned with the Council’s Priority Outcomes as follows:

Community Wellbeing

Active communities and support for those who need it
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.
- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;

Prosperity

A vibrant local economy with thriving towns and villages
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
1.0 Application

1.1 The application is for a premises licence for 1-3 High Street, Leatherhead KT22 8AA. A copy of the application is attached as Appendix 1, and the plan of the premises is attached as Appendix 2.

1.2 The application is to authorise the following licensable activities.

- the provision of recorded music, Friday and Saturday 23:00 to 02:00
- late night refreshment, Friday and Saturday 23.00 to 01.30
- sale of alcohol for consumption on the premises, Sunday to Thursday 09.00 to 22.30, Friday and Saturday 09.00 to 01.30

1.3 The application shows that the premises will be open to the public from 09:00 to 23.00 Sunday to Thursday, and until 02.00 Friday and Saturday.

1.4 Section 18 of the application describes the steps the applicant has said they will take to promote the licensing objectives. If granted and unless modified by the sub-committee the following conditions will be attached to the licence as consistent with the application operating schedule:-.

- CCTV cameras shall be in operation to monitor activities on the premises. Cameras will cover key areas identified by the operator and these will include clear head shots of persons entering and leaving the premises and any till areas and areas where alcohol is displayed for sale. CCTV cameras shall hold at least 31 days recording, with high definition. Any malfunction of the CCTV that might endure in excess of 24 hours shall be reported to the police and licensing authority. A log of regular checks of the CCTV cameras shall be kept on the premises. A member of staff shall be present at all times the premises is open to the public who will able to operate the CCTV cameras. The images will be made available in reasonable time on demand by the police and authorised officers of the council.

- No drinks purchased from the premises shall be allowed outside.

- Staff shall be trained in on the following:-
  - the sale of alcohol and licensing activities in relation to the Licensing Act 2003,
  - verification procedures and challenge age 25 verification procedure implemented.
  - fire safety procedures
  - food safety procedures
  - asking customers to leave quietly in the evening when necessary.

- A refusal log will be kept to record all refusals of sales of alcohol.

- An incident log shall be kept and shall record as a minimum:-
  - all ejections from the premises.
  - details of occasions when emergency services are called to the premises
  - All dates and times of incidence of crime and disorder occurring at the premises
There shall be appropriate signage at the premises requesting customers to leave the premises quietly.

A "Challenge 25" policy shall be operated at the premises at all times. All staff shall check identification of all persons who appear to be less than 25 years old. This check shall be made by examining either a passport, photographic driving licence or a PASS approved proof of age card. No other form of identification shall be accepted. Notices shall be strategically and prominently placed at points of sale advising customers that they may be asked to provide evidence of age.

1.5 The following steps identified in Section 18 of the application cannot be attached as conditions to the licence as they are too vague or unenforceable, outside the control of the licence holder or duplicate other legislation;

- Sound proofing shall be installed to the walls and ceiling of the premises to mitigate amplified sound and to prevent public nuisance.
- All reasonable precautions will be made to keep the public safe on the premises.
- Fire risk assessments, fire safety assessments carried out by competent authorities, staff will be trained in fire safety procedures.
- Fire exits will be clearly labeled.
- Staff will be trained in food safety procedures and food safety management documentation will kept.
- Empty glasses will be regularly collected and any spillage dealt with as soon as practicable.
- Glass policy will be implemented to deal with broken glass swiftly and safely.
- No drinking or loitering will be allowed outside.

Consultation

2.1 The closing date for representations was 27 November 2020.

2.2 The public notice published in the Leatherhead Dorking Advertiser on Thursday 5 November 2020.

3. Representation

3.1 A representation was received during the period for representation from the responsible authority for Environmental Protection. A copy of the e-mail supplied, including a site location plan is attached as Appendix 3.

3.2 An e-mail was received from Surrey Police that the licensing sub-committee will need to determine the relevance to the licensing objectives. A copy of this e-mail is attached at Appendix 4.

3.3 After the period for representations the responsible authority for Environmental Protection provided supporting Information for their representation. A copy of this e-mail is attached at Appendix 5.
3.4 The supporting information from shown in Appendix 5 includes the following suggested condition, should the licence be granted, to ensure the overall music level within the licensed area does not break out from the glazed frontage of the premises:­

‘All amplified music shall be played through a suitably specified power amplifier, hard limiter and speaker system. The power amplifier shall have at least two output channels both of which shall be controlled through a digital signal processor that shall limit both the absolute music level and the low frequency output of the system and shall be installed and commissioned by a suitably qualified sound engineer so as to minimise the risk of public nuisance to overlooking premises from amplified music within the licensed premises. The system as commissioned shall be maintained for the duration of the use and any future replacement components shall comply with the requirements of this condition.’

3.5 Licensing Officers will be unable to enforce this condition without further specification, as it is unclear for example who would be a suitably qualified sound engineer, or what sound levels would adequately minimise ‘the risk of public nuisance to overlooking premises from amplified music within the licensed premises’. If minded to attached such a condition it is recommended the sub-committee explore with the applicant and responsible authority the alternative wording below:­

‘A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.’

4. Policy & Guidance – Points For Consideration

4.1 Mole Valley District Council – Licensing Policy

The main sections of the Council’s Licensing Policy which are particularly relevant to this application are set out below and should be considered when determining this application:

2 - Fundamental Objectives
4 - Main Principles
5 - Public nuisance
6 - Public Safety
7 - Prevention of Public Nuisance
8 - Protection of Children from Harm
15 - Conditions
19 - Representations
The relevant sections of Mole Valley District Council Licensing Policy is provided at Appendix 6.

4.2 Section 182 Guidance

The most relevant paragraphs of the Section 182 Guidance issued by the Secretary of State in relation to this application are set out below and must be considered by the Sub Committee:

1.16 Licence Conditions – General Principles
1.17 Each application on its own Merit
2 Licensing Objectives
9 Determination of applications

The relevant sections of Section 182 Guidance are provided at Appendix 7.

5. Determination

5.1 The Sub Committee is requested to determine the application in line with Section 7 below, giving full reasons for the decision.

5.2 In achieving this the sub-committee shall disregard information which is not relevant to the application or the promotion of the licensing objectives, and give appropriate regard and weight to evidence i.e. direct evidence is better than circumstantial hearsay (although hearsay admissible).

6. Financial Implications

There are no significant financial implications, as the cost of processing licensing applications is covered in the revenue budget.

7. Legal Implications

When considering licence applications the Sub-Committee shall carry out its functions with a view to taking steps it considers appropriate for promoting the licensing objectives. The licensing objectives are:

• Prevention of Crime and Disorder
• Public Safety
• Prevention of Public Nuisance
• Protection of Children from Harm

The Sub-Committee must ensure that all licensing decisions:

• Have a direct relationship to the promotion of one or more of the four licensing objectives
• Have regard to the Council's statement of licensing policy
• Have regard to the Secretary of State 182 Guidance
• Must not be subject to a blanket policy to the extent that it is applied so rigidly that an exercise of discretion in each individual case is precluded

The Sub-Committee is advised that when considering and determining applications
for a premises licence, regard must be had to any relevant representations that are
made before taking such steps (if any) as it considers necessary for the promotion of
the licensing objectives. It is open to the sub-committee to decide to:-

- grant the application applied for
- grant the application subject to conditions the Sub-Committee considers
  necessary to promote the licensing objectives
- exclude from the scope of the licence any licensable activity(ies) to which the
  application relates
- reject the application

The sub-committee must give full reasons for its decision.

8. **Right of Appeal**

The applicant may appeal any decision to reject the application, or the licence holder
or any person who made relevant representations in relation to the application may
appeal the grant of the licence.

An appeal must be commenced by notice of appeal given by the appellant to the
designated officer for the magistrates' court within the period of 21 days beginning
with the day on which the appellant was notified by the licensing authority of the
decision appealed against.

9. **Risk Implications**

On an appeal against a decision of a licensing authority, a magistrates' court may—

- dismiss the appeal,
- substitute for the decision appealed against any other decision which could
  have been made by the licensing authority, or
- remit the case to the licensing authority to dispose of it in accordance with the
  direction of the court,

and may make such order as to costs as it thinks fit.

The reputational and financial risk of the sub-committees decision being overturned
on appeal will be reduced if the sub-committee gives appropriate consideration to the
comments in the ‘Legal Implications’ section above and gives full reasons for its
decision.

**Background Papers**

*Revised Guidance issued under section 182 of the Licensing Act 2003.*
**Section 1 of 21**

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This is the unique reference for this application generated by the system. You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

- Yes
- No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

### Applicant Details

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<thead>
<tr>
<th>* First name</th>
<th>Omid</th>
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<tr>
<td>* Family name</td>
<td>Nowkandi</td>
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<tr>
<td>* E-mail</td>
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</table>

Main telephone number  
Other telephone number  

Include country code.

- Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- Applying as a business or organisation, including as a sole trader
- Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means the applicant is applying so the applicant can be employed, or for some other personal reason, such as following a hobby.
**Address**

* Building number or name

* Street

District

* City or town

County or administrative area

* Postcode

* Country United Kingdom

**Agent Details**

* First name Arlene

* Family name auf der Mauer

* E-mail admtraining58@gmail.com

Main telephone number

Other telephone number

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

**Agent Business**

Is your business registered in the UK with Companies House? ☐ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Is your business registered outside the UK?  

- Yes  
- No

Business name

VAT number ν n/a

Legal status Sole Trader

Your position in the business Owner

Home country United Kingdom

The country where the headquarters of your business is located.
Agent Business Address

Building number or name: 8
Street: Oxford Road
District: 
City or town: Harrow
County or administrative area: Middlesex
Postcode: HA1 4JF
Country: United Kingdom

If you have one, this should be your official address - that is an address required of you by law for receiving communications.

Section 2 of 21

PREMISES DETAILS

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 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.

Premises Address

Are you able to provide a postal address, OS map reference or description of the premises?
- Address
- OS map reference
- Description

Postal Address Of Premises

Building number or name: 1-3
Street: High Street
District: 
City or town: Leatherhead
County or administrative area: 
Postcode: KT22 8AA
Country: United Kingdom

Further Details

Telephone number: 
Non-domestic rateable value of premises (£): 32,000
APPLICATION DETAILS

In what capacity are you applying for the premises licence?

☑ An individual or individuals
☐ A limited company / limited liability partnership
☐ A partnership (other than limited liability)
☐ An unincorporated association
☐ Other (for example a statutory corporation)
☐ A recognised club
☐ A charity
☐ The proprietor of an educational establishment
☐ A health service body

☐ A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales

☐ A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England

☐ The chief officer of police of a police force in England and Wales

CONFIRM THE FOLLOWING

☑ I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
☐ I am making the application pursuant to a statutory function
☐ I am making the application pursuant to a function discharged by virtue of Her Majesty’s prerogative

INDIVIDUAL APPLICANT DETAILS

Applicant Name
Is the name the same as (or similar to) the details given in section one?

☑ Yes ☐ No

First name: Omid
Family name: Nowkandi

Is the applicant 18 years of age or older?

☑ Yes ☐ No
**Current Residential Address**

Is the address the same as (or similar to) the address given in section one?  
○ Yes  ○ No

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country  United Kingdom

**Applicant Contact Details**

Are the contact details the same as (or similar to) those given in section one?  
○ Yes  ○ No

E-mail

Telephone number

Other telephone number

* Date of birth  
  dd  mm  yyyy

* Nationality  British

Right to work share code

Add another applicant

**Section 5 of 21**

**OPERATING SCHEDULE**

When do you want the premises licence to start?  
25 / 11 / 2020

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

Provide a general description of the premises
Continued from previous page...

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.

Sushi bar/lounge with adjacent post office and cafe/restaurant.

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

Section 6 of 21

PROVISION OF PLAYS

See guidance on regulated entertainment

Will you be providing plays?

☐ Yes  ☐ No

Section 7 of 21

PROVISION OF FILMS

See guidance on regulated entertainment

Will you be providing films?

☐ Yes  ☐ No

Section 8 of 21

PROVISION OF INDOOR SPORTING EVENTS

See guidance on regulated entertainment

Will you be providing indoor sporting events?

☐ Yes  ☐ No

Section 9 of 21

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will you be providing boxing or wrestling entertainments?

☐ Yes  ☐ No

Section 10 of 21

PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

Will you be providing live music?

☐ Yes  ☐ No

Section 11 of 21

PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment
Continued from previous page...

Will you be providing recorded music?
☐ Yes  ☐ No

Standard Days And Timings

MONDAY
Start: ______
End: ______

Start: ______
End: ______

TUESDAY
Start: ______
End: ______

Start: ______
End: ______

WEDNESDAY
Start: ______
End: ______

Start: ______
End: ______

THURSDAY
Start: ______
End: ______

Start: ______
End: ______

FRIDAY
Start: 23:00
End: 02:00

Start: ______
End: ______

SATURDAY
Start: 23:00
End: 02:00

Start: ______
End: ______

SUNDAY
Start: ______
End: ______

Start: ______
End: ______

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.

Will the playing of recorded music take place indoors or outdoors or both?
☐ Inddoors  ☐ Outdoors  ☐ Both

Where taking place in a building or other
structure tick as appropriate. Indoors may
include a tent.

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

State any seasonal variations for playing recorded music

For example (but not exclusively) where the activity will occur.

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Continued from previous page...

Non-standard timings. Where the premises will be used for the playing of recorded music at different times from those listed in the column on the left, list below.

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

<table>
<thead>
<tr>
<th>Section 12 of 21</th>
<th>PROVISION OF PERFORMANCES OF DANCE</th>
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<tbody>
<tr>
<td><strong>See guidance on regulated entertainment</strong></td>
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<tr>
<td>Will you be providing performances of dance?</td>
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<td>☐ Yes</td>
<td>☐ No</td>
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<th>Section 13 of 21</th>
<th>PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE</th>
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<td>Will you be providing anything similar to live music, recorded music or performances of dance?</td>
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<td>☐ Yes</td>
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<tr>
<th>Section 14 of 21</th>
<th>LATE NIGHT REFRESHMENT</th>
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<td>Will you be providing late night refreshment?</td>
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<td>☐ Yes</td>
<td>☐ No</td>
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**Standard Days And Timings**

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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.
### THURSDAY

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### FRIDAY

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### SATURDAY

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### SUNDAY

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Will the provision of late night refreshment take place indoors or outdoors or both?

- [ ] Indoors
- [ ] Outdoors
- [ ] Both

Where taking place in a building or other structure tick as appropriate. Indoors may include a tent.

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

---

State any seasonal variations

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

---

Non-standard timings. Where the premises will be used for the supply of late night refreshments at different times from those listed in the column on the left, list below

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

**SUPPLY OF ALCOHOL**

Will you be selling or supplying alcohol?
- Yes
- No

**Standard Days And Timings**

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<tr>
<th>Day</th>
<th>Start Time</th>
<th>End Time</th>
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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.

Will the sale of alcohol be for consumption:
- On the premises
- Off the premises
- Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.
Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below.

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

State the name and details of the individual whom you wish to specify on the licence as premises supervisor.

**Name**

First name: Omid

Family name: Nowkandi

Date of birth: [dd] **[mm]** [yyyy]

**Enter the contact's address**

Building number or name: [Blank]

Street: [Blank]

District: [Blank]

City or town: [Blank]

County or administrative area: [Blank]

Postcode: [Blank]

Country: United Kingdom

Personal Licence number (if known): 938

Issuing licensing authority (if known): Mole Valley District Council

**PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT**

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this application

Reference number for consent form (if known): [Blank]
If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

**Section 16 of 21**

**ADULT ENTERTAINMENT**

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

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 etc gambling machines etc.

*n/a*

**Section 17 of 21**

**HOURS PREMISES ARE OPEN TO THE PUBLIC**

**Standard Days And Timings**

<table>
<thead>
<tr>
<th>Day</th>
<th>Start</th>
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<tr>
<td>MONDAY</td>
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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.
Continued from previous page...

SUNDAY

Start 09:00  End 23:00

State any seasonal variations

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

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

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

Section 18 of 21

LICENSING OBJECTIVES

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

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

List here steps you will take to promote all four licensing objectives together.

CCTV cameras are installed to monitor activities in the premises. No drinking will be allowed outside. Operating schedule will be displayed on the entrance to the premises. Staff will be trained in licensing activities in relation to the Licensing Act 2003, they will also be trained in verification procedures and challenge age 25 verification procedure implemented. A refusal log will be kept to record all refusals of sales of alcohol and an incident log shall be kept to record all incidents at the premises. Incident log shall also be used to record all ejections from the premises. Details of occasions when emergency services are called to the premises shall also be recorded. All dates and times of incidence of crime and disorder occurring at the premises shall be recorded.

b) The prevention of crime and disorder

CCTV cameras will hold at least 31 days recording, with high definition. Any malfunction of the CCTV that might endure in excess of 24 hours will be reported to the authorities. A log of regular checks of the CCTV cameras will be kept on the premises. A member of staff will be present who will be able to operate the CCTV cameras at all times. Cameras will cover key areas identified by the operator and these will include clear head shots of persons entering and leaving the premises and any till areas and areas where alcohol is displayed for sale. The images will be made available in reasonable time on demand by the police and authorised officers of the council. All staff employed on the premises will be checked thoroughly before employment for legitimate documents, which must be presented to validate the right to work in the UK. All new counter and waiting staff shall be trained regarding the sale of alcohol and the requirements of the Licensing Act 2003.

c) Public safety

All reasonable precautions will be made to keep the public safe on the premises. Fire risk assessments, fire safety assessments carried out by competent authorities, staff will be trained in fire safety procedures. Fire exits will be clearly labeled. Staff will be trained in food safety procedures and food safety management documentation will kept. Empty
glasses will be regularly collected and any spillage dealt with as soon as practicable. Glass policy will be implemented to deal with broken glass swiftly and safely.

d) The prevention of public nuisance

No drinking or loitering will be allowed outside. Customers will be encouraged to leave the premises quietly. All staff will be trained to ask customer to leave quietly in the evening when necessary. There will be appropriate signage at the premises requesting customers to leave the premises quietly and make the request verbally where appropriate. The premises licence holder shall take all reasonable steps to ensure that all persons loitering outside the premises disperse quickly and do not congregate. Sound proofing is installed to the walls and ceiling of the premises to mitigate amplified sound and to prevent public nuisance.

e) The protection of children from harm

A "Challenge 25" policy shall be operated at the premises at all times. All staff shall check identification of all persons who appear to be less than 25 years old. This check shall be made by examining either a passport, photographic driving licence or a PASS approved proof of age card. No other form of identification shall be accepted. Notices shall be strategically and prominently placed at points of sale advising customers that they may be asked to provide evidence of age. A refusals book to record every instance that sales of alcohol are refused shall be maintained.

Section 19 of 21

NOTES ON DEMONSTRATING ENTITLEMENT TO WORK IN THE UK
Entitlement to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:

A licence may not be held by an individual or an individual in a 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 premises 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 an entitlement 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) by providing with this application copies or scanned copies of the documents listed below (which do not need to be certified), or 2) by providing their 'share code' to enable the licensing authority to carry out a check using the Home Office online right to work checking service (see below).

Documents which demonstrate entitlement to work in the UK

- An expired or current passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK [please see note below about which sections of the passport to copy].
- An expired or current passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- A Registration Certificate or document certifying permanent residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
- A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A current passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A current Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the UK, when produced in combination with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland when produced in combination with an official document giving the person’s permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A certificate of registration or naturalisation as a British citizen, when produced in combination with an official document giving the person’s permanent National Insurance number and their name issued by a Government agency or a previous employer.
Continued from previous page...

- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity.

- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to work relating to the carrying on of a licensable activity.

- A **current** Residence Card issued by the Home Office to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights or residence.

- A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with an endorsement indicating that the named person may stay in the UK, and is allowed to work and is not subject to a condition preventing the holder from doing work relating to the carrying on of a licensable activity **when produced in combination with** an official document giving the person’s permanent National Insurance number and their name issued by a Government agency or a previous employer.

- A Certificate of Application, **less than 6 months old**, issued by the Home Office under regulation 18(3) or 20(2) of the Immigration (European Economic Area) Regulations 2016, to a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence.

- Reasonable evidence that the person has an outstanding application to vary their permission to be in the UK with the Home Office such as the Home Office acknowledgement letter or proof of postage evidence, or reasonable evidence that the person has an appeal or administrative review pending on an immigration decision, such as an appeal or administrative review reference number.

- Reasonable evidence that a person who is not a national of a European Economic Area state or Switzerland but who is a family member of such a national or who has derivative rights of residence in exercising treaty rights in the UK including:
  - evidence of the applicant’s own identity – such as a passport,
  - evidence of their relationship with the European Economic Area family member – e.g. a marriage certificate, civil partnership certificate or birth certificate, and
  - evidence that the European Economic Area national has a right of permanent residence in the UK or is one of the following if they have been in the UK for more than 3 months:
    - working e.g. employment contract, wage slips, letter from the employer,
    - self-employed e.g. contracts, invoices, or audited accounts with a bank,
    - studying e.g. letter from the school, college or university and evidence of sufficient funds; or
    - self-sufficient e.g. bank statements.

Family members of European Economic Area nationals who are studying or financially independent must also provide evidence that the European Economic Area national and any family members hold comprehensive sickness insurance in the UK. This can include a private medical insurance policy, an EHIC card or an S1, S2 or S3 form.

**Original documents must not be sent to licensing authorities.** If the document copied is a passport, a copy of the following pages should be provided:

(i) any page containing the holder’s personal details including nationality;
(ii) any page containing the holder’s photograph;
(iii) any page containing the holder’s signature;
(iv) any page containing the date of expiry; and
(v) any page containing information indicating the holder has permission to enter or remain in the UK and is permitted to work.
If the document is not a passport, a copy of the whole document should be provided.
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.

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

As an alternative to providing a copy of the documents listed above, 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 9-digit share code (provided to them upon accessing the service at [https://www.gov.uk/prove-right-to-work](https://www.gov.uk/prove-right-to-work)) which, along with the applicant's date of birth (provided within this application), 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 checked online. 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 copy documents as set out above.
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 proprietor 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.

Section 21 of 21
PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Each premise that is licensable will be allocated to a fee band according to rateable value. £0 to £4,300 = Band A; £4,301 to £33,000 = Band B; £33,001 to £87,000 = Band C; £87,001 to £125,000 = Band D; £125,001 and above = Band E. The Fee Levels for each Band are: A = £100; B = £190; C = £315; D = £450; E = £635. A Multiplier is added to bands D and E which are exclusively or primarily used for the sale of alcohol (mainly in large Town and City centre pubs): D = X2 (£900); E = X3 (£1,905).

* Fee amount (£) 190.00

DECLARATION

(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).

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).

☐ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name Arlene auf der Mauer
* Capacity Agent
* Date 27 / 10 / 2020 dd / mm / yyyy

Add another signatory
Once you're finished you need to do the following:
1. Save this form to your computer by clicking file/save as...
2. Go back to [https://www.gov.uk/apply-for-a-licence/premises-licence/mole-valley/apply-1](https://www.gov.uk/apply-for-a-licence/premises-licence/mole-valley/apply-1) to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

**IT IS AN OFFENCE LIABLE TO SUMMARY CONVICTION TO A FINE OF ANY AMOUNT UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**IT IS AN OFFENCE UNDER SECTION 248 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**

**OFFICE USE ONLY**

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Toilet to have mechanical ventilation @ 15 litres per second with 15mins over-run

Customer/Sitting Area

Club/Sushi Bar

Kitchen

Cafe/Restaurant

Post Office

Customer Area

Mechanical Vent
Kitchen to have mechanical ventilation
@ 60 litres per second or @ 30 litres per second if incorporated into cooker hood

Mechanical Vent
Kitchen to have mechanical ventilation
@ 60 litres per second or @ 30 litres per second if incorporated into cooker hood

All work to comply with current building regulations and codes of practice
Do not scale from drawings all dimensions to be checked on site before the start of any work

Proposed External Finish
Materials to Match Existing External Finish Materials

Fire Blanket

Fire Extinguisher Water 9kg

Fire Extinguisher Carbon Dioxide 6kg

Proposed External Finish
Comply with BS 5499

Materials to Match Existing External Finish Materials

Smoke alarm/detector (Sounder) to comply with BS 5839

Fire alarm to Comply with BS5839-1 2002

FIRE EXIT
Comply with BS 5466-1 :2005

Heat Detector comply with BS 5466 2:2003

Emergency Lighting to comply with BS 5266-1 :2005

Do not scale from drawings all dimensions to be checked on site before the start of any work

SDs Smoke alarm/detector

EL Emergency Lighting to comply with BS 5266-1 :2005

All work to comply with current building regulations and codes of practice

Scale: 1:100

Project: Title: Scale: 1:100 @ A3
1-3 High Street Proposed Ground Floor Date: 08.2020 Leatherhead
Plan Drawing No.: KT22 8AA

1:100 -02/MT

Revision
Location Plan
Scale: 1:1250

Block Plan
Scale: 1:500

Project:
1-3 High Street
Leatherhead
KT22 8AA

Title:
Location Plan
Block Plan

Scale: 1:1250/500@A3
Date: 08/2020
Drawing No.: 112-03/MT
Revision: LSC 33
Dear Sarah,

In the application form the premises is described as a Sushi bar and Lounge with Neighbouring Coffee shop and post office.

The submitted plans show:

**Sushi Lounge:**
- i. Indicative seating area.
- ii. Club and bar area
- iii. Kitchen
- iv. One Toilet

**Coffee shop.**
- i. Indicative seating area
- ii. Kitchen
- iii. One toilet

**Requested Opening Hours**
- 09:00 to 23:00 Monday to Thursday
- 09:00 to 02:00 Friday and Saturday

Music is proposed to be played until 02:00 Friday and Saturday

As per the commercial team comments we would consider the toilet provision to be potentially inadequate and the application needs to be more specific as to the volume of music to be played.

**Objections:** The EH authority are concerned that the description of the use is insufficiently specific. The mixture of the open area termed club/sushi area allows for dancing and entertainment which could be problematic in the future especially if the seating area is largely removed and the area opened up for use as a club. Furthermore the presence of an eating area does not in and of itself prevent the playing of amplified music at such levels that it can create a public nuisance both to the business units above and to the residential units over the road, marked in green dots on the attached plan. In addition

No waste storage area is identified and no provision has been made to avoid late night movement of waste.

Safe Egress from the premises is also questionable and it should be noted that there is only one way in and out of both premises.

For these reasons and the late night opening the environmental health authority will be objecting to the application unless further information is provided and the application is updated to meet our concerns.

**Recommendations:**

1. **Hours:** of operation must be restricted to no later than 01:00 hours and amplified music must stop at 12:00 hours.

2. **Uses:** The dancing area must be restricted to no more than that indicated in the submitted plan.

3. **Noise** The applicant must agree that the level of amplified music will be limited by condition to be background music only and not loud enough to support dancing and entertainment or by a condition requiring provision of a multi zone amplifier and speaker array details of which will enable music noise levels to be controlled so as to match the
acoustic performance of the building and avoid public nuisance

4. **Start Date:** If the license is granted there needs to be no music played until suitable controls are in place.

5. **Waste Storage and Management:** Details to be provided to avoid public nuisance

6. **CCTV:** A condition can be provided regards production and management of CCTV images.

7. **Toilets:** Evidence of sufficient toilet capacity must be provided

8. **Egress:** The applicant should submit suitable evidence that safe egress from the property can be achieved with the available exits and that capacity is met.

**Note Regards Future Planning Permission:**

1. The proposed use does not have planning permission and obtaining this is likely to take at least 8 weeks.

2. Many of the issues identified above will also be of concern in the planning process and it should be noted the proposed use will result in significant impacts which will require specific control measures to be delivered in the planning process which may be in addition to the licensing controls that may be specified on any license that is granted. The main areas of control will be

   - Noise impacts from music and ventilation plant
   - Odour control
   - Waste management

Rob Ivens
Scientific Officer
01306 879232

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Mole Valley District Council
Tandridge District Council

*Working together*

Mole Valley and Tandridge District Councils operate a shared Environmental Health and Licensing Service to protect residents and support businesses.
Good Morning,

After reviewing the application, I would expect to see a condition contained in the premises licence relating to a SIA registered door staff on duty on Friday and Saturday evenings.

Other venues in the vicinity providing late night/early morning alcohol and entertainment have this condition included in their licences so I believe it will be appropriate for 1-3 High Street, Leatherhead, to be included in the regime. I would not expect the condition to be enforced during this current pandemic and periods of lockdown so perhaps suitable wording could be applied?

I have included three other conditions, in keeping with late night/early morning Premise Licence conditions:

- SIA registered door staff to be employed on Friday and Saturdays and on any other night where advertised regulated entertainment takes place, from 2100hrs until the premises are cleared at a ratio of 2 for the first 100 patrons and 1 additional for every additional 100 patrons or part thereof.
- There will be no admittance or re-admittance to the premises after midnight with the exception of the re-admittance of customers from any designated smoking area.
- All doors and windows to be kept closed after 2300hrs except for access and egress.
- No food or drink to be consumed in external areas after 2300hrs Sunday-Thursday or after 01:00hrs Friday -Saturday

I await your advices.

Kind regards.

Pat
1-3 High Street, Leatherhead, KT22 8AA

The last date for representation is 27th November 2020.

Should you wish to make a representation, this made must be consistent with the Licensing Objectives listed below and must reach me by the above date:

• the prevention of crime and disorder
• public safety
• the prevention of public nuisance
• the protection of children from harm

Regards
Sarah-Jane Bass
Licensing Officer
Environmental Health
Mole Valley District Council
01306 885001
WWW.Molevalley.gov.uk

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EHA Addendum

EH Authority Supporting Information for Public Nuisance Representation 1-3 High Street.

There are currently three late licenses on Leatherhead high street.

a) The Dukes Head licensed open until 01:30 Friday-Saturday – 1st issued 2005
b) The Lime Bar now closed licensed open until 01:30 Thursday to Saturday 1st Issued 2017
c) Ruchi* Indian Restaurant now closed licensed to 02:00 Thursday to Saturday 1st Issued 2005
   To our knowledge the Ruchi never operated as a music venue and its current Google Entry lists it as opening to 23:00
d) Edward Tilney licensed open until 02:00 Friday and 1st Issued in 2005 but currently opens to 01:00

Public Nuisance: Recognising the permissive nature of the regime we consider that the location of the premises on Leatherhead High Street overlooked by residential properties makes it unsuitable as a late night venue operating in the early morning hours to 02:00. The resulting ongoing impact of patrons congregating in the open, and making use of the existing seating in the square from 2:00 to 2:30 as they disperse is considered likely to create unacceptable noise impacts on the overlooking flats especially in the summer when the residents are likely to have their windows open and the noise will be much more noticeable.
Three of the licences in the high street opening past 01:00 were granted as transfers from the old license regime back in 2005. At this point old licenses were reissued conferring previous rights. Although the now closed lime Bar had its license issued in 2017 and was licensed until 01:30 the premises was substantially smaller and had no dance floor area. Police records indicate 9 and 6 incidents of disorder, assaults and fighting during 2018 and 2019 respectively (after midnight) in the Eastern end of the high street where these existing premises are located.

The Environmental Health Authority contend that the context of this new premises within the local street setting, at the Apex of North street and overlooked by a significant number of residential properties means there is an increased likelihood of unacceptable disturbance from groups of people congregating in the street prior to dispersing or while waiting for pickup from taxis who will be most likely be parked in the loading or disabled bays.

Given the current levels of antisocial behaviour from the existing premises the disturbance caused by groups of drinkers moving through the town can only be expected to increase disturbance in the Town centre, as different groups from encounter each other in the early hours at common points of dispersal for example the kings head alley way,

Conclusions

1. With the Dukes Head and the Edward Tilney there is significant capacity within the existing licensed premises in the high street area. If the proposed Sushi bar is licensed for amplified music until 02:00 hours there is a significant risk that patrons will move from the existing premises to the sushi bar to extend the late night drinking experience. This movement up and down the high street from one premises to another is likely to increase disturbance in the area of the high street.

2. The applicant has agreed door staff as recommended by the Police. However, this measure only goes so far as to monitor activity within the premises and its immediate environs. It is not reasonable, to require door staff from premises to police the surrounding area and in our experience premises are reluctant to try to manage Patron behaviour in the wider locale.
3. Therefore, we consider the only practicable mitigation to patron movement between premises and associated noise from egress at the end of the night is to restrict the hours of operation and require all music to cease at 00:30 hours and the premises to close at 01:00. Hence reducing the amount of alcohol potentially consumed and ensuring the premises will not attract drinkers from other licensed premises wishing to extend their night out.

4. Toilet provision the current proposals for toilettes is considered inadequate

An extract from the British standards for toilettes for restaurant’s is below:

<table>
<thead>
<tr>
<th>Sanitary appliance</th>
<th>Male customers</th>
<th>Female customers</th>
</tr>
</thead>
<tbody>
<tr>
<td>WC</td>
<td>2 for up to 150 males; plus 1 for every additional 250 males or part thereof; 2 for up to 50 males if urinals are not provided</td>
<td>2 for up to 30 females; plus 1 for every additional 30 females up to 120, plus 1 for every additional 60 females or part thereof</td>
</tr>
<tr>
<td>Urinal</td>
<td>1 per 60 males or part thereof up to 120 males; plus 1 for every additional 100 males or part thereof</td>
<td>N/A</td>
</tr>
<tr>
<td>Washbasin</td>
<td>1 per WC, plus 1 per 5 urinals or part thereof</td>
<td>1 per WC</td>
</tr>
</tbody>
</table>

On this basis we consider the applicant needs to provide 2 toilets and ideally a urinal.

**Recommended Music Control Condition**

If a license is granted. The EHA recommend the following condition to ensure the music is suitably controlled to ensure the overall music level within the licensed area does not break out from the glazed frontage of the premises.

*All amplified music shall be played through a suitably specified power amplifier, hard limiter and speaker system. The power amplifier shall have at least two output channels both of which shall be controlled through a digital signal processor that shall limit both the absolute music level and the low frequency output of the system and shall be installed and commissioned by a suitably qualified sound engineer so as to minimise the risk of public nuisance to overlooking premises from amplified music within the licensed premises. The system as commissioned shall be maintained for the duration of the use and any future replacement components shall comply with the requirements of this condition.*
2. Fundamental Objectives

2.1 The Council will carry out its various licensing functions with a view to promoting the four licensing objectives:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm

2.2 Each objective has equal importance.

2.3 However, the licensing legislation also supports a number of other key aims and purposes.

They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and the Council the powers we need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers the Council to make and enforce decisions about the most appropriate licensing strategies for its district; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them

4. Main Principles

4.1 The licensing function aims to balance a number of competing considerations; the demand for licensed establishments, the economic benefit to the licensee and to the locality by attracting visitors against the effect on law and order, and the impact of those who live and work in that locality.

4.2 The Council acknowledges that the licensing function cannot be used for the general control of nuisance and individuals’ anti-social behavior once they are away from a licensed premises and beyond the direct control of the licensee of that premises.

4.3 Licensing gives the Council the ability, where appropriate, to regulate licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. Conditions, in addition to the mandatory conditions prescribed by the Act, may, where appropriate, be attached to licences, certificates and permissions to cover matters which are within the control of individual licensees i.e. the premises and its vicinity.
4.4 When considering conditions, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

4.5 The Council will review the conditions submitted by the applicant in the operating schedule, but reserves the right to vary these where appropriate to do so, and it may attach additional conditions, if a valid representation is made concerning one or more of the licensing objectives which is not adequately addressed by the applicant’s operating schedule.

4.6 Nothing in the Statement will:
- undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits, and/or
- override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act.

4.5 The Council recognises that a partnership approach is more likely to ensure the licensing objectives are achieved and maintained. The Council strongly recommends that the applicant enters into pre-application discussions with the Council and the other relevant authorities, which the Council will facilitate where it is able, so that the licensing process itself can be as trouble-free as possible. In particular, where it is likely that conditions will be appropriate to promote the licensing objectives, pre-application discussions enable draft conditions to be given advance consideration.

5. The Prevention of Crime and Disorder

5.1 The Council recognises its duty under Section 17 of the Crime and Disorder Act 1998 to consider the implications of all its decisions on crime and disorder (including anti-social and other behaviour adversely affecting the local environment) and the misuse of drugs, alcohol and other substances.

5.2 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

5.3 Applicants will be encouraged to seek advice from the Council’s Licensing Officers and Surrey Police, as well as to take into account, as appropriate, local planning and transport policies, tourism, cultural and crime prevention strategies, when preparing their operating schedules for submission. The Council will also seek advice from Surrey Police on matters relating to the promotion of the crime and disorder licensing objective.

5.4 The Council will consider attaching conditions to licences to deter and prevent crime and disorder both inside and immediately outside the premises. As far as possible such conditions will reflect local crime prevention strategies and advice received from the Security Industry Authority.
In considering applications the Council will have regard to:

the training given to staff in crime and disorder prevention measures; features of the premises and their operation such as:

- the position of cash registers,
- the location of alcohol on display,
- the standard of CCTV, its location inside and outside the premises,
- together with CCTV storage and retention policies,
- the use of polycarbonate drinkware and/or toughened glasses designed not to have sharp edges when broken,
- the secure storage of waste that could potentially be used as weapons,
- limiting sales of bottled alcohol for immediate consumption,
- the use of responsible pricing promotions and procedures/training in place to avoid irresponsible promotions,
- music wind-down policies,
- participation in a local Pubwatch scheme;
- measures employed to prevent the consumption or supply of illegal drugs; where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
- the likelihood of any crime or public disorder arising if the application is granted;
- whether the taking of glasses or glass bottles outside of the premises is proposed to be permitted;
- whether licensed door supervisors are to be employed.

Door Supervisors

Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed by the Security Industry Authority. The Council may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the Council may impose a condition that an appropriate number of licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

6. Public Safety

The Act covers a wide range of premises that require licensing, including cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways.

As already mentioned, applicants will be encouraged to seek advice from the Council’s Licensing Officers, Surrey Police and Surrey Fire and Rescue Service as well as taking into account other relevant local strategies, such as crime prevention strategies and the locality, when preparing their operating schedules for submission.
6.3 The Council will consider attaching conditions to licences and permissions to protect public safety.

6.4 To promote public safety the Council will take into account the following considerations where relevant in determining applications and reviews:

- whether appropriate and satisfactory general and technical risk assessments, management procedures and certificates have been made available to the relevant responsible authority and to the Council that demonstrate that the public will be safe within and in the vicinity of the premises;
- whether the premises already has a licence or a fire certificate that specifies the maximum number of people that can attend it or be present and if not, whether a risk assessment has been undertaken as to the maximum number of people who can be present in various parts of the premises so that they can evacuate the premises safely in the event of an emergency;
- 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 (this may also support the prevention of crime and disorder);
- ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- ensuring appropriate and frequent waste disposal, particularly of glass bottles (this may also support the prevention of crime and disorder);
- considering the use of CCTV in and around the premises (this may also support the prevention of crime and disorder);
- whether there are procedures proposed to record and limit the number of people on the premises with opportunities for “pass outs” and readmission;
- whether patrons can arrive at and depart from the premises safely;
- whether there may be local overcrowding in parts of the premises;
- whether music and dance venues and performance venues will use equipment or special effects which may affect public safety (e.g. moving equipment, vehicles, pyrotechnics, strobe lights, smoke machines);
- whether due account has been given to the measures outlined in the Home Office’s ‘Safer Clubbing’ publication, or other applicable industry guidance or best practice, for applications including music and dancing. The key areas identified in ‘Safer Clubbing’ are:
  - prevention of overcrowding;
  - sound limiters;
  - air conditioning and ventilation;
  - availability of drinking water;
  - further measures to combat overheating;
  - supervision;
  - overall safety.

Drugs

6.5 The Council recognises that drug use by individuals is not something that is relevant to all licensed premises. However, where it is considered to be a risk (for example nightclubs and other venues where both entertainment and alcohol are available),
special conditions may need to be imposed on certain premises to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. In all cases, where conditions are to be imposed, advice will be taken from the local Drugs Action Team and the Police.

6.6 The applicant should seek advice from the Police on devising a protocol for the handling of illegal drugs found on the premises.

Capacity

6.7 If no safe capacity has been imposed through other legislation, the Council may impose conditions in relation to the maximum number of persons to attend the premises at any material time when the licensable activities are taking place where it considers it to be appropriate to ensure the safety of those persons, prevent disorder at the premises, or to ensure adequate means of escape from fire. The Council will have regard to advice from the Fire Authority regarding fire safety.

7. Prevention of Public Nuisance

7.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause public nuisance. This may take the form of low-level nuisance, affecting a few local residents, or a major disturbance affecting the wider community. Public nuisance may also involve the reduction of the living and working amenity and environment of other persons living, working, carrying on a business, or who are regularly 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.

7.2 In considering applications the Council will have regard to the following:

- the steps taken or proposed to be taken to prevent noise and vibration escaping from the premises;
- the steps taken or proposed to be taken to prevent disturbance by customers arriving at or leaving the premises;
- the steps taken or proposed to be taken to ensure staff leave the premises quietly;
- the use of gardens and other open-air areas;
- delivery and collection times;
- the location of external lighting (balanced against the prevention of crime disorder licensing objective);
- litter/refuse management arrangements (balanced against the public safety and prevention of crime disorder licensing objective);
- the history of previous nuisance complaints (where relevant and appropriate).

7.3 The Council will consider attaching conditions to licences and permissions to prevent public nuisance.

7.4 Conditions relating to noise nuisance will be tailored to the type, nature and characteristics of the premises, the business and the licensable activities. For example, stricter conditions may be considered in relation to the most sensitive periods, such as when people are attempting to go to sleep or are sleeping, where
premises are situated in mainly residential areas or are located near sensitive premises such as places of worship and nursing homes.

They may include:
- restrictions on times when music or other licensable activities may take place;
- ensuring that doors and windows are kept closed after a particular time;
- the installation of acoustic curtains or rubber speaker mounts;
- noise limiters.

7.5 The Council recognises that noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

7.6 Light pollution and noxious smells may also cause nuisance and the Council will expect operating schedules to satisfactorily address these issues.

7.7 Applicants are recommended to seek advice from the Council’s Environmental Health Officers before preparing any plans and submitting any operating schedule.

8 Protection of children from harm

Access to licensed premises

8.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.

8.2 The Act does not prohibit children from having free access to any licensed premises. The Council recognises that limitations may have to be considered where it appears necessary to protect children from harm. Harm can be moral, psychological or physical and arise not only from alcohol, but also exposure to strong or sexual language.

8.3 The Council will consult with the appropriate Area Child Protection Committee on any application that indicates there may be concerns over access for children.

8.4 The Council will judge the merits of each separate application before deciding whether to impose conditions limiting or prohibiting the access of children to individual premises. The following are examples of premises that will raise concern:
- where a member or members of the current management has or have been convicted for serving alcohol to minors or with a reputation for underage drinking;
- it is known that unaccompanied children have been allowed access;
- where there is a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is commonly provided;
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of services provided at the premises.

8.5 The Council will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:

LICENSING POLICY MADE UNDER THE LICENSING ACT 2003
POLICY REVISED JANUARY 2016

Mole Valley District Council
- limitations on the hours when minors may be present;
- limitations on admission of children under certain specified ages;
- limitations or exclusion when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18 from the premises, or part of the premises, when and/or where any licensable activities are taking place.

8.6 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee or club.

8.7 The Council expects personal licence holders, and others working under their supervision, not to serve alcohol to children under 18, except in the limited circumstances allowed for by law. The Council recommends that when complying with the mandatory age verification policy, proof of a person’s age is obtained by reference to one of the following:
  - passport;
  - photocard driving licence issued in the EU;
  - cards issued by local schemes that have been verified through the Proof of Age Standards Scheme (PASS) and bear the official PASS hologram; or
  - national identity card, or official identity card issued by HM Forces or an EU country, bearing the photograph and date of birth of the bearer and a holographic mark.

**Illegal Sales of Alcohol**

8.8 The Council, Surrey Trading Standards Service and Surrey Police take a serious view on the illegal sale of alcohol to minors. Surrey Trading Standards Service will continue to seek to ensure that there are no illegal sales of alcohol to minors. The Council will expect measures to be implemented to ensure the following:

- staff are trained on the law relating to underage sales of alcohol;
- training should include the checking of identification for proof of age (see paragraph 8.7);
- records of such training should be maintained and made available for inspection by a Licensing Officer, Police Officer or Trading Standards Officer;
- the maintenance of a register recording the date, time and reason for the refusal of any sale of alcohol which should be made available for inspection by a Licensing Officer, Police Officer or Trading Standards Officer;
- staff warning notices displayed where an electronic point of sale system (EPOS) is in use, especially where alcohol is not the main item sold.

8.9 Licence holders/applicants should consider carefully the additional steps, including additional procedures and staff training, which they are required to take to comply with the age verification requirements under the Act in relation to sales of alcohol made remotely (online, by telephone and/or alcohol delivery services). Before alcohol is physically delivered to the customer, the licence holder must be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving...
or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

15 Conditions

15.1 In addition to the mandatory conditions of the Act, conditions attached by the Council to licences or certificates will be tailored to the individual style, location and characteristics of the particular premises and of the licensable activities and/or events concerned wherever practicable.

15.2 Applicants should apply their knowledge of the local area when formulating the appropriate steps they propose to take to promote the licensing objectives such as:

- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
- any risk posed to the local area by the applicants’ proposed licensable activities; and
- any local initiatives which may help to mitigate potential risks.

15.3 Applications must not be based on providing a set of standard conditions to promote the licensing objectives.

15.4 Licence conditions:

- must be appropriate for the promotion of the licensing objectives; evidenced; must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- should not replicate offences set out in the Act or other legislation;
- should be proportionate, justifiable and be capable of being met;
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave;
- should be written in a prescriptive format;
- be expressed in plain language capable of being understood by those expected to comply with them.

15.2 Conditions applied in each case will be those which are mandatory and any considered appropriate by the licensing authority and the wording, where appropriate, may be informed by the recommendations of the Police.

19 Representations

LICENSING POLICY MADE UNDER THE LICENSING ACT 2003
POLICY REVISED JANUARY 2016

Mole Valley District Council
19.1 The Act provides for representations to be made by various parties concerning various licences and certificates. The Act also provides for representations to be made requesting that licences be reviewed.

19.3 If relevant representations are made about an application the Council will hold a hearing to consider them unless the Council, the applicant and everyone who has made representations agrees that the hearing is not necessary.

19.4 Representations can only be considered if they are concerned with one of the four licensing objectives:

- the prevention or crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

19.5 'Relevant representations' are representations which are:

- about the likely effect of the premises licence on the promotion of the licensing objectives;
- made by an 'other person' or a responsible authority, that have not been withdrawn and, in the case of representations made by an 'other person', they are not in the Council’s opinion frivolous or vexatious and in relation to an application for a review, not repetitious.

19.6 Formerly known as an ‘interested party’, the Act now refers to 'other persons' which can be any person, body or business, regardless of their geographic proximity. Other persons may request that a representative makes the representation on their behalf. A representative may include a legal representative, a friend, a Member of Parliament. A local ward or parish councillor can also act in such a capacity, subject to the considerations in paragraphs 19.7 - 19.9 below.

19.7 ‘Responsible authority’ means:

- the chief officer of police;
- the local fire and rescue authority;
- the local planning authority;
- the licensing authority;
- the local authority exercising statutory functions in relation to minimising or preventing the risk of environmental pollution or of harm to human health;
- a body representing those responsible for or interested in matters relating to the protection of children from harms and recognised by the licensing authority as competent to advise it on such matters;
- the local health board (successor to the Primary Care Trust (PCT));
- the local weights and measures authority (trading standards);
- the local enforcement agency for the Health and Safety at Work etc. Act 1974 etc. authority.

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POLICY REVISED JANUARY 2016

Mole Valley District Council
19.8 Councillors have a duty to act in the interests of all of their constituents. Their role as
a community advocate must be balanced with their ability to represent specific
interests.

19.9 A Parish councillor can be an ‘other person’ in their own right and can also be a
representative of one or more ‘other persons’. A parish council itself can be an ‘other
person’. For example, a parish councillor can speak at a hearing on behalf of a
parish council, individual resident or organisation that has made a representation or
in his own right.

19.10 However, there are rules relating to prejudicial interests, being an interest that a
member of the public would reasonably regard as so significant that it is likely to
prejudice the councillor's judgment of the public good, in the Code of Conduct for
Members. The rules apply to any councillor whether or not a member of the licensing
committee. These rules allow a councillor with a prejudicial interest in an application
to attend relevant meetings, to make representations, answer questions or give
evidence, provided the public is allowed to do likewise, and he or she withdraw
immediately afterwards. A councillor representing others or acting in his or her own
right, who is also a member of the licensing committee, will be expected to disqualify
him- or herself from any involvement in the decision-making process affecting the
application.
Licence conditions – general principles

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:
• must be appropriate for the promotion of the licensing objectives;
• must be precise and enforceable;
• must be unambiguous and clear in what they intend to achieve;
• should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
• must be tailored to the individual type, location and characteristics of the premises and events concerned;
• should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
• should not replicate offences set out in the 2003 Act or other legislation;
• should be proportionate, justifiable and be capable of being met;
• cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
• should be written in a prescriptive format.

Each application on its own merits

1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.
2. The licensing objectives

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.

Public safety

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

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

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

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

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 early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may
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.

2.26 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); and
- 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.
9. Determining application

Hearings

9.31 The Licensing Act 2003 (Hearings) Regulations 2005 governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, where the applicant and all of the persons who made relevant representations have given notice to the authority that they consider a hearing to be unnecessary. Where this is the case and the authority agrees that a hearing is unnecessary, it must forthwith give notice to the parties that the hearing has been dispensed with. Notwithstanding those regulatory provisions, in cases where the licensing authority believes that a hearing is still necessary, it is recommended that the authority should, as soon as possible, provide the parties with reasons in writing for the need to hold the hearing. In cases where only ‘positive’ representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. The 2005 Hearings Regulations permit licensing authorities to extend a time limit provided for by those Regulations for a specified period where it considers this to be necessary in the public interest. For example, if the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences. Where the authority has extended a time limit it must forthwith give a notice to the parties involved stating the period of the extension and the reasons for it.

9.33 The 2005 Hearings Regulations require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

9.34 Applicants should be encouraged to contact responsible authorities and others, such as local residents, who may be affected by the application before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.

9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to
the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
• the steps that are appropriate to promote the licensing objectives;
• the representations (including supporting information) presented by all the parties;
• this Guidance;
• its own statement of licensing policy.

9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.

9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.

9.43 The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing
authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.