

WEST LINDSEY DISTRICT COUNCIL

LICENSING ACT 2003

Reference Number: **32UHB12007**

Application type: **Application for a Premises Licence (S17)**

Premise: **Brookenby Community Centre (Lightning Bar and Lancaster Room)**

Applicant: **Richard Trusler, North House, Market Place, Binbrook, Market Rasen, LN8 6DE**

1 The Application

- 1.1 The application made is for a Premises Licence under section 17 of the Licensing Act 2003. A plan of the premises is attached at **Appendix 1**.
- 1.2 The application is for a Premises Licence to authorise the exhibition of films (indoors), indoor sporting events, live music (indoors and outdoors), recorded music (indoors and outdoors), provision of facilities for making music (indoors), provision of facilities for dancing (indoors and outdoors), late night refreshment (indoors and outdoors), and the sale of alcohol (on and off the premises). The hours applied for can be seen in boxes B, C, E, F, I, J, L and M on pages 7-18 of the application form, a copy of which is attached at **Appendix 2**.
- 1.3 Box O on page 19 of the application sets out the opening & closing times that the applicant intends the premises to utilise.

2 Background information

- 2.1 Brookenby was a village created from the decommissioned RAF Binbrook site. The station closed in 1987 and the site was sold by the MOD for both residential and business purposes. The old Sergeant's Mess was handed over to the community as a community centre and is owned and managed by the Parish Council on behalf of the community. One wing is leased by the church and the remainder of the building has had a number of uses which include social club, theatre and youth club.
- 2.2 Numerous Temporary Event Notice's (Ten's) have been issued to authorise licensable activities since January 2010 at the community centre.
- 2.3 Brookenby Community Centre is set in the village of Brookenby, and the application highlights that there will be a main bar and a bar for functions, with car parking in the immediate area.

3 Promotion of the Licensing Objectives

- 3.1 In submitting the application the applicant is required to describe any steps intended to be taken in order to promote the following 4 licensing objectives, which are:

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

3.2 The steps the applicant intends to take are detailed in section P, a to e, on page 20 of the application form at **Appendix 2**.

4 Representations – Responsible Authorities

4.1 One representation has been received from Lincolnshire Police as a responsible authority, the representation is in relation to The Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and The Protection of Children from Harm, see attached as **Appendix 3**.

5 Representations – Other Persons

5.1 No representations have been received from any “other persons”.

6 Considerations

6.1 Each application must be considered on its own merits, **standardised conditions cannot be applied across the board** to all licences of a similar type.

6.2 Each representation must be considered and in each case the committee must satisfy themselves whether or not the licensing objectives are being met by the applicant with respect to each matter.

6.3.1 Therefore, before any conditions can be imposed on a licence, they have to be *appropriate for the promotion of the licensing objectives*. The S182 guidance is absolutely clear at 10.16 and 10.17 that there should be *no duplication with other statutory provisions* and gives examples which are relevant to this application. Conditions must be *appropriate, proportionate, reasonable, and* capable of being directly complied with by the licensee. Further, conditions should be clear and understandable, not be imposed to achieve an ulterior motive outside the scope of the legislation, not over generalised and cannot override primary legislation. If the Sub-Committee are minded that a condition is not essential to the promotion of the licensing objectives, then it should not be imposed.

6.3.2 Clearly, the Members of the Sub-Committee have to *consider extremely carefully* whether or not additional conditions should be imposed upon a licence.

6.4 In making its decision the committee must consider the application in line with the following:

- The Licensing Act 2003
- The Section 182 Guidance made under the Act
- The Licensing Authority’s Licensing Policy Statement

6.5 Policy Considerations

6.5.1 When considering the application and representations received, attention is drawn to the Licensing Authority's Policy and in particular the following sections attached as **Appendix 4** are relevant to this application:

- Section 5 Licensing Hours
- Section 6.2 Prevention of Crime & Disorder
- Section 6.3 Public Safety
- Section 6.4 Prevention of Public Nuisance
- Section 6.5 Protection of Children from Harm
- Section 10.0 Conditions of Licence

The complete licensing Policy can be found at the link below:

<http://www.west-lindsey.gov.uk/businesses/licensing/licensing-and-gambling-policies/licensing-policy/104810.article>

6.6 Statutory Guidance

6.6.1 Attention is also drawn to the contents of the statutory guidance with the relevant extracts to this application attached below as **Appendix 5**:

- Section 2.1-2.17 Crime & Disorder
- Section 2.18-2.32 Public Safety
- Section 2.33-2.40 Public Nuisance
- Section 2.41-2.50 Protection of Children from Harm
- Section 9.38-9.40 Determining actions that are appropriate for the promotion of the licensing objectives
- Section 10.1-10.21 Conditions attached to Premises Licence
- Section 10.65-10.68 Age verification
- Section 10.76 Door supervision

The complete guidance can be found at the link below:

<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing?view=Binary>

7 **Options**

7.1 There are various options available to the committee:

Option 1 To grant the application as applied for, (e.g. subject only to such conditions as are consistent with the operating schedule accompanying the application), in addition to any relevant mandatory conditions.

Option 2 To grant the application with conditions attached to alleviate the concerns raised through representation, which the authority considers appropriate for the promotion of the licensing objectives. **Conditions cannot be attached with respect to any part of the application on which no representations were received.**

Option 3 Exclude from the scope of the licence any of the licensable activities to which the application relates.

Option 4 To refuse to specify a person in the licence as the premises supervisor.

Option 5 Reject the application.

This is a matter for the committee to determine in light of the above matters and any others it considers relevant.

N.B. Whatever decision the Members of the Licensing Sub-Committee arrive at, they are reminded about the comments made in a recent court case, known as Hope and Glory, in relation to reasons for their decision making. The comments noted from this case stated: "*The fuller and clearer the reasons, the more force they are likely to carry*". Therefore taking these comments into account, Members are strongly advised to give good, clear, justifiable reasons in relation to their decision, which will have more chance of being upheld, should the decision be appealed against.

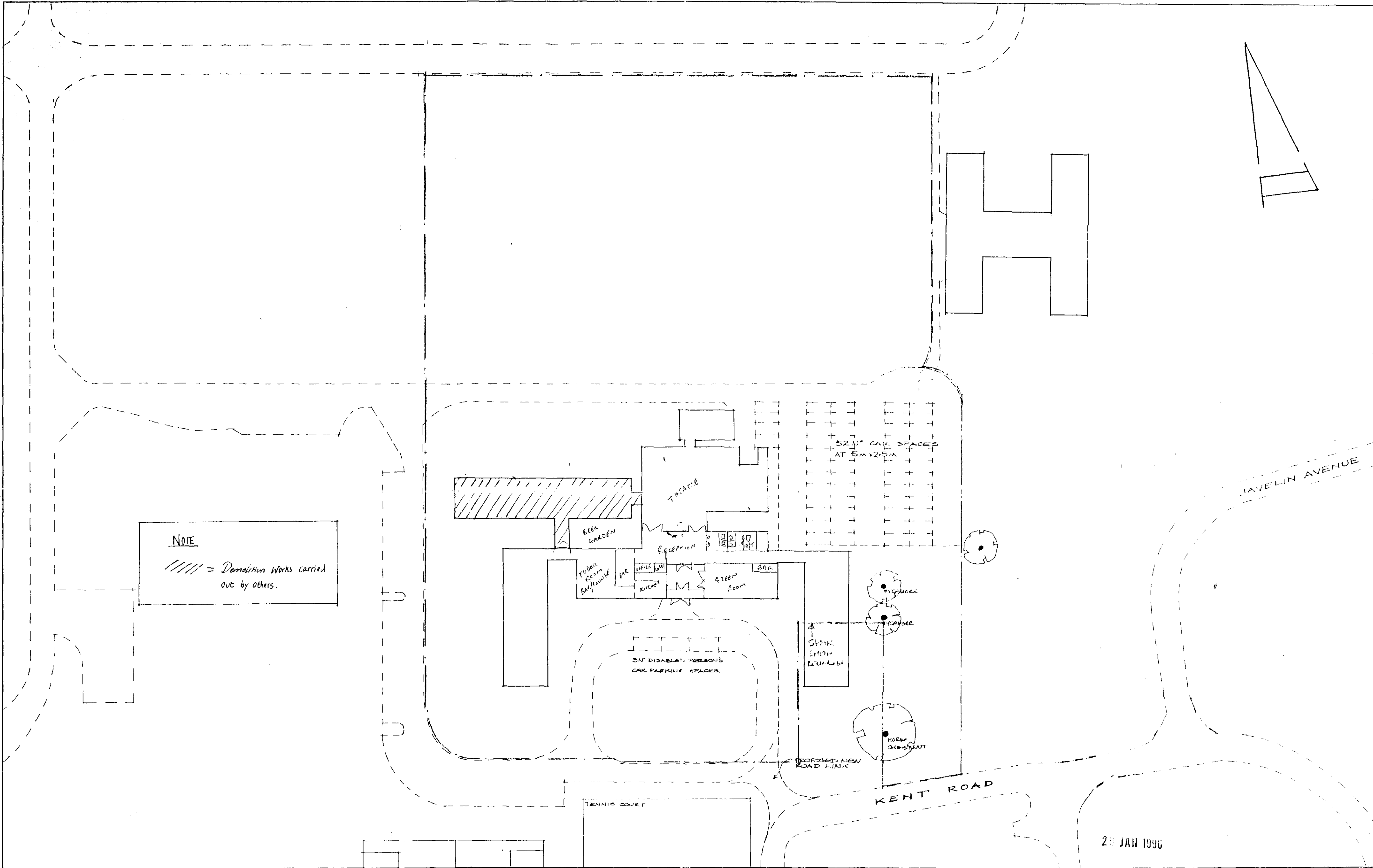
8 List of Appendices


- Appendix 1 - Plan of the premises
- Appendix 2 - Application Form
- Appendix 3 - Representation Responsible Authority (Lincs Police)
- Appendix 4 - Extracts from WLDC Licensing Policy
- Appendix 5 - Extracts from S182 Government Guidance

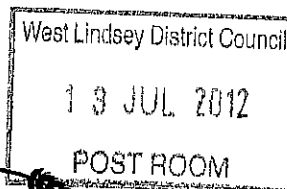
Note - Full versions of the WLDC Licensing Policy and the S182 Guidance will be made available to Members of the Licensing Sub-Committee on the day of the Hearing, should they be required for reference.

9 Background Papers

Licensing Act 2003.
Statutory Guidance
WLDC Licensing Policy



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Application for a premises licence to be granted
under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We RICHARD TRUSLER
(Insert name(s) of applicant)

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

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description BROOKENBY COMMUNITY CENTER, (EIGHTH FLOOR) KENT ROAD (LANCASTER ROOM) BROOKENBY SINBILCOE LINES			
Post town	MARKET CLASEN	Post code	LN8 6EW
Telephone number at premises (if any)		CONTACT MR TRUSLER 01472 398313	
Non-domestic rateable value of premises		£ 5,700	

Part 2 - Applicant Details

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

- | | |
|--|---|
| a) an individual or individuals * | <input checked="" type="checkbox"/> please complete section (A) |
| b) a person other than an individual * | |
| i. as a limited company | <input type="checkbox"/> please complete section (B) |
| ii. as a partnership | <input type="checkbox"/> please complete section (B) |

- iii. as an unincorporated association or ☐ please complete section (B)
- iv. other (for example a statutory corporation) ☐ please complete section (B)
- c) a recognised club ☐ please complete section (B)
- d) a charity ☐ please complete section (B)
- e) the proprietor of an educational establishment ☐ please complete section (B)
- f) a health service body ☐ please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales ☐ please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England ☐ please complete section (B)
- h) the chief officer of police of a police force in England and Wales ☐ please complete section (B)

* If you are applying as a person described in (a) or (b) please confirm:

Please tick yes

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

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input checked="" type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname TRUSLER			First names RICHARD		
I am 18 years old or over			<input checked="" type="checkbox"/> Please tick yes		
Current postal address if different from premises address		NORTH HOUSE MARKET PLACE BINGHAM MARKET RASEN Lincs			
Post Town	MARKET RASEN		Postcode	LN8 6DE	
Daytime contact telephone number					
E-mail address (optional)		richardtrusler@btinternet.com			

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over					<input type="checkbox"/> Please tick yes
Current postal address if different from premises address					
Post Town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

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

Name
Address
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

Day Month Year
2 0 0 7 2 5 1 2

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

Day Month Year
1 1 1 1 1 1 1 1

Please give a general description of the premises (please read guidance note1)

PUBLIC HOUSE WITHIN COMMUNITY CENTER
VILLAGE SETTING
ONE MAIN BAR ONE BAR FOR FUNCTIONS
CAR PARKING
FOOD

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

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

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

Provision of regulated entertainment

Please tick yes

- | | |
|---|-------------------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input checked="" type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input checked="" type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of entertainment facilities:

- | | |
|---|-------------------------------------|
| i) making music (if ticking yes, fill in box I) | <input checked="" type="checkbox"/> |
| j) dancing (if ticking yes, fill in box J) | <input checked="" type="checkbox"/> |

k) entertainment of a similar description to that falling within (i) or (j)
(if ticking yes, fill in box K)

☐

Provision of late night refreshment (if ticking yes, fill in box L)

☒

Supply of alcohol (if ticking yes, fill in box M)

☒

In all cases complete boxes N, O and P

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
			State any seasonal variations for performing plays (please read guidance note 4)		
Wed					
Thur					
			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri					
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3) RACE NIGHT		
Mon	11.00	00.00			
Tue	11.00	00.00	State any seasonal variations for the exhibition of films (please read guidance note 4)		
Wed	11.00	00.00			
Thur	11.00	00.00	Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Fri	11.00	00.00			
Sat	11.00	00.00			
Sun	12.00	23.00			

C

Indoor sporting events Standard days and timings (please read guidance note 6)			Please give further details (please read guidance note 3) TRADITIONAL PUB GAMES, INCLUDING BUT NOT EXHAUSTIVELY - DARTS POOL, DOMINOES, CRIBBAGE, WHIST
Day	Start	Finish	
Mon	11.00	00.00	State any seasonal variations for indoor sporting events (please read guidance note 4) NONE
Tue	11.00	00.00	
Wed	11.00	00.00	
Thur	11.00	00.00	Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 5)
Fri	11.00	01.00	
Sat	11.00	01.00	
Sun	12.00	23.00	

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
Wed					
Thur			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 4)		
Fri					
Sat					
Sun					
			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors <input type="checkbox"/>
				Outdoors <input type="checkbox"/>
Day	Start	Finish		Both <input checked="" type="checkbox"/>
Mon	12.00	23.00	Please give further details here (please read guidance note 3) LIVE BANDS ETC OCCASIONAL OUTDOOR WHEN OUTDOOR MUSIC TO CEASE AT 22.00 AMPLIFIED AND/OR UNAMPLIFIED PERFORMED BY MORE THAN 2	
Tue	12.00	23.00		
Wed	12.00	23.00	State any seasonal variations for the performance of live music (please read guidance note 4)	
Thur	12.00	23.00		
Fri	12.00	23.00	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5)	
Sat	12.00	00.00	IF NEW YEARS EVE FALLS ON A SUNDAY SATURDAY HOURS TO BE APPLIED	
Sun	12.00	19.00	LIVE MUSIC TO CEASE AT MIDNIGHT	

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)	
			Indoors	<input type="checkbox"/>
			Outdoors	<input type="checkbox"/>
			Both	<input checked="" type="checkbox"/>
Day	Start	Finish		
Mon	11.00		Please give further details here (please read guidance note 3) RECORDED MUSIC, INCLUDING JUKE BOX AND KARAOKE WITH OR WITHOUT DJ TO MATCH THE SALE OF ALCOHOL IF OUTDOOR MUSIC TO CEASE AT 22.00	
		00.00		
Tue	11.00		IF OUTDOOR MUSIC TO CEASE AT 22.00	
		00.00		
Wed	11.00		State any seasonal variations for the playing of recorded music (please read guidance note 4) NYE 01.30 CHRISTMAS EVE 01.00	
		00.00		
Thur	11.00			
		00.00		
Fri	11.00		Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 5)	
		01.00		
Sat	11.00			
		01.00		
Sun	12.00			
		23.00		

G

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)		
Mon					
Tue					
Wed			State any seasonal variations for the performance of dance (please read guidance note 4)		
Thur					
Fri					
Sat			Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	Will this entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue					
			Please give further details here (please read guidance note 3)		
Wed			State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

Provision of facilities for making music Standard days and timings (please read guidance note 6)			Please give a description of the facilities for making music you will be providing PROVIDING FACILITIES FOR ARTIST TO PERFORM	
			Will the facilities for making music be indoors or outdoors or both – please tick (please read guidance note 2)	
			Indoors	<input checked="" type="checkbox"/>
			Outdoors	<input type="checkbox"/>
Day	Start	Finish	Both <input type="checkbox"/>	
Mon	11.00		Please give further details here (please read guidance note 3)	
		00.00		
Tue	11.00			
		00.00		
Wed	11.00		State any seasonal variations for the provision of facilities for making music (please read guidance note 4) NYE 01.30 CHRISTMAS EVE 01.00	
		00.00		
Thur	11.00			
		00.00		
Fri	11.00		Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list (please read guidance note 5)	
		01.00		
Sat	11.00			
		01.00		
Sun	12.00			
		23.00		

J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (see guidance note 2)	Indoors <input type="checkbox"/>
				Outdoors <input type="checkbox"/>
				Both <input checked="" type="checkbox"/>
			Please give a description of the facilities for dancing you will be providing	
Day	Start	Finish	FUNCTION ROOM, WHICH CAN BE BOOKED FOR EVENTS, INCLUDING DISCO, DANCE BAR, DANCE FLOOR DANCING TO CEASE OUTDOOR AT 22.00	
Mon	11.00	00.00	Please give further details here (please read guidance note 3)	
Tue	11.00	00.00		
Wed	11.00	00.00	State any seasonal variations for providing dancing facilities (please read guidance note 4)	
Thur	11.00	00.00	NYE 01.30 CHRISTMAS EVE 01.00	
Fri	11.00	01.00	Non standard timings. Where you intend to use the premises for the provision of facilities for dancing entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)	
Sat	11.00	01.00		
Sun	12.00	23.00		

K

Provision of facilities for entertainment of a similar description to that falling within i or j Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment facility you will be providing</u>		
Day	Start	Finish	<u>Will the entertainment facility be indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 3)		
Wed					
Thur			<u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within i or j</u> (please read guidance note 4)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within i or j at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun					

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3) SUPPLY OF HOT & COLD FOOD AS NECESSARY OR REQUIRED AS A CONTINUOUS SERVICE TO CUSTOMERS, OR FOR PUB COMPETITIONS, SPORTING EVENTS, QUIZZES ETC		
Mon	23.00	00.00			
Tue	23.00	00.00	<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 4) N Y E 01.30 CHRISTMAS EVE 01.00		
Wed	23.00	00.00			
Thur	23.00	00.00	<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri	23.00	01.00			
Sat	23.00	01.00			
Sun					

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	11.00	00.00			
Tue	11.00	00.00			
Wed	11.00	00.00			
Thur	11.00	00.00	Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5) NYE IF FALLS ON SUN/MON/TUE 01.30 CHRISTMAS EVE IF FALLS ON SUN/MON/TUE 01.00		
Fri	11.00	01.00			
Sat	11.00	01.00			
Sun	12.00	23.00			

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

Name	RICHARD TRUSLER
Address	NORTH HOUSE MARKET PLACE BINBROOK Lincs
Postcode	LN 8 6DE
Personal Licence number (if known)	ELINDC/A/07024
Issuing licensing authority (if known)	E, L, D, C

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

FRUIT / MACHINES / GAMING MACHINES

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	11.00	00.00	<p>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 5)</p> <p>NYE IF FALLS ON SUN/MON/TUE 01.30 WED/THUR</p> <p>CHRISTMAS EVE IF FALLS ON MON/TUE/WED/THUR/SUN 01.00</p>
Tue	11.00	00.00	
Wed	11.00	00.00	
Thur	11.00	00.00	
Fri	11.00	01.00	
Sat	11.00	01.00	
Sun	12.00	23.00	

Consent of individual to being specified as premises supervisor

I RICHARD TRUSLER
[full name of prospective premises supervisor]

of
NORTH HOUSE
MARKET PLACE
BINGBROOK
MARKET RASEN
LINES
LN8 6DE

[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

PREMISES LICENCE
[type of application]

by

RICHARD TRUSLER
[name of applicant]

relating to a premises licence

BROOKBY COMMUNITY CENTRE
[number of existing licence, if any] (LIGHTNING BAR
CANCASTER ROOM)

for

KENT ROAD
BROOKBY
BINGBROOK
LN8 6EW

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

Richard Trusler
[name of applicant]

concerning the supply of alcohol at

BROOKEN BY COMMUNITY CENTRE
(LIGHTNING BAR)
(LANCASTER ROOM)

[name and address of premises to which application relates]

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

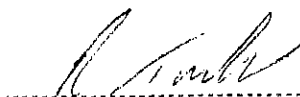
Personal licence number

ELINDC / A / 07024
[insert personal licence number, if any]

Personal licence issuing authority

E. L. D.C.
[insert name and address and telephone number of personal licence issuing authority, if any]

Signed



Name (please print)

R TRUSLER

Date

14 / 06 / 2012

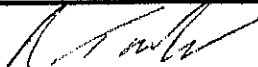
Please tick yes

- I have made or enclosed payment of the fee ☒
- I have enclosed the plan of the premises ☒
- I have sent copies of this application and the plan to responsible authorities and others where applicable ☒
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable ☒
- I understand that I must now advertise my application ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	14 / 06 / 2012
Capacity	APPLICANT

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			



Licensing Act 2003

Representation by a Responsible Authority

Note: Please be aware that this form may be viewed by the Applicant or by a representative of the Applicant. It may also be read out in public at the sub-committee hearing.

Representations may be made at any time during a period of 28 consecutive days starting on the day after the application was given to the Licensing Authority

Representations are only relevant to an application if they relate to at least one of the four Licensing Objectives listed below:

- 1. The Prevention of Crime and Disorder**
- 2. Public Safety**
- 3. Prevention of Public Nuisance**
- 4. The Protection of Children from Harm**

Please enter your details below:

Responsible Authority:	LINCOLNSHIRE POLICE
Contact Officer:	PC 519 MAGSON
Address:	LINCOLNSHIRE POLICE HEADQUARTERS
Telephone Number:	01522 558380
E-Mail:	Laura.magson@lincs.pnn.police.uk

Please provide details of the application to which your representation refers:

Name:	MR RICHARD TRUSLER
Address:	BROOKENBY COMMUNITY CENTRE
Application Details:	NEW PREMISE LICENCE APPLICATION
Date Application Received:	13 TH JULY 2012

Please provide details of your representation in the box below. Indicate which of the Licensing Objectives your representation refers to by ticking the relevant box/es:

- | | |
|---|----------|
| • The Prevention of Crime and Disorder | X |
| • Public Safety | X |
| • Prevention of Public Nuisance | X |
| • The Protection Children from Harm | X |

Representation:

This Application is for a new premises licence incorporating alcohol sales in a previously unlicensed building. Consequently there is no historical evidence or statistics to support the police representation.

However the Home Office Guidance section 9.4 recognises that in such an eventuality no evidence could be expected to be provided and indeed the Guidance indicates that there is no requirement for recorded history of problems to be produced to support any representation.

The Police representation is therefore based upon the application submitted, in which the applicant has identified (Part P), the steps to be taken to safeguard the licensing objectives.

On 29th June 2012, prior to submission of this application, Lincolnshire Police licensing officers attended Brookenby Community Centre where they met with Ray Hitchcock, a member of Brookenby Parish Council and the applicant, Richard Trusler.

Lincolnshire Police fully support the concept of a licensed community resource and had initially been given to understand that it would simply be a licensed arm of the community centre. However, during this meeting it became apparent that two separate parts of the premises were to be operated by Mr Trusler, as a sole business enterprise and that the primary purpose was financial profitability. As it was now clear that the proposed premises license was to facilitate a pub and a separate very large function room, the risks attached to the original proposal were significantly altered. However, they had not been appropriately evaluated or addressed. Police noted that there was a significant reluctance by Mr Trusler to accede to any preventative measures which had attached financial implications. Significant areas of contention were the proposed late hours and the late admission of children into the premises.

Extensive and reasoned advice was offered regarding the potential pitfalls and the risks to public safety. Both gentlemen acknowledged police concerns as being fully recognised and understood, and that further consideration and preparation would go into the planning of the application prior to submission. It was also agreed that there would be ongoing communication until such time as an application was ready to be submitted.

Subsequently Lincolnshire Police were most concerned and disappointed to discover that Mr Trusler had proceeded with submission of an application which entirely disregards that comprehensive advice and our subsequent agreement.

Regrettably, it also falls considerably below the standard of any operating schedule expected for any such venue.

The current operating schedule offers extremely limited conditions which are non specific therefore making enforcement very difficult, if not impossible. Home Office Guidance 2.16 states '*conditions on licences must; be precise and enforceable, be unambiguous, be clear in what they intend to achieve and be appropriate, proportionate and justifiable*'.

Upon receipt of the formally submitted application, licensing officers contacted Mr Trusler. He was advised that police would consider it negligent to fail to submit an objection unless a variation was submitted, significantly strengthening the operating schedule. He declined this opportunity.

Police are extremely perturbed by the situation, as it demonstrates a willingness to entirely dismiss professional, informed and evidenced advice before a licence has even been granted. This certainly

raises questions as to how responsibly the premises will be operated if the application proceeds successfully. It is of even greater concern as it had been evident that the applicant's considerations towards financial viability took priority over all of the licensing objectives.

Should the application be granted as it currently stands it is the police view that it would pose a real and immediate threat to the promotion of the licensing objectives. Lincolnshire Police are not fundamentally opposed to the proposed venture. However it is felt that extremely robust conditioning is required in order to protect public safety, prevent harm to children, prevent crime and disorder and prevent public nuisance.

Mr Trusler led Lincolnshire Police to believe that West Lindsey District Council were fully backing his pub project and that WLDC funds were being made available to this end. It has since become apparent that the local authority funding is intended for community centre improvements, and NOT specifically for the full extent of Mr Trusler's business project.

The application itself is in the sole name of Mr Trusler and there is no reference to the Parish council throughout the application. This appears to indicate that the Parish Council are relinquishing control of the function room and pub, the employment of persons working within and responsibility for the licence itself.

1) The Prevention of Crime and Disorder and Public Safety

CCTV

The application makes reference to a CCTV system to be installed in the premises.

Lincolnshire Police support the use of CCTV equipment in addressing public safety and the prevention and detection of crime at licensed premises.

There is insufficient detail in the application to make an informed decision as to the suitability of the CCTV equipment and its method of operation in addressing the licensing objectives.

It is not possible to police this premise simply by means of viewing from the outside and therefore CCTV is regarded as a necessity in this particular case.

Lincolnshire Police have knowledge of licensed premises where the CCTV systems installed failed to provide evidence of incidents due to installation, maintenance, and operational failings.

By the adoption of sensible conditions it has been recognised that CCTV systems when properly operated and maintained, significantly contribute to the prevention and detection of crime and disorder.

This is also supported by the DCMS guidance in relation to CCTV systems in licensed premises.

The inclusion of suggested conditions relating to CCTV systems provides a mechanism by which those CCTV systems can be operated in the manner for which they are installed.

Door Supervision

The provision of door supervisors is a welcome, and at times, essential measure for the prevention of crime and disorder.

However, the application contains insufficient information regarding the utilisation, management and control of door supervision. The application states that if door supervision is required they will be 'SIA approved'. This is required by law, yet this superfluous inclusion is the only reference to door security.

The function room alone is to hold 250 people and the bar, 120 people. The location of this premises

combined with the proposed late hours of licensable activities and the lack of specific CCTV provision, poses significant risk, yet there is no indication that the risk has even been considered, let alone addressed.

There are no conditions offered to monitor or record those persons who may be employed at the premise.

Such recordings would indicate that the premises are being duly diligent in checking the legality of any supervisors they employ. It also effectively reduces the opportunities for unlicensed door supervisors and the associated risks.

These records can also be a vital investigative tool for police in identifying potential witnesses or offenders. They can be used to identify issues arising with the operation of individual door supervisors or particular agencies, which may be undermining the prevention of crime and disorder objective. They can also be utilised to establish retrospectively whether door supervision has been appropriately risk assessed.

Additional Function Room

During the meeting of 29th June, Lincolnshire Police advised Mr Trusler that the main bar (Lightning Bar) and the function room (Lancaster Room) should be separately licensed and/or conditioned due to the different intended operational styles and differing risks.

The two venues are located at opposite ends of the building and both are intended to house their own bar. There are no steps offered within the application to ensure that both venues are managed in a way which is not likely to adversely affect the licensing objectives. In fact, there is no distinction made within the application at all.

It is requested that the Lancaster Room should be considered separately in a manner appropriate for its intended use. This room's function was described as being for parties, special events and private hire. The private hire aspect in particular, creates a whole new risk in respect of crime and disorder and public safety. A comprehensive hire agreement and appropriate additional safeguards would significantly mitigate those risks.

Lincolnshire Police do not consider that the application to licence this premise has been properly considered, and the measures suggested are by no means adequate in promoting the licensing objectives.

Prevention of Public Nuisance

The venue is located in a relatively densely populated residential area, yet there are few steps offered to promote the prevention of public nuisance.

Lincolnshire Police would submit that the proposed terminal hour of midnight Monday to Thursday, 1am Friday and Saturday and 11pm on Sundays are not in keeping with any assertion that this is predominantly a community centre facility and late terminal hours such as these are likely to cause a noise disturbance to the properties adjacent as people leave the premise.

Police would submit that the terminal hours for live music and recorded music are also inappropriately excessive without any controls or measures declared to protect the neighbouring properties.

The application states that all neighbours will be informed of any entertainment. This is hugely ambiguous. Firstly, it does not define who 'all neighbours' are and secondly 'entertainment' also remains undefined. This, once again, is inappropriate and ineffective as a condition as defined by Home Office guidance 2.16 and further highlights a lack of understanding and/or consideration by the applicant.

Protection of Children from Harm

The application states that a Challenge 25 policy will be enforced at the premises, it fails to provide

details as to how this will be enforced, or detail how staff will be trained (if at all).

Lincolnshire Police support the use of any scheme to challenge customers for proof of age to prevent criminal offences and protect children from the harm associated with the consumption of alcohol. However, the adoption of robust conditions is sought, to ensure the effective operation of any challenge scheme

The application states that children under the age of 18 must be accompanied by a responsible adult at all times. This would allow for an unspecified number of children, of any age, being allowed within the premise until the terminal hour of the licence whilst accompanied by any one person aged 18 or above. It is the police view that this restriction is neither adequate nor responsible. Furthermore, how is a 'responsible' adult to be defined? Lincolnshire Police are aware of licensed premises which have failed to promote responsible behaviour in respect of children due to the ambiguous nature of such a condition.

In view of the potential risks to children and young persons the Police believe it is necessary and reasonable to offer further suitable steps to protect those children. See Home Guidance 2.46.

If possible, please suggest alterations to the application that would resolve the problem mentioned above, again paying attention to the **Licensing Objectives**:

Lightning Bar suggested conditions

Crime and Disorder and Public Safety

CCTV

A CCTV system shall be installed at the premises. It shall be maintained in full working order and shall be operational during the whole period the premises are open for licensable activities.

There shall be sufficient cameras to provide full coverage of all public areas.

Door entrance cameras must be capable of providing good quality head and shoulder images including facial captures, of all persons entering the premises.

Recorded images from the CCTV system shall be retained for a minimum of 28 days and shall be of a quality sufficient for identification purposes.

There shall be a capability for the images to be burned to disc upon request and for the disc to be capable of being viewed on a Windows computer without the need for additional software.

Door Supervision

When door supervisors are working at the premises there shall be such a number as the Licence Holder considers sufficient to control the entry of persons to the premises and for the keeping of order in the premises, and the following conditions shall apply;

A record/log book shall be kept on the premises by the Designated Premises Supervisor of every person employed on the premises as a door supervisor.

The record shall contain the following details:-

The door supervisor's name;

His/Her Security Industry Authority Licence Number

The time and date he/she commenced and concluded their duty

The door supervisors shall sign each entry

The Designated Premises Supervisor or other authorised person shall also endorse each entry as having checked the authenticity of the individual door supervisor.

That record shall be available for inspection on demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.

Each entry shall be retained for a period of 12 months from date of completion.

Each Door supervisors licence number will be verified by the DPS using the Internet SIA website on the occasion of each door supervisors initial employment at the premises. Thereafter a monthly check shall be carried out to ensure the licence status remains unchanged.

This verification check will be recorded and signed appropriately by the DPS.

Incident book

An incident book shall be kept at the premises in which details of crime and/or disorder relating to the premises shall be recorded.

The Incident book shall contain the following details;

Time, date and location of incident.

Nature of the Incident

Names and contact details of persons involved.

Result of the incident

Action taken to prevent any further such incidents.

Each entry signed by the DPS or other responsible person employed at the premises and so authorised by the DPS.

The Incident Book shall be made available to Police upon request.

Each entry shall be retained for a period of 12 months from date of completion.

The protection of Children from Harm

There shall be in place for the premises a written policy to prevent the sale or supply of alcohol to persons under 18 years of age. That policy shall require any person who appears to be under the age of 25 years to produce one of the following forms of identification:

1. Full UK Photo Driving Licence
2. UK Passport
3. A recognised proof of age card accredited under the Proof of Age Standards Scheme (PASS)

A notice or notices shall be displayed in and at the entrance to the premises where they can be clearly seen and read and shall indicate:

a) That it is unlawful for persons under 18 to purchase alcohol or for any person to purchase alcohol on behalf of a person under 18 years of age.

b) That proof of age may be requested at the premises and those accepted means for proof of age listed as above.

All point of sale staff shall undergo training in the above policy with a record kept of the date of training, signed by the member of staff and the trainer.

Each entry shall be retained for a period of 12 months from date of completion.

This record shall be made available for inspection by Lincolnshire Police Officers or other parties acting on their behalf.

Children under 18 years of age will be supervised at all times whilst on the premises by their parent or guardian.

No one under the age of 16 years to be allowed to remain on the premises after 21.30 hours or admitted thereafter.

A Personal Licence Holder shall be on the premises at all times alcohol is offered for sale.

Public Nuisance

All external doors and windows shall be kept closed when regulated entertainment is being provided except in the event of an emergency.

There shall be placed at all exits from the premises, in a place where they can be seen and easily read by the public, a notice requiring customers to leave the premises and the area quietly. (Note, this may also include a reference to vehicles).

Lancaster Room additional suggested conditions

Private hire functions shall be personally supervised by the Licence Holder or nominated representative.

All children under the age of 16 years of age shall be supervised at all times on the premises by a parent, guardian or nominated responsible adult.

18th birthday parties shall not be held on the premises

For functions including the sale of alcohol, a personal licence holder shall be present in the room at all times

Where the sale of alcohol is occurring simultaneously in the Lightning Bar and Lancaster Room, there shall be a personal licence holder present at all times in each bar.

Have you contacted the applicant to discuss this representation?

Yes x No ☐

Have you contacted the Licensing Section to discuss this representation?

Yes x No ☐

Do you consider further discussion could resolve the issue?

Yes ☐ No x

Do you intend to attend or be represented at any sub-committee hearing?

Yes x No ☐

Please tick this box if you consent to any notice of any hearing being sent to you to the e-mail address provided by you above. ☒ x
(please note if any notice is sent to you by electronic means, you will also receive confirmation of the same in writing).

Please return this form to the following address:

**Licensing Team
West Lindsey District Council
Marshall's Yard
Gainsborough
Lincolnshire
DN21 2NA**

Phone: 01427 676676 or fax 01427 675159
or e-mail to:-

licensing.2003@west-lindsey.gov.uk

5. Licensing Hours

- 5.1 The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at the same time. Longer licensing hours regarding the sale of alcohol may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport.
- 5.2 As far as the Licensing Authority's overall approach to licensing hours is concerned it is not intended that any form of zoning will be introduced. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is necessary, and can lead to increased disorder and nuisance.
- 5.3 Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops that are known to be a focus of disorder and disturbance then, subject to receiving valid, relevant representations, a limitation on licensing hours may be appropriate.
- 5.4 In general, the Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When issuing a licence, certificate or provisional statement stricter conditions with regard to noise control and/or limitations to opening hours may be imposed in the case of premises which are situated in largely residential or sensitive areas.

6.2 Prevention of Crime and Disorder

- 6.2.1 The Licensing Authority will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises.
- 6.2.2 In addition to the requirement for the Licensing Authority to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and do all it reasonably can to prevent, crime and disorder in the District.
- 6.2.3 The Licensing Authority recommends applicants to include in their operating schedules the steps they propose to take to reduce/deter crime and disorder. These steps will vary from premises to premises and according to the type of licensable activities that are to be carried

on. Examples of measures the Licensing Authority encourage applicants to consider and address include:

Membership of an appropriate Pubwatch Scheme where one is available

Physical security features e.g. use of toughened or plastic drinking glasses; or alternatives, as outlined in the National Alcohol Strategy

Procedure for risk assessment of alcohol promotions to ensure they do not promote irresponsible drinking or potentially breach the mandatory condition on irresponsible drinks promotions

The use of Security Industry Authority (SIA) registered door supervisors

Amount of seating to be provided to reduce high volume vertical drinking

Training given to staff in crime prevention and drug awareness measures

Measures agreed with the Police to reduce crime and disorder

Measures to prevent the use or supply of illegal drugs; e.g. adoption of the Safer Lincolnshire Drugs in Licensed Premises Guidance Policy for Lincolnshire

Search procedures

Participation in an appropriate Radio Link Scheme

Formulation of a dispersal policy

Measures to prevent customers taking bottles and glasses etc. away from licensed premises

Training given to staff to prevent the sale of alcohol to those who are under age or appear drunk CCTV remains one of the most effective measures for reducing crime and disorder.

The Licensing Authority expects premises that retail alcohol for consumption on or off the premises will have an effective CCTV system installed that operates in compliance with the requirements of Lincolnshire Police.

6.3 Public Safety

- 6.3.1 The Licensing Authority will carry out their licensing functions with a view to promoting public safety and will seek to ensure that licensees/certificate holders/designated premises supervisors take measures to protect the safety of performers and persons attending licensable activities. The risk to public safety will vary according to the type of premises and the activities carried out.
- 6.3.2 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety.
- 6.3.3 Depending on the individual style and characteristics of the premises and/or events the following issues may be of relevance:
- Suggested occupancy figures (including staff and performers)
 - Use of equipment
 - Levels of door supervision
 - Measures to prevent the supply and use of illegal drugs
 - Free availability of water
 - Physical safety features e.g. use of toughened glass, polycarbonate and plastic containers
 - Fire evacuation procedures
 - Provision of CCTV
- For Large Scale Events regard should be had for the work of Lincolnshire Event Safety Advisory Group (L.E.S.A.G.)
- N.B. In relation to free drinking water applicants and licence holders are reminded of the mandatory licence condition, in relation to on licensed alcohol premises, which requires the provision of free drinking water to customers.
- 6.3.4 It will be the responsibility of licence/certificate holders/designated premises supervisors to ensure they have complied with all Health and Safety legislation.
- 6.3.5 Applicants are strongly recommended to have undertaken full risk assessments of the premises, including fire risk assessments, which are a continuous process and as such must be monitored and audited.

New and existing control measures should be maintained to make sure they are still working effectively.

6.4 Prevention of Public Nuisance

6.4.1 Licensed premises have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

6.4.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

6.4.3 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant’s operating schedule.

6.4.4 When addressing the issue of prevention of public nuisance, applicants are encouraged to demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

The location of premises and proximity to residential and other noise sensitive premises , such as hospitals, hospices and places of worship

The hours of opening, particularly between 23.00 and 07.00

The nature of the activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises

The design and layout of the premises and in particular the presence of noise limiting features

The occupancy capacity of the premises

‘wind down period’ between the end of the licensable activities and the closure of the premises; or formulation of a dispersal policy

Last admission time

6.4.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating

schedule, having regard to their particular type of premises and/or activities:

Effective and responsible management of premises

Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance e.g. to ensure customers leave quietly

Provision of CCTV

Control of operating hours for all or parts (e.g. garden areas) of the premises, including such matters as deliveries

Adoption of best practice guidance relating to noise prevention (e.g. Managing Noise by the BBPA)

Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices

Management of people, including staff and traffic (and resulting queues) arriving and leaving premises

Sighting of external lighting, including security lighting

Management arrangements for collection and disposal of litter

Effective ventilation systems to prevent nuisance from odour

Undertaking noise impact assessments

Signage requiring customers to leave the premises in a quiet and orderly Manner

6.5 Protection of children from harm

- 6.5.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls or centres and schools. Except as prohibited by law, access by children to all types of premises will not be limited in any way unless it is considered necessary to do so to protect them from harm.
- 6.5.2 When deciding whether to limit access to children, other than in circumstances where the law demands their access to be limited, applicants/licence/certificate holders should consider the activities

carried on at the premises. Examples which may give rise to concern in respect of children would include premises:

Where entertainment or services of an adult or sexual nature are commonly
Provided

Where there have been convictions of members of the current staff at the
premises for serving alcohol to minors or with a reputation for underage drinking

With a known association with drug taking or dealing

Where there is a strong element of gambling on the premises (but not, for
example, the simple presence of a small number of cash prize gaming machines)

Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

- 6.5.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Licensing Authority itself.
- 6.5.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then following the receipt of relevant representations conditions may be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and their protection from harm. Where the Licensing Authority considers it appropriate following the receipt of relevant representations it may require the adult supervisors (being persons over the age of 18) to be subject to an enhanced Criminal Records Bureau check. The onus will be on the premises licence holder to ensure, where required, these checks have been undertaken and the persons are suitable to carry out the supervision of children, which may include criminal record disclosure from the Criminal Record Bureau (CRB) and/or registration under the ISA scheme (Independent Safeguarding Authority).
- 6.5.5 The options available for limiting access by children would include:

Limitations of the hours when children may be present

Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place

Limitations on the parts of premises to which children might be given access;

Age limitations (below 18)

Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)

Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place

- 6.5.6 The Licensing Authority will not impose any condition that specifically requires access for Children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder/certificate holder or designated premises supervisor.
- 6.5.7 Where licence holders wish to employ children they should ensure that the legislation regarding this matter is complied with and any necessary permits to work have been obtained. Further information on the requirements of this legislation is available from the Lincolnshire Safeguarding Children Board.
- 6.5.8 In respect of premises licensed for the sale of alcohol, the Licensing Authority commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.
- 6.5.9 The sale of alcohol to children and young persons under the relevant age is a criminal offence, often resulting in harm to the children and young persons concerned and disturbance and nuisance to local residents and businesses. In an effort to avoid unnecessary representations & subsequent hearings applicants are encouraged to detail adequate control measures in their operating schedule to prevent under-age sales. The Licensing Authority recognises that Lincolnshire County Council Trading Standards Service, as part of its responsibilities and duties under the legislation controlling the sale of age restricted products, including alcohol, provides advice and guidance on the controls and systems that may be adopted to help prevent such sales. The Licensing Authority also recognises that in liaison with the Police, the Trading Standards Service conducts covert test purchasing exercises to check compliance with the law. The Licensing Authority commends the adoption of Proof of Age Schemes such as the Challenge 21 scheme or other similar approved schemes.
- 6.5.10 Challenge 21 – The mandatory licence conditions (introduced in October 2010) require relevant premises to hold an age verification policy in relation to the sale or supply of alcohol. The Licensing Authority supports the adoption of the Challenge 21 Scheme (or similar scheme) for licensed premises. Home Office guidance is available to

download at www.beerandpub.com. A suitable proof of age policy adopted by a licence holder should require the production of a photo-driving licence or passport before sale or entry into the premises. For added security, licence holders are encouraged to consider use of the Proof of Age Standards Scheme (PASS) and accept cards showing the PASS logo.

- 6.5.11 The body responsible for promoting the welfare of children and their protection from harm which is recognised by the Licensing Authority as being competent to advise on such matters is:-

The Lincolnshire Safeguarding Children Board and are contactable through Lincolnshire County Council

The Licensing Objectives

CRIME AND DISORDER

- 2.1 The steps which any licence holder or club might take to prevent crime and disorder are as varied as the premises or clubs where licensable activities take place. Licensing authorities should therefore look to the police as the main source of advice on these matters. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 The Government's expectation is that the police will have a key role in undertaking the following tasks:
- developing a constructive working relationship with licensing authority licensing officers and bodies such as the local authority's Social Services department, the Local Safeguarding Children Board or other competent body as agreed locally;
 - developing a constructive working relationship with premises managers;
 - developing joint tasking meetings with relevant local authority and trading standards partners;
 - advising, where necessary, on the development of venue drug policies;
 - developing a constructive working relationship with the Security Industry Authority including joint visits and enforcement action where appropriate;
 - agreeing the protocols for actions taken by door supervisors in relation to illegal drugs or violent behaviour, particularly when police officers should be called immediately;
 - advising on and approving search procedures and the storage procedures for confiscated drugs;
 - gathering and sharing intelligence on drug dealing and use with partner organisations and local venues;
 - advising on the installation and monitoring of security devices such as CCTV;
 - advising on the provision of safe and accessible transport home in consultation with community safety colleagues, local transport authorities and transport operators; and
 - advising on the protection of employees on licensed premises who may be targets for attacks and reprisals.

- 2.3 The Security Industry Authority (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 and that door supervisors are properly licensed. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. In the exercise of their functions, licensing authorities should seek to co-operate with the SIA as far as possible and consider adding relevant conditions to licences where appropriate.
- 2.4 The essential purpose of the licence or certificate in this context is to regulate behaviour on and access to premises where this relates to licensable activities and the licensing objectives. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff or agents, but can directly impact on the behaviour of customers on, or in the immediate vicinity of, the premises as they seek to enter or leave. Examples of measures which may encourage swift and effective dispersal from licensed premises include quietening down periods at the end of the night, security training in reminding patrons to leave quietly and signage on the premises reminding people of this.
- 2.5 Licence conditions should not replicate offences that are set out in the 2003 Act or other legislation. For example, a condition that states that a licence holder shall not permit drunkenness and disorderly behaviour on the premises would be superfluous because this is already a criminal offence. A condition that states that a licence holder shall not permit the sale of controlled drugs on the premises would be similarly superfluous.
- 2.6 Conditions are best targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.7 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.

- 2.8 Radio links and ring-round phone systems allow managers of premises and clubs 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. The inclusion of these 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.
- 2.9 However, while this may be appropriate and effective in certain parts of a licensing authority's area, it may be less effective or even inappropriate in others. Licensing authorities must remember that only appropriate conditions, which are within the control of the licence holder or club, may be imposed.
- 2.10 A condition must also be capable of being met. For example, while beer glasses may be available in toughened glass, wine glasses may not. Licensing authorities should carefully consider conditions of this kind to ensure that they are not only appropriate but both practical and achievable. Further guidance on determining whether a condition is appropriate is given in Chapter 10 of this guidance.
- 2.11 Similarly, although most commonly made a condition of a licence on public safety grounds, licensing authorities should also consider conditions which set capacity limits for licensed premises or clubs where it may be appropriate to prevent overcrowding likely to lead to disorder and violence. If such a condition is considered appropriate, the licensing authority should consider whether door supervisors are needed to control numbers and that a system is implemented to monitor capacity control.
- 2.12 In the context of crime and disorder and public safety, the preservation of order on premises may give rise to genuine concerns about the competency of the management team charged with the maintenance of order. This may occur, for example, on premises where there are very large numbers of people and alcohol is supplied for consumption, or in premises where there are public order problems.
- 2.13 The designated premises supervisor is the key person who will usually be charged with day to day management of the premises by the premises licence holder, including the prevention of disorder. However, conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. A condition of this kind could only be justified as appropriate in rare circumstances where it could be demonstrated that in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.
- 2.14 It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the

managers appointed at the premises are competent and appropriately trained, and licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

- 2.15 The Indecent Displays Act 1981 prohibits the public display of indecent matter, subject to certain exceptions. It should not therefore be appropriate for any conditions to be attached to licences or certificates concerning such displays in or outside the premises involved. Similarly, while conditions relating to public safety in respect of dancing may be appropriate in certain circumstances, the laws governing indecency and obscenity are adequate to control certain adult entertainment which goes beyond what is lawful. Accordingly, conditions relating to the content of such entertainment which have no relevance to crime and disorder, public safety, public nuisance or the protection of children from harm could not be justified. In this context, however, it should be noted that it is in order for conditions relating to the exclusion of minors or the safety of performers to be included in premises licence or club premises certificate conditions where appropriate. The Local Government (Miscellaneous Provisions) Act 1982, insofar as its adoptive provisions relate to sex establishments (sex shops, sex cinemas and sex entertainment venues), also contains a licensing regime for premises where such activities are carried on.
- 2.16 Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will”, is encouraged. Conditions on licences must:
- be precise and enforceable;
 - be unambiguous;
 - not duplicate other statutory provisions;
 - be clear in what they intend to achieve; and,
 - be appropriate, proportionate and justifiable.

PUBLIC SAFETY

- 2.17 As a part of their duties under the 2003 Act, licence holders have a responsibility to ensure the safety of those using their premises. 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.

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

- Fire safety (see paragraphs 2.20 – 2.23);
- 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 2.8 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation); • Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.11, 2.28 to 2.30, Chapter 10 and 10.41 and 10.42.
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.6 above, this may also assist with promoting the crime and disorder objective).

2.18 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 (8.36 to 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.

FIRE SAFETY – SPECIAL PROVISIONS IN RESPECT OF LICENSED PREMISES

2.20 The Regulatory Reform (Fire Safety) Order 2005 (the 2005 Order) came into force on 1 October 2006 and applies to practically all non-domestic premises. Under it, a 'responsible person' (usually the employer, owner or occupier) is required to carry out a fire risk

assessment and put in place suitable and sufficient fire precautions to ensure that the risk to life in the event of a fire is minimised.

- 2.21 To help 'responsible persons' comply with the 2005 Order, the Department for Communities and Local Government (DCLG) makes available a range of technical guidance which explains the risk assessment process and offers detailed practical advice on the range of fire safety measures which will need to be considered to deliver compliance. This, along with information on the law, is available on the DCLG website at: www.communities.gov.uk/firesafety.
- 2.22 The 2005 Order contains special provisions for consultation between the enforcing authority and the licensing authority in respect of licensed premises. These require the licensing authority to give the enforcing authority the opportunity to make representations before issuing a licence. Once a licence is issued, the enforcing authority is required to notify the licensing authority of any enforcement action that it takes in relation to premises which have been licensed. These provisions do not apply in the limited circumstances (i.e. designated sports stands) where the licensing authority and the enforcing authority are the same.
- 2.23 A licence issued by the licensing authority cannot impose any term, condition or restriction relating to fire safety. Fire safety needs to be considered by the responsible person as part of the risk assessment process required by the 2005 Order and enforced by local fire and rescue authorities. In the case of licensed premises, and irrespective of the number of employees on it, the responsible person is required by the 2005 Order to keep a record of the significant findings of their fire safety risk assessment.

PROVISION OF FIRST-AID

- 2.24 Employers have a duty under the Health and Safety (First-Aid) Regulations 1981 to ensure that adequate and appropriate equipment, facilities and trained personnel are provided to ensure that employees receive immediate first-aid if required at their workplace. This duty includes all workplaces, and also applies to the self-employed. The level of first-aid provision required will depend on the workplace circumstances and employers should assess what is necessary. Whilst this requirement does not extend to making provision for non-employees (for example, members of the public using the premises), the Health and Safety Executive strongly recommends that first-aid provision is made for non-employees. Further guidance can be found at <http://www.hse.gov.uk/firstaid/index.htm>.

ENSURING SAFE DEPARTURE OF THOSE USING THE PREMISES

- 2.25 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

MAINTENANCE AND REPAIR

- 2.26 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.
- 2.27 Particular care should be taken when undertaking building, construction or improvement works on licensed premises to ensure the safety of those using the premises. Licence holders should adequately assess and mitigate risks associated with any building or construction work so that this work does not compromise the safety of those using the premises.

SAFE CAPACITIES

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

- 2.29 It should also be noted in this context that it remains an offence under the 2003 Act to sell or supply alcohol to a person who is drunk. This is particularly important because of the nuisance and anti-social behaviour which can be provoked after leaving licensed premises.
- 2.30 The special provisions made for dancing, amplified and unamplified music in section 177 of the 2003 Act apply only to premises with a “permitted capacity” of not more than 200 persons. In this context, the capacity must be where the fire and rescue authority has made a recommendation on the capacity of the premises under the 2005 Order. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.31 Whilst the Cinematograph (Safety) Regulations 1955 (S.I 1995/1129) - which contained a significant number of regulations in respect of fire safety provision at cinemas - no longer apply, authorisations granted under Schedule 8 to the 2003 Act will have been subject to conditions which re-state those regulations in their new premises licence or club premises certificate. Any holders of a converted licence seeking to remove these conditions and reduce the regulatory burden on them (to the extent to which that can be done while still promoting the licensing objectives), would need to apply to vary their converted licences or certificates. When considering applications for variations, minor variations, and the grant of new licences, licensing authorities and responsible authorities should recognise the need for steps to be taken to assure public safety at these premises in the absence of the 1995 Regulations.
- 2.32 Public safety includes the safety of performers appearing at any premises.

PUBLIC NUISANCE

- 2.33 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.

- 2.34 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 is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also 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.
- 2.35 Conditions relating to noise nuisance will normally 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 more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.36 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where the provisions of the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 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.
- 2.37 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.
- 2.38 Measures to control light pollution will also require careful thought. Bright lighting outside premises considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

- 2.39 In the context of preventing public nuisance, it is again essential that conditions are focused on measures within the direct control of the licence holder or club. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, club or premises management cannot be justified and will not serve to promote the licensing objectives. However, premises should have adequate dispersal policies (where appropriate) in place to ensure that customers leave the premises promptly and with minimal disruption to those in the surrounding area.
- 2.40 Beyond the immediate area surrounding the premises, these are matters for 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 and to respect the rights of people living nearby to a peaceful night.

PROTECTION OF CHILDREN FROM HARM

- 2.41 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 with alcohol 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).
- 2.41 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or • in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

- 2.43 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm.
- 2.44 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.45 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.
- 2.46 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 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 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.
- 2.47 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions Order) 2010.
- 2.48 Licensing authorities should give considerable weight to representations about child protection matters.

- 2.49 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.
- 2.50 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

Determining Applications

DETERMINING ACTIONS THAT ARE APPROPRIATE FOR THE PROMOTION OF THE LICENSING OBJECTIVES

- 9.38 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.
- 9.39 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.
- 9.40 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. Whilst 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.

Conditions attached to premises licences and club premises certificates

GENERAL

- 10.1 This chapter provides advice and recommendations concerning best practice in relation to conditions attached to premises licences and club premises certificates.
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question.
- 10.3 All interests – licensing authorities; licence and certificate holders; authorised persons; the police; other responsible authorities; and local residents and businesses – should be working together in partnership to ensure collectively that the licensing objectives are promoted.
- 10.4 The courts have made it clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both.
- 10.5 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

PROPOSED CONDITIONS

- 10.6 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

- 10.7 In order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities when schedules are being prepared. Proper liaison may avoid the need for representations.
- 10.8 Conditions should be appropriate, proportionate and justifiable in meeting the licensing objectives. They should be written in a prescriptive format and be readily understood and enforceable.
- 10.9 It is also not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention. Conditions should be appropriate for the promotion of the licensing objectives and easily enforceable.

CONSISTENCY WITH STEPS DESCRIBED IN OPERATING SCHEDULE

- 10.10 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.11 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

IMPOSED CONDITIONS

- 10.12 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.
- 10.13 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

Proportionality

- 10.14 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.
- 10.15 Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives. Consideration should also be given to wider issues such as conditions already in place that address the potential negative impact on the promotion of the licensing objectives and the track record of the business. The physical safety of those attending such events should remain a primary objective.

Duplication with other statutory provisions

- 10.16 If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate to impose the same or similar duties as conditions.
- 10.17 So, licensing authorities should not seek to impose fire safety conditions that may duplicate any requirements or prohibitions that could be imposed under the Regulatory Reform (Fire Safety) Order 2005 (see Chapter 2).
- 10.18 The 2003 Act does not affect the continued use of inspection and enforcement powers conferred by other legislation; for example, the powers of an environmental health officer in relation to statutory nuisance under the Environmental Protection Act 1990.
- 10.19 However, these general duties will not always adequately address specific issues that arise on the premises in connection with, for example, certain types of entertainment. It is only where additional and supplementary measures are appropriate to promote the licensing objectives that conditions will need to be attached to a licence.

Hours of trading

- 10.20 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in

consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

- 10.21 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested
- 10.22 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

Age verification

- 10.65 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.57) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark.
- 10.66 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.67 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to 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.

- 10.68 The premises licence holder or club premises certificate holder must ensure that staff (in particular staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy applied by the premises.

Door supervision

- 10.76 Under section 21 of the 2003 Act, when a condition is included in a premises licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in section 21(3)(a) by reference to the Private Security Industry Act 2001 ("the 2001 Act")), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority ("the SIA") under the 2001 Act, or be entitled to carry out that activity by virtue of section 4 of the 2001 Act.