Rother District Council

Licensing and General Purposes Committee - General Licensing Panel

Date and Time - **Tuesday 3 December 2019 - 10.00am**

Venue - **Council Chamber, Town Hall, Bexhill-on-Sea**

Hearing 1

Councillors appointed to the Committee:
Councillor G.C. Curtis, Mrs S. Hart and A.S. Mier

Hearing 2

Councillors appointed to the Committee:
Councillor G.C. Curtis, A.S. Mier and H. Timpe

AGENDA

1. **APPOINTMENT OF CHAIRMAN**

   To appoint a Chairman for the Panel Hearing.

2. **MINUTES**

   To authorise the Chairman to sign the minutes of the meeting of the General Licensing Panel held on 22 October 2019 as a correct record of the proceedings.

3. **APOLOGIES FOR ABSENCE**

4. **DISCLOSURE OF INTERESTS**

   To receive any disclosure by Members of personal interests in matters on the agenda, the nature of any interest and whether the Member regards the interest as prejudicial under the terms of the Code of Conduct. Members are reminded of the need to repeat their declaration immediately prior to the commencement of the item in question.

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Hearing 1

5. **REPORT OF THE EXECUTIVE DIRECTOR - APPLICATION FOR A NEW PREMISES LICENCE** (Pages 1 - 10)

**Two Trees, 37 Cooden Sea Road, Bexhill-on-Sea, TN39 4SJ (WK/201906897)

Hearing 2

6. **APPOINTMENT OF CHAIRMAN**

To appoint a Chairman for the Panel Hearing.

7. **REPORT OF THE EXECUTIVE DIRECTOR - APPLICATION FOR A NEW PREMISES LICENCE** (Pages 11 - 32)

**The Brewery Yard Club, Landgate, Rye, East Sussex, TN31 7LH (WK/201908554)

Malcolm Johnston
Executive Director

Agenda Despatch Date: 18 November 2019

Note: The first Hearing will commence at 10.00am prompt and the second Hearing will commence at 11.30am or following the conclusion of the first hearing.

**Please note that Appendix E (representations) to this report is not available on the website - if you would like a copy please contact Democratic Services on 01424 787815.

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Rother District Council

Committee	-	General Licensing Panel
Date	-	3 December 2019
Report of the	-	Executive Director
Subject	-	Application for a Premises Licence – WK/201906897 Two Trees, 37 Cooden Sea Road, Bexhill-on-Sea, TN39 4SJ

Recommendation: It be **RESOLVED:** That the application for a Premises Licence be determined.

Head of Service: Richard Parker-Harding

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1. Introduction

A representation has been made regarding the application for a premises licence; therefore it has been referred to this Panel for determination.

1.1 Applicant Details:

Name: Mrs Jennifer Talbot

Address: 8 Gainsborough Rd, Bexhill-on-Sea, East Sussex, TN40 2UL

1.2 The Premises: Details of the premises subject of the application are as follows:-

Two Trees, 37 Cooden Sea Rd, Bexhill-on-Sea, TN39 4SJ

Please see the location plan, floor plan and photographs (Appendices B, C & D).

Location:
The premises is situated in the centre of Little Common. There are commercial units either side with residential properties above. There are commercial units opposite the premises again with residential above.

Description:
The premises is currently being used as a café with 30 covers on one level, the ground floor.

2. The application and opening hours

The applicant has applied for the following:

Sale of alcohol (On and Off the premises): Tuesday to Saturday 11:00-21:00 and Sunday 11:00-18:00.

Opening Hours: Tuesday to Saturday 08:30-21:00 and Sunday 09:00-18:00

3. Relevant representations of interested parties

	Relevant licensing 'objective'
1 representation	Prevention of Public Nuisance Public Safety

The representation is concerned with public safety and an increase in public nuisance, the representation is reproduced in full in Appendix E. A number of issues are raised including nuisance from patrons inside and outside the premises, insufficient parking, impact on property values and fire/health and safety issues.

Insufficient parking and the possible impact on the value of neighbouring properties are not relevant representations under Licensing Act 2003.

4. Representations of responsible authorities

Rother DC Licensing Authority	No representation
Rother DC Planning Authority	No representation
Rother DC Community Protection	None received
Rother DC Health & Safety Team	No representation
East Sussex Fire & Rescue Service	No representation
Sussex Police	Representation withdrawn (see below)
ESCC Public Health	None received
ESCC Area Child Protection Committee	None received
ESCC Trading Standards	None received
Home Office Immigration Enforcement	None received

4.1 Sussex Police Licensing

Representation was withdrawn following the applicant's agreement to include additional conditions (these are reproduced in full in Appendix A).

5. Licensing history

The premises has no licensing history.

6. Summary

The relevant parts of the representation relate to noise emanating from inside the building due to alleged poor sound insulation and noise from patrons outside the premises including nuisance from smoking.

With respect to point six in the representation concerning 'fire safety' and 'health & safety' at the premises, the Fire Officer from East Sussex Fire & Rescue Service, and the Environmental Health Officer, Rother District Council both confirmed they have no safety concerns regarding the licence application or currently at the premises.

7. Legislation

The Licensing Act 2003 requires that the Council, as the local Licensing Authority, carry out its functions with a view to promoting the four Licensing Objectives:

a) The Prevention of Crime and Disorder
b) Public Safety
c) The Prevention of Public Nuisance
d) The Protection of Children from Harm

In exercising those functions, the Licensing Authority must also have regard to Guidance issued by the Secretary of State and its own Statement of Licensing Policy.

8. Consideration

When considering this application the following options are available to the Panel:

a) to grant the licence subject to the conditions consistent with the operating schedule;
b) to grant the licence subject to any modified conditions, which are considered appropriate to the promotion of the licensing objectives;
c) to reject the application in its entirety.

9. Conclusion

Having considered the written and oral representations and submissions made at the hearing the Panel shall determine the application.

Malcolm Johnston
Executive Director

Risk Assessment Statement
The applicant and others party to the hearing have a right of appeal to the Magistrates' Court.

Appendix A: Conditions agreed with Sussex Police.
Appendix B: Map of the location.
Appendix C: Floor plan.
Appendix D: Photographs.
Appendix E: Representation from interested parties.

Appendix A

Conditions agreed with Sussex Police

Following discussions with Sussex Police the following conditions were agreed:

(1) Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to their meal. Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the premises.

(2) The Premises Licence Holder shall ensure that all staff members engaged, or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

- The lawful selling of age restricted products
- Refusing the sale of alcohol to a person who is drunk

a) Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 6 months, with the date and time of the verbal reinforcement/refresher training documented.

b) All such training undertaken by staff members shall be fully documented and recorded and signed by both the employee and the DPS. All training records shall be kept on the premises and made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

c) A list of staff members who are authorised to sell alcohol on the premises shall be kept. This shall be endorsed by the DPS with the date such authorisation commences.

(3) The premises will operate an **age verification** policy set at a minimum of 25 years (e.g. "Challenge 25") whereby any person attempting to buy alcohol who appears to be under the specified age e.g. 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, official Photographic Identity Cards issued by EU states bearing a hologram or ultraviolet feature, driving licences with a photograph, photographic military ID or proof of age cards bearing the 'PASS' mark hologram. The list of recommended forms of ID may be amended or revised with the prior written agreement of Sussex Police, the Licensing Authority and Trading Standards without the need to amend the licence or conditions attaching to it.

a) Signage advertising the age verification or 'Challenge 25' policy will be displayed in prominent locations in the premises.

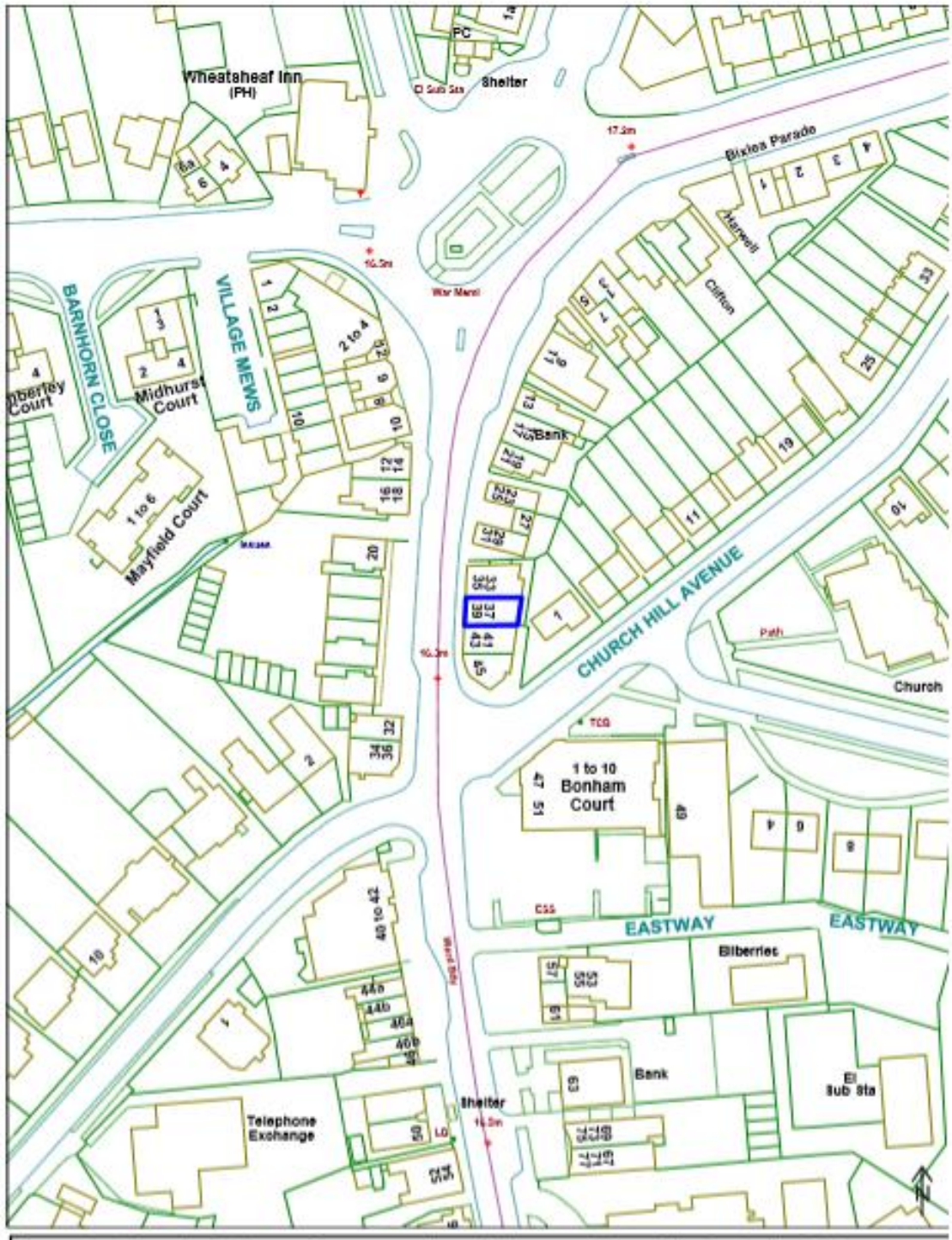
(4) An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The log will be inspected and signed off by the DPS (or a person with delegated authority) at least fortnightly.

The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.
Feedback shall be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.

Any refusals made for alcohol service e.g. underage, will also be recorded (either in electronic or written form) and feedback given to staff as relevant. The log will be kept at the premises for a minimum of twenty four (24) months.

Appendix B

Map of the location



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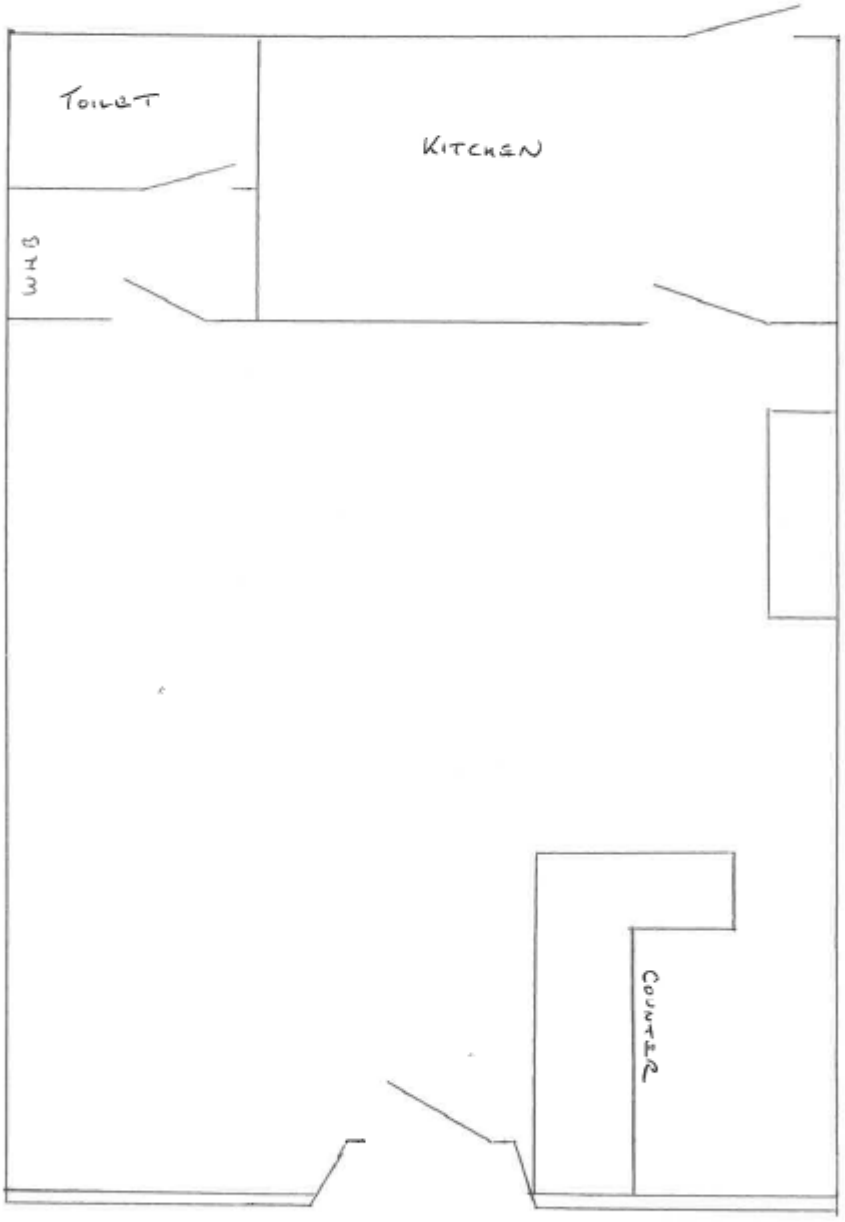
Floor Plan (not to scale)

Two Trees Cafe
37 Cooden Sea Rd
Bexhill o/sea



August 2019

Appendix D

Photographs

Photograph 1: Front of the premises

Photograph 2: Facing North –

Two Trees shown on the right

Photograph 3: Facing South – Two Trees shown on the left

Photograph 4: Taken from the rear of the café

Photograph 5: Taken from the front of the cafe

Rother District Council

Committee	-	General Licensing Panel
Date	-	3 December 2019
Report of the	-	Executive Director
Subject	-	Application for a Premises Licence – WK/201908554 The Brewery Yard Club, Landgate, Rye, East Sussex, TN31 7LH.

Recommendation: It be **RESOLVED:** That the application for a Premises Licence be determined.

Head of Service: Richard Parker-Harding

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1. Introduction

Seventeen representations have been made regarding the application for a premises licence; therefore it has been referred to this Panel for determination.

1.1 Applicant Details:

Name: Jane Garner

Address: 13 Court Lodge Road, Appledore, Kent TN26 2DD

Agent: Mike Nickson, Inn Confidence Ltd

1.2 The Premises: Details of the premises subject of the application are as follows:-

The Brewery Yard Club, Landgate, Rye, East Sussex, TN31 7LH

Please see the location plan, floor plan and photographs (Appendices B, C & D).

Location:
The premises is situated off Landgate in the north eastern part of the ancient and historic town of Rye. Landgate is predominately commercial with some residential. Closer to the Brewery Yard, the neighbouring properties are predominately residential.

Description:
The premises was originally a brewery and from the 1950s it was used as a club, firstly by the Royal British Legion and then as a members' club under the name of The Brewery Yard Club. The premises is adjoined to 10 and 11 Landgate (residential).

2. The application and opening hours

The applicant has applied for the following licensable activities:

Sale of alcohol (On and Off the premises)

- Monday to Sunday 11:00 to 23:00hrs.

Non standard timings

- 11:00 New Year's Eve to 02:00hrs the following morning (New Year's Day).

- 11:00 to 00:00hrs for bona-fide pre booked functions and events which are planned at least 48 hours in advance and recorded in a diary for that purpose which is maintained at the premises and available for inspection. There shall be a limit of 25 such days each year.

Live music, recorded music, plays, performance of dance

Non standard timings

- 23:00 New Year's Eve to 02:00hrs the following morning (New Year's Day).

- 23:00 to 00:00hrs for bona-fide pre booked functions and events which are planned at least 48 hours in advance and recorded in a diary for that purpose which is maintained at the premises and available for inspection. There shall be a limit of 25 such days each year.

Films

- Monday to Sunday 11:00 to 23:00hrs.

Non standard timings

- 11:00 New Year's Eve to 02:00hrs the following morning (New Year's Day).

- 11:00 to 00:00hrs for bona-fide pre booked functions and events which are planned at least 48 hours in advance and recorded in a diary for that purpose which is maintained at the premises and available for inspection. There shall be a limit of 25 such days each year.

Late night refreshment

Non standard timings

- 23:00 New Year's Eve to 02:00hrs the following morning (New Year's Day).

- 23:00 to 00:00hrs for bona-fide pre booked functions and events which are planned at least 48 hours in advance and recorded in a diary for that

purpose which is maintained at the premises and available for inspection. There shall be a limit of 25 such days each year.

Opening hours

- Monday to Sunday 08:00 to 23:30hrs

Non standard timings

- 08:00 New Year's Eve to 02:30hrs the following morning (New Year's Day).

- 08:00 to 00:30hrs for bona-fide pre booked functions and events which are planned at least 48 hours in advance and recorded in a diary for that purpose which is maintained at the premises and available for inspection. There shall be a limit of 25 such days each year.

The provisions of the Live Music Act 2012 / Legislative Reform (Entertainment Licensing) Order 2014 / Deregulation Act 2015.

Members may note that there are no standard daily hours for live music, recorded music, plays or performance of dance. This is because the Government has deregulated entertainment between 08:00 and 23:00hrs if the audience is no more than 500. Please see refer to Appendix H for further information.

3. Relevant representations of interested parties

	Relevant licensing 'objective'
2 representations	Supporting the application
14 representations	Prevention of Public Nuisance

With the exception of the two representations in support, the other 14 representations are predominately concerned with public nuisance and crime and disorder. All the representations are reproduced in full in Appendix E. A number of relevant issues are raised but insufficient parking and the possible impact on the value of neighbouring properties are not relevant representations under Licensing Act 2003.

4. Representations of responsible authorities

Rother DC Licensing Authority	No representation
Rother DC Planning Authority	No representation*
Rother DC Community Protection	1 representation

Rother DC Health & Safety Team	No representation
East Sussex Fire & Rescue Service	No representation
Sussex Police	No representation
ESCC Public Health	None received
ESCC Area Child Protection Committee	None received
ESCC Trading Standards	None received
Home Office Immigration Enforcement	None received

The public nuisance related representation from the Community Protection Team is reproduced in full in Appendix F.

*The planning department did not make a representation but they provided a comment about planning related matters. The comment is reproduced in Appendix G.

5. Licensing history

Club Premises Certificate (05/02047/LAPREC) alcohol supply/sales to members and guests, was surrendered in February 2019.

6. Summary

The application has attracted two representations in support and 15 representations have raised relevant licensing concerns.

7. Legislation

The Licensing Act 2003 requires that the Council, as the local Licensing Authority, carry out its functions with a view to promoting the four Licensing Objectives:

a) The Prevention of Crime and Disorder
b) Public Safety
c) The Prevention of Public Nuisance
d) The Protection of Children from Harm

In exercising those functions, the Licensing Authority must also have regard to Guidance issued by the Secretary of State and its own Statement of Licensing Policy.

8. Consideration

When considering this application the following options are available to the Panel:

a) to grant the licence subject to the conditions consistent with the operating schedule;

b) to grant the licence subject to any modified conditions, which are considered appropriate to the promotion of the licensing objectives; or
c) to reject the application in its entirety.

9. Conclusion

Having considered the written and oral representations and submissions made at the hearing the Panel shall determine the application.

Malcolm Johnston
Executive Director

Risk Assessment Statement
The applicant and others party to the hearing have a right of appeal to the Magistrates' Court.

Appendix A: Conditions offered by the applicant.
Appendix B: Map of the location.
Appendix C: Floor plan.
Appendix D: Photographs.
Appendix E: Representations from interested parties (1-16)
Appendix F: Representation from a responsible authority
RDC Community Protection Team.
Appendix G: Comment from the RDC Planning Department.
Appendix H: Extracts from S.182 Guidance to Local Authorities regarding the provisions of the Live Music Act 2012 / Legislative Reform (Entertainment Licensing) Order 2014 / Deregulation Act 2015.

Conditions offered by the applicant

These are the steps the applicant intends to take to promote the four licensing objectives.

General

The premises licence holder, DPS, management and staff will constantly assess any risks to the licensing objectives. They will work in partnership with the authorities and local people alike in this respect. The staff will be properly authorised, equipped, trained and motivated in this task. There will be:

- A written notice of 'authority' record for all staff who sell alcohol
- Comprehensive training for staff in the main requirements of the Licensing Act 2003, the specific measures and conditions in place to promote the Licensing Objectives and the staff roles and responsibilities. Such records shall be available for inspection by the responsible authorities.
- Contact details of the Designated Premises Supervisor or nominated adult representative shall at all times be available to staff, the authorities and local residents.

Prevention of Crime & Disorder

The management and staff will take all necessary steps to ensure that the premises remain free from crime and disorder and neither cause or contribute to crime and disorder in the area. This will include:

- Staffing levels maintained appropriately to ensure adequate security.
- High value items stored securely
- Staff being trained on security issues including how to identify and refuse service to customers that are drunk or appear to be drunk.
- A policy of zero-tolerance to drugs at the premises
- CCTV shall be provided in the form of a recordable system capable of providing pictures of evidential quality
- Cameras shall encompass all ingress and egress to the premises and any internal areas where the sale of alcohol occurs
- CCTV equipment shall be maintained in good working order and correctly timed and dated.
- Recordings will be available for a minimum period of 28 days and handed to the police or duly authorised officers of the council upon request.
- The system shall be kept in a secure environment under the control of the premises licence holder or other responsible named individual.

Public Safety

The management and staff will have an effective policy to maintain a safe venue for customers and staff. Any risk to safety will be assessed before the premises are opened to visitors each day and throughout the hours of operation. The DPS will liaise with the authorities to ensure that all aspects of public safety are adhered to. The policy will include:

- Appropriate fire fighting equipment being installed and maintained at the premises and staff trained in its use.
- Fire risk assessments being undertaken and acted upon in accordance with current recommendations and requirements.

- Effective lighting maintained and operated to ensure the safety of visitors and staff
- The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
- The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided

The Prevention of Public Nuisance

The Licence holder, DPS and staff are mindful of the need to reduce the impact of any nuisance caused by the operation of the premises, will constantly assess the risk of public nuisance and take immediate steps to eliminate the problem. The policy will include that:

- All doors and windows shall remain closed during periods of regulated entertainment other than to allow access to and from the premises and in the case of an emergency
- Satisfactory arrangements will be put in place to supervise an orderly dispersal of visitors when leaving the property to ensure the minimum of noise and disturbance to local residents.
- No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
- Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.
- Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
- No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (21.00) hours and (08.00) hours on the following day
- Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.
- Live or recorded music from regulated entertainment shall not be audible at the nearest noise sensitive property, so as to cause a disturbance to local residents
- The premises licence holder or his/her representative shall conduct regular assessments of the noise coming from the site on every occasion they are used for regulated entertainment. Appropriate steps shall be taken to reduce the level of noise where it is found to be heard at the facade of the nearest residential property.
- Any complaints received about noise shall be logged and remedial action taken as a matter of urgency.
- The premises licence holder will ensure that all staff are trained in noise reduction techniques and the licence conditions regarding the prevention of public nuisance.
- Records will be kept over liaison with outside agencies and authorities, complaints received and actions taken

Protection of Children from Harm

The premises will be promoted as family friendly and suitable for all ages, although the business will be aimed at mature adult visitors. Should children be in attendance, there will be no inappropriate entertainment, promotions, activities or behaviour tolerated at the premises that might put children at risk. There will be an effective age verification policy in accordance with the mandatory code. This policy will be one of Challenge 25 for age-restricted products and include:

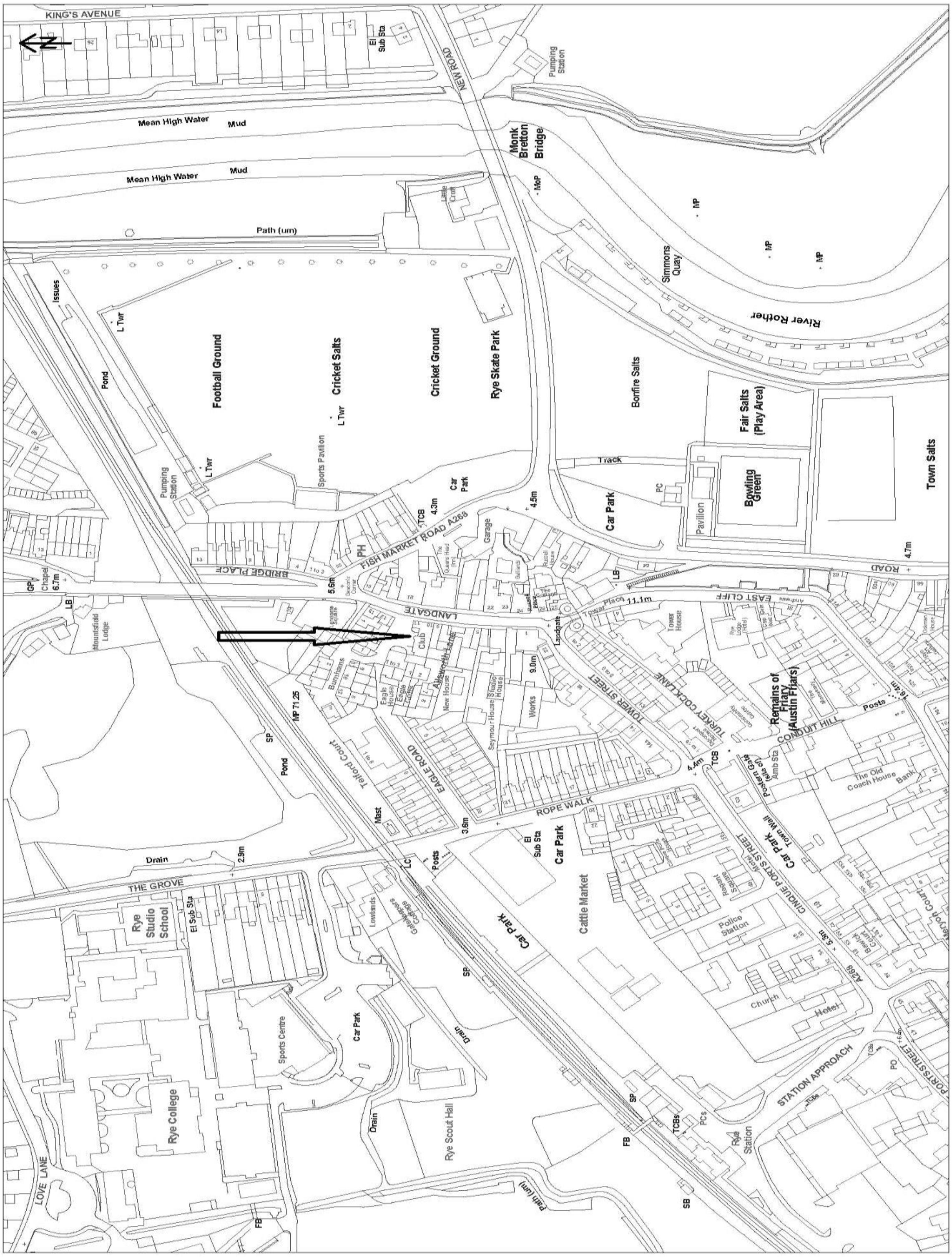
- The appropriate display of notices relating to the policy within the premises.
- These notices will indicate that any customer not appearing to have reached the age of 25 will be required to produce appropriate identification proving that they have turned 18 before being sold alcohol.
- Appropriate ID will be a valid passport, photo driving licence, PASS accredited proof of age card or other reliable photo-ID that is recommended and approved for acceptance by the police or other authorities.
- Staff shall be trained in aspects of responsible alcohol retailing and in particular the Protection of Children including the Challenge 25 policy.
- Training will occur before a staff member is given authorisation to sell alcohol within the premises.
- Staff training records will be available for inspection by the police or other responsible authority upon request.

Additional conditions offered during the 28 day advertising period

Staff are to prevent customers taking glasses and open bottles out of the premises into the street or other public place.

Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

Map of the location



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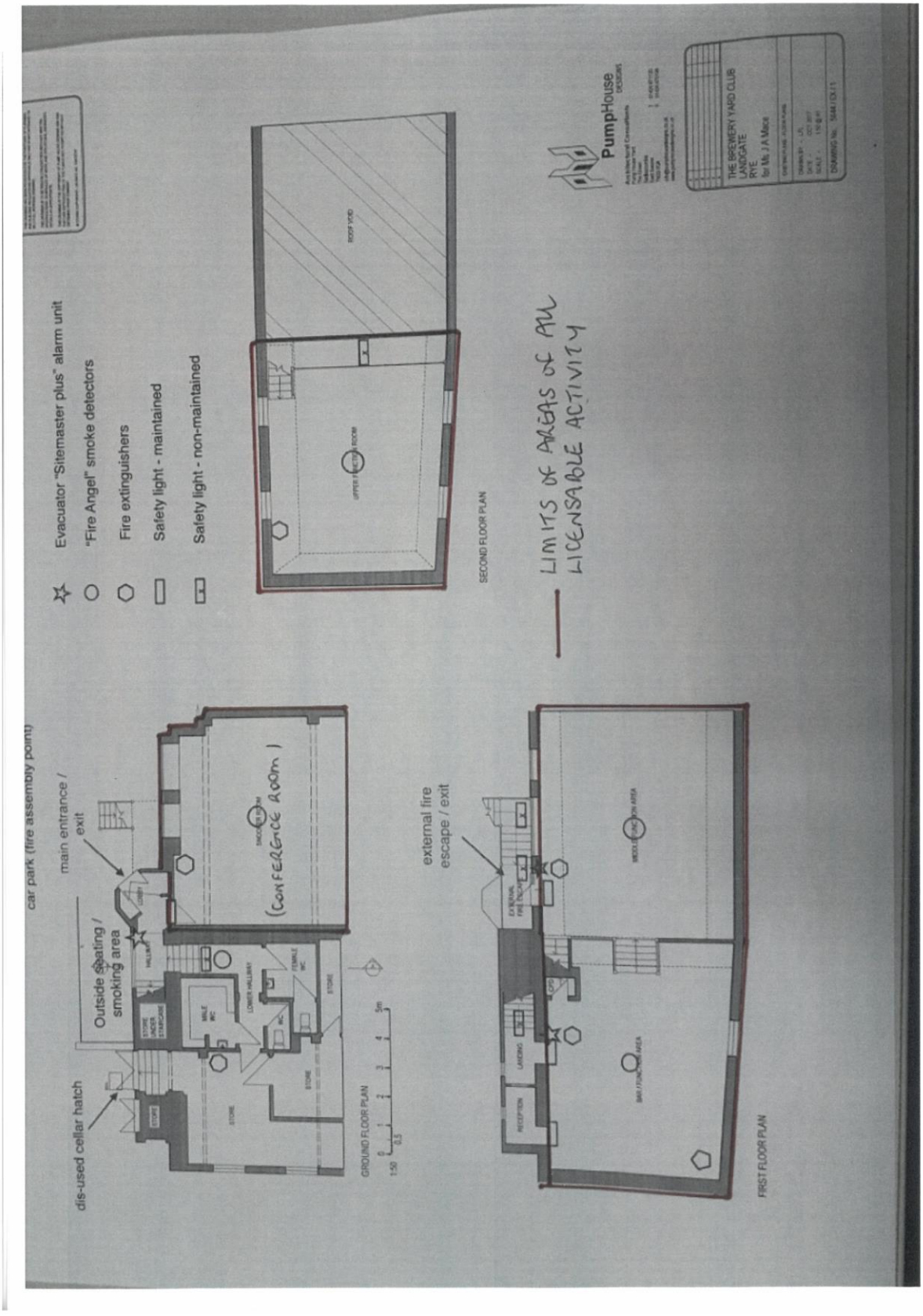
Floor Plan (not to scale)



Photographs

Photograph 1: a view looking South along Landgate, the entrance to the premises is on the immediate right.

Photograph 2: a view from Landgate, the premises is the red brick building. The white timber boarded house is 11 Landgate.

Photograph 3: the entrance into the premises is adjacent to the red refuse bin. Eagle Cottages can be seen through the gap between the premises and Eagle House on the right.
The outside area of the premises is obscured by the black car but it is to the right side of the entrance.

Photograph 4: a view into Brewery Yard from Landgate.

Photograph 5: the outside area of the premise is to the left behind the metal railings adjacent to the black refuse bin.

Photograph 6: residential properties opposite the premises on the North side of the Brewery Yard. For reference the same van and white car can be seen in photograph 4.

Photographs 7 & 8: a view of the tiled rooftop (South facing side) of the premises viewed from the alleyway behind 9 Landgate.

Photograph 9: the function room looking towards the party wall with 10 & 11 Landgate.

Representation from a responsible authority

1. Rother District Council – Community Protection Team

From: Jonathan Hampson
Sent: 31 October 2019 14:29
To: Mark Randolph
Subject: Representation re: The Brewery Yard Club, Landgate, Rye

Dear Mr Randolph,

Representation re new premises Licence application
The Brewery Yard Club, Landgate, Rye, East Sussex, TN31 7LH

I am submitting a representation concerning the above application on the grounds of Prevention of Public Nuisance. This is due to unsubstantiated historic complaints when the premises held a Club licence. The issues concern noise impacting the adjoining property 9 Landgate and complaints concerning patrons at the front of the premises.

I am in discussions with the applicant concerning the above issues and hope that they will agreed to conditions I have proposed to resolve the public nuisance concerns.

Regards,
Jonathan Hampson
Community Protection Officer
Environmental Health Service

From: Jonathan Hampson
Sent: 31 October 2019 13:38
To: mike.nickson
Cc: Mark Randolph
Subject: Premises Licence Application for The Brewery Yard Club, Landgate, Rye

Dear Mr Nickson,

New Premises Licence Application
The Brewery Yard Club, Landgate, Rye, East Sussex, TN31 7LH

As discussed, I have submitted a representation to the Licensing Authority objecting to the above application on the grounds of Prevention of Public Nuisance due to historic noise complaints concerning the above premises.

Please find attached proposed conditions in addition to those you have proposed which will resolve my concerns regarding the public nuisance issues. If required I can provide a list of acoustic consultants which operate in the area of East Sussex.

Please do not hesitate to contact me if you have any questions or concerns.

Regards,
Jonathan Hampson
Community Protection Officer
Environmental Health Service

Edited conditions proposed by the applicant

- ~~All doors and windows shall remain closed during periods of regulated entertainment other than to allow access to and from the premises and in the case of an emergency~~

1. **All doors and windows shall be kept closed, except for the immediate access and egress of the public and staff, whilst regulated and deregulated entertainment is in progress and adequate mechanical ventilation shall be provided where required. All entrance doors shall be fitted with self-closers for this purpose.**

Reason: Additional control for the prevention of nuisance to neighbouring residential properties and to include deregulated entertainment.

- ~~Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and leave the area quietly.~~

2. **Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.**

- ~~Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.~~

3. **Prominent, clear and legible notices shall be displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.**

Reason: Notices shall be prominent, clear and legible.

- ~~Flashing or particularly bright lights on or outside the premises shall not cause a nuisance to nearby properties, save insofar as they are necessary for the prevention of crime.~~

4. **Exterior and security lighting must be positioned to avoid causing a nuisance to neighbouring residential properties.**

Reason: Exterior and security lighting must not cause a nuisance to neighbouring residential properties under any circumstances.

- ~~Live or recorded music from regulated entertainment or otherwise shall not be audible at the nearest noise sensitive property, so as to cause a disturbance to local residents~~

5. **Live or recorded music from regulated and deregulated entertainment or otherwise shall not be audible at the nearest noise sensitive property, so as to cause a disturbance to local residents**

- ~~The premises licence holder or his/her representative shall conduct regular assessments of the noise coming from the site on every occasion they are used for regulated entertainment. Appropriate steps shall be taken to reduce the level of noise where it is found to be heard at the facade of the nearest residential property.~~

6. **The premises licence holder or his/her representative shall conduct regular assessments of the noise coming from the site on every occasion they are used for regulated and deregulated entertainment. Appropriate steps shall be taken to reduce the level of noise where it is found to be heard at the facade of the nearest residential property.**

Reason: To include deregulated entertainment.

Proposed conditions by Community Protection Team

1. **Before regulated and deregulated entertainment is permitted a scheme of sound insulation of the building by a competent acoustic consultant must be approved by the Council and the necessary works carried out.**

Reason: 9, 10 and 11 Landgate, Rye share a party wall with The Brewery Yard Club licenced areas. Therefore a scheme for the insulation of the premises against the transmission of sound is required. The separating walls between The Brewery Yard Club and the adjoining properties should be insulated against airborne sound to achieve a minimum sound insulation value of 10dB better than stipulated Building Regulations Approved Document E. Written details of the scheme including calculations showing that this performance standard will be archived, shall be submitted in writing for approval to the Licencing Authority.

If the scheme suggests that the permitted use of the licenced areas will result in unsatisfactory internal noise conditions in adjoining properties, the applicant will need to propose noise mitigation measures to ensure that adjoining properties are not adversely impacted by noise.

2. **All tables and chairs used by the premises in external areas shall be removed at 21:00.**

Reason: To strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to ensure safety and prevent nuisance problems.

3. **Staff shall monitor customers smoking outside the premises on a regular basis and ensure patrons do not cause a public nuisance.**

Reason: The noise from patrons socialising on a street late at night can disturb local residents.

Please Note

The provisions of the Live Music Act 2012 and the Legislative Reform (Entertainment Licensing) Order 2014 amend the Licensing Act by partially de-regulating various forms of entertainment, including live and recorded music, between 08:00hrs and 23:00hrs, subject to certain qualifying conditions. They also have the effect of suspending any authorisations/ conditions attached to a Premises Licence in respect of such entertainments unless there is a condition on that Licence dis-applying the provisions.

If the applicant voluntarily agrees to add the preceding conditions concerning regulated and deregulated entertainment they acknowledge that between 08:00hrs and 23:00hrs that the provisions of the above legislation do not apply.

Comment from Rother District Council Planning Department

ROTHER DISTRICT COUNCIL

From: Service Manager – Strategy & Planning

To: Community Environment Division

F.A.O: Richard Hoyland

Our Ref: PE/00626/2019

Date: 18th October 2019

LICENSING APPLICATION

Re: The Brewery Yard Club, Landgate, Rye

Premises Licence Application for a new Owner/ Operator for sale and consumption of alcohol on and off the premises within the hours of 11.00 – 23.00 Monday to Sunday. Extended hours on New Year's Eve 11.00 – 02.00 and private functions 11.00 – 00.00.

I refer to the above mentioned site and the application for licensing under the Licensing Act 2003.

The premises have a lawful use as a private members club. It is noted that the application forms refer to a community hub with publicly available function rooms and retail proposals. Such proposals could constitute a change of use in planning terms and the applicant is advised to seek pre-application advice.

For Head of Service – Strategy & Planning

Extracts from Section 182 Guidance predominately Chapter 16:

As a result of deregulatory changes that have amended the 2003 Act2 no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.

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

- Live music: no licence permission is required for:
  – a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  – a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to **sell alcohol** for consumption on those premises, provided that the audience does not exceed 500.
  – a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that does not have a licence, provided that the audience does not exceed 500.

- Recorded Music: no licence permission is required for:
  – any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  – any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  – any playing of recorded music between 08.00 and 23.00 on any day, at the non- residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Licence conditions

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

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

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

More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.

Chapter 9 of the Guidance sets out how a licensing authority must determine applications for a new licence or to vary an existing premises licence. Licence conditions imposed for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23.00 and 08.00.

These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.

Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do