



## Licensing Sub-Committee

**Date:** Friday, 26 July 2024  
**Time:** 10.30 am  
**Venue:** Council Chamber, County Hall, Dorchester, DT1 1XJ

**Members (Quorum: 3)**  
Derek Beer, Jill Haynes and Claudia Webb

**Chief Executive:** Matt Prosser, County Hall, Dorchester, Dorset DT1 1XJ

For more information about this agenda please contact Democratic Services  
Meeting Contact 01305 224877 [john.miles@dorsetcouncil.gov.uk](mailto:john.miles@dorsetcouncil.gov.uk)

Members of the public are welcome to attend this meeting, apart from any items listed in the exempt part of this agenda.

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### Agenda

Item		Pages
1.	<b>ELECTION OF CHAIR AND STATEMENT FOR THE PROCEDURE OF THE MEETING</b>	3 - 6
	To elect a Chair for the meeting and the Chair to present and explain the procedure for the meeting.	
2.	<b>APOLOGIES</b>	
	To receive any apologies for absence.	
3.	<b>DECLARATIONS OF INTEREST</b>	
	To disclose any pecuniary, other registrable or non-registrable interests as set out in the adopted Code of Conduct. In making their disclosure councillors are asked to state the agenda item, the nature of the interest and any action they propose to take as part of their declaration. If required, further advice should be sought from the Monitoring Officer in advance of the meeting.	

**4. URGENT ITEMS**

To consider any items of business which the Chair has had prior notification and considers to be urgent pursuant to section 100B (4) b) of the Local Government Act 1972. The reason for the urgency shall be recorded in the minutes.

**5. LICENCE VARIATION - SEAL'S COVE, BRIDPORT**

7 - 68

An application has been made to vary the premises licence for Seal's Cove in Bridport. The application has been out to public consultation and has attracted relevant representations. A Licensing Sub Committee must consider the application and representations at a public hearing.

**6. EXEMPT BUSINESS**

**There are no exempt items scheduled for this meeting.**



## **THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

### Rights of a Party

1. A party has the right to attend the hearing and may be represented by any person.
2. A party is entitled to give further information where the authority has asked for clarification.
3. A party can question another party, and/or address the authority, with consent of the authority.

### Failure to Attend

4. If the authority is informed a party does not wish to attend, the hearing may proceed in their absence.
5. If a party has not indicated their attendance and fails to attend the hearing may be adjourned if considered in the public interest, or hold the hearing ensuring the party's representation is considered.
6. Where the authority adjourns the hearing it shall notify the parties of the date, time and place.

### Procedural Information

7. At the start of the hearing, the authority shall explain the procedure which it proposes to follow and shall consider any request for permission for another person to appear at the hearing.
8. A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that it is required.
9. The authority will allow the parties an equal maximum period of time in which to speak.
10. The authority may require any person behaving disruptively to leave, and may refuse that person to return, but such a person may, before the end of the hearing, submit in writing information they would have been entitled to give orally had they not been required to leave.

### **FOOTNOTE:**

In relation to all other matters governed by the Licensing Act 2003 (Hearings) Regulations 2005 any party or their representative may contact the Licensing Services at Dorset Council and they will be provided with a full copy of the regulations on request.

## LICENSING SUB-COMMITTEE PROCEDURE

1. At the start of the meeting the Chairman will introduce:
  - the members of the sub-committee
  - the council officers present
  - the parties and their representatives
2. The Chairman will then deal with any appropriate agenda items.
3. The Licensing Officer will be asked to outline the details of the application, including details of any withdrawn representations.
4. The applicant or their representative is then invited to present their case.
5. Committee members will be invited to ask questions.
6. Where appropriate the Responsible Bodies e.g. representatives of Police, Fire Services, Environmental Services or Trading Standards will be invited to address the sub-committee on any relevant representations they may have.
7. The Chairman may then allow an opportunity for questions.
8. The Chairman will ask any person who has made representations, who have already expressed a wish to do so, to address the sub-committee. The sub-committee will have read all the papers before them, including any letters of representation. Members of the public are asked to keep their comments concise and to the point.
9. All parties will be given the opportunity to “sum up” their case.
10. The Chairman will ask the Legal Advisor if all relevant points have been addressed before advising all parties present that the sub-committee will withdraw from the meeting to consider its decision in private. The sub-committee will be accompanied by the Democratic Services Officer and the Legal Advisor can be called upon to offer legal guidance.
11. The Chairman will:
  - advise when the sub-committee’s decision will be confirmed in writing.
  - Inform those present of their right to appeal to the Magistrates’ Court.

## **NOTE**

The Chairman may vary this procedure, as circumstances require but will have regard to the rules of natural justice and the Licensing Act 2003 (Hearings) Regulations 2005.

The meeting will take place in public. However, the public can be excluded from all or part of the meeting where the sub-committee considers that the public interest in so doing outweighs the public interest in the meeting or that part of the meeting, taking place in public.

Under no circumstances must the parties or their witnesses offer the sub-committee information in the absence of the other parties.

The Chairman and the Sub-Committee have discretion whether to allow new information or documents to be submitted and read at the meeting.

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## LICENSING SUB-COMMITTEE

26 July 2024

### Licence Variation - Seal's Cove, Bridport

#### For Decision

**Cabinet Member:**

Cllr G Taylor, Health and Housing

**Local Councillor(s):**

Cllrs B Bolwell, D Bolwell and S Williams

**Executive Director:**

Jan Britton, Executive Lead for Place

Report Author: Aileen Powell

Job Title: Licensing Team Leader

Tel: 01258 484022

Email: aileen.powell@dorsetcouncil.gov.uk

**Report Status:** Public

**Brief Summary:** An application has been made to vary the premises licence for Seal's Cove in Bridport. The application has been out to public consultation and has attracted relevant representations. A Licensing Sub Committee must consider the application and representations at a public hearing.

**Recommendation:** The Sub-Committee determines the application in the light of written and oral evidence and resolves to take such steps as it considers appropriate and proportionate for the promotion of the licensing objectives of; -

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) The protection of children from harm

**Reason for Recommendation:** The Sub-Committee must consider all the written representations, the oral representations, and any information given at the hearing before making a decision.

## 1. Background

1.1 Section 4 of the Licensing Act 2003 sets out the duties of the Licensing Authority, it sets out that a Council's licensing functions must be carried out with a view to promoting the four licensing objectives of:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

1.2 All applications and decisions are made with due regard to the [Licensing Act 2003](#) (the Act), the [Revised Guidance issued under Section 182 of the Licensing Act 2003](#) (the Guidance) and the [Dorset Council Statement of Licensing Policy](#) (the Policy).

## 2. Details of the Application

2.1 Cove Cafe Ltd have applied to vary their premises licence under section 34 of the Licensing Act 2023 for Seal's Cove at St Andrews House, Shoe Lane, Bridport, DT6 3EX. The application form is attached at Appendix 1.

2.2 The variation is made to increase the licensed area to cover the whole building (the current licensed area is included in the plan with the existing licence at Appendix 2) and the grassed area out the back of the building, and to add off sales to the licence.

2.3 The application is for; -

### **Live Music (Both indoors and outdoors)**

Everyday 11:00 to 23:30  
NYE and BH 11:00 to 00:30

### **Recorded Music (Both indoors and outdoors)**

Everyday 11:00 to 23:30  
NYE and BH 11:00 to 00:30

### **The Sale of Alcohol (on and off the premises)**

Everyday 11:00 to 23:30  
NYE and BH 11:00 to 00:30

2.4 The application includes statements in the operating schedule at section M that security guards will be deployed, and a decibel meter will be used to monitor sound levels.

2.5 The Environmental Protection Officer has made suggestions about suitable conditions to prevent public nuisance which does not include the use of a decibel meter, see paragraph 3.2.



- 2.6 Officers recommend that a suitable condition to be consistent with the statement relating to security would be: -

For any events in the outside area a risk assessment will be carried out, and documented regarding whether SIA security staff should be employed for the event. The risk assessment will be available to authorised officers on request.

- 2.7 The current licence, which is attached at Appendix 2 allows for; -

**Live Music (indoors)**

Everyday 11:00 to 23:30

NYE and BH 11:00 to 00:30

**Recorded music (indoors)**

Everyday 11:00 to 23:30

NYE and BH 11:00 to 00:30

**Late Night Refreshment (Both indoors and outdoors)**

Everyday 23:00 to Midnight

NYE and BH 23:00 to 01:00

**The Sale of Alcohol (on the premises only)**

Everyday 11:00 to 23:30

NYE and BH 11:00 to 00:30

**3. Responsible Authorities Representations**

- 3.1 Section 13 of the Licensing Act contains the list of Responsible Authorities who must be consulted on each application. Dorset Police, Dorset and Wiltshire Fire Service, Public Health Dorset, the Immigration Authority, Dorset Council Trading Standards, Dorset Council Children's Services, Dorset Council Planning, Dorset Council Licensing, Dorset Council Environmental Protection and Dorset Council Health and Safety have all been consulted.

- 3.2 Environmental Health requested that if the variation is granted, conditions be added to the licence. The applicant has agreed to the suggested conditions, with a subsequent clarification that they wanted to be able to play background music through speakers at events such as a Christmas Market.. The emails are attached at Appendix 3. The conditions and times that are agreed are; -

- The garden area to be emptied of patrons before 22.00hrs.
- When there is live or recorded music indoors all windows and doors will be kept closed except for ingress and egress.
- A clear and legible sign will be placed in a prominent position on all exits reminding patrons to consider neighbours and leave quietly.

With the amended times being; -

**Live Music (indoors)**

Monday to Sunday	11:00 to 23:30
NYE	11:00 to 00:30
BH	11:00 to 00:30

**Live Music (outdoors)**

Monday to Thursday	11:00 to 23:00
Friday to Sunday	11:00 to 23:30
NYE	11:00 to 00:30
BH when it falls on a Friday	11:00 to 00:30

**Recorded Music (indoors)**

Monday to Sunday	11:00 to 23:30
NYE	11:00 to 00:30
BH	11:00 to 00:30

**Recorded Music (outdoors)**

Monday to Thursday	11:00 to 23:00
Friday to Sunday	11:00 to 23:30
NYE	11:00 to 00:30
BH when it falls on a Friday	11:00 to 00:30

**The Sale of Alcohol (on and off the premises)**

Everyday	11:00 to 23:30
NYE	11:00 to 00:30
BH	11:00 to 00:30

3.3 Environmental Protection have also requested conditions that: -

- No live or recorded music shall be held in the garden area except acoustic (i.e. no amplification of any sort – no microphones, amplifiers, etc)
- There will be no external speakers.

3.4 The applicant has requested the ability to have speakers outside to play background music at events to provide an ambience, and stated they will monitor the levels with the aid of a decibel meter.

3.5 The imposition and effect of these conditions is complicated by the exemptions set out in Schedule 1 of the Licensing Act 2003, the Live Music Act 2012 and The Legislative Reform (Entertainment Licensing) Order 2014. The Guidance explains the effect of this at Chapter 16 which is attached, in full, at Appendix 7.

3.6 Schedule 1 of the Licensing Act sets out what constitutes Regulated Entertainment and exempts background music, any music that is incidental to an event that is not licensable and any music at fetes or fairs from requiring a licence.

3.7 The Live Music Act gives an exemption to any music between 8am and 11pm, on a premises licensed for alcohol, and where the audience is less than 500.

- 3.8 The Legislative Reform (Entertainment Licensing) Order 2014 inserted Section 177A (2) into the Act which means that any conditions on any licence do not have any effect, if they relate to Live or Recorded Music between 8am and 11pm.
- 3.9 Because of all the exemptions the conditions relating to either live or recorded music, whether that be inside or outside will only be enforceable after 11pm. This applies to the two disputed conditions and the doors and windows condition.
- 3.10 It would also mean that any condition relating to outside speakers would not impact on the events mentioned in the applicants email in Appendix 3.
- 3.11 Dorset and Wiltshire Fire Service and Dorset Council Children's Services responded that they had no concerns regarding the application.
- 3.12 No representations from any of the remaining Responsible Authorities have been received.

#### 4. **Representations from Other Persons**

- 4.1 There has been one representation from the Town Council.

**Seal's Cove on St Andrews Trading Estate.** Object. The Council has particular concerns about the licensing of the outdoor area for entertainment and sale of alcohol, as this presents a heightened risk of noise (public nuisance to nearby residences and adjoining public open space), and crime and disorder. The Council is further concerned about the sale of alcohol in an establishment at which, as the applicant states, "...a major part of the business is children's soft play". A major concern in respect of alcohol consumption is that the establishment appears to have planning permission for a 'firing range'; even though it is unclear whether this facility is currently offered, it is very clearly the case that the use of firearms alongside alcohol consumption in a children's attraction is a wholly unsafe combination. The Council has no objection in principle to the licensing of these premises and is happy to engage with the applicant to seek further details, assurances, and amendments to the application that address the concerns raised.

- 4.2 Representations have also been received from two residents of Bridport objecting to the application and one in support of the application. The representations against the application cite the reasons of nuisance being caused by lights and sound in the external area as well as disturbance to wildlife. The full representations are attached at Appendices 4 and 5.
- 4.3 For the content of a representation to be taken into consideration it must be relevant to one of the four Licensing Objectives set out in paragraph 1.1 of this report.
- 4.4 Representations about noise, light pollution and public safety on the site all relate directly to one of the Licensing Objectives and are therefore relevant representations.

- 4.5 Representations about flora and fauna do not relate to one of the Licensing Objectives and whilst the Council is under a general duty to protect the environment, the Guidance is very clear that the four Licensing Objectives are the only considerations for the Sub-Committee, see paragraph 6.1 of this report.
- 4.5 The Applicant has put a response together which is attached at Appendix 6, and which has been circulated to all of the parties.

## **5. Relevant Sections of the Licensing Act 2003**

- 5.1 Section 4 sets out the general duties of the Licensing Authority; -
- (1) A licensing authority must carry out its functions under this Act (“licensing functions”) with a view to promoting the licensing objectives.
  - (2) The licensing objectives are—
    - (a) the prevention of crime and disorder;
    - (b) public safety;
    - (c) the prevention of public nuisance; and
    - (d) the protection of children from harm.
  - (3) In carrying out its licensing functions, a licensing authority must also have regard to—
    - (a) its licensing statement published under section 5, and
    - (b) any guidance issued by the Secretary of State under section 182.

## **6. Relevant Sections of the Statutory Guidance issued under Section 182**

- 6.1 Paragraphs 1.2, 1.4 and 1.5 of the Revised Guidance issued under Section 182 of the Licensing Act 2003 issued in December 2023 (The Guidance) sets out the Licensing Objectives and aims; -

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

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

However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on

- business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

6.2. Paragraph 1.16 of the Guidance sets out how conditions should be formulated; -

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met;
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

6.3. Paragraph 1.19 states; -

While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation.

6.4 Paragraphs 9.42 – 9.44 of the Guidance set out how the Licensing Authority will determine an application; -

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.

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.

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

## **6 Options**

6.1 The members of the Sub-Committee will determine the application in the light of all of the written representations and any oral evidence given at the hearing. They will take such steps as they consider appropriate and proportionate for the promotion of the licensing objectives of; -

- a) The prevention of crime and disorder
- b) The prevention of public nuisance
- c) Public safety
- d) The protection of children from harm

6.2 The steps that the Sub-Committee may take are to: -

- a) modify the conditions of the licence, or
- b) reject the whole or part of the variation.

## **7 Financial Implications**

Any decision of the Sub Committee could lead to an appeal by any of the parties involved that could incur costs.

## **8 Natural Environment, Climate & Ecology Implications**

The Council is under a general duty to consider the impact any decision will have on the Natural Environment, Climate and local ecology.

## **9 Well-being and Health Implications**

None

10 **Other Implications**

None

11 **Risk Assessment**

11.1 HAVING CONSIDERED: the risks associated with this decision; the level of risk has been identified as:

Current Risk: Low

Residual Risk: Low

12 **Equalities Impact Assessment**

Not applicable

13 **Appendices**

Appendix 1 - Application and Plan

Appendix 2 – Licence and Plan

Appendix 3 - Representation from Environmental Protection

Appendix 4 - Representations Against the Application

Appendix 5 - Representation for the Application

Appendix 6 - Response to the Representations from the Applicant

Appendix 7 – Ch 16 Revised Statutory Guidance

14 **Background Papers**

[Licensing Act 2003](#)

[Home Office Guidance issued under Section 182 of the Licensing Act 2003](#)

[Dorset Council Statement of Licensing Policy 2021](#)

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### Application to vary a premises licence 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 COVE CAFE LTD  
(Insert name(s) of applicant)

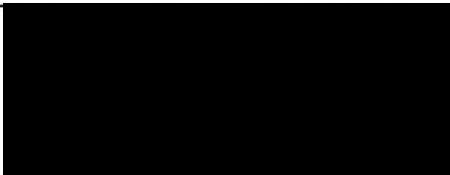

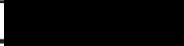
being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number	WDPL0795
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#### Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description			
SEAL'S COVE LTD ST ANDREWS HOUSE SHOE LANE			
Post town	BRIDPORT	Postcode	DT6 3EX
Telephone number at premises (if any)	01308 805020		
Non-domestic rateable value of premises	£ 15,000		

#### Part 2 – Applicant details

Daytime contact telephone number	01308 805020		
E-mail address (optional)			
Current postal address if different from premises address			
Post town		Postcode	

**Part 3 - Variation**

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?

 Yes  
No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY

**Please describe briefly the nature of the proposed variation** (Please see guidance note 1)

WE WOULD LIKE TO LICENSE THE WHOLE BUILDING AND LOOK INTO THE POSSIBILITY OF OBTAINING A LICENSE FOR OFF SALES.

WE WOULD LIKE TO LICENSE THE GRASS AREAS OUT THE BACK OF THE BUILDING

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

**Part 4 Operating Schedule**

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

**Provision of regulated entertainment****Please tick all that apply**

- |  |                                     |
|--|-------------------------------------|
| a) plays (if ticking yes, fill in box A)   | <input type="checkbox"/>            |
| b) films (if ticking yes, fill in box B)   | <input type="checkbox"/>            |
| c) indoor sporting events (if ticking yes, fill in box C)  | <input 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)<br>(if ticking yes, fill in box H) | <input type="checkbox"/>            |

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

**Sale by retail of alcohol** (if ticking yes, fill in box J)

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

A

Plays Standard days and timings (please read guidance note 6)			<u>Will the performance of a play 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			
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

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"/>
				Both	<input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	11:00	23:30	Please give further details here (please read guidance note 3) WE DON'T CURRENTLY HAVE ANY LIVE MUSIC BUT WOULD LIKE THE POSSIBILITY ON A ONE OFF EVENT		
Tue	11:00	23:30			
Wed	11:00	23:30	State any seasonal variations for the performance of live music (please read guidance note 4) <del>BA</del> NEW YEARS EVE AND ALL NATIONAL BANK HOLIDAYS (23:00-00:30)		
Thur	11:00	23:30			
Fri	11:00	23:30	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) <del>BA</del> NEW YEARS EVE AND ALL <del>BA</del> NATIONAL BANK HOLIDAYS (23:00-00:30)		
Sat	11:00	23:30			
Sun	11:00	23:30			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			Will the boxing or wrestling entertainment 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 boxing or wrestling entertainment (please read guidance note 4)		
Wed					
Thur			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 (please read guidance note 5)		
Fri					
Sat					
Sun					

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	23:30	Please give further details here (please read guidance note 3) WE DO CURRENTLY PLAY RECORDED MUSIC BUT WOULD LIKE TO IN THE FUTURE OUTSIDE AT A SENSIBLE VOLUME LEVEL		
Tue	11:00	23:30			
Wed	11:00	23:30	State any seasonal variations for the playing of recorded music (please read guidance note 4) NEW YEARS EVE AND ALL <del>NATIONAL</del> NATIONAL BANK HOLIDAYS (23:00 - 00:30)		
Thur	11:00	23:30			
Fri	11:00	23:30	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)  NEW YEARS EVE AND <del>NATIONAL</del> ALL NATIONAL BANK HOLIDAYS (23:00 - 00:30)		
Sat	11:00	23:30			
Sun	11:00	23:30			

G

<b>Performances of dance</b> Standard days and timings (please read guidance note 6)			<b>Will the performance of dance take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	
			Indoors	<input type="checkbox"/>
			Outdoors	<input type="checkbox"/>
			Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>Please give further details here</b> (please read guidance note 3)	
Mon				
Tue				
Wed			<b>State any seasonal variations for the performance of dance</b> (please read guidance note 4)	
Thur				
Fri			<b>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</b> (please read guidance note 5)	
Sat				
Sun				



J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
Day	Start	Finish		Both	<input checked="" type="checkbox"/>
Mon	11:00	23:30	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)  <del>NEW YEARS EVE AND</del> ALL NATIONAL BANK HOLIDAYS (23:00 - 00:30)		
Tue	11:00	23:30			
Wed	11:00	23:30			
Thur	11:00	23:30		<b>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</b> (please read guidance note 5)	
Fri	11:00	23:30		<del>NEW YEARS EVE AND</del> ALL NATIONAL BANK HOLIDAYS (23:00 - 00:30)	
Sat	11:00	23:30			
Sun	11:00	23:30			

K

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

WE DO NOT ANTICIPATE ANY EVENTS THAT WOULD GIVE RISE TO CONCERN IN RESPECT OF CHILDREN GIVEN THAT A MAJOR PART OF THE BUSINESS IS A CHILDREN'S SOFT PLAY.

L

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)			<b>State any seasonal variations</b> (please read guidance note 4)
Day	Start	Finish	
Mon	09:00	23:30	NEW YEARS EVE AND ALL NATIONAL BANK HOLIDAYS (23:00 - 00:30)
Tue	09:00	23:30	
Wed	09:00	23:30	
Thur	09:00	23:30	
Fri	09:00	23:30	
Sat	09:00	23:30	
Sun	09:00	23:30	

**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)

NEW YEARS EVE AND ALL NATIONAL BANK HOLIDAYS (23:00 - 00:30)

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

THE ONLY CHANGES WOULD BE THE OFF SALE OF ALCOHOL AS WELL AS HAVING BOTH LIVE AND RECORDED MUSIC INDOORS AND OUTDOORS.

**M**

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 9)**

WE ARE GOING TO HAVE SECURITY STAFF ~~TO~~ TO ENSURE THE SAFETY AND WELLBEING OF OUR ~~OUR~~ CUSTOMERS, EMPLOYEES AND TO HELP MINIMISE PUBLIC NUISANCE. WE WILL ALSO HAVE DECIBEL READERS TO MONITOR NOISE FROM GUESTS AND MUSIC.

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

[Empty box for response to objective b)

**c) Public safety**

[Empty box for response to objective c)

**d) The prevention of public nuisance**

[Empty box for response to objective d)

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

[Empty box for response to objective e)

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

**This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.**

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
3. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, each of the applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

## Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I understand that I must now advertise my application.
- I have enclosed the premises licence or relevant part of it or explanation.
- I understand that if I do not comply with the above requirements my application will be rejected.

**IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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 5 – Signatures** (please read guidance note 10)

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

Signature	[REDACTED]
Date	10 <sup>th</sup> May 2024
Capacity	MANAGING DIRECTOR

**Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) 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	

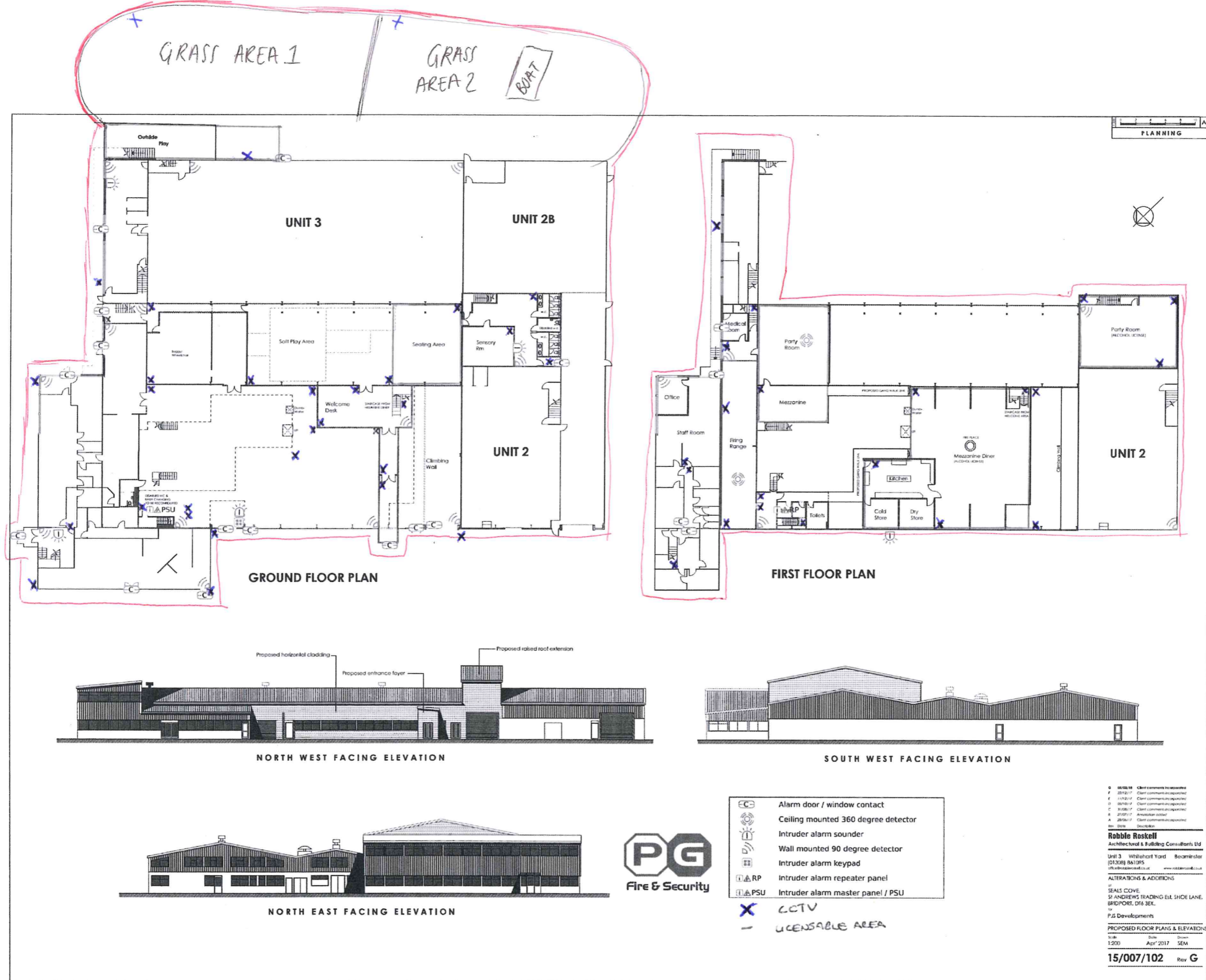
**Contact name (where not previously given) and address for correspondence associated with this application** (please read guidance note 13)

SEALS COVE, ST ANDREWS HOUSE, SHOE LANE,  
BRIDPORT

Post town	BRIDPORT	Post code	DT6 3EX
Telephone number (if any)	01308 805020		
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			
[REDACTED]			

The council has a duty to protect the public funds it administers, and to do this may use the information you have provided on this form to prevent and detect fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. Where appropriate, and as part of its commitment to improving customer service, the council may also share the information provided on this form with other council services. For more information, see <http://www.dorsetforyou.com/fraud> or contact Finance Manager on 01305 252292.

**Notes for Guidance**







**Licensing Act 2003**  
**Premises Licence**

**WDPL0795**

Part 1 - Premises Details

**POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION**

**Cove Cafe Limited**

Seals Cove, St Andrews House, St Andrews Trading Estate, Shoe Lane, Bridport, Dorset, DT6 3EX.

**WHERE THE LICENCE IS TIME LIMITED THE DATES**

Not applicable

**LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE**

- a performance of live music
- any playing of recorded music
- provision of late night refreshment
- the supply of alcohol

**THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES**

Activity (and Area if applicable)	Description	Time From	Time To
E. Performance of live music (Indoors)	Monday to Sunday New Years Eve , All National Bank Holidays: 23:00 - 00:30	11:00pm	11:30pm
F. Playing of recorded music (Indoors)	Monday to Sunday New Years Eve , All National Bank Holidays: 23:00 - 00:30	11:00pm	11:30pm
I. Late night refreshment (Indoors & Outdoors)	Monday to Sunday New Years Eve , All National Bank Holidays: 23:00 - 01:00	11:00pm	Midnight
J. Supply of alcohol for consumption ON the premises only	Monday to Sunday New Years Eve , All National Bank Holidays: 11:00 - 00:30	11:00am	11:30pm

**THE OPENING HOURS OF THE PREMISES**

Description	Time From	Time To
-------------	-----------	---------

**WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES**

- J. Supply of alcohol for consumption ON the premises only

Part 2

**NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE**

Cove Cafe Limited  
Wadebridge House, 16 Wadebridge Square, Poundbury, Dorchester, Dorset, DT1 3AQ.  
[REDACTED]

**REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)**

Cove Cafe Limited 10889361

**Licensing Act 2003**  
**Premises Licence**

**WDPL0795**

**NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR OR MANAGEMENT COMMITTEE WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

Michael John BYRNE  
[REDACTED]

**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL**

Licence No. PA1663

Issued by West Dorset

**ANNEXES**

**ANNEX 1 - MANDATORY CONDITIONS**

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

**1. Designated Premises Supervisor**

No supply of alcohol may be made under this premises licence -

- (i) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - (ii) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.
3. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
- a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the

## Licensing Act 2003 Premises Licence

**WDPL0795**

### ANNEXES continued ...

premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

- e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
  - (a) a holographic mark or
  - (b) an ultraviolet feature.
- 6. The responsible person shall ensure that -
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

### Minimum Drinks Pricing

- 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2. For the purposes of the condition set out in paragraph 1 -
  - (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
  - (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

**Licensing Act 2003**  
**Premises Licence**

**WDPL0795**

ANNEXES continued ...

- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence -
    - (i) The holder of the premises licence
    - (ii) The designated premises supervisor (if any) in respect of such a licence, or
    - (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## Licensing Act 2003 Premises Licence

**WDPL0795**

ANNEXES continued ...

### If the Premises Licence allows Exhibition of Films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where
  - (a) The film classification body is not specified in the licence, or
  - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section “children” means any person aged under 18; and

“film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984(c39) (authority to determine suitability of video works for classification).

### If the Premises Licence has conditions in respect of Door Supervision except theatres, cinemas, bingo halls and casinos

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:
  - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
  - (b) be entitled to carry out that activity by virtue of section 4 of the Act.
2. But nothing in subsection (1) requires such a condition to be imposed:
  - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or
  - (b) in respect of premises in relation to:
    - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
    - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section:
  - (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and
  - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

## ANNEX 2 - OPERATING SCHEDULE

### The Prevention of Crime and Disorder

- A Closed-Circuit Television (CCTV) system will be operational at the premises at all times when licensable

## Licensing Act 2003 Premises Licence

**WDPL0795**

### ANNEXES continued ...

activities are being carried out and at any other times when members of the public are present on the premises

- The CCTV system will have sufficient storage retention capacity for a minimum of 31 days' continuous footage
- A designated member of staff at the premises will be authorised to access the CCTV footage and be conversant with operating the CCTV system. At the request of an authorised officer of the Licensing Authority or a Responsible Authority (under the Licensing Act 2003) any CCTV footage, as requested, will be downloaded immediately or secured to prevent any overwriting. The CCTV footage material will be supplied, on request, to an authorised officer of the Licensing Authority or a Responsible Authority with the absolute minimum of delay.
- The DPS will ensure that an Incident Report Register is maintained on the premises to record incidents such as anti-social behaviour, admissions refusals and ejections from the premises
- The Incident Report Register will be produced for inspection immediately on the request of an authorised officer of the Licensing Authority or a Responsible Authority or Police
- The premises must adopt a dispersal policy for the patrons leaving the premises. The policy must include, but not be limited to, the management of patrons leaving the premises after 2300hrs to ensure public nuisance is kept to a minimum. The policy must be kept in a written form on site. The policy must be available to be viewed by either an authorised council officer or police constable on request. Staff, including any door supervisors must be trained at the commencement of their employment and at six monthly intervals thereafter. They must be conversant with this policy and adhere to it at all times. A written record must be kept of all training delivered on this policy.

### Public Safety

- The premises will be maintained in a safe manner at all times
- All exits will be kept unobstructed, easy to open and clearly signed
- All staff will be trained in emergency procedures and training records maintained
- Written records of all accidents and safety incidents involving members of the public and/or staff will be kept. These will be made available at the request of an authorised officer
- A suitably trained and competent person must ensure weekly safety check of the premises, decorative and functional fixtures, floor surfaces and equipment (including electrical appliances) to which the public may come into contact are undertaken. Records of these safety checks must be kept and made available for inspection by an authorised officer
- First Aid equipment and materials adequate for the number of persons on the premises will be available on the premises at all times. All staff will be made aware of first aid location

### The Prevention of Public Nuisance

- All refuse will be disposed of in an appropriate manner. Staff will be instructed to maintain all external areas

**Licensing Act 2003**  
**Premises Licence**

**WDPL0795**


ANNEXES continued ...

in a clean and presentable manner at all times

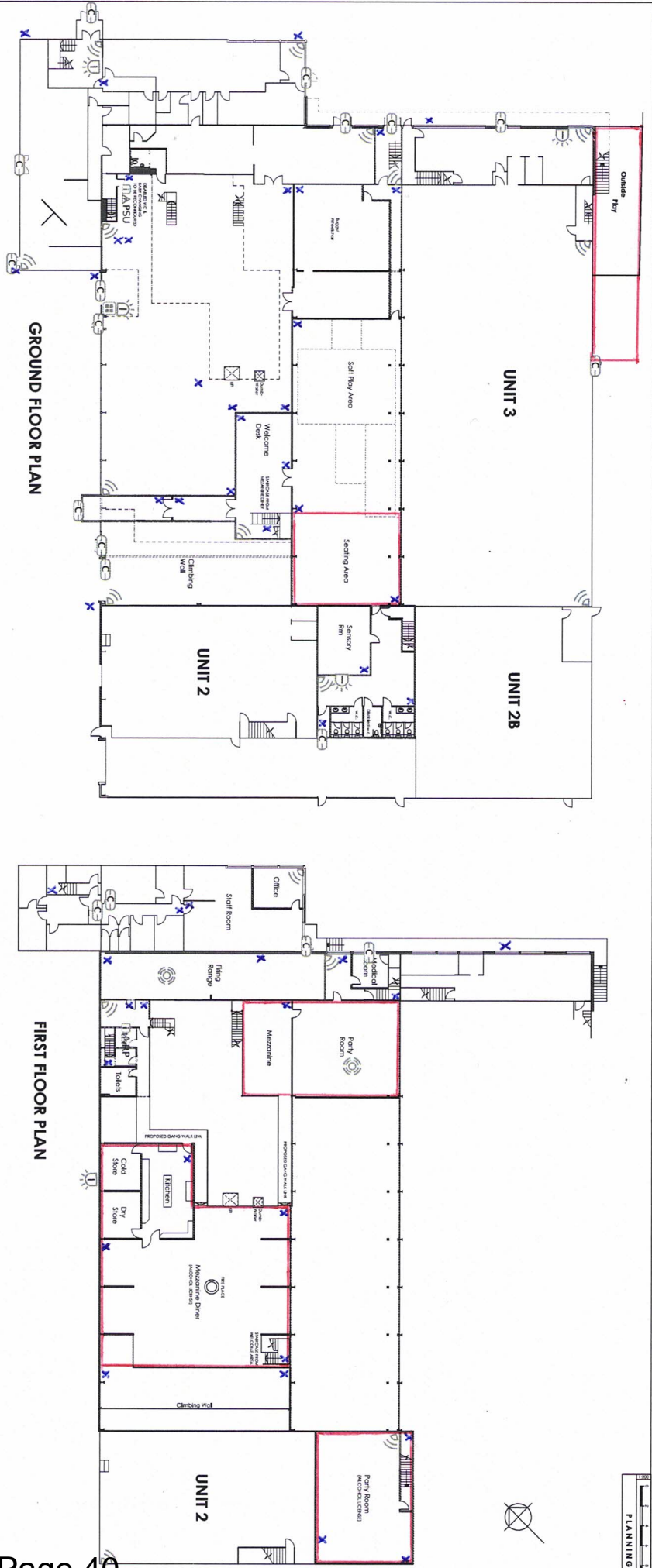
- Notices will be displayed asking patrons to leave the premises quietly and to have respect for local residents
- Drinks in open bottles and glasses will not be taken from the premises at any time. Empty bottles and glasses will be collected regularly and promptly
- The DPS will prominently display notices which inform customers that open bottles or glasses may not be taken off the premises
- A direct telephone number for the duty manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
- For live and recorded music after 2300 hours, a sound limiting device located in a separate and lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service to ensure that no noise nuisance is caused to local residents. The operational panel of the noise limiter shall then be secured. The keys securing the noise limiter cabinet shall be held by the licence holder or authorised manager only, and shall not be accessed by any other person.

**The Protection of Children from Harm**

- The staff will ask for photographic identification in the form of either a passport, EU photographic driving licence or PASS accredited identification, from any person appearing to be under the age of 25 who attempts to purchase alcohol at the premises
- A log shall be kept detailing all refused sales of alcohol. The log should include the date and time of the refused sale, a description of the person refused, why they were refused (e.g. no ID, fake ID) and the name of the member of staff who refused the sale. The log shall be available for inspection at the premises by the police or an authorised officer of the Licensing Authority or a Responsible Authority (under the Licensing Act 2003)
- The premises will operate a "No ID, No Sale" policy at all times for persons who look under 25.
- Staff will be trained in the understanding of this policy and training records maintained for inspection if requested by the police or any other responsible authority

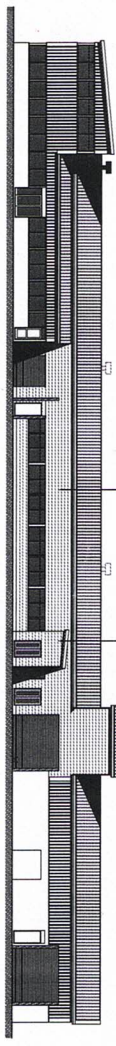


Business Licensing

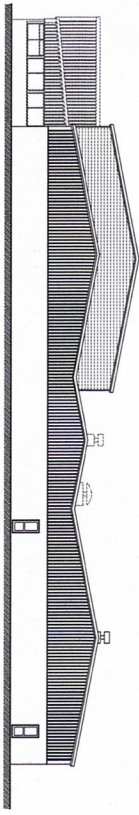


GROUND FLOOR PLAN

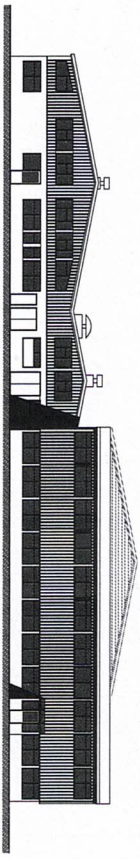
FIRST FLOOR PLAN



NORTH WEST FACING ELEVATION



SOUTH WEST FACING ELEVATION



NORTH EAST FACING ELEVATION



	Alarm door / window contact
	Ceiling mounted 360 degree detector
	Intruder alarm sounder
	Wall mounted 90 degree detector
	Intruder alarm keypad
	Intruder alarm repeater panel
	Intruder alarm master panel / PSU

X CCTV  
 UCEMSABLE AREA

9 08/06/18 - Client Commissioning the equipment  
 8 17/02/18 - Client Commissioning the equipment  
 7 17/02/18 - Client Commissioning the equipment  
 6 28/07/17 - Client Commissioning the equipment  
 5 28/07/17 - Client Commissioning the equipment  
 4 28/07/17 - Client Commissioning the equipment  
 3 28/07/17 - Client Commissioning the equipment  
 2 28/07/17 - Client Commissioning the equipment  
 1 28/07/17 - Client Commissioning the equipment

**Robbie Roskill**  
 Architectural & Building Consultants Ltd  
 Unit 23, Washburn Ford, Bourneville  
 0121 661 0195  
 info@rcb.co.uk, 0121 661 0195

ALTERATIONS & ADDITIONS  
 SEALS COVE  
 58 ANDREWS TRADING EST SHOE LANE  
 BIRMINGHAM, B15 2JN

P25 Developments  
 APPROVED FLOOR PLANS & ELEVATIONS  
 Scale: 1:500  
 Date: Apr 2017  
 Rev: G  
 15/007/102



## Appendix 3

I am contacting you to open a conversation about the above variation and the concerns I have with regard to the prevention of public nuisance.

I understand that the variation intends to extend into the garden area to the rear and that you would like to have regulated entertainment in this area until 23.30 hrs, extending on NYE and BH until 00.30.

I would like to propose the following conditions:

- No regulated entertainment shall be held in the garden area except acoustic (i.e. no amplification of any sort – no mikes, amps, etc ). (recorded background music can continue)
- No conveyance of internal regulated entertainment shall be emitted via speakers to the garden area.
- Internal regulated entertainment shall be permitted until 23.30hrs and extended to 00.30 on the following day on Fridays, Saturdays and Sundays, where a Bank Holiday Monday arises, and on NYE. Monday to Thursday where regulated entertainment arise it shall stop at 23.00hrs.
- The garden area to be emptied of patrons before 22.00hrs.
- Doors and windows of the premises to be closed except for access and egress when regulated entertainment arises.
- A legible and clear sign to be placed in a prominent position on the egress points reminding patrons to consider neighbours and quietly leave – or words to that effect.

The reason I am requesting your agreement to these conditions is because you have residential premises in close proximity to the site and the hours you have requested pose the possibility of nuisance.

Please note that should complaints arise from the regulated entertainment, and are substantiated, we may consider reviewing your licence which may see the above conditions applied between 11.00 and 23.00hrs when the Live Music Act exempts you from them. It is good practise to adhere to the agreed conditions to prevent the possibility of a complaint being made even within this time period.

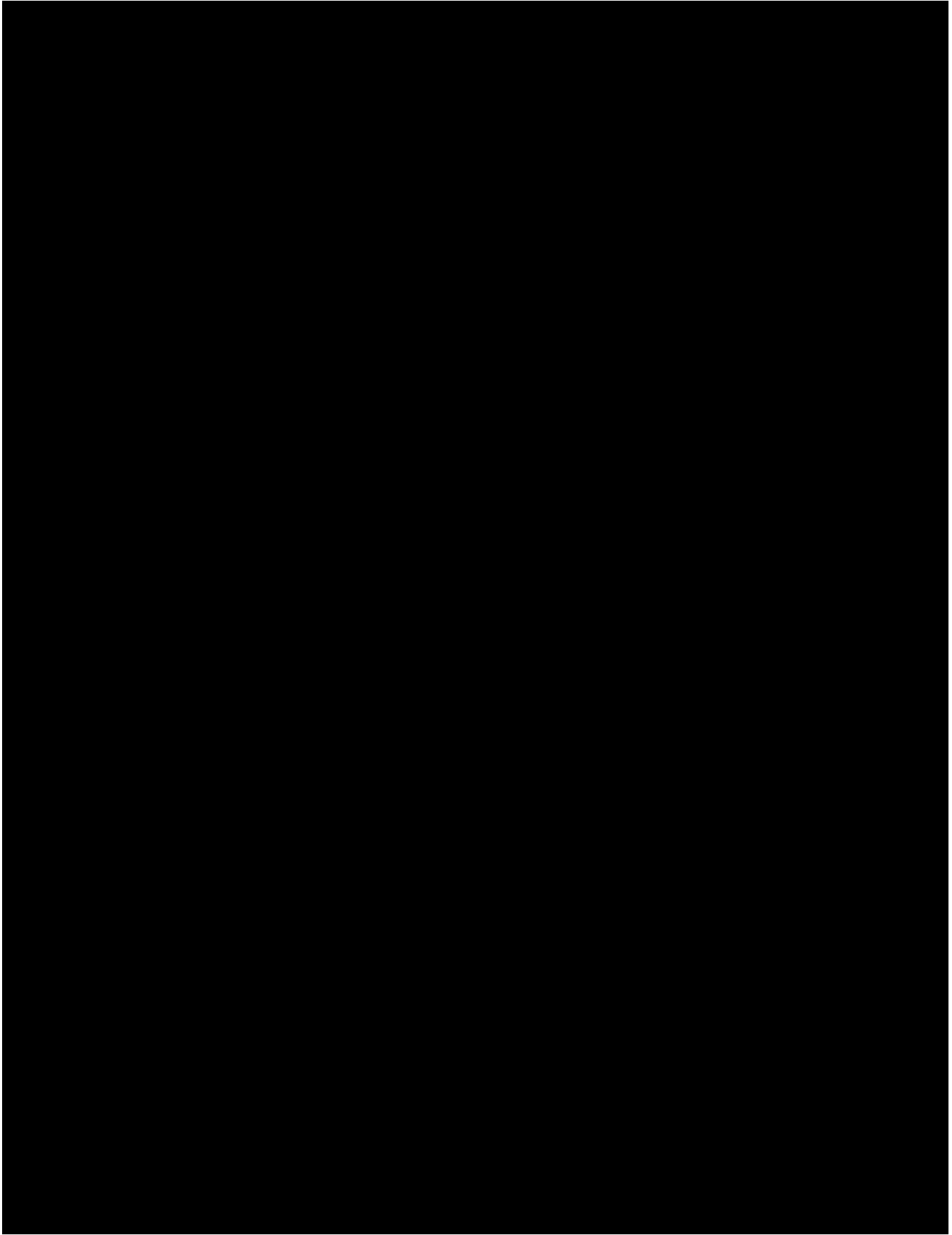
Please confirm that the above conditions are agreeable (or start negotiation) within 7 days of this email. If I do not hear from you I will be obliged to object until we have confirmed our agreement.

Jane Williams

Environmental Protection Team Leader

## Response

Thank you for your swift response, I have had a discussion with Mr Seal and we are happy to accept the conditions you have sent us.



To: DORSET COUNCIL LICENSING [Licensing@dorsetcouncil.gov.uk](mailto:Licensing@dorsetcouncil.gov.uk)

Open Application 070975: Cove Café Ltd, Variation of a premises licence in respect of Seals Cove, St Andrews House, Shoe Lane, Bridport DT6 3EX.

I refer to the Public Notice Licensing Act 2003 clearly displayed alongside the land adjoining “Seal’s Cove” in the Bradpole Ward of Bridport Town Council which seeks a variation of the premises licence in respect of Seals Cove, St Andrews House, Shoe Lane, Bridport DT6 3EX: **“For regulated entertainment indoors and outdoors and to add the provision of alcohol for off sales and increase of licensable area generally between the hours of Monday to Sunday 11:00 ~ 23:30.”**

A similar application was made in 2020 and was considered by the Dorset Licensing sub committee on Weds 15<sup>th</sup> July 2020.

The [minutes](#) of that meeting report that the Licensing Officer advised that the applicant had [written](#) to withdraw some parts of the application resulting in the amended application being:

“The supply of alcohol (on sales only) between 1100hrs and 2330hrs daily, with an additional hour on New Year’s Eve and all national bank holidays”.

In short the external areas had been eliminated from the application as had the request for “anything similar to live music, recorded music and performances of dance”.

The application was subsequently granted with conditions including:

“a sound limiting device located in a separate and lockable cabinet from the volume control shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service to ensure that no noise nuisance is caused to local residents.”

This condition clearly demonstrates that concern was then given to the amenity of local residents particularly in relation to acoustic matters.

I am not aware of any local concerns having been raised since the licence was granted and the business appears to be favoured by many users.

### Current Application

This appears to seek the re-introduction of the application for an outdoor licence which was withdrawn from the 2020 application.

The following extract from the current application indicates the proposed activities and times:

#### Permitted Activities

- provision of late night refreshment
- a performance of live music
- any playing of recorded music
- the supply of alcohol

#### Activities - Times Requested

	Time From	Time To	
<b>E. Performance of live music (Indoors &amp; Outdoors)</b>			
Monday to Sunday	11:00	23:30	New Years Eve , All National Bank Holidays: 23:00 - 00:30
<b>F. Playing of recorded music (Indoors &amp; Outdoors)</b>			
Monday to Sunday	11:00	23:30	New Years Eve , All National Bank Holidays: 23:00 - 00:30
<b>I. Late night refreshment (Indoors &amp; Outdoors)</b>			
Monday to Sunday	23:00	00:00	New Years Eve , All National Bank Holidays: 23:00 - 01:00
<b>J. Supply of alcohol for consumption ON and OFF the premises</b>			
Monday to Sunday	11:00	23:30	New Years Eve , All National Bank Holidays: 23:00 - 00:30

Here we again see the request for the performance of live music as well as the supply of alcohol. These proposed activities will have acoustic implications, which can less easily be managed in the case of outdoor activities, particularly during the later evening sessions, for the number of nearby residential dwellings that could be considered to be within acoustic range.

I appreciate that only those elements that relate to the licensing application can be considered, however there does here appear to be a cross-over between planning and licensing.

The grass area adjacent to where the Public Notice was placed sits to the rear of the “Seal’s Cove” premises within the flood plain of the River Asker and is likely to be the site to which the outdoor licence would apply. There is a protective flood bank between this grass area and the physical premises of “Seal’s Cove” to protect the latter. Site flooding is a feature including in recent months.

This site is designated as a Local Green Space in the [2020 Bridport Area Neighbourhood Plan](#) (Policy L3: Happy Island). This designation was achieved as a result of criteria being met for such a designation which includes:

- Tranquillity: a place that offers an escape from everyday urban noise and activity.
- Beauty: A place of aesthetic beauty that adds to the visual qualities of the neighbourhood plan area.
- Wildlife: A place that provides a haven for wildlife, both animals and plants.

Since any external facility will also require lighting, where there is currently none, it would seem that the application is not in accord with the designation of a Local Green Space.

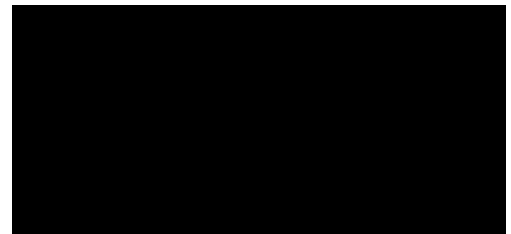
Within this site there currently appears to be what is an incomplete unauthorised development comprising of raised decking/staging, a concrete services installation and an amphibious craft. A retrospective [planning application](#) was recently made relating to this which was subsequently withdrawn.



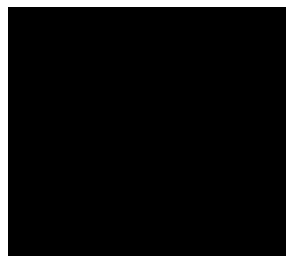
Previous planning approval conditions (example [WD/D/16/000838](#)) have sought to “safeguard the character and appearance of the development having regard to its surroundings and relationship of the site with the character of the Dorset AONB; the adjoining River Asker, and the site’s countryside surroundings; and, any future development on adjoining land in accordance with the provisions of Policies ENV1, ENV10, ENV12, ENV16, ECON1 and ECON2, contained in the West Dorset, Weymouth and Portland Local Plan – Adopted October, 2015.”

I imagine that a site visit will be appropriate to enable members of the licensing Committee/sub-committee to understand the implications arising from this application, the as yet unknown future usage of the site, and how the 2003 Licencing Act mandatory conditions may be applied.

Whilst my wife & I live beyond the acoustic range we do appreciate the protection given to the Asker River Valley (Happy Island) by way of the Bridport Area Neighbourhood Plan, we therefore object to this application in regard to the exterior areas.



22/06/24



DORSET COUNCIL  
27 JUN 2024  
Digital Mail Room

Dear Sir

I wish to comment on the Licensing Application for Cove Cafe Ltd St Andrews Industrial Estate Bridport.

My worry is the activities that will take place on the outdoor decked area at the rear of the main building. This area is close to the river and is on silt. This will mean that any vibration will be transmitted easily to the river and will affect the fish by driving them away even if only temporarily.

I believe there are reports of otters along this stretch which may be adversely affected as they do not like noise or lights or disturbance. It is of course a protected animal.

Please take these observations into account when discussing this part of the application.

Yours



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## Licensing

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**From:** [REDACTED]  
**Sent:** 18 June 2024 13:23  
**To:** Licensing  
**Subject:** WDPL0795

**Categories:** [REDACTED]

Comments on application to vary the licence at Seals Cove DT6 3 EX Application WDPL0795 From [REDACTED]  
[REDACTED]

As this family attraction is adding to the cultural resources of an expanding Bridport town, I feel that I must support the application. To be able to employ live music as well as recorded, would enable evening entertainment in a welcoming setting- provided all is finished by 11:30 pm there should be a due respect of neighbours and no public nuisance.

The application sensibly mentions the use of decibel recorders and it may be that the council incorporate reference to decibel spread., although residential neighbours are not closeby on Shoe Lane.

The use of the grassed area behind would enable family events to take place in an attractive indoor / outdoor setting which the venue at present needs, to develop a wider offering to the community. The closure of local public houses restricts available venues.

The responsible attitude of the management to their young and older customers is in line with the principles of licensing.

I have no comment on "off sales".  
[REDACTED]

Sent from my iPhone

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### Seal's Cove Journey so far...

Seal's Cove is a family-owned and operated business whom, over the past 8-9 years has embarked on a transformative journey. The premises have been owned and maintained by the current family for the past 25 years who are wanting to develop this lovely green space to continue uniting the community.



As we continue to expand our offerings, we aim to create an outdoor area that serves as a picnic and amenity space for our customers, local residents and passersby to further enhance our goal of being a central hub for the community. We hope to bring more people together and support the local people/charities. Several local community groups have asked if they could use the facility for fund raising events and this use would fit in well with the community orientated use of the leisure facilities at Seal's Cove. Our vision includes providing refreshments (teas, coffees and cakes) for both customers and passers-by, creating a community based atmosphere and supporting local charities by hosting these fundraising events.

The Paddock area behind Seal's Cove since being owned by the family has undergone significant enhancements, elevating its overall appeal and aesthetics. Previously, the paddocks were overgrown by bramble bushes, overran with dog mess and litter and required considerable hard work and dedication put in by the family to have it looking the way we all know it today. Due to this hard work and dedication, we are only hoping to improve this area and have a space for everyone to enjoy its natural beauty. To maintain its beauty, we painted the building to blend in with the environment to make it less of an eyesore and more aesthetically pleasing, we plan to do the same with the boat. The way the boat currently looks is not its final look. It will be painted to look attractive and to blend in with its surroundings, so, despite it currently being an eyesore, this is not how it will look in the end. It is in all of our interest to keep the area looking as attractive and welcoming as possible in keeping with the improvements and development of the area that the family has already made, which is currently enjoyed by many local walkers and residents.

The open grassland areas will remain as they are and no trees or hedges will be impacted by our future plans, in fact we are aiming to support the local insect communities by planting wildflowers (i.e. Elderflower bushes) within the paddocks in which the boat is located. Wildflowers such as Elderflowers are a vital source of food for pollinators such as bees, butterflies, and other insects. The berries also are a food source for birds and mammals. We hope to do our part to reduce the decline of bee and other insect populations by having a dedicated area where these bushes are planted. We would support local businesses by sourcing the seeds/shrubs from them. The grass areas will continue to be maintained to ensure the natural beauty remains.



The family's goal of uniting the community has also been reflected by placing the two benches on their private property, for the public's enjoyment which I'm sure many of you have sat on to enjoy your lunch or the nature. Additionally, the family installed 3 dog poo bins along the river, which they diligently maintained and changed every day until the council took over this responsibility after 3 months. Furthermore, we fitted brand new fencing around the perimeter of the Paddock to mark out the dedicated cycle path. Our overarching objective is to foster a clean and welcoming environment

that all visitors can relish and enjoy.

The Family's plan for the area is to be a safe space for families to enjoy the nature alongside a refreshment, to ensure it is a safe area we have CCTV cameras around the building covering the Paddocks at the back and we will have additional CCTV by the boat, both of which are equipped with audio capabilities and speakers to deter any anti-social behaviour. Whilst open the area will always be overwatched by staff members who will be monitoring and ensuring that anti-social behaviour is kept under control and to a minimum as this is not how we want the area to be used. Whilst we are seeking a license for music, our intention is not to host frequent live music events but rather occasional background music at a respectful volume. Decibel readers will be installed to ensure that volume stays below a respectable decibel to ensure no disruption will come to the local residents. We have also agreed to some guidelines with the Environmental Protection Agency to minimise public nuisance. We will ensure that the area will be emptied of patrons before 10pm each night, any live performances in the garden will only be acoustic so there is no amplification of sorts to minimise disruption to local residents and that any internal regulated entertainment stays indoors. We will also of course have legible clear signs placed in a prominent position to remind patrons to respect our neighbours and to leave quietly. Off-sales allows for the sale of alcohol for consumption elsewhere not just where it has been sold from. Our application for an off-sales license aims to offer visitors and holidaymakers the opportunity to purchase souvenirs and gifts at the end of their visit rather than for people to buy takeaway alcohol and consume it on the grassy area, this area will be monitored by staff who will ensure any anti-social activity is managed and kept to a minimum. We would also like to point out, we have a successful track record of holding an alcohol license for 2 years without any issues or complaints.

To conclude, we are wanting to continue to improve the development of the grassy area and create a community hub for everyone to enjoy. We are very mindful of our neighbours and want to ensure that the natural beauty is maintained, if not improved for the benefit of the passing community and the wildlife that inhabit the area. The family only want to create a new addition that benefits the whole community improving the surrounding area.

# 16. Regulated entertainment

## Types of regulated entertainment

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

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

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

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

charge is made with a view to making a profit;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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<sup>28</sup> See paragraph 16.12

<sup>29</sup> See chapter 7

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

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

## General circumstances in which entertainment activities are licensable

16.10 An authorisation for regulated entertainment is always required for entertainment activities that take place before 08.00 or after 23.00, unless exempted under any other provision of the 2003 Act, as amended<sup>32</sup>.

### Audience

16.11 For the purposes of regulated entertainment, the term “audience” refers to any person for whose entertainment (at least in part) any licensable activities are provided. An audience member need not be, or want to be, entertained: what matters is that an audience is present<sup>33</sup> and that the purpose of the licensable activity is (at least in part) intended to entertain any person present<sup>34</sup>. The audience will not include performers, together with any person who contributes technical skills in substantial support of a performer (for example, a sound engineer or stage technician), during any associated activities. This includes setting up before the entertainment, reasonable breaks (including intervals) between activities and packing up thereafter. Similarly, security staff and bar workers will not form part of the audience while undertaking their duties.

16.12 More than one entertainment activity (or for a single activity, more than one performance or event) can be held concurrently, provided that the audience for each such performance or event does not exceed the threshold at which such a performance or event becomes licensable. In some circumstances, there will be a clear distinction between performances or events; for example, their taking place in separate rooms or on separate floors. However, organisers will have to ensure that audiences do not grow or migrate, so that the audience exceeds the relevant limit for any one performance or event at any time. If there is the possibility of audience migration, it might be easier and more flexible to secure an appropriate authorisation.

### Private events

16.13 Events held in private are not licensable unless those attending are charged for the entertainment with a view to making a profit (including raising money for charity). For example, where a party is held for friends in a private dwelling featuring amplified live music, if a charge or contribution is made solely to cover the costs of the entertainment, the activity is not regulated entertainment. Similarly, any charge made to the organiser of a private event by musicians, other performers, or their agents does not of itself make that entertainment licensable – it would only do so if the guests attending were themselves charged by the organiser for that entertainment with a view to achieving a profit. The fact that this might inadvertently result in the organiser making a profit would be irrelevant, as long as there had not been an intention to make a profit.

16.14 Schedule 1 to the 2003 Act also makes it clear that before entertainment is regarded as

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<sup>32</sup> See examples at paragraph 16.5

<sup>33</sup> In some circumstances, such as un-ticketed live music events, a degree of judgement may be required as to whether persons are part of an audience. Factors to consider could include whether a person is within the perimeter of the premises, the audible range of the performance, and their visibility of the entertainment. In order to meet the definition of an entertainment activity in the 2003 Act, the activity must take place in the presence of an audience and be provided for the purpose, or for purposes which include the purpose of, entertaining that audience.

<sup>34</sup> For example, a darts championship competition hosted in part to entertain an audience could be a licensable activity, but a pub game of darts played for the enjoyment of the participants is not licensable.

being provided for consideration, a charge has to be:

- made by or on behalf of a person concerned with the organisation or management of the entertainment; and
- paid by or on behalf of some or all of the persons for whom the entertainment is provided.

## **Circumstances in which entertainment activities are no longer licensable**

16.15 No licence is required for certain entertainment activities on specified premises, as follows:

### **Local authorities, hospital healthcare providers and school proprietors: cross-entertainment activity exemption**

16.16 No licence is required for any entertainment provided by or on behalf of a local authority, health care provider, or school proprietor to the extent that it takes place on defined premises, between 08.00-23.00 on any day provided that:

- for entertainment provided by, or on behalf of, a local authority it takes place on premises in which that authority has a relevant property interest, or is in lawful occupation;
- for entertainment provided by, or on behalf of, a health care provider it takes place on any premises forming part of a hospital in which the provider has a relevant property interest, or is in lawful occupation; and
- for entertainment provided by, or on behalf of, a school proprietor it takes place on the premises of the school.

16.17 This Guidance cannot give examples of every eventuality where entertainment is not licensable under this exemption through being provided “by or on behalf of”. It will depend on the facts in each case. However, the following are examples of activities that are not usually considered to be licensable under this exemption:

- Any entertainment activity hosted by a local authority on their own premises, where there is a significant relationship between the local authority and the provider of the entertainment (e.g. principal and agent);
- Any entertainment activity organised on a local authority’s behalf on that local authority’s premises by a cultural trust in discharge of a local authority’s discretionary power to arrange entertainment provision and support for the arts, including festivals and celebrations.
- Any entertainment activity organised by a healthcare provider on their own hospital premises in partnership with a hospital charity;
- Any entertainment event on school premises organised by the Parent Teacher Association (PTA) to benefit the school.

16.18 It is for the local authority, health care provider or school proprietor to determine whether, and on what basis, they can (or wish) to provide entertainment activity under this exemption, including consideration of issues around fundraising, profit making, governance or use of public funds. However a pure hire of premises by a third party<sup>35</sup>

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<sup>35</sup> But see paragraph 16.20



does not constitute the provision of an entertainment event “on behalf of” a local authority, healthcare provider, or school proprietor and nor does commercial entertainment which the local authority<sup>36</sup> merely facilitates through providing a public space<sup>37</sup>.

16.19 All the terms used in this exemption, such as “local authority”, “health care”, “health care provider”, “hospital”, “school”, “school premises”, “school proprietor”, “domestic premises” and “relevant property interest” are defined in the 2014 Order<sup>38</sup>.

### **Local authority, hospital and school premises: third party music entertainment**

16.20 No licence is required for a performance of live music or the playing of recorded music on local authority, hospital or school premises, that are not domestic premises, between 08.00-23.00 on any day provided that:

- it is performed in front of an audience of no more than 500 people; and
- a person concerned in the organisation or management of the music entertainment has obtained the prior written consent<sup>39</sup> of the local authority, health care provider or school proprietor (as appropriate) for that entertainment to take place. It is for these “trusted providers” to determine whether, or not, they wish to make their premises available for music entertainment by a 3rd party and on what terms they deem it appropriate.

### **Community premises: music entertainment**

16.21 No licence is required for a performance of live music or the playing of recorded music on community premises<sup>40</sup>, between 08.00-23.00 on any day provided that:

- the community premises are **not** authorised, by a premises licence or club premises certificate, to be used for the supply of alcohol for consumption on the premises<sup>41</sup>;
- the music entertainment is in the presence of an audience of no more than 500 people; and
- a person concerned in the organisation or management of the music entertainment has obtained the prior written consent<sup>42</sup> of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

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<sup>36</sup> Or healthcare provider or school proprietor.

<sup>37</sup> The exemption would similarly not apply, for example, to a commercial company operating on premises belonging to a local authority under a long term lease.

<sup>38</sup> See footnote 23

<sup>39</sup> This requirement is designed to ensure that those responsible for the premises hosting the entertainment have considered and approved the effect of the event on other users of their premises and the wider community.

<sup>40</sup> The definition of community premises is covered in paragraphs 4.56-4.60 of this Guidance. A community premises is likely to be multi-functional and ‘other similar building’ within the definition cannot be stretched to ordinarily include a public house, a bingo hall, or other business premises or private property.

<sup>41</sup> Where a community premises is licensed for the supply of alcohol by a premises licence (or exceptionally a club premises certificate), then any performance of live music or the playing of recorded music on relevant alcohol licensed premises may be subject to the conditional deregulation described in paragraphs 16.26-16.33.

<sup>42</sup> See footnote 39

## Community premises: exhibition of film

- 16.22 No licence<sup>43</sup> is required for an exhibition of a film on community premises<sup>44</sup> between 08.00-23.00 on any day provided that:
- the film entertainment is not provided with a view to profit<sup>45</sup>;
  - the film entertainment is in the presence of an audience of no more than 500 people;
  - the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children; and
  - a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent<sup>46</sup> of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.
- 16.23 Under this exemption, one condition is that the film entertainment is not being provided with a view to profit<sup>47</sup>. An entry charge does not of itself make the film entertainment licensable; it is whether the organiser intended to make a profit (that includes raising money for charity). A charge or contribution that is made solely to cover the costs of the film screening<sup>48</sup> is consistent with 'not being provided with a view to profit'. The 'not with a view to profit' condition applies solely to the activity of exhibiting the film under this exemption. A charge with a view to making a profit may legitimately be levied for any other activity or event that is distinct from film admission, such as the provision of refreshments, film talks, or a social event.
- 16.24 This community film exemption is also conditional on those responsible having in place operating arrangements that ensure that the age rating for the film is implemented by means of a suitable child admission policy<sup>49</sup>. How this is achieved is a matter for the organisation or social group exhibiting the film. For example, they may operate a membership subscription scheme which pays for entry to all titles in a season and is limited to adults. It could be a children's film club with a policy of only showing films that are suitable for all by being rated 'U' by the BBFC. Alternatively, the organisers could sell tickets to the public and ensure that children are only permitted to attend in accordance with any age rating for the film – i.e. a door admissions policy linked to proof of age.

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<sup>43</sup> However, see paragraph 16.70 in relation to copyright

<sup>44</sup> See footnote 40

<sup>45</sup> See paragraph 16.23

<sup>46</sup> See footnote 39

<sup>47</sup> 'not provided with a view to profit' is the inverse of 'with a view to profit' mentioned in paragraph 16.13

<sup>48</sup> Legitimate costs of a film screening would include overheads directly relevant to providing the film entertainment (e.g. premises hire, film hire, equipment etc.)

<sup>49</sup> See 3rd bullet point in paragraph 16.22

## Travelling circuses

16.25 Where types of entertainment are present in a performance by a travelling circus<sup>50</sup> they will not be licensable provided that certain qualifying conditions are met<sup>51</sup>. The qualifying conditions are that:

- the entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
- the entertainment takes place between 08.00 and 23.00 on the same day;
- the entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
- the travelling circus has not been located on the same site for more than 28 consecutive days.

## Live music

16.26 Live music is licensable:

- where a performance of live music – whether amplified or unamplified – takes place before 08.00 or after 23.00 on any day;
- where a performance of amplified live music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment;
- where a performance of amplified live music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises<sup>52</sup>;
- where a performance of amplified live music takes place at relevant licensed premises, or workplaces<sup>53</sup>, in the presence of an audience of more than 500 people<sup>54</sup>; or
- where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition on a premises licence or club premises certificate as a result of a licence review<sup>55</sup>.

16.27 In any of the above circumstances, unless the performance of live music is appropriately authorised by a premises licence, club premises certificate or TEN, allowing it to take place could lead to enforcement action and, where relevant, a review of the alcohol licence or certificate.

16.28 A public performance of live unamplified music that takes place between 08.00 and 23.00 on the same day no longer requires a licence under the 2003 Act in any location. An exception to this is where a specific condition related to live music is included following a review of the premises licence or club premises certificate in respect of relevant licensed premises.

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<sup>50</sup> 'Travelling circus' is defined in the 2014 Order as meaning a circus which travels from site to site for the purpose of giving performances. Musical entertainment at a travelling fairground is likely to be incidental to the main attractions and rides that are not themselves regulated entertainment.

<sup>51</sup> There is no audience limit for this exemption, but the conditions are designed to ensure that deregulation does not have unintended consequences for the licensing objectives – e.g. only bona fide travelling circuses qualify.

<sup>52</sup> See Chapter 3 of this Guidance

<sup>53</sup> See paragraph 16.31

<sup>54</sup> The 2014 Order substituted "500" for "200" that was in the 2012 Act

<sup>55</sup> See paragraphs 16.55-16.56

16.29 As a result of the amendments to the 2003 Act, section 177 of the 2003 Act now only applies to performances of dance<sup>56</sup>.

## Key terms used in relation to live music

- 16.30 Under the live music provisions, “music” includes vocal or instrumental music or any combination of the two. “Live music” is a performance of live music in the presence of an audience which it is intended to entertain. While a performance of live music can include the playing of some recorded music, ‘live’ music requires that the performance does not consist entirely of the playing of recorded music without any additional (substantial and continual) creative contribution being made. So, for example, a drum machine or backing track being used to accompany a vocalist<sup>57</sup> or a band would be part of the performance of amplified live music. The performance of a DJ who is merely playing tracks would not be classified as live music, but it might if he or she was performing a set which largely consisted of mixing recorded music in a live performance to create new sounds<sup>58</sup>. There will inevitably be a degree of judgement as to whether a performance is live music (or recorded music) and organisers of events should check with their licensing authority if this consideration is relevant to whether the activity is authorised by a licence or certificate. In the event of a dispute about whether a performance is live music or not, it will be for the licensing authority initially and ultimately, for the courts to decide in the individual circumstances of any case.
- 16.31 A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit.
- 16.32 A “relevant licensed premises” for the purposes of this chapter is one which is authorised to sell or supply alcohol for consumption on the premises by a premises licence or club premises certificate. Premises cannot benefit from the deregulation introduced by the 2012 Act by virtue of holding an authorisation for the sale or supply of alcohol under a TEN.<sup>59</sup>

## Recorded music

- 16.33 No licence is required for recorded music where it takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises. However, recorded music remains licensable:
- where the playing of recorded music takes place before 08.00 or after 23.00 on any day;
  - where the playing of recorded music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;<sup>60</sup>
  - where the playing of recorded music takes place at relevant licensed premises in the

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<sup>56</sup> See paragraph 2.13. Post the 2013 Order, Section 177 can be relevant to a performance of dance after 23.00 on any day

<sup>57</sup> Karaoke is generally classed as a performance of live music

<sup>58</sup> This would include ‘scratching’

<sup>59</sup> TENs are covered in chapter 7

<sup>60</sup> See Chapter 3 of this Guidance

- presence of an audience of more than 500 people; and
- where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act (as amended).<sup>61</sup>

## Plays and dance

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

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

## Indoor Sport

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

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

## Licence conditions

### Live Music or recorded music

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

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

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

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

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

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

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

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

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

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

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

## Beer gardens

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

## Plays, dance and indoor sport

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

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

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

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

<sup>69</sup> See paragraph 16.6

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

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

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

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

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

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

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

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

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

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<sup>70</sup> Home Office Guidance is available at:

<http://webarchive.nationalarchives.gov.uk/20100413151441/http://crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>

## Conditions relating to other non-licensable activities

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

## Removing licence conditions

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

## Licence reviews: Live and recorded music

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

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

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

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

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



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

## Incidental music

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

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

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

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

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

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

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

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

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

## Busking

- 16.62 Busking or street performance is the practice of performing in public spaces for money. Performances are not limited to music or singing and can take the form of a wide range of activities that people find entertaining.
- 16.63 Busking is generally **not** licensable under the 2003 Act as:
- it often occurs in a place that is not a premises made available (at least in part) for the purposes of providing entertainment<sup>77</sup>;
  - the entertainment is usually incidental to another activity, such as shopping or sightseeing, as there are few circumstances in which anyone would go out specifically to watch buskers; and
  - any unamplified live music is not licensable between 08.00 and 23.00<sup>78</sup>.
- 16.64 Local authorities may have policies on busking, including codes of conduct or permit regimes and occasionally byelaws and legislation specific to a local authority – although many localities have no policy or restrictions.

## Incidental film

- 16.65 An exhibition of a film within the meaning of paragraph 15 of Schedule 1 to the 2003 Act is not regulated entertainment if it is ‘incidental’ to another activity “which is not itself a description of entertainment falling within paragraph 2” of Schedule 1 to the 2003 Act.
- 16.66 The incidental film exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required as it takes place between 08.00 and 23.00 on the same day before an audience which does not exceed the relevant limit. Such activities would no longer be a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act. This means that, while any exhibition of moving pictures cannot be incidental to a boxing or wrestling entertainment<sup>79</sup>, such film displays may be within the scope of the incidental film exemption for an indoor sporting event or performance of a play or dance for which no licence is required.<sup>80</sup>
- 16.67 Whether or not an exhibition of moving pictures is “incidental” to another activity will depend on the facts of each case. In considering whether or not film is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of an exhibition of moving images will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. This would mean that if the BBFC or the relevant licensing authority has given an age rating to a film, video, or music video, then to qualify for the “incidental film” licensing exemption, the admission of children to the premises will need to be restricted in accordance with the appropriate age rating. But that is one aspect of one relevant factor. Other factors to consider in assessing whether film is incidental might include some or all of the following:

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<sup>77</sup> See paragraph 16.3

<sup>78</sup> See paragraph 16.28

<sup>79</sup> And as such, the film display needs to be authorised under the 2003 Act. This would include moving pictures during a Greco-Roman or freestyle wrestling entertainment. While, depending on the circumstances, the Greco-Roman or freestyle wrestling may, or may not be licensable, it is still within the ‘description’ of a ‘wrestling entertainment’.

<sup>80</sup> For indoor sporting events, it takes place between 08.00 and 23.00 in front of an audience which does not exceed 1,000.

- Is the film the main, or one of the main, reasons for people attending the premises and being charged?
- Is the film advertised as the main attraction?
- Does the screening of the film predominate over other activities, or could it be described as ‘background’ images?
- Does the appearance of moving pictures within another entertainment activity, for which no licence is required (e.g. a performance of a play or dance<sup>81</sup>), undermine the promotion of the licensing objectives?

16.68 In any disputed case, it will be for the licensing authority initially and, ultimately, for the courts to consider whether film is “incidental” in the individual circumstances of any case.

## Entertainment activity provided as part of childcare

16.69 Entertainment activity that is provided as part of childcare will generally not be licensable. This includes entertainment activity in a nursery or private home. In addition, paragraph 5 of Schedule 1 to the 2003 Act includes a licensing exemption for an exhibition of a film where the main purpose is to provide education. Education will generally include all forms of pre-school child and day care. Furthermore, an exhibition of a film, or the playing of live or recorded music, will generally be incidental to the activity of childcare and so the incidental music and film exemption in paragraph 7 of Schedule 1 will also apply<sup>82</sup>. This will generally be the case for any entertainment activity organised as part of wraparound childcare<sup>83</sup>, including breakfast clubs, after school clubs or holiday clubs linked to the child’s school or based in the local community.

## Other Licensing regimes

### Copyright

16.70 The deregulation of licensing for the provision of entertainment under the 2003 Act does not remove the requirement for licences for the use of copyright works. Entertainment activities as described in paragraph 16.2 may require music and screening licences for example. The acquisition of such licences will make the entertainment compliant with the Copyright, Designs and Patents Act 1988.<sup>84</sup>

### Leafletting

16.71 The deregulation of entertainment licensing does not remove the prohibition on the unauthorised distribution of free printed matter in an area that has been designated under Schedule 3A of the Environmental Protection Act 1990<sup>85</sup>. The organisers of the event or entertainment may need to obtain consent from the relevant principal litter authority before giving out free printed promotional material (leaflets, flyers, cards etc.) in a public place in certain areas.

<sup>81</sup> See paragraph 16.34

<sup>82</sup> See paragraphs 16.57-16.61 and 16.65-16.68

<sup>83</sup> Childcare for school aged children around traditional school hours

<sup>84</sup> Further information concerning how to acquire such licences can be found on at <https://www.gov.uk/licence-to-play-live-or-recorded-music>

<sup>85</sup> <http://www.legislation.gov.uk/ukpga/1990/43/schedule/3A>

## Child performers

16.72 Child performance legislation<sup>86</sup> requires that a licence must be obtained from a child's home local authority before a child can take part in certain types of performance and activities. A licence may be required whether or not any payment is made for the child to perform. The deregulation of entertainment licensing does not alter the regulations on when children can take part in performances<sup>87</sup>.

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<sup>86</sup> Children and Young Persons Acts 1933 and 1963; The Children (Performances and Activities) (England) Regulations 2014 and The Children (Performances and Activities) (Wales) Regulations 2015

<sup>87</sup> The Children (Performances and Activities) (England) Regulations 2014 and The Children (Performances and Activities) (Wales) Regulations 2015