

Report of the Assistant Director Corporate Services to a Hearing before the Keighley/ShIPLEY Area Licensing Panel to be held on 26th October 2009.

K

Subject:

Application for a Review of a Premises Licence for the Cobbydale Social Club, 5 Hayhills Road, Silsden.

Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol and provision of regulated entertainment.

Suzan Hemingway
Assistant Director Corporate Services
(City Solicitor)

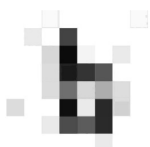
Report Contact: Tracy McLuckie
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Portfolio:

Corporate

Improvement Committee Area:

**Corporate Improvement Committee
Safer and Stronger Communities**



2006-2007
Improving Rural Services
Empowering Communities



INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



Ward: Craven

1. **Summary**

1.1 **Premises Licence Holder**

Mr Neil Cullen.

1.2 **Designated Premises Supervisor**

Mr Neil Cullen

A copy of the Licence is included at Appendix 1.

1.3 **The Premises**

Cobbydale Social Club, 5 Hayhills Road, Silsden

1.4 **The Current Licence**

The premises have a Premises Licence allowing the sale by retail of alcohol for consumption on and off the premises and provision of regulated entertainment indoors (live music, recorded music, performance of dance and facilities for dancing).

Hours of licensable activities:

Monday to Wednesday:	11.00 to 23.00
Thursday:	11.00 to Midnight
Friday & Saturday:	11.00 to 02.00
Sunday:	11.00 to Midnight
Christmas Eve:	11.00 to 01.00
Boxing Day:	11.00 to 01.00
New Years Eve:	11.00 to 02.00
New Years Day:	11.00 to Midnight
Non Standard Timings:	11.00 to Midnight on the Monday of every Statutory Bank Holiday and St Patrick's Day.

1.5 **Steps agreed in the Operating Schedule by the Licensee to address the Licensing Objectives**

a) Prevention of crime and disorder

The Licensee will ensure close liaison with other licensees in the area and will co-operate with any local "Pub Watch" schemes or similar schemes being promoted by West Yorkshire Police or other local Licensees.

b) Public Safety

All fire fighting equipment shall be maintained in good working order and all staff (including temporary staff) adequately trained in its use and about the evacuation procedures for the premises.

c) Prevention of public nuisance

Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner.

All outward opening doors and windows are to be kept closed when regulated entertainment is taking place.

Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.

d) Protection of children from harm

Children under 18 years of age must be accompanied by an adult and must vacate the premises by 19.00 hours unless they are attending a private function in the function room.

No regulated entertainment of an adult or sexual nature shall be provided at any time in the licensed premises.

All gaming machines must be positioned so that they are within sight of the bar servery.

e) General – all four licensing objectives

Staff shall be trained on the requirements of the Licensing Act 2003 with regard to the licensing objectives when they are recruited.

1.6 Conditions Attached after Hearing

(Variation Application considered by Members on 19th May 2008)

- a) The consumption of alcohol in the external areas of the licensed premises shall not be allowed after 20.00 hours.
- b) The licensee will patrol the area outside of the premises during the periods of entertainment to ensure that noise is not audible at the nearest noise sensitive premises and to ensure that the outside area is effectively monitored after 20.00 hours in order to ensure that drinks are not consumed after this time.
- c) Two Security Industries Authority registered door supervisors be employed at the premises from 23.00 hours, when regulated entertainment is proposed to take place after midnight, until the premises are closed and clear of customers.

2. **Applications Received asking for a Review of the Licence**

2.1 **Interested Parties**

A local resident has submitted an application for a review of the licence, on the grounds of noise nuisance from regulated entertainment taking place at the premises, noise and disturbance from patrons outside the premises and alleged breaches of licence conditions.

A copy of the application for review is attached at Appendix 2.

3. **Representations**

3.1 **Responsible Authorities**

Environmental Health Department – A representation has been received from the Council's Environmental Health Department, who have been involved with an ongoing noise nuisance complaint, primarily relating to noise from regulated entertainment held at the premises.

In order to address the prevention of public nuisance objective the Environmental Health Officer has recommended the following:

1. Noise limiters to be installed in both the annex and main body of the club.
2. The permitted hours for regulated entertainment on Friday & Saturday be reduced to Midnight.

A copy of the representation from the Environmental Health Officer is attached at Appendix 3.

3.2 **Licence Holder**

The current Licence Holder has submitted a letter in response to the issues raised in the review application. A copy of the letter is attached at Appendix 4.

4. **Legal Appraisal**

4.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

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

4.2 The Council must also have regard to the Guidance issued by the Department of Culture Media and Sport under Section 182 of the Licensing Act 2003. Regard must also be taken of the Council's statement of Licensing Policy for the District. Paragraph 5.99 to 5.111 of the Guidance specifically details how applications for review of licences should be determined.

An extract of the Guidance is attached to this report at Appendix 5.

- 4.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.
- 4.4 Only “relevant representations” by or expressly on behalf of a defined “interested party” or “responsible authority” can be taken into account. In order to be “relevant” a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.
- 4.5 Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

5. **Statement of Policy Issues**

- 5.1 The following parts of the Licensing Policy are of particular importance; Part 6 (prevention of Public Nuisance).
- 5.2 The Annexes to the Policy sets out various types of model condition that could be considered.

6. **Legal Options**

- 6.1 Members may:
 - (a) Refuse the application for review of the licence; or
 - (b) Decide not to impose any further restrictions on the licence; or
 - (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives; or
 - (d) Suspend the licence for a period not exceeding 3 months; or
 - (e) Revoke the premises licence; or
 - (f) Remove the named Designated Premises Supervisor from the Licence.
- 6.2 Should the licensee or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court within 21 days of being notified of the decision.

7. **Financial and resource appraisal**

- 7.1 There are no apparent finance or resource implications.

8. Other implications

8.1 Equal Rights

There are no apparent equal rights implications.

8.2 Community safety implications

There are no apparent community safety implications.

8.3 Human Rights Act

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state’s right to control the use of property in accordance with the general interest.

The Council’s powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant’s rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels’ usual procedure of affording a hearing to the applicant is very important. If the decision is to refuse then reasons should be given.

9. Not for publication documents

None

10. The Role of the Panel

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application for review of the premises licence.

11. Appendices

1. Premises Licence.
2. Application for Review.
3. Representation from Environmental Health
4. Response from Licence Holder
5. Extract from the Government Guidance.

12. Background documents

Licence, application and representations etc

City of Bradford Metropolitan District Council

www.bradford.gov.uk

Licensing Act 2003
Premises Licence

BD/PRA0662

Date Issued: 08/10/2009

Part 1 - Premises Details

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

Cobbydale Social Club

5 Hayhills Road, Silsden, Keighley, West Yorkshire, BD20 9NE.

Telephone 01535 658407

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
- a performance of dance
- entertainment facilities for dancing
- the sale by retail 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 Wednesday	11:00am	11:00pm
	Thursday	11:00am	Midnight
	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	Midnight
	Christmas Eve	11:00am	1:00am
	Boxing Day	11:00am	1:00am
	New Years Eve	11:00am	2:00am
	New Years Day	11:00am	Midnight
	Non Standard Timings:	11:00am	Midnight
	Monday of every statutory Bank Holiday and St Patricks Day.		
F. Playing of recorded music (Indoors)	Monday to Wednesday	11:00am	11:00pm
	Thursday	11:00am	Midnight
	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	Midnight
	Christmas Eve	11:00am	1:00am
	Boxing Day	11:00am	1:00am
	New Years Eve	11:00am	2:00am
	New Years Day	11:00am	Midnight
	Non Standard Timings:	11:00am	Midnight
	Monday of every statutory Bank Holiday and St Patricks Day.		
G. Performance of dance (Indoors)	Monday to Wednesday	11:00am	11:00pm
	Thursday	11:00am	Midnight
	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	Midnight
	Christmas Eve	11:00am	1:00am
	Boxing Day	11:00am	1:00am
	New Years Eve	11:00am	2:00am
	New Years Day	11:00am	Midnight

Date First Granted: 30/09/2005

(Annual Fee Date - Statutory Instrument 2005 No. 79 - Licensing Act 2003 (Fees) Regulations 2005)

**Licensing Act 2003
Premises Licence**

BD/PRA0662

Date Issued: 08/10/2009

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued...

Activity (and Area if applicable)	Description	Time From	Time To
G. Performance of dance (Indoors) continued ...	Non Standard Timings: Monday of every statutory Bank Holiday and St Patricks Day.	11:00am	Midnight
J. Provision of facilities for dancing (Indoors)	Monday to Wednesday	11:00am	11:00pm
	Thursday	11:00am	Midnight
	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	Midnight
	Christmas Eve	11:00am	1:00am
	Boxing Day	11:00am	1:00am
	New Years Eve	11:00am	2:00am
	New Years Day	11:00am	Midnight
	Non Standard Timings: Monday of every statutory Bank Holiday and St Patricks Day.	11:00am	Midnight
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Wednesday	11:00am	11:00pm
	Thursday	11:00am	Midnight
	Friday and Saturday	11:00am	2:00am
	Sunday	11:00am	Midnight
	Christmas Eve	11:00am	1:00am
	Boxing Day	11:00am	1:00am
	New Years Eve	11:00am	2:00am
	New Years Day	11:00am	Midnight
	Non Standard Timings: Monday of every statutory Bank Holiday and St Patricks Day.	11:00am	Midnight

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Wednesday	11:00am	Midnight
Thursday	11:00am	1:00am
Friday and Saturday	11:00am	3:00am
Sunday	11:00am	1:00am
Christmas Eve	11:00am	1:30am
Boxing Day	11:00am	1:30am
New Years Eve	11:00am	2:30am
New Years Day	11:00am	12:30am
Non Standard Timings: Monday of every statutory Bank Holiday and St Patricks Day.	11:00am	12:30am

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

- M. The sale by retail of alcohol for consumption ON and OFF the premises

Part 2

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

Neil Anthony Cullen

Licensing Act 2003
Premises Licence

BD/PRA0662
Date Issued: 08/10/2009

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

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

Neil Anthony CULLEN

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

Licence No. BD/PER2740

Issued by Bradford

ANNEXES

Annex 1 - Mandatory Conditions

1. No supply of alcohol may be made under the premises licence;-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) 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 the premises licence must be made or authorised by a person who holds a personal licence.
3. All persons primarily engaged under or employed on the premises to vet, regulate and control persons entering the premises; or engaged, used or employed in the supervision of patrons once inside in order to ensure the maintenance of good order, public safety and internal security shall be licensed with the Security Industry Authority.

Embedded Conditions

4. None of the restrictions on permitted hours prohibit:
 - a. During the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
 - b. Consumption of the alcohol on the premises or the taking of the sale or supply of alcohol to any person residing in the licensed premises;
 - c. The ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
 - d. The sale of alcohol to a trader or club for the purposes of the trade or club;
 - e. The sale or supply of alcohol to any canteen or mess, being a canteen in which the supply or sale of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's Naval, Military or Air Forces;
 - f. The taking of alcohol from the premises by a person residing there; or
 - g. The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
 - h. The supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Licensing Act 2003 Premises Licence

BD/PRA0662

Date Issued: 08/10/2009

ANNEXES continued ...

Annex 2 - Conditions Consistent with Operating Schedule

All four Licensing Objectives:

5. Staff shall be trained on the requirements of the Licensing Act 2003 with regard to the licensing objectives when they are recruited.

The Prevention of Crime & Disorder:

6. The Licensee will ensure close liaison with other licensees in the area and will co-operate with any local "Pub Watch" schemes or similar schemes being promoted by West Yorkshire Police or other local Licensees.

Public Safety:

7. All fire fighting equipment shall be maintained in good working order and all staff (including temporary staff) adequately trained in its use and about the evacuation procedures for the premises.

The Prevention of Public Nuisance:

8. Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner.
9. All outward opening doors and windows are to be kept closed when regulated entertainment is taking place.
10. Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.

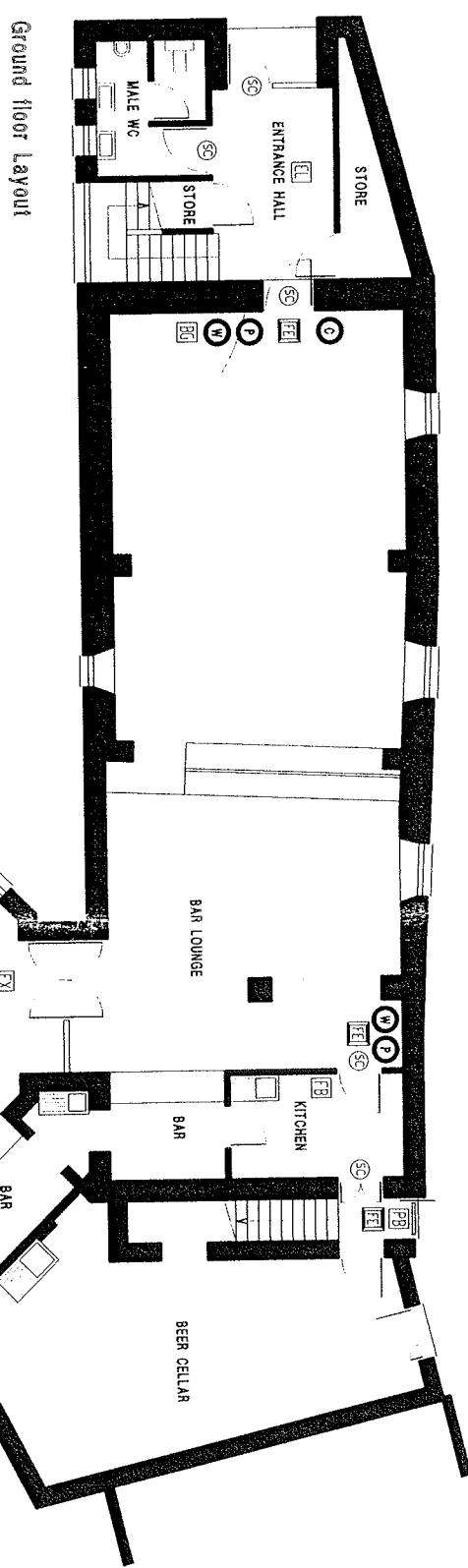
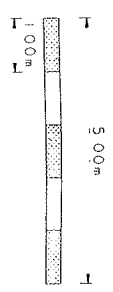
The Protection of Children from Harm:

11. Children under 18 years of age must be accompanied by an adult and must vacate the premises by 19.00 hours unless they are attending a private function in the function room.
12. No regulated entertainment of an adult or sexual nature shall be provided at any time in the licensed premises.
13. All gaming machines must be positioned so that they are within sight of the bar servery.

Annex 3 - Conditions attached after a hearing by the Licensing Authority

14. The consumption of alcohol in the external areas of the licensed premises shall not be allowed after 2000 hours.
15. The licensee will patrol the area outside of the premises during the periods of entertainment to ensure that noise is not audible at the nearest noise sensitive premises and to ensure that the outside area is effectively monitored after 2000 hours in order to ensure that drinks are not consumed after this time.
16. Two Security Industries Authority registered door supervisors be employed at the premises from 2300 hours, when regulated entertainment is proposed to take place after midnight, until the premises are closed and clear of customers.

G:\Legal Services\LLC & Licensing\Licensing\DEV\TEMPLATE\LIC.STD\LICENCE CONDITIONS\COBBYDALE SOCIAL CLUB - BDPRA0662

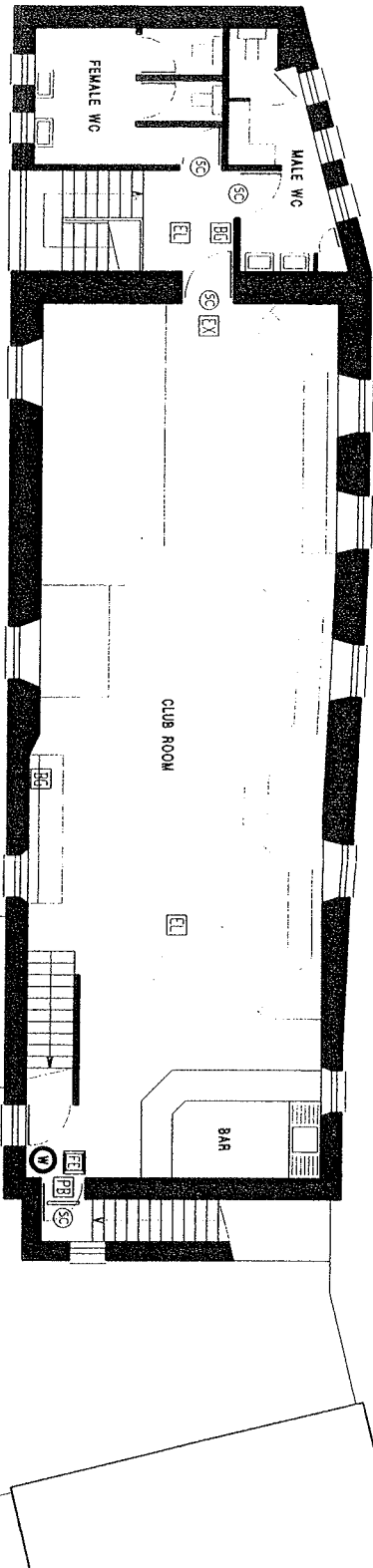
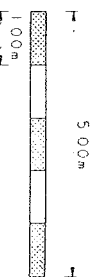


Ground floor Layout

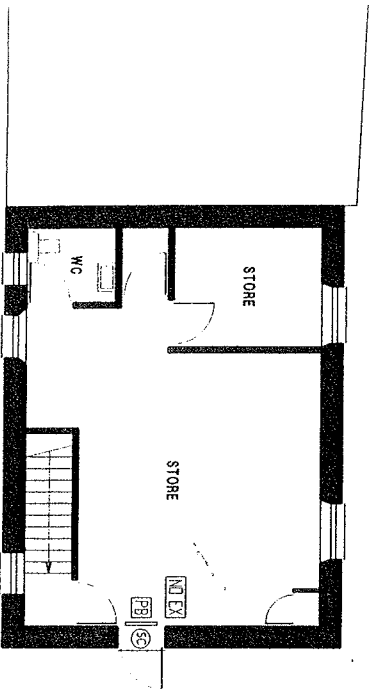
Ground Floor Layout

Robert W Hodgkiss MRICS MRB Eng
The Drawing Board
Luchote House, Church Street

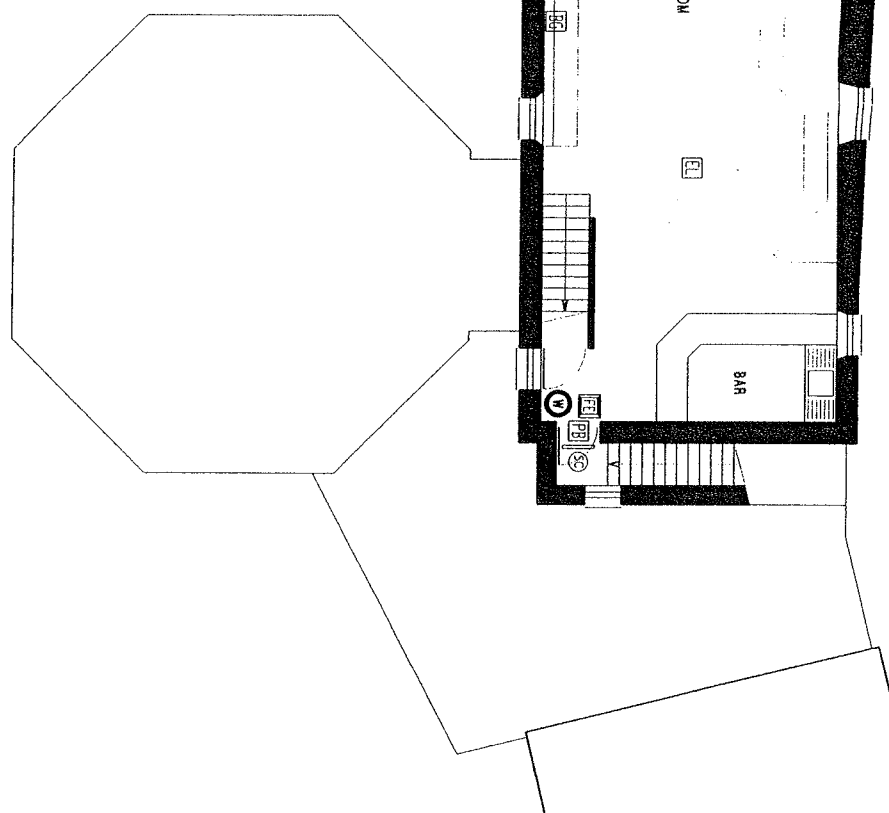
- POWDER FIRE EXTINGUISHER
- WATER FIRE EXTINGUISHER
- CARBON DIOXIDE FIRE EXTINGUISHER
- EMERGENCY LIGHT
- PUSH BAR (SIGN)
- ILLUMINATED FIRE EXIT SIGN
- FIRE BLANKET
- SELF-CLOSING DOOR



First Floor Layout



Second Floor Layout (NOT OPEN TO PUBLIC)



- WATER FIRE EXTINGUISHER
- EMERGENCY LIGHT
- PUSH BAR (SIGN)
- ILLUMINATED FIRE EXIT SIGN
- BREAK GLASS ALARM
- EXIT SIGN
- NO EXIT SIGN
- SELF-CLOSING DOOR

Licensing Team, Room 402, City Hall, Bradford, BD1 1HY

Application for a review of a premises licence or club premises certificate 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 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.

We PAUL ALLAN & ANNABEL ALLAN (insert name(s) of applicant) apply for the review of a premises licence under section 51/apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description <u>COBBYDALE SOCIAL CLUB</u> <u>5 HAYHILLS ROAD</u>	
Post town <u>SILSDEN</u>	Post code (if known) <u>BD20 6PU</u>

Name of premises licence holder or club holding club premises certificate (if known) <u>EMMA FEATHER / NEIL CULLEN</u>

Number of premises licence or club premises certificate (if known) <u>BD / PRA0662</u>

Part 2 – Applicant details

I am

Please tick ✓

- | | | |
|---|-------------------------------------|----------------------------------|
| 1) An interested party: | | |
| a) A person living in the vicinity of the premises | <input checked="" type="checkbox"/> | please complete (A) or (B) below |
| b) A body representing persons living in the vicinity of the premises | <input type="checkbox"/> | please complete (A) or (B) below |
| c) A person involved in business in the vicinity of the premises | <input type="checkbox"/> | please complete (A) or (B) below |
| d) A body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> | please complete (A) or (B) below |
| 2) A responsible authority | <input type="checkbox"/> | please complete (C) below |
| 3) A member of the club to which this application relates | <input type="checkbox"/> | please complete (A) below |

- 7 SEP 2009
 1501101

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname First names

Please tick

I am over 18 years old or over

Current address

Post Town Postcode

Daytime contact telephone number

Email address (optional)

(B) DETAILS OF OTHER APPLICANT

Name	MRS
Address	BRIDGE STREET SILSDEN BD20 9NB
Telephone number (if any)	
E-mail (optional)	

DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name
Address
Telephone number (if any)
E-mail (optional)

This application to review relates to the following licensing objectives(s)

Please tick one or more boxes ✓

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

Please state the ground(s) for review (please read guidance note 1)

See attached sheets Pages 1 and 2.

Please provide as much information as possible to support the application (please read guidance note 2)

See attached sheets pages 2 to 7.

Please tick ✓

Have you made an application for review relating to this premises before?

If yes please state the date of that application

Day	Month	Year

If you have made representations before relating to this premises please state what they were and when you made them

Please tick ✓

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

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

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent. (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

Date 03/09/09

Capacity

Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 5)	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Notes for guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Information on the Licensing Act 2003 is available on the website of the Department of Culture, Media and Sport (http://www.culture.gov.uk/alcohol_and_entertainment) or from Bradford Metropolitan District Council (<http://www.bradford.gov.uk/council/licensing>), your local licensing authority.

Application for review of premises licence or club premises certificate under the Licensing Act 2003.

Grounds for Review :-

1. We request a review of the license mainly under the prevention of public nuisance due to the following :-

A. Continued and repeated breaches of the license conditions 9 and 10 on the license which state that (9) 'windows and doors are to be kept closed when regulated entertainment is taking place' and that (10) 'Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises'.

B. Continued and repeated breaches of the Annex 3, condition 14 'The consumption of alcohol in the external areas of the premises shall not be allowed after 20:00 hours'.

C. It was established in November 2008 that this club owns no external area and the club was ordered to remove a table from the public owned grass area at the front of the club as the current owner took over in March 2009. The club was informed that it should not use this area as an extension of the club. The club has now placed tables outside again and has repeatedly allowed patrons to use the whole area as a 'beer garden' to consume alcohol. This use is often after the current 20:00 deadline as well as before and has taken place up to midnight and beyond.

D. The club also has an added condition (15) that 'the licensee will patrol the area outside of the premises during periods of entertainment to ensure that noise is not audible at the nearest noise sensitive premises and to ensure that the outside area is effectively monitored after 20:00 hours in order to ensure that drinks are not consumed after this time'.

(i). We rarely witness this occurring and the fact that the music is often audible inside our property, as well as within our garden, means that it is either not carried out at all or not done effectively. When we have witnessed 'monitoring' taking place, it has never been done by the current licensee and has never resulted in the club reducing the noise level to meet the license condition.

(ii) Also, with regard to drinking outside we have witnessed both licensees since March 9th, as well as the owner of the premises, outside socialising with patrons whilst patrons (and the licensee) have been drinking with them after 20:00.

2. We also request a review due to the following which we believe affect public nuisance, crime and disorder and the protection of children from harm. :-

A. We have witnessed patrons of the club urinating outside the club on the grass area. On one occasion a patron stood on the grass area outside the club and was urinating in our garden.

B. Repeated use of the public area outside the club by patrons as a 'beer garden' has prevented children from playing on the area. On some occasions there have been so many patrons, and they have been so loud that it would be considered a breach of the peace.

C. The club has left bottles and glasses used by patrons outside on the public owned grass area for long periods, even overnight.

D. The club is also storing items (some which may be classed as hazardous) on land that does not belong to them both at the front of the club but also behind our garage.

E. There have been occasions where music entertainment has continued past midnight. There has not been any licensed door security supervisors present during these times. This is another license breach of Annex 3, 16 which states that two door supervisors should be employed when regulated entertainment takes place after midnight.

Information to Support the Application :-

Since the current owner, N Cullen, and licensee (originally Melvyn Feather, now Emma Feather) took over the club on 9th March 2009 we have suffered repeatedly from the irresponsible and unreasonable behaviour of the club licensees and owner. We have suffered noise nuisance, from other license breaches and from anti-social behaviour of both the club licensee, owner and patrons alike.

These are the offences we have suffered from which have all been reported to the council via email and/or police :-

9th May 2009: Noise from music being played at the club was at a very high level from 18.00 hours until midnight. We could hear the music from within our home during this time. The rear doors at both sides of the club were fully open during the entertainment. Patrons of the club were drinking outside after 20.00 hours.

At approximately 18:30 we approached the Designated Premises Supervisor, Melvyn Feather, and requested that the music be turned down. Mr Feather made statements such as "it is a wedding, I am allowed," and "I am allowed to do this until a certain time". Despite stating he would 'sort it' the music noise continued until midnight. We approached Mr Feather a further time at approximately 20:00 and asked if the music would be turned down to meet the license conditions and he pretended that he was not aware of the conditions. When we showed him a copy of the premises license he still did not rectify the situation and turn the music down.

We had called the on call Environmental Health officer and Mr Farmer arrived at my house at 21:00 and witnessed the high noise level, doors being open in the rear function room and patrons drinking outside. Mr Farmer judged that the noise level was loud enough to constitute a statutory nuisance as well as an obvious breach of license conditions.

15th May 2009: Throughout the evening music could be heard from the club, which was audible over the TV in our front room and in our front bedroom (which face away from the club). The music continued past 00:30 hours and prevented Mrs [redacted] from sleeping. There appeared to be no licensed doormen present at the club.

16th May 2009: During the evening we could hear noise from music being played at the Club. This was audible over my TV and in every room in the house and continued until midnight. We called the on call EH officer and Ed Smith arrived at our house and witnessed the noise level. Mr Smith stated that he judged the noise to be at a very high level and also advised that he had seen that rear doors to the club were left open.

12th June 2009: During the evening we could hear music from entertainment at the club from within our home. Mr Ian Farmer, the Environmental Health Officer for Bradford Council, attended the club to assist them to reduce the volume of the music being played to a level that could not be heard within our home.

13th June 2009: Noise from music played at the club could be heard over my TV and in every room in our house with our windows and doors shut. We could hear this until 00:10 hours. This prevented Mrs [redacted] from being able to sleep.

We also noticed approximately 15 patrons drinking outside the front of the premises at 21:50 and patrons continued to drink outside until after midnight. Mr Feather was also drinking outside the premises with the Patrons.

The premise's owner, N Cullen, was also outside appearing to attempt to 'monitor' the noise level. Perhaps he is hard of hearing as the music was very loud at the time and the volume was not altered once he stopped 'monitoring'.

We called the on call EH officer and Miss Ayre arrived at our house at 23:30. Miss Ayre witnessed the noise and patrons drinking outside. She also noted that the music was so loud that the lyrics and song that was being played could be fully heard while standing at my kitchen door.

In addition, after the officer left, we then witnessed a patron urinating on the lawn next to the entrance of the club.

NB. WE ARE ADVISED THAT MISS EMMA FEATHER TOOK OVER AS DESIGNATED PREMISES SUPERVISOR FROM THE 17TH JUNE 2009.

20th June 2009: During the evening our guest at our house, who was trying to go to sleep in the rear bedroom, said that he could hear bass noise from a live act being held at the Club. We could hear this noise both in our kitchen and rear bedroom. At approximately 22:15 hours we contacted Mr Farmer, the Environmental Health Officer from Bradford Council, by text and informed him of this. I am unsure if he attended.

Also, another patron was seen urinating, this time on the frontage of the Deli at the opposite side of the club, the patron then went back inside the club.

21st June 2009: During the afternoon about 30 patrons used the public open space between my house and the Cobbydale club as a 'beer garden'. A group of children, who regularly play on bikes on the area, turned up and had to go elsewhere as all the area was being used with some patrons even surrounding the bus stop area.

21st June 2009: Patrons of the Club (upwards of 15 at times) were drinking outside the front of the premises between 20.00 and 22.00 hours. We contacted PC Graham Jessop and informed him of the issue and he had an officer witness the breach.

25th June 2009: On arriving home at approximately 21:30 we witnessed around 6-8 patrons drinking outside the club near the entrance. Music could also be heard coming from the club when we entered our garden.

4th July 2009 : We witnessed patrons drinking outside at approximately 20:30 and 22:30.

11th July 2009 : We were in our garden at 21:30 approximately when a live act started at the club. We could hear the music and the bass beat especially. We also saw a man (not Mr Feather nor the licensee, his daughter) appear to come out and walk down the side of the building as if to assess the music level. The noise breach continued at the same level .The noise was a breach of the license conditions as I could hear it whilst in my garden and in our kitchen. We also saw patrons drinking outside on and off all evening past 20:00.

Saturday 25th July 2009 : (Mr. [redacted] was away so this all affected Mrs. [redacted]) At approximately 19:00 I arrived home to find numerous patrons from the Cobbydale social club drinking on the public grass area next to our garden, the back door of the club open and music audible. The music could be heard within our kitchen with the back door shut.

At 19:38 I saw Melvyn Feather (supposedly no longer the licensee) appearing to monitor the noise levels with a hand held device and a clip board on the public grass area outside my kitchen window. This appeared to be a pointless exercise as the music could be heard in my kitchen at the time he was 'measuring'. Also, there were three people standing near him talking loudly and the back doors to the club were wide open (which is another license breach). The music was clearly audible at this time but the levels were not altered after these 'measurements' were taken.

There were children jumping in and out of our garden who were part of the party having the function. At approximately 20:10 one of the children saw me in the kitchen and only then did all the patrons go inside and the back door was closed.

However at approximately 21:00 there were about 30 patrons from the club back outside drinking and making a lot of noise on the public grass area. The back door to the club was open and music could clearly be heard.

I had called the environmental health noise witnessing service and Brian Fairclough attended at approximately 21:40. When he arrived there were still as many people outside, the back door of the club was open and music could still be heard in the kitchen with the door shut and in the bedroom at the back of the house. Also, the noise from the patrons shouting and talking outside would have prevented anyone from sleeping in our house.

Mr Fairclough left at approximately 22:10 and 5-10 minutes later the volume of music was increased considerably and continued at this volume until midnight. I called the environmental health emergency number to request the officer to come back but got no call back and I believe the officer did not attend.

However the music continued at a volume so loud that I could hear lyrics of songs and the DJ announcing the next song, and clearly hear the words that he was saying. This was with all our windows and external doors closed. The noise was so loud it prevented me from sleeping, opening a window on a warm evening and watching TV in my own home without being disturbed by the music.

Also, I last observed people still drinking outside at approximately 23:40.

Sunday 26th July 2009 :- At approximately 9am I saw the club setting up a large umbrella and tables on the public grassed area outside the club.

Upon arriving home at approximately 17:40 there were 2 picnic benches, a tall table and a gas powered barbeque on the public grassed area under the umbrella. Patrons from the club were using this area. The back door of the club was open and being used by the patrons to enter and exit the club.

At approximately 20:10 all the above was still present and music could be heard from the club. My husband had contacted the environmental health team earlier in the day to ensure events at the club were monitored but it appears that this did not happen.

At approximately 21:00 there was a group of about 6-8 patrons sitting on the picnic benches drinking alcoholic beverages purchased from the club. They were still drinking outside at 21:55. At this time I saw one of the patrons urinating into my garden. This has been reported to the police ref 1545-2707. At this time music could still be heard from the club.

Monday 27th July 2009 : At 7am all tables, the barbeque and gas bottle were still on the public grassed area. Half finished drinks, empty bottles and glasses were on the tables from the night before. I have taken several photographs and videos of events over this weekend, I have felt this was needed after only one visit from the council.

By Monday evening, the picnic tables were still on the public grass area and being used by patrons and I have yet again just witnessed at 21:10 patrons drinking outside. The gas bottle and umbrella etc are now being stored behind our garage on land that is not owned by the club.

NB. THE TWO PICNIC TABLES HAVE BEEN LEFT OUTSIDE THE CLUB ON THE PUBLIC GRASS AREA FOR USE BY PATRONS SINCE THIS DATE.

2nd August 2009 : Patrons of the club had been drinking outside, using benches that have been placed outside on the public grass area, all afternoon. The patrons continued to drink outside after 8pm for at least 1.5 - 2 hours.

Also, at approximately 9pm, loud bass could be heard to be played over the sound from our TV, and in every room in the house. This continued (and at one point was repeatedly turned up and down!!??) so we called the NWS of the Environment team. By about 21:50 the music was turned down (although it was still audible in our garden) so we called the emergency line to say that the EH officers need not attend.

8th & 9th August 2009 : We witnessed patrons drinking outside each night after 20:00.

14th August 2009 : Patrons were sat drinking outside at 23:00 approximately with the DPS (Emma Feather) sat at the next table smoking. She did not stop them drinking.

16th August 2009: Drinks glasses (some nearly full) were left on the tables outside the club, unattended and not cleared away, for nearly 2 hours. At this time there were young children playing on bikes on the area.

18th August 2009: At approximately 21:30 patrons were drinking outside at the tables with Emma Feather present smoking with the patrons.

22nd August 2009: Patrons were seen drinking outside at 20:30, 22:00 and later. Again Emma Feather was present smoking with the patrons.

29th August 2009: After arriving home at approximately 20:30 bass from loud music at the club was audible inside our home, in every room in the house and was audible over our TV. The NWS was called and an officer attended and noted the breach of license conditions. However, the music continued past midnight until after 00:30 and prevented us from sleeping. There were no licensed door staff present at the club which is another license condition breach. In addition, the music started up again at 1am, very loudly, for 10-15 minutes.

We have kept records of these breaches by always informing the council of these events via email so can provide evidence of the occurrences. We also have some photographic evidence of the use of the outside area. In addition, there have been breaches witnessed by the Environmental Health team officers, Tracy McLuckie of licensing and by the Police which support the above.

In addition to the above offences, we have also suffered verbal abuse from an associate of Melvyn Feather (who was with the person at the time). We have also

received a report that Melvyn Feather has been abusive about us to a patron and told the patron it was our fault that they could not drink outside after 20:00.

Also, the club has 2 signs on the pavement advertising drinks prices. These signs also state 'None members welcome'. According to the action that the Planning Department took against the previous owner and licensee in September 2008, I believe that being open to the public is against the planning regulations of the premises.

As described above, we have suffered from and witnessed repeated breaches by the club of virtually all the license conditions that are on the premise's license. The repeated noise nuisance and anti-social behaviour has meant that we have been unable to have the right to enjoy peace and privacy in our own home and has caused us anxiety and stress, especially at weekends, when we would like to relax and enjoy time at home. This has meant we :-

- a. Have been prevented from sleeping on several occasions.
- b. Been prevented from being able to watch TV or enjoy a peaceful night in without being disturbed by the noise and/or anti-social behaviour.
- c. Been unable to open windows on warm nights as this would make the noise nuisance worse.
- d. Been reluctant and unable to invite family or guests to our home as we do not know if they will be subjected to the noise nuisance and anti-social behaviour that we have had to put up with. When we have had a guest stay recently they were prevented from sleeping due to the music noise.
- e. We have been unable to enjoy our garden and can never plan an evening outside as we might be subjected to these illegal disruptions.
- f. Have suffered abuse directly from associates of the licensee. Also it appears that the licensee is trying to ostracise us within our own community by making out to patrons that we are at fault for them breaking the law and by making abusive comments about us.

We are aware that the owner, Neil Cullen, and Mr and Miss Feather have received numerous pieces of advice, warnings and abatement notices from the council, as well as being repeatedly asked to adhere to the license conditions.

From the evidence above you can see that the club have ignored all of the advice and warnings and its license as they still continue to act irresponsibly and unreasonably and continue to commit offences almost every week since taking over the club in March 2009.

Therefore, we ask that this license is reviewed as soon as possible and appropriate action taken to prevent the owner and licensee(s) from committing further offences and ruining our lives. It is clear to us that the licensees are unfit to hold a license and that the owner has condoned these actions and therefore is also not fit to own a licensed premises.

Memo

Department of Environment and Neighbourhoods

To: **Tracy McLuckie**
Licensing Unit
City Hall
Bradford

Environmental Health
Environmental Protection – Operations, Valley Team
Town Hall, Kirkgate, Shipley,
West Yorkshire, BD18 3EJ

From: **Ian Farmer**
Tel: (01274) 438816
Fax: (01274) 532767

Date: 1 October 2009

Email: ep.admin@bradford.gov.uk
HLPQ401.MJ

RE: COBBYDALE SPORTS AND SOCIAL CLUB, 5 HAYHILLS ROAD, SILSDEN, BD20 9NE

In respect of the review application for the above premises, I have the following submission in respect of the issue of noise.

History

With reference to the above mentioned club, I can confirm that this department has been involved in the investigation of complaints made by Mr. [redacted] of [redacted] Bridge Street, Silsden since June 2008. The complaints primarily concern the issue of noise break-out from the building during the provision of regulated entertainment. I am mindful also of complaints allied to patrons drinking outside beyond restricted hours.

By way of explanation, at its nearest point, the distance between the annex of the club and the back door of [redacted], Bridge Street, Silsden is less than 3.5 metres. The distance to the main body of the club is approximately 12m. In respect of the premises licence and in particular the prevention of public nuisance, the club is subject to the condition 'noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises, shall not be audible at the nearest noise sensitive premises'.

At the time of the on-set of complaints, the club was under the control of Vanessa and Scott Waterhouse and in respect of noise, complaints centred around noise break-out during Friday night discos which went on until 02.00am – a permission which still exists on the premises licence but is not exercised by the current Licensee.

Cont



Monitoring of the premises led to the establishment of a statutory noise nuisance and an abatement notice under the provisions of S80 Environmental Protection Act 1990, was served on Vanessa Waterhouse on 26th August 2008.

A subsequent breach of the notice, witnessed on 30th January 2009 by the call-out officer for Environmental Health, was addressed by means of a formal interview under PACE 1984.

It was confirmed under caution that the Licensee, Vanessa Waterhouse had left the club on 8th March 2009. A prosecution was not pursued, therefore, as it was not deemed to be in the public interest.

Mr Melvyn Feather (Licensee) and Mr Neil Cullen (owner) officially took over the running of the club on 9th March 2009. Shortly before that I had taken the opportunity to visit and speak to them about the history of dealings with the club in respect of noise break-out from regulated entertainment and to stress the importance of adhering to Environmental Health and Licensing legislation.

Several weeks into the new regime, I received a complaint from Mr [redacted], whilst on call, on Saturday 9th May 2009, regarding excessively loud amplified music being broadcast from a wedding celebration being held in the annex part of the club. Upon my arrival at 2100 hours outside the complainants property I was immediately aware of loud amplified music emanating from the club which I considered to be at statutory nuisance levels. This was further confirmed when I entered the complainant's property.

A further incident of noise break-out was witnessed by call-out officer, Ed Smith on the following Saturday, 16th May 2009, again from the annex of the club and again at nuisance levels. Both of these incidents, therefore, constituted a breach of the inaudibility condition.

In respect of these events an abatement notice under the provisions of Section 80, Environmental Protection Act 1990, was served on the Licensee, Mr Melvyn Feather on Monday 18th May 2009.

The club's response to this was to engage the services of a noise consultant; this was confirmed in a letter received by this department dated 20th May 2009. Subsequent joint meetings were held to discuss the requirements the club had to undertake to meet the terms of the notice.

On Friday 12th June 2009 I made a scheduled visit to the club to monitor noise from a rock band (Little Earthquakes) playing at a charity event in the main body of the club.

I had expressed my concerns about potential noise break-out from this event previously, and these were born out on the night when significant noise reduction was required to comply with restrictions. I re-iterated to the Licensee (Mr Feather) and owner, Mr Cullen, that it would not be appropriate in future for bands of this nature to perform at the club.

The following night, Saturday 13th June 2009, the on-call officer, Debra Ayre, again witnessed what she considered to be a clear breach of the inaudibility condition between 23.15 and 23.55 hours. A breach of the outdoor drinking condition was also witnessed.

Around this time 17th June 2009, Mr Melvyn Feather relinquished his role as DPS and handed over to his daughter Emma Feather. For the purposes of continuity, enforcement notices were issued and served on Ms Feather and the owner, Mr Cullen.

Subsequently on Saturday 20th June 2009 the on-call officer, Jeanette Howarth, responded to a complaint alleging further disturbance from an act performing at the club. She attended at 22.55 hours but no breach of the inaudibility condition was witnessed nor indeed the enforcement notice.

However on Saturday 25th July 2009 the on-call officer, Brian Fairclough again witnessed a breach of both the inaudibility condition and the one relating to outdoor drinking. A further complaint to the call-out team on Saturday 2nd August 2009 went unwitnessed but cited loud music, albeit briefly and breach of outside drinking restrictions.

Response by the call-out officer Debra Ayre on Saturday 29th August 2009 again identified non compliance with the inaudibility condition from the main body of the club as did the evidence gained from the use of recording equipment left at the complainant's property over the weekend of 18th – 20th September 2009.

Current information is that the club is in the process of acquiring a noise limiting device for installation in the annex part of the building, but as justified complaints have been witnessed during the use of the main body of the club, it has been recommended that a further device be installed there also. This is under consideration.

Summary and Conclusions

The provision of noise limiters in both the annex and the main body of the building will address noise levels amounting to statutory nuisance ie levels which have a degree of intolerability. This will therefore, address the requirements of the enforcement notice served under the provisions of S80 Environmental Protection Act 1990.

Recommendation 1

Noise limiters should be installed in both the annex and main body of the club.

In respect of the operating hours of the club, the last variation to the licence currently permits regulated entertainment until 02.00am over the weekend.

Recommendation 2

In order to protect the amenity of immediate residents I would request that the time limit for regulated entertainment be restored to midnight throughout the weekend.

The application and enforcement of the inaudibility condition placed on the club is more problematic given the close proximity of the noise source (the club) and the recipient (Pear Tree Cottage).

If one is to apply the condition in its strictest sense, in that noise should not be detectable, then it would be virtually impossible for the club to provide many of the forms of entertainment that it would normally choose to. For example, a very low level of noise break-out eg 30 – 32 dBA, may have a distinct bass beat characteristic which will travel beyond the confines of the structure of the club. It may be audible, therefore, without being excessive. A reasonable judgement is required.

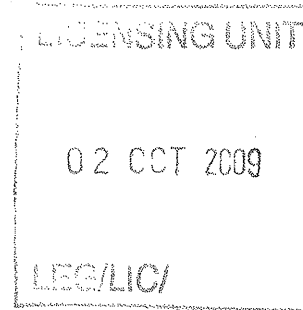
The successful application of this condition relies, therefore, on a combination of, choice of entertainment, adherence to internal noise limits (via noise limiters) and ensuring that doors and windows are closed during regulated entertainment.

A consistent and robust approach to noise management at the club which has, so far, been lacking is the key to resolving this long standing problem.

Ian Farmer
Technical Officer
Pollution Team (Env Health)
Shipley

COBBYDALE SPORTS AND SOCIAL CLUB

Att Mrs. T. Luckie,
Licensing Team,
City Hall,
Bradford.
West Yorkshire.
BD1 1HY



30th September 2009.

Your Ref; LEG/LIC/LA2003/BD/PRA0662

Dear Mrs Luckie,

Further to receipt of a 28 day notice regarding a request for a licence review we enclose mitigating representation to alleged breaches as follows;

The Applicant has submitted a lengthy statement as grounds for review. Our response will generally follow that statement.

1.a) When the applicant bought _____ no attachments to the licence for the premises existed, therefore, he should not be able to rely on any future amendments as an appeal.

1.b) I have no knowledge or correspondence regarding Licence issues with the previous owners. Clearly we are getting the backlash to what must have been a long standing problem. No mention of previous problems was brought to our attention at the licence change over.

1.c) A copy of the resolution to grassed areas outside the premises would be most useful.

We can confirm that the grassed areas have been fully maintained by the Cobbydale Club for at least the last 12 years. Further more damage caused by children riding bikes / skateboards etc to wall and flagging has been fully repaired by the club. The cost to date is in excess of £8000.00.

2.d) We can confirm as FACT that the nearest noise sensitive premises are NOT the applicants. In FACT the nearest noise sensitive premises are _____ which is attached to the club premises.

2.e) Land at rear of the club annex is not owned by the Applicant (enc)
Hazardous substances are not stored there as inspected by the council. As a sign of goodwill we cleared most of the area. The land is earmarked for future disabled toilets facilities. Drainage rights are also granted across the Applicants land, copies forwarded to council. Around £8000.00 was spent clearing the

Applicants rubbish from this area; no recompense from ourselves has been requested or indeed offered by the applicant.

2) From 30th Sept 2009, Miss Emma Feather is no longer employed by the Club as a DPS. I can confirm that the licence and DPS status is now with me.

A more hands on approach have been adapted to the day to day running of the establishment.

3) We have been working very closely with the Environmental Agency who will confirm that subject to a noise limitation device being fitted will lift the section 80 notice.

An independent noise consultant has been employed over the problem period that has carried out various noises test's both inside and outside of the licensed premises. Until a clear definition of what 'Audible' meant was given to us by the council little else by way of counter measures to any noise breakout could be undertaken.

I would further point out that in conjunction with the Environmental Health Officers and our noise consultant offers to set up noise monitoring over a period of time inside the applicants house where flatly and I may say abruptly refused by the applicant much to our dismay.

4) The clientele inherited from the previous owners was of a young nature with the difficulties of managing a young crowd of revellers and along with existing bookings Friday 21st etc had to be honoured.

The Club is now pursuing a more middle of the road type of custom.

All Previous bookings have now been fulfilled.

The Snooker Table and Games nights have now been re-established. Community groups from Steeton Male Voice Choir, the Silsden Singers, Silsden Amuter Rugby Club, Cobby Fishing Club, Afternoon children's member's parties are taking place which may explain confusion of 'Beer Garden'. I understand the Applicant has no objection to Children playing on the common grassed area.

5) With regard to tables on grassed area's. I must clearly state the tables are not our property. The tables appeared on or around the Silsden Gala day in July. We have asked the council if they own them. If we do not own the common grassed area surely we are not responsible for any items left there. This includes bottles and glass from other establishments with brand names we do not sell. Licensing has been informed about this and asked us to keep records which can be produced from the club diary.

The Applicant has objected to events on Gala Day taking place all over Silsden, surely we cannot be responsible for this or the glasses / bottles left from other licensed premises.

6) Licensed Doormen are always used for the rare functions after midnight involving music. Policy for Doormen is not to leave the premises. The applicant would find it very hard to see the main entrance to the club from his premises. Regular patrols are carried out after 8.00pm. Three sides of the club cannot be seen by the Applicant from his premises.

7) No one seen urinating in a public place is allowed back on the premises. This is a club condition of entry.

8) With regards to 'no drinks outside after 8.00pm' I would state the following:

- a.) Policing drinks outside coupled with the smoking ban is very difficult. People fear that drinks may be spiked or stolen / removed.
- b.) The clientele is more mature and responsible and find it very difficult to accept the situation.
- c.) I believe no nuisance is being caused and the restriction is prejudice against the member's rights.
- e.) People come from other pubs / clubs adjacent where no restrictions are in place, sometimes with drinks in glass's / bottles. What can I do if they sit or stand on a public wall / grassed area outside our licensing control?
- f.) To my knowledge, the Police have never been called for breach of the peace or any incidents the Applicant has referred too. We are members of Pub watch along with all other licences in the town and do not tolerate any bad behaviour, and always report incidents to Pub watch who deal with things appropriately.

We are trying very hard to comply with licensing regulations and would not knowingly break any regulations.

Cobbydale Club, is a very long established licensed premise's, it should be noted that the club formerly owned the adjacent barn, land and indeed .

. Sale of the surrounding property ensured the survival of the club. The members selling the adjacent properties could not have foreseen licence restrictions threatening the future of the club premises. I am lead to understand that the recent license conditions were only added after the former owner intended to operate a late night club venue theme. This was not successful leading to the sale to me. The club is now operating as a normal licence venue with in-house disco music on Fridays and generally solo performers accompanied by Bingo on a Saturday night.

I am sure the noise problem can be addressed in conjunction with the Environmental department.

The 8.00 pm drinking outside is very difficult to police, I would propose by the licence review hearing further discussions take place with the license department

to review the situation with our intention to move the smoking area down the side of the building with access from existing exit by the bar. This would enable staff to monitor things more efficiently.

Yours faithfully,

Mr.N.A.Cullen

11. Reviews

THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.
- 11.4 Licensing authorities may not initiate their own reviews of premises licences. Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may however request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.5 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.
- 11.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 11.8 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 11.9 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

11.10 Further information for interested parties about the review process is available in "Guidance for interested parties: applying for a review" which can be found on the DCMS website.

REPETITIOUS REPRESENTATIONS

11.11 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.

11.12 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.

11.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within a 12 month period.

11.14 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing

objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

11.17 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.18 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

11.21 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.22 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.
- 11.23 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.
- 11.24 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.
- 11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;

- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.26 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.27 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER

11.28 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review: The determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within 10 working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than 5 working days before the first hearing day. There must be five clear working days between the giving of the notice and the start of the hearing.