

Yates, Hereford  
58 Commercial Road, Hereford, HR1 2BP

---

Appeal against Decision of Licensing Sub-Committee  
Licensing Panel Hearing: Wednesday, 4<sup>th</sup> November 2015

**Evidence Bundle Index**

<b>TAB</b>	<b>Document</b>	<b>Page(s)</b>
1.	Original Premises Licence	1 – 10
2.	Copy variation application	11 – 27
3.	Stonegate Company Information Sheet	28 – 29
4.	Stonegate Company Dispersal Policy	30 – 31
5.	Schedule of Temporary Event Notices	32
6.	Copy correspondence to the local residents	33
7.	Relevant Case Law	34 - 55
8.	Locality Map	56
9.	Statement of Paul Neades, Designated Premises Supervisor	57 – 60
10.	Letter from [REDACTED]	61
11.	FOI Request regarding alcohol related incidents dated 28 July 2014	62 - 65
12.	FOI Request regarding noise complaints dated 9 October 2015	66 - 67

**TAB 1**

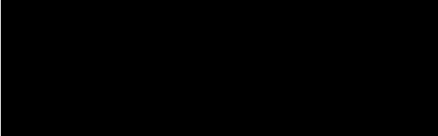
LICENSING ACT 2003  
Part A - Premises Licence

Premises licence number - PR00453 (Minor Variation)

Part 1 - Premises details

Postal address of premises, or if none, Ordnance Survey map reference or description
<b>YATES</b> <b>58 Commercial Road</b> <b>Hereford</b> <b>HR1 2BP</b>
Telephone number: <b>01432 273078</b>

Where the licence is time limited the dates: <b>Not applicable</b>
---

<p>Licensable activities authorised by the licence</p> <p><b>Provision of regulated entertainment</b></p> <ol style="list-style-type: none"> <li>1. An exhibition of a film (Indoors)</li> <li>2. An indoor sporting event</li> <li>3. A performance of live music (Indoors)</li> <li>4. Any playing of recorded music (Indoors)</li> <li>5. A performance of dance (Indoors)</li> <li>6. Other regulated entertainment (Indoors)</li> </ol> <p><b>Provision of entertainment facilities</b></p> <ol style="list-style-type: none"> <li>7. Making music (Indoors)</li> <li>8. Dancing (Indoors)</li> <li>9. Other entertainment facilities (Indoors)</li> </ol> <p><b>Provision of refreshment or alcohol</b></p> <ol style="list-style-type: none"> <li>10. Provision of late night refreshment (Indoors)</li> <li>11. Sale by retail of alcohol (For consumption both on and off the premises)</li> </ol> <p><b>Further details</b></p> <p>(An exhibition of a film) Insofar as it may be required, for any juke box and also for exhibition of a film principally video/DVD entertainment or prerecorded televised events on screens and TV screens.</p> <p>(An indoor sporting event) Possibility of a sporting event (eg Pub Games) being held in the presence of an audience.</p> <p>(A performance of live music) Live and amplified voice: Current PEL permits.</p> <p>(Any playing of recorded music) Recorded music by juke box and music systems: Currently permitted by PEL.</p> <p>(A performance of dance) Arranged or spontaneous exhibition dance, ancillary to acts etc.</p> <p>(Other regulated entertainment) PEL/Licensing Act 1964 exemptions currently permit.</p> <p>(Making music) As currently permitted.</p> <p>(Dancing) Public dancing as currently permitted.</p> <p>(Other entertainment facilities) Currently permitted by PEL.</p> <p>(Other regulated entertainment) Possible cabaret; comperes for functions, quizzes and similar entertainments, and the like</p> <p><b>Description of facilities provided</b></p> <p>(Making music) Possible karaoke and similar.</p> <p>(Other entertainment facilities) Possible cabaret; comedy acts and the like when dancing may be included.</p>	<p>Certified as a true copy</p>  <p>Nottingham</p>
--	---



**Films; Recorded Music;**

Monday - Sunday - from 08:00 - 01:00

**Indoor Sporting Events; Live music; Dance; Other regulated entertainment: making music;  
Dancing; Other entertainment facilities**

Monday - Sunday - 10:00-01:00

**Late night refreshment**

Monday - Sunday - 23:00-01:00

**Supply/Sale of Alcohol**

Monday - Sunday - from 08:00 - 01:00

Terminal hour for the sale of alcohol within the rear external area is 00:30hrs

New Year's Eve 36 hours

Change GMT to BST an additional hour;

Bank Holiday weekends Fridays to Mondays, on St Patrick's Day, St George's Day, St Andrews Day and St Valentine's Day and on the day before Christmas Eve to Boxing Day (Excluding Christmas Day ) and New Year's Day - an additional hour.

Christmas Day: 12:00 - 23:00

On a maximum of 12 occasions a year, such hours as may be agreed by the police for special occasions, the police to have an absolute veto (not to be unreasonably withheld). At least 7 days notice of such a request will be given to the council and police.

The opening hours of the premises

Monday-Sunday: 08:00 - 01:45

**Non Standard Timings:**

An additional 45 minutes to the hours shown at box B if appropriate.

An additional 45 minutes to the hours shown at box B.

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

Alcohol-On and Off the premises

**Part 2**

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Stonegate Pub Company Ltd  
Porter Tun House  
500 Capability Green  
Luton  
LU1 3LS

Registered number of holder, for example company number, charity number (where applicable)

FC029833



Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

**Paul William Neades  
Yates  
58 Commercial Road  
Hereford  
HR1 2BP**

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 Number - 50  
Issuing Authority - Herefordshire Council**

#### **Annex 1 - Mandatory conditions**

##### **Mandatory conditions where licence authorises supply of alcohol**

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
- (a) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

##### **Additional mandatory conditions:**

The responsible person [as defined by Section 153(4) Licensing Act 2003] shall: -

- take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises
- ensure that no alcohol is dispensed directly by one person into the mouth of another
- ensure that free tap water is provided on request to customers where it is reasonably available.

##### **Age verification**

- The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- 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 a holographic mark.

##### **Smaller measures**

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: 1/2 pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures



**Mandatory condition: exhibition of films**

Admission of children to the exhibition of any film must be restricted in accordance with any recommendation made by the film classification body or that body specified in the licence unless

- (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

In this section-

"children" means persons 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 (c.39) (authority to determine suitability of video works for classification).

**Mandatory condition: door supervision**

Each individual required to carry out a security activity must be licensed by the Security Industry Authority

**Annex 2 - Conditions consistent with the operating Schedule**

**Licensing objectives**

**Prevention of Crime:**

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition on entrance or exit cameras.

Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of alcohol occurs.

Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand or at the end of licensable activities.

The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or VHS to the Police or an authorised person (as defined by Section 13 of the Licensing Act 2003) on demand or at the end of licensable activities.

The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS/Duty Manager MUST report the failure to the Police on contact number 0300 333 3000 immediately.

2. SIA Licensed Door Staff will be employed at the premises as shown below, until the termination of licensable activities. When employed externally door staff shall wear hi-viz reflective jackets or vests. When employed internally they shall be readily identifiable as door staff.
  - a) On a Friday and Saturday and on a Sunday proceeding Bank Holidays:
    - Two (2) SIA door staff shall be employed from 8.30 pm
    - One (1) Additional (total 3) SIA door staff shall be employed from 9 pm
    - Two (1) Additional (total 5) SIA door staff shall be employed from 9.30 pm



- b) On Thursday from 8.30 pm  
Two (2) SIA Door staff shall be employed where the number of customers on the licensed premises is between 0 and 200  
One(1) Additional SIA door staff shall be employed for each additional 100 customers (or part of) on the licensed premises. (e.g 420 customer would require 4 SIA door staff)
  - c) On Sunday from 9.30 pm  
Two (2) SIA Door staff shall be employed where the number of customers on the licensed premises is between 0 and 200  
One(1) Additional SIA door staff shall be employed for each additional 100 customers (or part of) on the licensed premises. (e.g 420 customer would require 4 SIA door staff)
  - d) When the bar in the external area is operational, one (1) additional SIA door supervisor shall be employed within the external area on a Friday and Saturday night and on a Sunday preceding a Bank Holiday from 21:00hrs to the end of licensed hours.
3. An incident log must be kept at the premises, and made immediately available on request to an authorised person (as defined by Section 13 of the Licensing Act 2002) or the Police, which must record the following:
    - (a) all crimes reported to the venue
    - (b) all ejections of patrons
    - (c) any complaints received
    - (d) any incidents of disorder
    - (e) seizures of drugs or offensive weapons
    - (f) any faults in the CCTV system or searching equipment or scanning equipment
    - (g) any persons refused entry to the premises
    - (h) any visit by a relevant authority or emergency service
  4. A system shall be in place which is capable of recording electronically and at the time, any refusal of sale of alcohol. The recording shall show the date and time and operators identity. Such information will be made available to an authorised person (as defined by Section 13 of the Licensing Act 2002) or the police on demand at anytime after the 24 hour period following the sale.
  5. No customers carrying open bottles upon entry shall be admitted to the premises at any times when they are open for licensable activities.
  4. No open containers shall be removed from the premises.
  5. The premises shall be an active member of the HAND Scheme (Pub Watch) while such a scheme or similar exists.
  6. A Hereford City centre 'Pub Radio' shall be held at the premises. A responsible person shall log on at the control centre at the commencement of licensable activities. A responsible person shall monitor the radio throughout the period which the premises are open for licensable activities. Any information likely to have an impact on any of the licensing objectives shall be transmitted on the radio immediately.
  7. A Personal Licence holder will be on the premises from 9 pm until the end of licensable activities on a Friday, Saturday and on any bank holiday or day proceeding a bank holiday and on any day from 9 pm when the premises is open after 12.15 am for licensable activities.
  8. All staff engaged in the sale of alcohol to be trained in Responsible alcohol retailing to the minimum standard of BIIAB level 1 or any other training recognised and agreed with Herefordshire Council Trading Standards within one month of commencing employment at the premises. (Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the licence). Training records shall be kept on the premises and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer

of Herefordshire Council on demand.

**Public Safety:**

1. The maximum permitted numbers of persons in the premises including staff shall not exceed the numbers set within the fire risk assessment for the premises.
2. A system shall be place which is capable of showing the number of persons on the premises at any time after 8.30 pm until the end of licensable activities on a Thursday, Friday, Saturday and Sunday. This number shall be given immediately on demand to an authorised person (as defined by Section 13 of the Licensing Act 2002) or police.
3. The reasonable requirements of the Building Control officer will be complied with.
4. All electrical wiring and distribution systems shall be tested at least once a year and signed off by a competent person whose name is shown within the Local Authority Building Control Part P Competent Persons Register (<http://www.competentperson.co.uk/search.asp>). The sign off certificate shall be produced to an authorised person (as defined by Section 13 of the Licensing Act 2002) or Police on demand.

**Prevention of Public Nuisance:**

1. Prominent, clear and legible signage (In not less than 32 font bold) shall be displayed at all exits to the premises requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
2. 'Noise' from the premises should not be 'audible or discernable' within any occupied permanent structure where people normally reside or sleep, when assessed with windows and doors closed. 'In this condition; 'Noise' -is defined as sound which is created by entertainment consisting of either vocal (recorded or live) or instrumental music (recorded or live) or a combination of both. Audible or discernable' -is defined as 'noise' which is distinct above the general hubbub of activity on the site which can be identified by the human ear as originating from discrete sources from the licensed site'.
3. Where regulated entertainment is offered after midnight, no admission will be permitted during the hour before the cessation of regulated entertainment.
4. The beer garden may be used by customers for the consumption of alcohol as per the licensing hours of opening and customers shall be controlled to minimize the risk of nuisance to neighbours . The terminal hour for the sale of alcohol in the rear external area is 00:30hrs.
5. No music shall be played in the outside beer garden at any time.
6. All external doors to the beer garden must be kept closed except for entrance and exit at all times from 20:00 hours. Windows shall be closed at 23:00 hours and adequate ventilation provided.
7. The indoor sporting events shall be restricted to darts, pool, snooker, skittles or other minor sporting games of a similar kind.
8. The exhibition of films shall be restricted to video/DVD entertainment and shall be controlled by the licensee.

**Protection of Children:**

1. Under 18's will not be permitted in the premises if the style of entertainment offered or operation is not conducive.
2. Under 18's will not be permitted on the premises in any event after 19:00 hours when regulated entertainment is offered (unless they are attending a private function held on the



premises and are accompanied by an adult).

3. The premises shall operate a Challenge 21 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of an authorised person' (as defined by Section 13 of the Licensing Act 2003) or the police or an authorised Trading Standards Officer of Herefordshire Council. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any bar advertising the scheme operated.
4. A written or electronic register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months and will be collected on a daily basis by the Designated Premises Supervisor and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.

### Annex 3 - Conditions attached after a hearing by the licensing authority

#### HOURS OF LICENSABLE ACTIVITY

	Films, Recorded Music (or similar) & Supply of Alcohol	Indoor sporting events, Live Music and Dance (or similar), Provision of facilities for making music / dance (or Similar)	Late night refreshment	Open to the public
Monday	0800 - 0100	1000 - 0100	2300 - 0100	0800 - 0145
Tuesday	0800 - 0100	1000 - 0100	2300 - 0100	0800 - 0145
Wednesday	0800 - 0100	1000 - 0100	2300 - 0100	0800 - 0145
Thursday	0800 - 0100	1000 - 0100	2300 - 0100	0800 - 0145
Friday	0800 - 0100	1000 - 0100	2300 - 0100	0800 - 0145
Saturday	0800 - 0100	1000 - 0100	2300 - 0100	0800 - 0145
Sunday	0800 - 0100	1000 - 0100	2300 - 0100	0800 - 0145

#### SEASONAL VARIATION

	Films, Recorded Music (or similar) & Supply of Alcohol	Indoor sporting events, Live Music and Dance (or similar), Provision of facilities for making music / dance (or Similar)	Late night refreshment	Open to the public
New Years Eve	36 hours as permitted under grandfather rights			
St. George's Day	0800 - 0200	1000 - 0200	2300 - 0200	0800 - 0245
St. Patrick's Day	0800 - 0200	1000 - 0200	2300 - 0200	0800 - 0245
St. Andrew's Day	0800 - 0200	1000 - 0200	2300 - 0200	0800 - 0245
Valentine's Day	0800 - 0200	1000 - 0200	2300 - 0200	0800 - 0245



23rd December	0800 - 0200	1000 - 0200	2300 - 0200	0800 - 0245
Christmas Eve	0800 - 0200	1000 - 0200	2300 - 0200	0800 - 0245
Christmas Day	1200 - 2300	1200 - 2300	1200 - 2300	1200 - 2345
Boxing Day	0800 - 0200	1000 - 0200	2300 - 0200	0800 - 0245
Bank Holidays (Friday - Monday)	0800 - 0200	1000 - 0200	2300 - 0200	0800 - 0245

N.B – The applicant requested an additional hour to counter act the change from GMT to BST. The Sub-Committee granted this request but noted that it would not be required at present as the premise is only open to the public until 0145.

**Annex 4 - Plans**

**As attached - dated 03.02.2012 Drawing No. JS/053/100B**



**LICENSING ACT 2003  
Part B - Premises licence summary**

**Premises licence number - PR00453 (Minor Variation)**

**Premises details**

Postal address of premises, or if none, ordnance survey map reference or description <b>YATES 58 Commercial Road Hereford HR1 2BP</b>
Telephone number: <b>01432 273078</b>

Where the licence is time limited the dates <b>Not applicable</b>
--

<p>Licensable activities authorised by the licence</p> <p><b>Provision of regulated entertainment</b></p> <ol style="list-style-type: none"> <li>1. An exhibition of a film (Indoors)</li> <li>2. An indoor sporting event</li> <li>3. A performance of live music (Indoors)</li> <li>4. Any playing of recorded music (Indoors)</li> <li>5. A performance of dance (Indoors)</li> <li>6. Other regulated entertainment (Indoors)</li> </ol> <p><b>Provision of entertainment facilities</b></p> <ol style="list-style-type: none"> <li>7. Making music (Indoors)</li> <li>8. Dancing (Indoors)</li> <li>9. Other entertainment facilities (Indoors)</li> </ol> <p><b>Provision of refreshment or alcohol</b></p> <ol style="list-style-type: none"> <li>10. Provision of late night refreshment (Indoors)</li> <li>11. Sale by retail of alcohol (For consumption both on and off the premises)</li> </ol> <p><b>Further details</b></p> <p>(An exhibition of a film) Insofar as it may be required, for any juke box and also for exhibition of a film principally video/DVD entertainment or prerecorded televised events on screens and TV screens.</p> <p>(An Indoor sporting event) Possibility of a sporting event (eg Pub Games) being held in the presence of an audience.</p> <p>(A performance of live music) Live and amplified voice: Current PEL permits.</p> <p>(Any playing of recorded music) Recorded music by juke box and music systems: Currently permitted by PEL.</p> <p>(A performance of dance) Arranged or spontaneous exhibition dance, ancillary to acts etc.</p> <p>(Other regulated entertainment) PEL/Licensing Act 1964 exemptions currently permit.</p> <p>(Making music) As currently permitted.</p> <p>(Dancing) Public dancing as currently permitted.</p> <p>(Other entertainment facilities) Currently permitted by PEL.</p> <p>(Other regulated entertainment) Possible cabaret; comperes for functions, quizzes and similar entertainments, and the like</p> <p><b>Description of facilities provided</b></p> <p>(Making music) Possible karaoke and similar.</p> <p>(Other entertainment facilities) Possible cabaret; comedy acts and the like when dancing may be included.</p>
--



## Herefordshire Council

The opening hours of the premises

**Monday-Sunday: 08:00 - 01:45**

**Non Standard Timings:**

**An additional 45 minutes to the hours shown at box B if appropriate.  
An additional 45 minutes to the hours shown at box B.**

Name, (registered) address of holder of premises licence

**Stonegate Pub Company Ltd  
Porter Tun House  
500 Capability Green  
Luton  
LU1 3LS**

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

**Alcohol-On and Off the premises**

Registered number of holder, for example company number, charity number (where applicable)

**FC029833**

Name of designated premises supervisor where the premises licence authorises the supply of alcohol

**Paul William Neades**

State whether access to the premises by children is restricted or prohibited

**The premises shall operate a Challenge 21 Policy.**

**Under 18's will not be permitted in the premises if the style of entertainment offered or operation is not conducive.**

**Under 18's will not be permitted on the premises in any event after 19:00 hours when regulated entertainment is offered (unless they are attending a private function held on the premises and are accompanied by an adult).**

**TAB 2**

County of Herefordshire District Council

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.

We Stonegate Pub Company Limited  
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

<b>Premises licence number</b> PR00453
---

Part 1 – Premises Details

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Yates's 58 Commercial Road			
<b>Post town</b>	Hereford	<b>Post code</b>	HR1 2BP

<b>Telephone number at premises (if any)</b>	01432 273078
<b>Non-domestic rateable value of premises</b>	£100,000

Part 2 – Applicant details

<b>Daytime contact telephone number</b>	08451262944		
<b>E-mail address (optional)</b>			
<b>Current postal address if different from premises address</b>	Porter Tun House 500 Capability Green		
<b>Post Town</b>	Luton	<b>Postcode</b>	LU1 3LS



**Part 3 - Variation**

Please tick yes

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

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

Day	Month	Year

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

1. To extend permitted hours for the sale of alcohol, regulated entertainment and Late Night Refreshment until 02.00 Monday – Sunday.
2. To extend the start time for opening hours, films and recorded music to begin at 07.00 Monday – Sunday to allow breakfast opening.
3. To extend terminal hour for opening hours until 02.30 Monday – Sunday.
4. To remove all conditions contained within annex 2 of the premises licence and replace with the operating schedule detailed below.
5. To add in non standard timings as detailed in the application.

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

N/A
-----

**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 yes

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

**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**

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

**B**

<b>Films</b> Standard days and timings (please read guidance note 6)			<b>Will the exhibition of films take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon	07.00	02.00	<b>Please give further details here</b> (please read guidance note 3) Amplified music video, sport, entertainment programs and any entertainment of a like kind (nothing of an adult nature)		
Tue	07.00	02.00			
Wed	07.00	02.00	<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 4)		
Thur	07.00	02.00			
Fri	07.00	02.00	<b>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</b> (please read guidance note 5)		
Sat	07.00	02.00			
Sun	07.00	02.00	An additional hour to the terminal hour on the following notable		

		<p>days: St George's Day; St David's Day, St Patrick's Day, St Andrew's Day, Burns Night, Valentines Night, Halloween, On all Bank Holidays and the Friday, Saturday and Sunday preceding all Bank Holidays, Maundy Thursday, Christmas Eve, Christmas Day &amp; Boxing Day, 27, 28, 29 &amp; 30 December, Bonfire Night and New Year's Day.</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New Year's Eve – from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
--	--	--

**C**

<p><b>Indoor sporting events</b> Standard days and timings (please read guidance note 6)</p>			<p><b>Please give further details</b> (please read guidance note 3) The playing of indoor pub games, eg skittles, pool, snooker and darts</p>
Day	Start	Finish	
Mon	10.00	02.00	
Tue	10.00	02.00	<p><b>State any seasonal variations for indoor sporting events</b> (please read guidance note 4)</p>
Wed	10.00	02.00	
Thur	10.00	02.00	<p><b>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</b> (please read guidance note 5)</p> <p>An additional hour to the terminal hour on the following notable days: St George's Day; St David's Day, St Patrick's Day, St Andrew's Day, Burns Night, Valentines Night, Halloween, On all Bank Holidays and the Friday, Saturday and Sunday preceding all Bank Holidays, Maundy Thursday, Christmas Eve, Christmas Day &amp; Boxing Day, 27, 28, 29 &amp; 30 December, Bonfire Night and New Year's Day.</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New Year's Eve – from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
Fri	10.00	02.00	
Sat	10.00	02.00	
Sun	10.00	02.00	

**E**

<b>Live music</b> Standard days and timings (please read guidance note 6)			<b>Will the performance of live music take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<p><b>Please give further details here</b> (please read guidance note 3) Music may be via artists singing, karaoke, DJ and other of a similar nature</p> <p><b>State any seasonal variations for the performance of live music</b> (please read guidance note 4)</p> <p><b>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</b> (please read guidance note 5) An additional hour to the terminal hour on the following notable days: St George's Day; St David's Day, St Patrick's Day, St Andrew's Day, Burns Night, Valentines Night, Halloween, On all Bank Holidays and the Friday, Saturday and Sunday preceding all Bank Holidays, Maundy Thursday, Christmas Eve, Christmas Day &amp; Boxing Day, 27, 28, 29 &amp; 30 December, Bonfire Night and New Year's Day.</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New Year's Eve – from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>		
Mon	10.00	02.00			
Tue	10.00	02.00			
Wed	10.00	02.00			
Thur	10.00	02.00			
Fri	10.00	02.00			
Sat	10.00	02.00			
Sun	10.00	02.00			

**F**

<b>Recorded music</b> Standard days and timings (please read guidance note 6)			<b>Will the playing of recorded music take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<p><b>Please give further details here</b> (please read guidance note 3) Amplified music played through an in house sound system</p> <p><b>State any seasonal variations for the playing of recorded music</b> (please read guidance note 4)</p> <p><b>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</b> (please read</p>		
Mon	07.00	02.00			
Tue	07.00	02.00			
Wed	07.00	02.00			
Thur	07.00	02.00			
Fri	07.00	02.00			
Sat	07.00	02.00			

**D**

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



			guidance note 5)
Sun	07.00	02.00	<p>An additional hour to the terminal hour on the following notable days: St George's Day; St David's Day, St Patrick's Day, St Andrew's Day, Burns Night, Valentines Night, Halloween, On all Bank Holidays and the Friday, Saturday and Sunday preceding all Bank Holidays, Maundy Thursday, Christmas Eve, Christmas Day &amp; Boxing Day, 27, 28, 29 &amp; 30 December, Bonfire Night and New Year's Day.</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New Year's Eve – from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>



**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 checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 3) Dancing by staff throughout the premises		
Mon	10.00	02.00			
Tue	10.00	02.00	<b>State any seasonal variations for the performance of dance</b> (please read guidance note 4)		
Wed	10.00	02.00			
Thur	10.00	02.00	<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) An additional hour to the terminal hour on the following notable days: St George's Day; St David's Day, St Patrick's Day, St Andrew's Day, Burns Night, Valentines Night, Halloween, On all Bank Holidays and the Friday, Saturday and Sunday preceding all Bank Holidays, Maundy Thursday, Christmas Eve, Christmas Day & Boxing Day, 27, 28, 29 & 30 December, Bonfire Night and New Year's Day.  An additional hour to the standard and non-standard times on the day when British Summertime commences.  New Year's Eve – from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.		
Fri	10.00	02.00			
Sat	10.00	02.00			
Sun	10.00	02.00			

**H**

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 6)			<b>Please give a description of the type of entertainment you will be providing</b>		
Day	Start	Finish	<b>Will this entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Mon	10.00	02.00		Outdoors	<input type="checkbox"/>
Tue	10.00	02.00	<b>Please give further details here</b> (please read guidance note 3)		
Wed	10.00	02.00			
Thur	10.00	02.00	<b>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</b> (please read guidance		

Fri	10.00	02.00	note 4)
Sat	10.00	02.00	<p><b>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</b> (please read guidance note 5)</p> <p>An additional hour to the terminal hour on the following notable days: St George's Day; St David's Day, St Patrick's Day, St Andrew's Day, Burns Night, Valentines Night, Halloween, On all Bank Holidays and the Friday, Saturday and Sunday preceding all Bank Holidays, Maundy Thursday, Christmas Eve, Christmas Day &amp; Boxing Day, 27, 28, 29 &amp; 30 December, Bonfire Night and New Year's Day.</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New Year's Eve – from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
Sun	10.00	02.00	

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	23.00	02.00	<p><b>Please give further details here</b> (please read guidance note 3) Hot food and drink provided as and when required including functions or events</p>	Both	<input checked="" type="checkbox"/>
Tue	23.00	02.00			
Wed	23.00	02.00	<p><b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 4)</p>		
Thur	23.00	02.00			
Fri	23.00	02.00	<p><b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 5)</p> <p>An additional hour to the terminal hour on the following notable days: St George's Day; St David's Day, St Patrick's Day, St Andrew's Day, Burns Night, Valentines Night, Halloween, On all Bank Holidays and the Friday, Saturday and Sunday preceding all Bank Holidays, Maundy Thursday, Christmas Eve, Christmas Day &amp; Boxing Day, 27, 28, 29 &amp; 30 December, Bonfire Night and New Year's Day.</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New Year's Eve – from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>		
Sat	23.00	02.00			
Sun	23.00	02.00			

**J**

<b>Supply of alcohol Standard days and timings (please read guidance note 6)</b>			<b>Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)</b>	
			On the premises	<input type="checkbox"/>
			Off the premises	<input type="checkbox"/>
			Both	<input checked="" type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol (please read guidance note 4)</b>	
Mon	08.00	02.00		
Tue	08.00	02.00		
Wed	08.00	02.00		
Thur	08.00	02.00	<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 (please read guidance note 5)</b>	
Fri	08.00	02.00	An additional hour to the terminal hour on the following notable days: St George's Day; St David's Day, St Patrick's Day, St Andrew's Day, Burns Night, Valentines Night, Halloween, On all Bank Holidays and the Friday, Saturday and Sunday preceding all Bank Holidays, Maundy Thursday, Christmas Eve, Christmas Day & Boxing Day, 27, 28, 29 & 30 December, Bonfire Night and New Year's Day.	
Sat	08.00	02.00		
Sun	08.00	02.00	An additional hour to the standard and non-standard times on the day when British Summerime commences.  New Year's Eve – from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.	

**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)**  
**NONE**

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	07.00	02.30	
Tue	07.00	02.30	
Wed	07.00	02.30	<p><b>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</b> (please read guidance note 5)</p> <p>An additional hour to the terminal hour on the following notable days: St George's Day; St David's Day, St Patrick's Day, St Andrew's Day, Burns Night, Valentines Night, Halloween, On all Bank Holidays and the Friday, Saturday and Sunday preceding all Bank Holidays, Maundy Thursday, Christmas Eve, Christmas Day &amp; Boxing Day, 27, 28, 29 &amp; 30 December, Bonfire Night and New Year's Day.</p> <p>An additional hour to the standard and non-standard times on the day when British Summertime commences.</p> <p>New Year's Eve – from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
Thur	07.00	02.30	
Fri	07.00	02.30	
Sat	07.00	02.30	
Sun	07.00	02.30	

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

To remove all conditions contained within Annex 2 of the premises licence and replace them with the Conditions below.

Please tick yes

- 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 failed to enclose the premises licence or relevant part of premises licence

Licence to follow under separate cover as application submitted online



**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,e) (please read guidance note 9)**

The premises licence holder has considered the impact of the proposed variation and notes that the premises fall within the cumulative impact policy area.

Pre-consultation has taken place with Fred Spriggs at the Licensing Authority and Jim Mooney, Police Licensing Officer. The premises had operated with a number of temporary event notices to the hours that had been requested which have not had a negative impact on the licensing objectives. Further the premises believe that the extension of hours at the premises will have a positive effect on the licensing objectives. This is because at present the premises currently have to cease licensable activities at 1am at which time many customers have not finished their evening and they therefore go onto other later licensed premises in Hereford, many of which are open until 3am. By Yates extending their hours until 2am, as has been experienced under temporary event notices and from customer feedback, it is believed that the customers will remain in Yates until the new closing hour and will then leave the premises and go home. Thus, preventing double migration and also preventing further potential flashpoints around the later premises in the early hours of the morning.

The premises have also made enquires in relation to crime and disorder associated with their premises which has shown a significant decrease year on year of alcohol related incidents.

The operating schedule has also been redrafted taking into account conditions requested by the Police Licensing Officer. In particular, it is also submitted that the inclusion of the last admission time of 1am will help reduce the movement of customers around the cumulative impact area. This condition is not currently on the premises licence.

The premises have also considered the Herefordshire Licensing Policy. The licensing policy references zoning of hours as being avoided and rather references a general principle of later opening so that customers can leave for natural reasons, slower over longer periods will be promoted to prevent unnatural concentrations of people.

The cumulative impact policy in Hereford has been in existence for a number of years. The purpose of the policy as stated in annex a, looks at the undesirable consequences where there is a cumulative effect of licensed premises, for example an increase in crime both against property and persons, an increase in noise and disturbance to residents, traffic congestion and/or parking difficulties, littering and fouling. There is no evidence that the premises have caused an increase in crime and indeed the Freedom of Information Act request shows that the premises have significantly reduced their crime incidents associated with their premises. There is no evidence of noise and disturbance to residents, traffic congestion, parking difficulties or littering and fouling. Therefore, using principles of case law established in Brewdog and the recent Sainsburys case, copies of which are attached, the submission is made in this case that the premises can demonstrate comprehensively that they will not add to the existing problems in the area and further the granting of the application will further reduce the potential for any additional crime and disorder.

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

1. CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions, particularly facial recognition on entrance of exits cameras. Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas and all areas where the sale/supply of alcohol occurs.
2. CCTV will cover external areas at the front of the premises (Commercial Road) to cover any areas used for customer queuing.

Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days.

Copies of the CCTV will be made available to the Police as soon as reasonable practicable and in any event within 48 hours of the request. In the event of a serious incident (as defined at the time by the duty senior police commander for the area) copies of the CCTV will be made available to the Police on demand.

The premises licence holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or VHS to the Police or an authorized person (as defined by Section 13 of the Licensing Act 2003).

The recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS/Duty Manager MUST report the failure to the Police on contact number 0300 333 3000 immediately.

3. SIA Licensed Door Staff will be employed at the premises as shown below, until the termination of licensable activities. When employed externally door staff shall wear hi-viz reflective jackets or vests. When employed internally they shall be readily identifiable as door staff.
  - a) On a Friday and Saturday and on a Sunday proceeding Bank Holidays:  
Two (2) SIA door staff shall be employed from 2100hrs  
One (1) Additional (total 3) SIA door staff shall be employed from 2200hrs  
Two (2) Additional (total 5) SIA door staff shall be employed from 2230hrs
  - b) On Thursday from 2130hrs Two (2) SIA Door staff shall be employed where the number of customers on the licensed premises is between 0 and 200 .One(1) Additional SIA door staff shall be employed for each additional 100 customers (or part of) on the licensed premises. (e.g 420 customer would require 4 SIA door staff)
  - c) On Sunday from 9.30 pm - two (2) SIA Door staff shall be employed where the number of customers on the licensed premises is between 0 and 200 .One(1) Additional SIA door staff shall be employed for each additional 100 customers (or part of) on the licensed premises. (e.g 420 customer would require 4 SIA door staff)
  - d) When the bar in the external area is operational, one (1) additional SIA door supervisor shall be employed within the external area on a Friday and Saturday night and on a Sunday preceding a Bank Holiday from 2130hrs to the end of licensed hours.



The Premises licence holder/DPS will employ SIA doorstaff at other times when risk assessment dictates door supervision to be necessary.

The Premises Licence Holder or DPS or a person nominated by them in writing for the purpose, shall maintain a register of door supervisors which shall be kept on the premises showing the names and addresses of the door supervisors, their badge numbers and shall be signed by the door supervisors as they commence and conclude duty. The register shall be made available on demand for inspection by an 'authorised person' (as defined by Section 13 of the Licensing Act 2003), or the Police or an authorised officer of the SIA.

4. An incident log must be kept at the premises, and made immediately available on request to an authorised person (as defined by Section 13 of the Licensing Act 2002) or the Police, which must record the following:
  - (a) all crimes reported to the venue
  - (b) all ejections of patrons
  - (d) any incidents of disorder
  - (e) seizures of drugs or offensive weapons
  - (f) any faults in the CCTV system or searching equipment or scanning equipment
  - (g) any persons refused entry to the premises
  - (h) any visit by a relevant authority or emergency service
5. A system shall be in place which is capable of recording electronically and at the time, any refusal of sale of alcohol. The recording shall show the date and time and operators identity. Such information will be made available to an authorised person (as defined by Section 13 of the Licensing Act 2002) or the police on demand at any time after the 24 hour period following the sale
6. No customers carrying open bottles upon entry shall be admitted to the premises at any times when they are open for licensable activities.
7. No open containers shall be removed from the premises.
8. The premises shall be an active member of the locally operated pub watch scheme while such a scheme or similar exists.
9. A Hereford City centre 'Pub Watch Radio' shall be held at the premises. A responsible person shall log on at the control centre at the commencement of licensable activities. A responsible person shall monitor the radio throughout the period which the premises are open for licensable activities. Any information likely to have an impact on any of the licensing objectives shall be transmitted on the radio immediately.
10. A Personal Licence holder will be on the premises from 9 pm until the end of licensable activities on a Friday, Saturday and on any bank holiday or day proceeding a bank holiday and on any day from 9 pm when the premises is open after 12.15 am for licensable activities.
11. All staff engaged in the sale of alcohol to be trained in Responsible alcohol retailing to the minimum standard of BIIAB level 1 or any other training recognised and agreed with Herefordshire Council Trading Standards within one month of commencing employment at the premises. (Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the licence). Training records shall be kept on the premises and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.

12. The premises will operate with a minimum of two floor walkers who will be on duty as a minimum on Friday and Saturday nights and Sundays preceding a Bank Holiday from 8pm until close. The floor walkers responsibilities are set out in the floor walkers policy attached to this operating schedule.

**c) Public safety**

1. The maximum permitted numbers of persons in the premises including staff shall not exceed the numbers set within the fire risk assessment for the premises.
2. A system shall be place which is capable of showing the number of persons on the premises at any time after 8.30 pm until the end of licensable activities on a Thursday, Friday, Saturday and Sunday. This number shall be given immediately on demand to an authorised person (as defined by Section 13 of the Licensing Act 2002) or police.
3. The reasonable requirements of the Building Control officer will be complied with.
4. All electrical wiring and distribution systems shall be tested at least once a year and signed off by a competent person whose name is shown within the Local Authority Building Control Part P Competent Persons Register (<http://www.competentperson.co.uk/search.asp>). The sign off certificate shall be produced to an authorised person (as defined by Section 13 of the Licensing Act 2002) or Police on demand.

**d) The prevention of public nuisance**

1. Prominent, clear and legible signage (in not less than 32 font bold) shall be displayed at all exits to the premises requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
2. 'Noise' from the premises should not be 'audible or discernable' within any occupied permanent structure where people normally reside or sleep, when assessed with windows and doors closed. 'In this condition; 'Noise' -is defined as sound which is created by entertainment consisting of either vocal (recorded or live) or instrumental music (recorded or live) or a combination of both. Audible or discernable' -is defined as 'noise' which is distinct above the general hubbub of activity on the site which can be identified by the human ear as originating from discrete sources from the licensed site'.
3. On Friday, Saturday, Sundays before bank holidays, all bank holidays (except Christmas Day) and all other times when the premises is licensed to remain open the licensable activity of the sale/supply of alcohol after 0200hrs, the last time of entry for all customers will be 0100hrs.
4. The rear external area/beer garden shall not be used for Licensable activities after 01.00 hrs. It can be used as a 'smoking area' but the premises licence holder or DPS shall ensure that no drinking vessels are taken in to the area at this time. They shall also ensure that customers do not remain in the area after this time for excessive times.
5. NO regulated entertainment will take place in any external Areas of the premises AFTER 2200hrs.
6. All external doors to the beer garden must be kept closed except for entrance and

exit at all times from 2200hrs. Windows shall be closed at 23:00 hours and adequate ventilation provided.

7. The indoor sporting events shall be restricted to darts, pool, snooker, skittles or other minor sporting games of a similar kind.
8. The exhibition of films shall be restricted to video/DVD entertainment and shall be controlled by the licensee.
9. The premises will operate a dispersal area at the premises a copy of which is attached to the operating schedule and further copies will be provided to the Licensing Authority and Responsible Authorities upon request.

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

1. Persons under the age of 18 will not be allowed on the premises at any time unless accompanied by a person over the age of 18 years.
2. Persons under the age of 18 years will not be permitted on the premises in any event after 2100 hours when regulated entertainment is offered (unless they are attending a private function held on the premises and are accompanied by a person over the age of 18 years).
3. The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or the police or an authorised Trading Standards Officer of Herefordshire Council. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed at all entrances to the premises as well as at, at least one location behind any bar advertising the scheme operated.
4. A written or electronic register of refusals will be kept including a description of the people who have been unable to provide required Identification to prove their age. Such records shall be kept for a period of 12 months and will be collected on a daily basis by the Designated Premises Supervisor and produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.
5. No adult entertainment or services or activities must take place at the premises (Adult Entertainment includes, but is not restricted to, such entertainment or services which would generally include topless bar staff, striptease, lap-table, or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language).

**Please tick yes**

- I have made or enclosed payment of the fee or
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy
- 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	04/02/2015
Capacity	Poppleston Allen – Solicitors for & on behalf of the applicant

**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	N/A
Date	N/A
Capacity	N/A

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

Clare Eames  
Poppleston Allen Solicitors  
31 Southampton Row

Post town	London	Post code	WC1B 5HJ
Telephone number (if any)	0203 078 7486		
If you would prefer us to correspond with you by e-mail your e-mail address (optional) c.eames@popall.co.uk			

**Notes for Guidance**

**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, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. 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, both 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.

**TAB 3**





### **The Company**

Stonegate Pub Company is the largest privately held managed pub operator in the UK operating 620 pubs across the country. The business consists of branded and unbranded pubs and bars which include community and local pubs which cater for customers within the local neighbourhood; high street venues including the Slug & Lettuce, Yates's and Scream brands that attract businessmen and women, tourists, families, and students; Bars & Venues which are late night bars and nightclubs.

Since the formation of the company in 2010 the company has made significant investment within the estate, both within the fabric of the buildings and the services offered. Its pubs and bars continue to benefit from a multi-million pound investment programme that continually strives to improve amenities and community facilities. Free Wi-Fi is now standard across the estate.

### **People**

The company employs over 12,500 people and make significant investment in the training and development of their staff. A leading edge, award winning training programme ensures all front-line staff are equipped with the necessary learning's to safely and legally operate within the business. Within the last 6 months alone over 94,000 training modules have been undertaken by pub staff.

### **Community and Social Responsibility**

All site managers are encouraged to join their local Pubwatch, town centre management or business improvement forums, wherever they operate. Entry into Best Bar None programmes has resulted in many Stonegate pubs across the country being recognised for their contribution in helping create safer environments for staff and customers alike.

Engagement with the local community takes place in many forms, from supporting community groups, providing facilities for clubs and teams, to providing meals for local OAP's. Hundreds of thousands of pounds is raised for local and national charities each year – Variety, the children's charity has benefitted to the extent of over £300,000 this year, changing the lives of many disadvantaged children.

### **The Senior Management**

Stonegate Pub Company is operated by a team of highly experienced directors that have a wealth of industry experience.

Ian Payne is Chairman of Stonegate Pub Company. Ian, an accomplished expert in the licensed leisure sector, has held Board positions with Bass Taverns, Stakis plc and Ladbroke gaming. He was CEO of the Laurel Pub Company from its inception

in May 2001 through to December 2004 and later Chairman of the Bay Restaurant & Town and City Pub Groups prior to formation of Stonegate in November 2010. Ian started his career in the trade behind the bar of a local pub more than 35 years ago.

Simon Longbottom serves as the Chief Executive Officer at Stonegate Pub Company Limited. Simon served as the Managing Director of Pub partners at Greene King Plc since 2010. He served as Managing Director of Gala Coral's gaming division. He has over 11 years experience in the public sector having held senior positions at Mill House Inns and Mitchells & Butlers.

Graham Jones is Chief Operating Officer of Stonegate Pub Company. A high performing professional, Graham has held senior operations positions in Whitbread PLC, Laurel Pub Company, Greene King, Barracuda Group and more recently Punch Taverns.

Suzanne Baker is the Commercial Director of Stonegate Pub Company, responsible for all commercial contracts including purchasing and property. Suzanne has spent her career within the licensed leisure sector having previously held Board positions in Bay Restaurant Group, Laurel Pub Company and JD Wetherspoon. She commenced her career joining Grandmet Retail in operations progressing within the marketing and purchasing roles across national brands, including Chef & Brewer.

Tim Painier is the HR Director of Stonegate Pub Company. Tim, who joined from Musgrave Retail Partners, has extensive experience in HR strategy, leadership and development, and change management across the retail sector.

Richard Bruce is the Marketing Director of Stonegate Pub Company. Richard joined from Home Retail Group plc where he was head of brand and customer proposition programme at Homebase. He has a strong background in developing and implementing category strategy and previously worked with retail giants Marks & Spencer and Argos.

**TAB 4**

## DISPERSAL POLICY

This Policy details the actions which need to be taken with regard to compliance with the Licensing Act 2003. It is also designed to improve the wider management of the late night economy by detailing the steps which need to be taken to reduce the potential for disorder and disturbance.

It is considered by the Company that the majority of disturbance and disorder is likely to occur as a result of a poorly thought out approach to managing the end of night period. The following Policy sets out the steps which should be taken at the end of the trading session to minimise the potential for disorder and disturbance as customers leave the premises. This includes measures to disperse customers over an extended period and also to ensure customers leave the venue in an orderly fashion and without bottles or glasses.

It is recognised that the Company has no direct jurisdiction outside of the boundaries of Company premises although we will continue to use our best endeavours to encourage customers to leave the immediate area in an appropriate fashion.

### Key Control Measures for All Sites

#### 1. Progressive Winding Down

In all instances the premises should ensure that the playing of music, which includes recorded music, live music and DJ music (where provided) is progressively wound down over the last half hour of the trading session, or immediately after the service of alcohol ceases. During this period it is the responsibility of the General or Duty Manager to ensure music is played which is of a quieter nature and a lower BPM.

Lighting levels throughout the premises should be gradually increased over the same period and not raised in a single step just prior to closure.

#### 2. Announcements and Signage

Towards the end of the night announcements should be made, if possible, which include the following:-

- a) All customers are reminded that they must not take alcohol off the premises and this should be enforced by the provision of appropriate signage at the exit points of the venue and also all door supervisors must ensure that bottles and glasses are removed from any customers who are attempting to leave the premises with them.
- b) Customers should be asked to leave the premises in an orderly manner. Again, signage should be erected at appropriate exit points thanking them for their custom and requesting in addition that customers are considerate when they leave the premises.

- c) Details of local public transport and / or taxi services should be easily available to customers to enable them to disperse easily. This can be achieved by means of signage or by the availability of business cards for local taxi companies.

### **3. Door Supervisor's Role**

Where utilised, it is the responsibility of the Door Team, in conjunction with the Site Management Team, to use their best endeavours to ensure:

- a) Customers who are leaving the premises do so in a quiet and orderly manner.
- b) If groups of customers are found to be loitering outside the premises after leaving they should be politely asked to move on.
- c) No bottles or glasses are permitted to be taken outside the site.
- d) Customers should be encouraged to leave gradually over the permitted period of "drinking up time".
- e) The practice of "herding out" customers as soon as service of alcohol has ceased should be discouraged and customers should be encouraged to leave gradually over the course of "drinking up" time.
- f) Members of the Door Team should be visible outside the unit for a period of time after closing until all groups of customers have left the vicinity.

### **4. General / Duty Manager's Role**

It is the ultimate responsibility of the General or Duty Manager to ensure that:-

- a) The Door Team are acting effectively and responsibly in line with their responsibilities detailed above.
- b) Customers are not causing any disturbance or nuisance within the vicinity of the unit. If any disturbance is occurring then customers should be asked politely to move on, if safe to do so, or authorities should be called to assist if situation becomes hostile.
- c) A member of the Management Team should be visible with the Door Team until all groups of customers have dispersed.



**TAB 5**

**Yates's, Hereford**  
**Schedule of Granted TENs**

<b>Dates</b>	<b>Times</b>	<b>Event</b>
11-16 November 2014 (early hours on each day)	01:00 to 02:00 hours	Extension of Hours
21-23 November 2014 (early hours on each day)	01:00 to 02:00 hours	Extension of Hours
28-30 November 2014 (early hours on each day)	01:00 to 02:00 hours	Extension of Hours
5-7 December 2014 (early hours on each day)	01:00 to 02:00 hours	Extension of Hours
12-14 December 2014 (early hours on each day)	01:00 to 02:00 hours	Extension of Hours
19-21 December 2014 (early hours on each day)	01:00 to 02:00 hours	Extension of Hours
20-23 December 2013 (early hours on each day)	01:00 to 03:00 hours	Fundraising for Beths Wishes
15 December 2013	01:00 to 03:00 hours	Big weekender
8 December 2013	01:00 to 03:00 hours	Xmas Party
27-29 September 2013	01:00 to 03:00 hours	Fundraiser
16-18 August 2013	01:00 to 03:00 hours	A Level Results Party
27-28 July 2013	01:00 to 03:00 hours	Caribbean Weekend

**TAB 6**

19 March 2015

CE/SCA/L10420-8789  
Doc Ref: 2145000156

c.eames@popall.co.uk

0203 078 7486

Dear Sir/Madam,

**Yates's Hereford, 58 Commercial Road, Hereford, HR1 2BP**  
**Application for variation of premises licence**

I act on behalf of the owners and operators of Yates's in Hereford in relation to licensing matters.

As you will be aware, my clients submitted an application to extend their trading hours at the premises and also aware you have submitted a letter of representation raising concerns about the premises. The matter is due to be determined by the Licensing Authority on the 26<sup>th</sup> March and I am writing to you as my clients' general manager and DPS Paul Neades would welcome an opportunity to meet with you to discuss your concerns and also to explain to you how the premises will be managing the event of the application for later hours is granted.

In relation to the application to assist, I attach a copy of the application as you may in particular be reassured by some of the conditions in the premises licence but will be enshrined in the event that the application is granted for example in relation to the use of the outside area. I also attach the dispersal policy.

In respect of meeting my clients, Paul will be at the premises between 6 and 7 pm next Wednesday 25<sup>th</sup> March to host a resident's meeting. Unfortunately Paul is away on holiday from today and cannot do any sooner however, if you did wish to discuss the matter with him on the phone then please do not hesitate to contact him on 01432 273078. Alternatively, whilst Paul is away (until Tuesday) please feel free to contact Dale Brown his Assistant Manager.

If I can be of any assistance, then please do not hesitate to contact.

Yours sincerely



Clare Eames  
**Poppleston Allen**  
Encs.

**TAB 7**



# <sup>thePublican's</sup> Morning Advertiser

## Leading licensing barrister slams councils over "iron-rule" approach to cumulative impact zones

By Noll Dinkovski, 28-Oct-2013

Related topics: General News

**A leading licensing barrister has slammed local councils for their "iron-rule" approach to cumulative impact zones (CIZs) after helping Sainsbury's win a court appeal against a refusal of a premises licence.**

Phillp Kolvin QC said councils were using cumulative impact policies as an excuse against granting further licences. He argued that instead, such policies should do nothing more than give councils the right to ask applicants to demonstrate that the licence will not impact negatively on the CIZ.

Kolvin said: "Councils can't refuse licences simply on the basis that a cumulative impact policy is in place. In this most recent case, we successfully argued on the basis that it is not an iron-rule - all it does is compel the applicant to demonstrate that their proposal will not have a negative impact on the area."

### Irrelevance

Sainsbury's won the appeal against Leicester City Council after it successfully argued that the issue of street drinking in the zone had been addressed through licence reviews and dealing directly with street drinkers.

Kolvin explained: "The council's case was that its progress ought not to be threatened by yet more licensed premises, even if it was a well-run operator such as Sainsbury's.

"However, any impact they were talking about had long since vanished. They hadn't reviewed their policy, and we successfully argued that the policy had become an irrelevance."

Kolvin expressed his surprise that there were so many CIZs across the country - estimated to be around 150 at the moment.

He believed the latest ruling should give encouragement to any business wishing to apply for a licence to sell alcohol in a CIZ.

### Merits

Kolvin said: "This case demonstrates the critical importance of giving individual consideration to the merits of applications and appeals, even when an application is contrary to a directly applicable cumulative impact policy."

"We have moved the argument a little, to show that you can win convincingly in a stressed area, if you present the right case - as we did for BrewDog in Leeds last year."

He added: "Any licensed premises applicant should think through what impact it is going to have, and think through what procedures and management policies they are going to put in place to ensure it don't add to that impact."

Copyright - Unless otherwise stated all contents of this web site are © 2014 - William Reed Business Media Ltd - All Rights Reserved  
- For permission to reproduce any contents of this web site, please email [robert.proctor@wrbm.com](mailto:robert.proctor@wrbm.com) - Full details for the use of materials on this site can be found in the Terms & Conditions

William Reed 

© William Reed Business Media Ltd 2014. All rights reserved

IN THE LEEDS MAGISTRATES COURT

BETWEEN :-

BREWDOG BARS LIMITED

Appellant

- and -

LEEDS CITY COUNCIL

Respondent

NOTE OF DECISION OF  
DISTRICT JUDGE ANDERSON  
6<sup>th</sup> SEPTEMBER 2012

No doubt when the 2003 Licensing Act came into being, no-one foresaw the emergence of an operation such as Brewdog. They are a Scottish company specialising in craft beers with a devoted clientele. They do not operate large public houses selling cheap lager or cheap food. They have outlets in other cities including in cumulative impact areas where they operate well and without police objection. Now they seek to come to Leeds.

The company takes a didactic approach, with books on brewing, and customers invited to watch instructional videos playing at their premises. Their customers could be described as "alcohol geeks." They are not run of the mill or everyone's cup of tea, but there is a demand for outlets selling a good quality of beer.

If they had identified a site outside the City's Cumulative Impact Policy area, there is absolutely no doubt that they would already have their licence. They are an intelligent, well-run company, and in a short space of time they have shown themselves to be an effective operator.

However, this site does fall foul of the Cumulative Impact Policy which was introduced with the best possible motives to control the grant of licences to new premises. There is a presumption within it that new applications shall not be granted, unless the applicant can discharge the reverse burden in establishing that they will not add to the cumulative impact, and that is the issue in this case.

I can deal with one conclusion briefly, the issue of noise and nuisance. The Court heard evidence from Miss Ludford that she had gone to the trouble of circulating a letter to all residents in the neighbouring block of flats but received no objections. Against that was the more general evidence of Mr Kenny, which showed noise complaints to the Council. But most of those complaints were amplified music and Brewdog does not seek to be able to provide amplified music and so there is no risk of noise from regulated entertainment emanating from the premises. The capacity is small and any noise generated as people leave the premises will be very marginal indeed. It seems to me that the premises of this public house would not be a significant impact on the Cumulative Impact area regarding public nuisance and so I do not intend to mention this further.

That leaves the more important objection of the Police and the potential impact of another premises on the levels of crime in the area. There are a number of clubs around the Corn Exchange and the late

hours they trade, the marketing operations and the type of customer they attract means that there is regular disorder and violence. they run with late hours, attracting a different sort of customer. Their presence causes violence. That is a sad fact of modern life. The situation cannot be assisted by the sort of promotion I saw advertised by Chilli White with cheap vodka and free vodka, but they have their licence.

It cannot be the policy of the Cumulative Impact Policy to bring the iron curtain clanging down to allow such clubs to continue to trade while shutting out Brewdog which attracts more discerning customers who do not engage in binge drinking, though I do accept the requirement of the Cumulative Impact Policy is to ascertain specifically whether there will be impact.

If I accept, as I do, that the enterprise sells expensive beers in expensive measures, then I think I can conclude that the people likely to be attracted are not "get it down your neck" drinkers but rather better heeled customers. The type of clientele a premises attracts has a material part to the play in the decision, because if I am not worried about their clientele and am impressed by the running of their bars elsewhere, it follows that it is unlikely that their clientele will have any adverse impact on the area here.

The Police argued that customers may accidentally cause impact. Their argument that customers could get caught up in a melee caused by others is not a valid one. A simple increase in footfall isn't a rational reason to refuse entry to Leeds by Brewdog.

I have listened carefully but have heard nothing which causes me to believe that the application should not be granted. I am satisfied that the appellants have discharged the burden of proof placed on them.

I accept that the Committee and the Police did their best but their application of the Policy was too rigid. They seemed to take the view that man was made for the Policy, when the Policy should be made for man.

The appeal is upheld, and the licence granted in the terms set out in the bundle served on the Court.



Neutral Citation Number: [2008] EWHC 838 (Admin)

Case No: CO/5533/2006

IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
ADMINISTRATIVE COURT

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 06/05/2008

Before:

THE HONOURABLE MRS JUSTICE BLACK

Between:

Daniel Thwaites Plc	<u>Claimant</u>
- and -	
Wirral Borough Magistrates' Court	<u>Defendant</u>
- and -	
The Saughall Massie Conservation Society	1 <sup>st</sup> Interested Party
- and -	
Wirral Metropolitan Borough Council	2 <sup>nd</sup> Interested Party

David MW Pickup (instructed by Naphens plc) for the Claimant  
 The Defendant did not appear and was not represented  
 David Flood (instructed by Messrs Kirwans) for the 1<sup>st</sup> Interested Party  
 Matthew Copeland (instructed by Wirral MBC) for the 2<sup>nd</sup> Interested Party

Hearing date: 10<sup>th</sup> March 2008

**Approved Judgment**

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.



Approved Judgment

**Black J :**

1. This is an application by Daniel Thwaites Plc ("the Claimant") for judicial review of a licensing decision made by the Wirral Magistrates' Court ("the Magistrates' Court") on 5 April 2006 and that court's decision on 21 April 2006 concerning the costs of the proceedings. The Claimant seeks an order quashing both decisions. Permission to apply for judicial review was granted by Mr Justice Pitchford on 2 November 2006.

The factual background

2. The Claimant owns the Saughall Hotel in Saughall Massie, Wirral which it operates as licensed premises ("the premises"). It originally held a licence under the Licensing Act 1964. In June 2005, it commenced an application to the Licensing Sub-Committee of the Metropolitan Borough of Wirral ("the licensing authority") for the existing licence to be converted to a premises licence under the Licensing Act 2003 and for the licence to be varied simultaneously.
3. In essence, the Claimant was seeking to conduct business at the premises for longer hours than were permitted under the original licence. The police did not support the extension of the hours to the extent that the Claimant initially proposed. The Claimant agreed to restrict the hours to those that were acceptable to the police. Accordingly, the licensing authority was asked to grant a licence that would permit music and dancing to 11 p.m. and alcohol sales until midnight on all nights except Friday and Saturday and, on Friday and Saturday nights, music and dancing to midnight and alcohol sales until 1 p.m., with the doors closing one hour after the last alcohol sale every night.
4. The police withdrew their representations against the modified proposals and did not appear before the licensing authority when the matter was heard on 23 August 2005. No representations were made by the Wirral Environmental Health Services either. However, there was opposition to the proposals at the hearing from the Saughall Massie Conservation Society ("the First Interested Party") and other Saughall Massie residents.
5. The Claimant told the licensing authority at the hearing that the hours of operation at the premises would not vary significantly from the existing hours of operation and that the application for extended hours was to allow flexibility to open later "on special occasions" This was a matter of which the licensing authority took note as is recorded in the minutes of their determination.
6. The licence was granted in the modified terms requested together with an additional hour for licensable activities and an extra 30 minutes for the hours the premises were to be open to the public over Christmas and at the major bank holidays.

Special arrangements were also permitted for New Year's Eve. The licensing authority removed certain conditions that had been imposed on the old licence (requiring all alcohol to be consumed within 20 minutes of the last alcohol sale and banning children under 14 from the bar) and imposed other conditions which were obviously aimed at controlling noise, namely that the area outside must be cleared by 11 p.m., that the premises must promote the use of taxi firms which use a call-back system, that all doors and windows must be kept closed when regulated entertainment was provided and that prominent notices should be placed on the premises requiring customers to leave quietly.

7. The Saughall Massie Conservation Society and "others" appealed against the licensing decision to the Magistrates' Court on the ground that the licensing authority's decision "was not made with a view to promotion of and in accordance with the licensing objectives pursuant to Section 4, Part 2 of the Licensing Act 2003".
8. The appeal occupied the Magistrates' Court from 3 – 5 April 2006. The respondents to the appeal were the licensing authority and the Claimant which both defended the licensing authority's decision. Witnesses were called including Saughall Massie residents, Police Sergeant Yehya who dealt with the stance of the Merseyside police, and Mr Miller, the manager of the premises.
9. The justices granted the appeal. Their Reasons run to 3 pages of typescript, one page of which is entirely taken up with setting out the new hours of operation they imposed. These permitted entertainment until 11 p.m. and alcohol sales until 11.30 p.m. on all nights except Friday and Saturday when entertainment would be permitted until 11.30 p.m. and alcohol sales until midnight. The premises could remain open to the public until midnight on all nights except Friday and Saturday when they could close at 1 a.m.. Similar provisions were imposed to those imposed by the licensing authority in relation to later opening at Christmas and major bank holidays and the provisions relating to New Year's Eve and the conditions of the licence remained unaltered.
10. The new licence had come into effect on 24 November 2005 so the new arrangements had been running for several months by the time of the hearing before the Magistrates' Court. There had been no formal or recorded complaints against the premises under the old or the new regime as the justices acknowledged in their Reasons. The residents who gave evidence were fearful of problems if the extended hours were allowed in the summer. The Chairman of the Conservation Society, who gave oral evidence, spoke of people urinating in the gardens and a problem with litter. It appears from the statement filed by the Chairman of the Bench for these judicial review proceedings that evidence was also given of interference with machinery on nearby Diamond Farm. The justices' Reasons make no reference at all to these matters. As to the statements of the "Witnesses of the Appellant", they say simply that they have read and considered them but attached little or no weight to them.

Approved Judgment

11. The justices and their legal advisor have filed a considerable amount of material in response to the judicial review proceedings, in all 31 closely typed pages. These comprise their Response to the Claim, statements from Alistair Beere (who was the chairman of the bench), Mary Woodhouse (another of the bench) and Stephen Pickstock (the legal advisor), and what is said in the index to be a document by Mr Beere from which he prepared his statement. There was limited argument before me as to the status of these documents and the weight that I should give to them. It was not submitted that I should decline to have *any* regard to them although I think it is fair to say that it was common ground between the parties, rightly in my view, that I should concentrate principally on the Reasons. It is established by authorities such as R v Westminster City Council ex p Ermakov [1996] 2 All ER 302 that the court can admit evidence to elucidate or, exceptionally, correct or add to the reasons given by the decision maker at the time of the decision but that it should be very cautious about doing so. The function of such evidence should generally be elucidation not fundamental alteration, confirmation not contradiction. In the circumstances, I have read carefully what the magistrates have provided but approached its role in the judicial review proceedings cautiously.

The broad nature of the claim in relation to the licensing decision

12. The Claimant argues that the Magistrates' Court decision is unlawful for a number of reasons. It is argued that the decision was not in line with the philosophy of the Licensing Act 2003 ("the Act") and imposed restrictions on the Claimant's operation which were not necessary to promote the licensing objectives set out in that Act, that it was based on speculation rather than evidence, that it took into account irrelevant considerations and failed to take into account proper considerations, and that it was a decision to which no properly directed magistrates' court could have come on the evidence. In so far as the court imposed conditions as to the time at which the premises must close, it is submitted that this was not a matter which can be regulated under the Act. It is further argued that the magistrates failed to give adequate reasons for their decision.

The legal background

13. The Licensing Act 2003 was intended to provide a "more efficient" "more responsive" and "flexible" system of licensing which did not interfere unnecessarily. It aimed to give business greater freedom and flexibility to meet the expectations of customers and to provide greater choice for consumers whilst protecting local residents from disturbance and anti-social behaviour.
14. Note 12 of the explanatory notes to the Act gives an indication of the approach to be taken under the Act. It reads:

"12. In contrast to the existing law, the Act does not prescribe the days or the opening hours when alcohol may be sold by retail for consumption on or off premises. Nor does it specify when other licensable activities may be carried on. Instead, the applicant for a premises licence or a club premises certificate will be able to choose

the days and the hours during which they wish to be authorised to carry on licensable activities at the premises for which a licence is sought. The licence will be granted on those terms unless, following the making of representations to the licensing authority, the authority considers it necessary to reject the application or vary those terms for the purpose of promoting the licensing objectives."

15. Section 1 of the Act provides:

"S1(1) For the purposes of this Act the following are licensable activities---

- (a) the sale by retail of alcohol,
- (b) [clubs]
- (c) the provision of regulated entertainment, and
- (d) the provision of late night refreshment."

16. To carry on a licensable activity, a premises licence granted under Part 3 of the Act is generally required, section 2. Application for a premises licence must be made to the relevant licensing authority, section 17(1).

17. By virtue of section 4, the licensing authority must carry out all its functions under the Act (including its functions in relation to determining an application for a premises licence or an application for a variation of a premises licence) with a view to promoting the "licensing objectives". These are set out in section 4 as follows:

"S 4(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."

18. In carrying out its licensing functions, by virtue of section 4(3) the licensing authority must also have regard to its licensing statement published under section 5 and any guidance issued by the Secretary of State under section 182.

19. Section 182 obliges the Secretary of State to issue guidance to licensing authorities on the discharge of their functions under the Act. Guidance was issued in July 2004 ("the Guidance"). It was updated in June 2007 but it is the original guidance that is relevant in this case. In any event, none of the changes made are material to the issues I have to determine.

20. The Foreword says that the Guidance

"is intended to aid licensing authorities in carrying out their functions under the 2003 Act and to ensure the spread of best practice and greater consistency of approach. This does not

mean we are intent on eroding local discretion. On the contrary, the legislation is fundamentally based on local decision-making informed by local knowledge and local people. Our intention is to encourage and improve good operating practice, promote partnership and to drive out unjustified inconsistencies and poor practice."

21. As the Guidance says in paragraph 1.7, it does not replace the statutory provisions of the Act or add to its scope. Paragraph 2.3 says:

"Among other things, section 4 of the 2003 Act provides that in carrying out its functions a licensing authority must have regard to guidance issued by the Secretary of State under section 182. The requirement is therefore binding on all licensing authorities to that extent. However, it is recognised that the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and so long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. When doing so, licensing authorities will need to give full reasons for their actions. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken."

22. An application to the licensing authority for a premises licence must be accompanied by an operating schedule in the prescribed form including a statement of the matters set out in section 17(4) which are as follows:

- (a) the relevant licensable activities,
- (b) the times during which it is proposed that the relevant licensable activities are to take place,
- (c) any other times during which it is proposed that the premises are to be open to the public,
- (d) where the applicant wishes the licence to have effect for a limited period, that period,
- (e) where the relevant licensable activities include the supply of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor,
- (f) where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises, or both,
- (g) the steps which it is proposed to take to promote the licensing objectives,
- (h) such other matters as may be prescribed."

23. Section 18 deals with the determination of an application for a premises licence. Section 35 deals in very similar terms with the determination of an application to vary a premises licence. It will be sufficient only to set out here the provisions of s 18.

24. Section 18(2) provides that, subject to subsection (3), the authority must grant the licence in accordance with the application subject only to:

- "(a) such conditions as are consistent with the operating schedule accompanying the application,
- and
- (b) any conditions which must under section 19, 20 or 21 be included in the licence."



25. Section 19 deals with premises licences which authorise the supply of alcohol. Such licences must include certain conditions ensuring that every supply of alcohol is made or authorised by a person who holds a personal licence and that no supply of alcohol is made when there is no properly licensed designated premises supervisor. Sections 20 and 21 are not relevant to this claim.
26. Section 18(3) provides that where relevant representations are made, the authority has certain specified obligations. In so far as is relevant to this appeal "relevant representations" are defined in section 18(6) as follows:
- "(6) For the purposes of this section, "relevant representations" means representations which—
- (a) are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives,
  - (b) meet the requirements of subsection (7),
  - (c) ..."
27. Subsection (7) provides:
- (7) The requirements of this subsection are—
- (a) that the representations were made by an interested party or responsible authority within the period prescribed under section 17(5)(c),
  - (b) that they have not been withdrawn, and
  - (c) in the case of representations made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
28. Where relevant representations are made, the authority must hold a hearing to consider them unless the authority, the applicant and each person who has made representations agrees that a hearing is unnecessary. By virtue of section 18(3)(b), the authority must also:
- "(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives."
29. Section 18(4) provides:
- "(4) The steps are—
- (a) to grant the licence subject to—
    - (i) the conditions mentioned in subsection (2)(a) modified to such extent as the authority considers necessary for the promotion of the licensing objectives, and
    - (ii) any condition which must under section 19, 20 or 21 be included in the licence;
  - (b) to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - (c) to refuse to specify a person in the licence as the premises supervisor;
  - (d) to reject the application."
30. Conditions are modified for the purposes of subsection (4)(a)(i) if any of them is altered or omitted or any new condition is added.

Approved Judgment

31. During the currency of a premises licence, by virtue of section 51, an interested party (broadly speaking, a local resident or business) or a responsible authority (police, fire, environmental health etc.) may apply to the relevant licensing authority for a review of the licence on a ground which is relevant to one or more of the licensing objectives. By virtue of section 52, a hearing must be held to consider the application and any relevant representations and the authority must take such steps from a specified list as it considers necessary for the promotion of the licensing objective. The steps range from modifying the conditions of the licence to suspending it or revoking it completely.
32. The Act makes provision in Part 5 for "permitted temporary activity" which, loosely speaking, is a form of ad hoc licensing to cover licensable activities which are not covered by a more general licence. The system involves proper notification of an event to the licensing authority and the police. Provided the applicable number of temporary event notices has not been exceeded and the police do not intervene, the event is automatically permitted. Temporary event notices can only be given in respect of any particular premises 12 times in a calendar year and the period for which each event lasts must not exceed 96 hours.
33. Section 181 provides for appeals to be made against decisions of the licensing authority to a magistrates' court which is, of course, how the decisions in relation to which judicial review is sought in this case came to be made.

The detail of the claim

34. The Claimant submits that in making its decision to allow the appeal in relation to the premises licence, the Magistrates' Court failed in a number of respects to take account of the changes that the new licensing regime has made and failed to adopt the approach required by the Act. It is further submitted that the magistrates failed properly to consider and take into account the Guidance.
35. There is no doubt that the Guidance is relevant in the magistrates' decision making. As I have set out above, section 4(3) requires the licensing authority to "have regard" to the Guidance. By extension, so must a Magistrates' Court dealing with an appeal from a decision of the licensing authority. The Guidance says:

"10.8 In hearing an appeal against any decision made by a licensing authority, the magistrates' court concerned will have regard to that licensing authority's statement of licensing policy and this Guidance. However, the court would be entitled to depart from either the statement of licensing policy or this Guidance if it considered it is justified to do so because of the individual circumstances of any case."
36. Mr Pickup submits that although the Guidance is not binding and local variation is expressly permitted, it should not be departed from unless there is good reason to do so.

37. Mr Flood for the First Interested Party submits that the Guidance simply serves to provide information for the magistrates and provided that they have had regard to it, that is sufficient. He also points out that, in some respects (as is clear from the wording of the Guidance), the Guidance is a statement of Government belief rather than proved fact. Inviting attention to the judgment of Beatson J in J. D. Weatherspoon plc v Guildford Borough Council [2006] EWHC 815 (Admin), he identifies that different policy elements in the Guidance may pull in different directions in a particular case, flexibility and customer choice potentially conflicting with the need to prevent crime and disorder. He submits that provided that the magistrates consult the Guidance, they do not need to use it as "a decision making matrix that the deciding Court has to sequentially address in making its decision in the manner it would if considering a section of a statute".
38. There is no doubt that regard must be had to the Guidance by the magistrates but that its force is less than that of a statute. That is common ground between the parties. The Guidance contains advice of varying degrees of specificity. At one end of the spectrum, it reinforces the general philosophy and approach of the Act. However, it also provides firm advice on particular issues, an example being what could almost be described as a prohibition on local authorities seeking to engineer staggered closing times by setting quotas for particular closing times. I accept that any individual licensing decision may give rise to a need to balance conflicting factors which are included in the Guidance and that in resolving this conflict, a licensing authority or magistrates' court may justifiably give less weight to some parts of the Guidance and more to others. As the Guidance itself says, it may also depart from the Guidance if particular features of the individual case require that. What a licensing authority or magistrates' court is not entitled to do is simply to *ignore* the Guidance or fail to give it any weight, whether because it does not agree with the Government's policy or its methods of regulating licensable activities or for any other reason. Furthermore, when a magistrates' court is entitled to depart from the Guidance and justifiably does so, it must, in my view, give proper reasons for so doing. As paragraph 2.3 of the Guidance says in relation to the need for licensing authorities to give reasons:
- "When [departing from the Guidance], licensing authorities will need to give full reasons for their actions. Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken."
- This is a theme to which the Guidance returns repeatedly and is a principle which must be applicable to a magistrates' court hearing an appeal as it is to a licensing authority dealing with an application in the first instance. I agree with Mr Flood for the First Interested Party that the magistrates did not need to work slavishly through the Guidance in articulating their decision but they did need to give full reasons for their decision overall and full reasons for departing from the Guidance if they considered it proper so to do.
39. In this case, Mr Pickup submits that proper attention to the Guidance would have helped the magistrates to come to a correct and reasonable decision and that they

Approved Judgment

have failed to adhere to it without proper reason and failed to carry out their licensing function in accordance with the Act.

40. The foundation of the Claimant's argument is that the Act expects licensable activities to be restricted only where that is *necessary* to promote the four licensing objectives set out in section 4(2). There can be no debate about that. It is clearly established by the Act and confirmed in the Guidance. For example, in the Act, section 18(3)(b), dealing with the determination of an application for a premises licence, provides that where relevant representations are made the licensing authority must "take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives" (the steps in subsection (4) include the grant of the licence subject to conditions). Section 34(3)(b), dealing with the determination of an application to vary a premises licence, is in similar terms. The Guidance repeatedly refers, in a number of different contexts, to the principle that regulatory action should only be taken where it is *necessary* to promote the licensing objectives. In particular, it clearly indicates that conditions should not be attached to premises licences unless they are necessary to promote the licensing objectives, see for example paragraph 7.5 and also paragraph 7.17 which includes this passage:

"Licensing authorities should therefore ensure that any conditions they impose are only those which are necessary for the promotion of the licensing objectives, which means that they must not go further than what is needed for that purpose."

41. The Guidance also refers a number of times to the need for regulation to be "proportionate". This is not a term contained in the Act but if a regulatory provision is to satisfy the hurdle of being "necessary", it must in my view be confined to that which is "proportionate" and one can understand why the Guidance spells this out.
42. Mr Pickup submits, and I accept, that the Act anticipates that a "light touch bureaucracy" (a phrase used in paragraph 5.99 of the Guidance) will be applied to the grant and variation of premises licences. He submits that this means that unless there is evidence that extended hours will adversely affect one of the licensing objectives, the hours should be granted. A prime example of this arises when an application for a premises licence is made and there are no relevant representations made about it. In those circumstances, s 18(2) obliges the licensing authority to grant the licence and it can only impose conditions which are consistent with the operating schedule submitted by the applicant. Mr Pickup says that such a light touch is made possible, as the Guidance itself says, by providing a review mechanism under the Act by which to deal with concerns relating to the licensing objectives which arise following the grant of a licence in respect of individual premises. He invites attention also to the existence of other provisions outside the ambit of the Act which provide remedies for noise, for example the issue of a noise abatement notice or the closure of noisy premises under the Anti-Social Behaviour Act 2003. The Guidance makes clear that the existence of other legislative provisions is relevant and may, in some cases, obviate the need for any further conditions to be imposed on a licence. Paragraph 7.18 from the section of the Guidance dealing with attaching conditions to licences is an illustration of this approach:



"7.18 It is perfectly possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives."

43. The Guidance includes a section dealing with hours of trading which the Claimant submits further exemplifies the philosophy of the Act. It begins with paragraph 6.1 which reads:

"This Chapter provides guidance on good practice in respect of any condition imposed on a premises licence or club premises certificate in respect of hours of trading or supply."

44. It continues:

"6.5 The Government strongly believes that fixed and artificially early closing times promote, in the case of the sale or supply of alcohol for consumption on the premises, rapid binge drinking close to closing times; and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises simultaneously. This creates excessive pressures at places where fast food is sold or public or private transport is provided. This in turn produces friction and gives rise to disorder and peaks of noise and other nuisance behaviour. It is therefore important that licensing authorities recognise these problems when addressing issues such as the hours at which premises should be used to carry on the provision of licensable activities to the public.

6.6 The aim through the promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through longer opening times. Arbitrary restrictions that would undermine the principle of flexibility should therefore be avoided. We will monitor the impact of the 2003 Act on crime and disorder and the other licensing objectives. If necessary in the light of these findings, we will introduce further legislation with the consent of Parliament to strengthen or alter any provisions."

45. The Claimant submits that in imposing shorter hours than it requested for the supply of alcohol and for entertainment, the magistrates went beyond that which was necessary for these premises and failed to take into account that, as the Guidance explains, longer opening times would in fact reduce the potential for problems arising from licensed premises whereas curtailing operations could run counter to the licensing objectives.
46. The magistrates' Reasons record their acceptance that there had been no reported complaint in regard to public nuisance and that the extended hours had operated without any incidents. The magistrates also record in the Reasons, as I have already said, that they had attached little or no weight to the statements from witnesses of the appellant. Nothing is said about difficulties mentioned in evidence by the witnesses. As it was clearly incumbent on the magistrates at least to advert in broad terms to those matters that they took into account, it is fair to conclude in the circumstances that they proceeded upon the basis that there was no reliable evidence of actual problems linked to the premises either under the old licence or under the

Approved Judgment

new revised licence. This was in line with the oral evidence of Police Sergeant Yohya (as recorded in the rather truncated notes of the legal advisor):

"I reported incident for the site. No other incidents or complaints have been received. There are none in my file. There are no incidents we can directly link to the Saughall Hotel since previously open. There have been incidents locally but not linked to these premises."

47. To judge by the Reasons therefore, what led the magistrates to impose restricted hours of operation was their forecast as to what would occur in the future in association with the premises, notwithstanding the absence of reliable evidence of past problems. The First Interested Party observes that the manager of the premises had given evidence that he intended in the summer to "make hay while the sun shines" and submits, correctly in my view, that the magistrates were entitled to take this apparent change of emphasis into account. However, Mr Flood further submits that the evidence of what had happened in the winter months was therefore of "little evidential value" in determining what was likely to happen in the future and I cannot wholly agree with him about this. Undoubtedly the fact that the Claimant intended in future to make more use of the extended hours reduced the value of the premises' past record as a predictor of the future but it could not, in my view, be completely discarded by the magistrates. They still had to take into account that there had been extended hours for some months without apparent problems.
48. It is plain that the magistrates' particular concern was "migration" rather than problems generated by those coming directly to the premises for their evening out. Under the heading "The Four Licensing Objectives", they say that they accept that there have been no formal or recorded complaints against the premises "but feel that because of the concept of migration that public nuisance and crime and disorder would be an inevitable consequence of leaving the hours as granted by the Local Authority". Under the heading "Migration/Zoning" they begin:
- "The Saughall Hotel due to its location and the fact that a number of license premises in the surrounding area have reduced hours to that of the Saughall Hotel we believe that as a consequence of this would be that customers would migrate from these premises to the Saughall Hotel. [sic]"
- and end:
- "We appreciate that the extended hours have been in operation for several months without any incidents but have taken into consideration this was during the Winter months and inevitable numbers will increase in the Summer causing nuisance/criminality."
49. They reiterate their concern under the heading "Nuisance (Existing/Anticipated)" saying that they "feel that public nuisance will be inevitable".
50. The Claimant complains that the magistrates' treatment of the issue of "migration" was fundamentally flawed on a number of grounds.



51. Firstly, it submits that there was no evidence on which the magistrates could find that customers *would* come to the premises when other premises in the vicinity closed or cause trouble and their concerns were no more than inappropriate speculation. The Claimant's position was that there was no evidence of migration to their premises. There were no recorded complaints of any kind about the premises let alone specifically about migration. Ms Lesley Spencer who lives opposite the premises and is the Secretary of the Saughall Massie Conservation Society gave evidence of her fear that customers would migrate but said that she did not think there had been any migration.
52. Apart from their own local knowledge, the only material on which the magistrates could possibly have formed their views about migration was what Police Sergeant Yehya said in evidence. According to the legal advisor's notes, whilst being cross-examined by Mr Kirwan, the sergeant gave evidence about the other licensed premises operating in the vicinity (which I have seen marked on a local map and which were within walking distance of the premises) and their closing hours and said that there were three assaults each week at one of the premises. The legal advisor records that he also said,

"We have staggered closing. This could cause problems it has the potential to cause difficulties in the area. I have a list of considerations but none would rank as high as crime, not even noise. No complaints have been made to me even regarding noise. One concern was dispersal. We gave people one hour to disperse and therefore reduced from 2.00 a.m. to 1.00 a.m., 1.00 a.m. closing at 2. 280 people leaving premises. Other premises subject to high levels of crime migration not an issue." [my italics]

53. I appreciate that this evidence acknowledged that staggered closing *could* cause problems but, had migration been a significant issue as opposed to a mere possibility, one can, I think, assume that the police would have made representations on that score, particularly given that they had plainly considered the impact of trading hours specifically and *had* initially objected to the even longer hours originally proposed by the Claimant. It is noteworthy that even when they were in opposition to the plans, it was never on the basis of migration or disruptive characters from other licensed premises and always simply on the basis of late noise from ordinary customers of the premises dispersing. The absence of police objections before either the licensing authority or the Magistrates' Court seems to have surprised the magistrates who said so in their Reasons, commenting:

"We were surprised that the Police originally objected to the application but withdrew that objection after a slight variation of the terms."

In so saying, they convey, in my view, not only their surprise about the Police approach but also their disagreement with it.

54. It was not open to the magistrates, in my view, to elevate what Sergeant Yehya said in the witness box to evidence that a problem with migration could reasonably be expected, nor do they say anything in their reasons which suggests that they did rely on his evidence in this way. The only concerns about migration were therefore the

Annex C Judgement

magistrates' own with perhaps some fears expressed by local residents though not on the basis of firm historical examples of migration to the premises.

55. It is clear from the Guidance that drawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act's approach. There can be little doubt that local magistrates are also entitled to take into account their own knowledge but, in my judgment, they must measure their own views against the evidence presented to them. In some cases, the evidence will require them to adjust their own impression. This is particularly likely to be so where it is given by a responsible authority such as the police. They must also scrutinise their own anxieties about matters such as noise and other types of public nuisance particularly carefully if the responsible authorities raise no objections on these grounds. These magistrates did recognise the absence of police objections which caused them surprise and they chose to differ from the police in reliance on their own views. The Claimant submits that in so doing they departed into the realms of impermissible speculation not only in concluding that there would be migration but also in concluding that in this case it would generate nuisance and disorder. The First Interested Party is correct in submitting that the Guidance accepts a link between migration and a potential breach of the licensing objectives but it is also clear from the Guidance that each case must be decided on its individual facts so the magistrates could not simply assume that if people came from other premises, there would be trouble.
56. The Claimant complains that the magistrates' treatment of the migration issue also flies in the face of the Guidance because firstly it was an improper attempt to implement zoning and secondly it ignored the general principle of longer opening hours.
57. Zoning is the setting of fixed trading hours within a designated area so that all the pubs in a given area have similar trading hours. The problem created by it, as demonstrated by experience in Scotland, is that people move across zoning boundaries in search of pubs opening later and that causes disorder and disturbance. The Guidance says, at paragraph 6.8:
- "The licensing authority should consider restricting the hours of trading only where this is necessary because of the potential impact on the promotion of the licensing objectives from fixed and artificially-early closing times."
- It stresses that above all, licensing authorities should not fix predetermined closing times for particular areas.
58. I am not convinced that the magistrates' limiting of the Claimant's operational hours can properly be described as implementing zoning which, in my view, is a term that is more appropriate to describe a general policy imposed by a licensing authority for a defined area than an individual decision of this type, albeit made with reference to the opening hours of other premises in the vicinity and having the effect of imposing the same hours as those premises.

59. What has more weight, however, is the Claimant's submission that the magistrates failed to give proper weight to the general principle of later opening hours and to the intention that the approach to licensing under the Act would be to grant the hours sought for the premises unless it was necessary to modify them in pursuit of the licensing objectives. The Reasons include a heading "Flexibility" under which the magistrates say simply:

"We have considered the concept of Flexibility."

In so saying, they may be referring to the sort of flexibility to which reference is made, for example, in paragraph 6.6 of the Guidance (see above) but their shorthand does not enable one to know to what conclusions their consideration of the concept led them in this case nor whether they had reliably in mind that the starting point should be that limitations should not be imposed upon the licence sought unless necessary to promote the licensing objectives rather than that the licensing authority or the court should form its own view of what was necessary for the premises and only grant that.

60. The Claimant was seeking to have the freedom to open later on certain occasions when the trade justified it or, as the magistrates put it, "the application for extended hours was to allow *flexibility* to open later on certain occasions". As the First Interested Party would submit, the magistrates may have inferred from Mr Miller's comment about making hay that the premises would *often* be open late rather than this happening only infrequently in accordance with the picture presented to the licensing authority. If this was their inference, however, it is odd that they considered that the Claimant could deal with the position by applying for a temporary certificate because this would have allowed the premises to open later on only a limited number of occasions. They make no express finding in their Reasons as to the frequency on which they considered the Claimant intended to keep the premises open late. This was material not only to the degree of disturbance that might be caused generally by late opening but also specifically to the issue of whether there would be migration. It would seem unlikely that customers from nearby pubs would bother to walk or even drive to the Saughall Hotel in search of another drink at the end of their evenings unless the Saughall Hotel was open late sufficiently frequently to lead them to a reasonable expectation that their journey would be worthwhile.
61. The magistrates' comment about the temporary certificate also seems to me to be an example of a failure by them to adopt the lighter approach that the Act dictated and to allow flexibility to those operating licensed premises unless the licensing objectives required otherwise. Temporary certificates would be a cumbersome and restricted means of achieving flexibility, not responsive to the day to day fluctuations in business, only available a limited number of times, and not in line with the philosophy of the Act.
62. There is no consideration in the magistrates' decision of whether the imposition of conditions to control noise or other nuisance (which were going to be imposed)

Approved Judgment

would be sufficient to promote the licensing objectives without reducing the operating hours of the premises. Given that the Act dictates that only such steps as are necessary should be taken with regard to the variation of the terms of operation sought, such consideration was required.

My overall conclusions

63. It would be wrong, in my judgment, to say that the magistrates failed to take account of the licensing objectives. At the outset of their Reasons, they correctly identify those which are relevant. Similarly, as the First Interested Party submits, whilst they did not *articulate* that the curtailment of the hours sought was "necessary" to promote those objectives, it is implied in their decision that they did take this view and it can also be inferred from their comment that because of the concept of migration, public nuisance and crime and disorder would be "an inevitable consequence" of leaving the hours as granted by the Local Authority. However, in my view their approach to what was "necessary" was coloured by a failure to take proper account of the changed approach to licensing introduced by the Act. Had they had proper regard to the Act and the Guidance, they would have approached the matter with a greater reluctance to impose regulation and would have looked for real evidence that it was required in the circumstances of the case. Their conclusion that it was so required on the basis of a risk of migration from other premises in the vicinity was not one to which a properly directed bench could have come. The fact that the police did not oppose the hours sought on this basis should have weighed very heavily with them whereas, in fact, they appear to have dismissed the police view because it did not agree with their own. They should also have considered specifically the question of precisely how frequently the premises would be likely to be open late and made findings about it. They would then have been able to compare this to the winter opening pattern in relation to which they accepted there had been no complaints and draw proper conclusions as to the extent to which the summer months would be likely to differ from the winter picture. Having formed a clear view of how frequently late opening could be anticipated, they would also have been able to draw more reliable conclusions about the willingness of customers from further afield to migrate to Saughall Massie. They proceeded without proper evidence and gave their own views excessive weight and their resulting decision limited the hours of operation of the premises without it having been established that it was necessary to do so to promote the licensing objectives. In all the circumstances, their decision was unlawful and it must be quashed.
64. I have said little so far about what appears in the magistrates' response for the judicial review proceedings. The various documents comprising the response did nothing to allay my concerns about the magistrates' decision. Indeed quite a lot of what was said reinforced my view that the magistrates had largely ignored the evidence and imposed their own views. They refer in their response to incidents about which the residents had given evidence and to the residents not having complained formally for various reasons, for example because it was Christmas or because there was thought to be no point. If the magistrates considered these matters to be relevant, it was incumbent on them to say so clearly in their reasons whereas



they there recorded their acceptance that there had been no formal or recorded complaints, that the extended hours had been in operation for several months without incidents and that they had attached little or no weight to the statements of the witnesses of the appellant. They also refer extensively in their response to their thoughts on migration, including that people may come from further afield than the pubs in the vicinity in cars. Particularly concerning is that they refer repeatedly to a perceived issue over police resources which is not something that, as far as I can see, had been raised by Sergeant Yehya or explored with him in evidence. Mr Beere says in his statement for example, "...there is also the question of Police resources and their ability to effectively police this area especially at weekends with already stretched resources being deployed in Hoylake".

65. Reference is made in the response documents to the court feeling that the Brewery's proposed opening hours contradicted the acceptable activities of a family pub and that the Saughall Hotel is "a village pub and not a night spot in the centre of town". For the court to take matters such as this into account seems to me to be an interference with the commercial freedom of the premises of a type that was not permissible under the Act unless it was necessary to promote the licensing objectives. I appreciate that the magistrates' response seems to suggest that they feared that a different type of customer was being courted or would invite themselves once it got too late for families but this does not seem to have been founded on anything that was given in evidence so was really not much more than speculation.
66. Mr Beere's statement ends with a reference to the Brewery wanting to make hay while the sun shines, of which he says, "I believe that this statement was indicative of the Brewery's attitude to local residents and to the general management of the premises.". Given that problems with or in the vicinity of the premises had been almost non-existent and that the magistrates had not seen fit to make reference in their Reasons to any difficulties caused by the Hotel, it is hard to see how this belief could be justified but it does perhaps exemplify the approach of the magistrates.
67. I have considered quite separately the argument as to whether the hours of opening can be regulated as part of the licensing of premises as opposed to the hours during which licensable activities take place. It was suggested during argument that there was no power to regulate the time by which people must leave the premises. I cannot agree with this. Clearly keeping premises open (as opposed to providing entertainment or supplying alcohol there) is not a licensable activity as such. However, the operating schedule which must be supplied with an application for a premises licence must include a statement of the matters set out in section 17(4) and these include not only the times when it is proposed that the licensable activities are to take place but also "any other times during which it is proposed that the premises are to be open to the public". On a new grant of a premises licence, where there are no representations the licensing authority has to grant the application subject only to such conditions as are consistent with the operating schedule. I see no reason why, if it is necessary to promote the licensing objectives, these conditions should not include a provision requiring the premises to be shut by the time that is specified in the operating schedule. If representations are made and the licensing authority

ultimately grants the application, it can depart from the terms set out in the operating schedule when imposing conditions in so far as this is necessary for the promotion of the licensing objectives. It must follow that it can impose an earlier time for the premises to be locked up than the applicant wished and specified in its operating schedule. It is important to keep in mind in this regard that the role of the licensing authority and, if there is an appeal, the court, has two dimensions: the fundamental task is to license activities which require a licence and the associated task is to consider what, if any, conditions are imposed on the applicant to ensure the promotion of the licensing objectives. A requirement that the premises close at a particular time seems to me to be a condition just like any other, such as keeping doors and windows closed to prevent noise. I see no reason why a condition of closing up the premises at a particular time should not therefore be imposed where controlling the hours of the licensable activities on the premises (and such other conditions as may be imposed) is not sufficient to promote the licensing objectives.

The costs argument

68. In the light of my conclusion that the magistrates' decision is unlawful and therefore must be quashed, it is not appropriate for me to consider the arguments in relation to their costs order further. The appellants had given an undertaking to the Licensing Authority that they would not seek costs against the Licensing Authority and they sought the entirety of their costs of the appeal from the Claimant. The magistrates granted that order and the Claimant submits that that was not an order that was open to them. Whatever the merits of that argument, the magistrates' order in relation to costs cannot now stand. The basic foundation for the order for costs was that the appeal had succeeded and the Claimant had lost. That position has now been overturned and the costs order must go along with the magistrates' main decision. The magistrates would have had no reason to grant costs against the Claimant if the appeal had been dismissed.

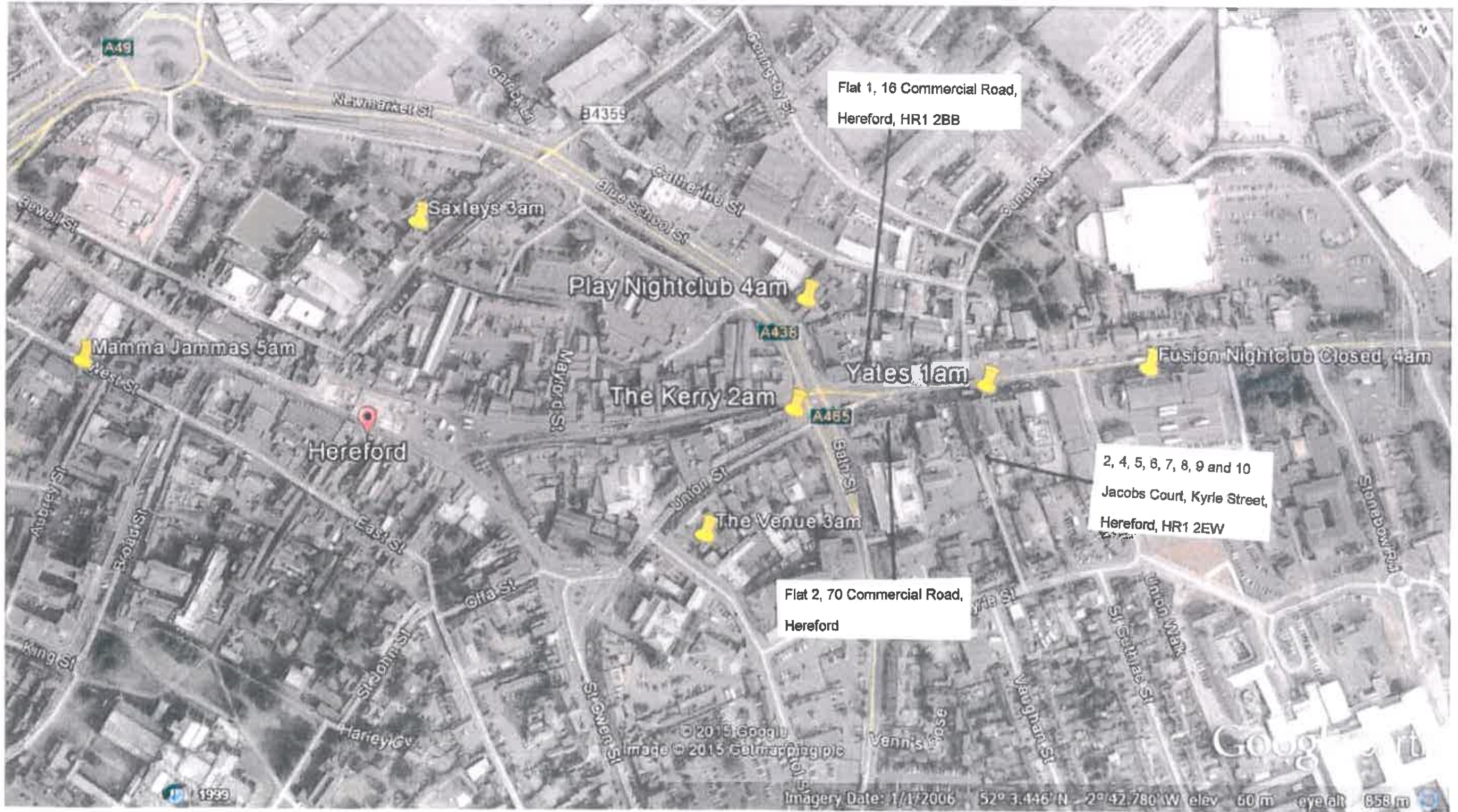




**TAB 8**

# Location Plan

Yates's, 58 Commercial Road, Hereford



Showing licensed premises within the area opening beyond the 1am trading hours of Yates's and residents addresses who have submitted representations

**TAB 9**



# Witness Statement

Statement of: **Paul Neades**

Age: **Over 18**

Occupation: **Designated Premises Supervisor**

## Personal

1. My name is Paul William Neades and I live at [REDACTED]
2. I am the Designated Premises Supervisor and General Manager of Yates's, 58 Commercial Road, Hereford, HR1 2BP.
3. I have been the General Manager at the premises since 2000, when the pub was known as the Litten Tree. I have had two breaks from working at the premises, one lasting two years from around 2000 – 2002 and a further lasting six months in 2007. Otherwise I have remained in my role at the premises for the past 15 years.
4. Prior to working at the premises, I was the General Manager of Euphoria Nightclub in Bromsgrove for two years and before that I worked as a Manager at Euphoria Nightclub in Leominster.

## Yates's, Hereford – The Premises and Operation

5. Stonegate Pub Company Limited acquired the premises from Town And City Pub Group Limited in August 2011.
6. The premises changed from Litten Tree to Yates's in 2012. The premises is primarily food based during the day, catering in particular for office workers on their lunch breaks and shoppers.
7. During the week (Sundays to Wednesdays) the evenings remain quite food based. The premises is quieter and we usually shut at around 10pm.
8. On Thursdays, food service stops at around 9pm and the premises becomes more focussed on entertainment. We have a DJ on and will trade until 1.30am if we are busy. Thursdays usually attract a slightly older crowd of around 25 years and over.
9. Friday nights are quieter than Thursdays and attract a younger crowd.
10. Saturday nights are entertainment led. We often welcome groups and put on activities for them, such as cocktail classes. After 9pm, the focus moves onto music

Signature: ..... Signature witnessed by .....

Document Ref : 2145225268

and dancing. Customers tend to be mixed ages, and the older crowd will stay with us until around 1.30am.

11. Our customers are all ages from 18 – 80 and are very well behaved. We do not have any problems from them.

### **Noise Management**

12. We have a very sophisticated sound system and manage the music levels carefully. For example, when the music on the dance floor volume is turned up, the volume levels at the bar are quieter and there is no music at all at the front of the premises. This ensures that people who want to enjoy the music and dance can do, but at the same time if people want to talk then they can easily hear each other.

13. We have an external area to the rear of the premises. Since March 2015 we have not had any regulated entertainment after 10pm in the rear garden. Prior to that we occasionally had entertainment but I am not aware that this caused any issues.

14. We have a licensing manual containing various policies including a dispersal policy. Staff are fully trained in the licensing manual and the individual policies at the start of their employment with refresher training at regular intervals. We also have management procedures and training in respect of our responsibilities to control noise disturbance.

15. The doors to the front of the premises and leading from the dance floor to the rear garden have been fitted with automatic closing mechanisms. All external doors have incumbent rubber strips to prevent noise breakout.

16. In addition, the structure of the premises has created a L-shape corridor from the dance floor to the rear garden which significantly dampens any music noise escape.

17. The garden is monitored every evening whether the garden bar is open or shut. If the bar is open we employ an extra doorman to be permanently in the area. The staff check the garden during the day as part of their normal cleaning rounds. The area is covered by 2 x CCTV cameras 24hrs a day.

18. In the winter, from around November to February, we erect a large marquee in the rear garden which further reduces the risk of any noise escape from people in the

Signature: .....

Signature witnessed by .....



garden. During the summer we have large jumbrellas in the garden which again assists in minimising the potential for noise disturbance from people using the area.

19. In the 15 years that I have worked at the premises I have only known of three complaints of noise. The first was when the flats above were first built several years ago. At this time a gentleman said he could hear the bass from the music. We turned this down and the issue was quickly resolved. The second complaint was from houses at the rear of the premises about seven years ago. This complaint concerned noise from bottles. We moved our bottle collection to earlier in the day and again the issue was resolved. The third was in September 2015 when a local resident whom I know spoke to us about music escaping from the front door, which had been ajar. We immediately rectified this and door staff were reminded of their duty to keep the front door shut. We have since spoken several times with the resident concerned and I understand the issue is resolved from this individual's point of view. I do make strenuous efforts to react promptly and effectively to any concerns from neighbours, although as I have said over the years these concerns have been few and far between.

### **Role in the Community and Relationships with Others**

20. I get on extremely well with all my neighbours and have excellent relationships with the responsible authorities.

21. I am pleased that many of my local neighbours are customers of Yates's.

22. I set up the local Pubwatch group and I am an Advisor for National Pubwatch. I take an active role in community initiatives and maintain close contact with the Police and Licensing Authority.

### **Flats Above Yates's**

23. Some years ago residential flats were built above Yates's. However, the workmanship of these flats was not good and many are unoccupied. I would estimate that of 10 or 11 flats, only two are occupied and the others are empty and locked up.

Signature: ..... Signature witnessed by .....

24. Apart from the toilets Yates's operates on the ground floor. On the first floor there are toilets, the office, kitchens, manager's flat and a staffroom. On the second floor there are two flats, one of which is occupied by a young couple and their child. On the third floor there are again two flats and again I believe only one of these is occupied. The unoccupied flat belongs to Alison Rogers. There is therefore a whole 'office' floor between Yates's public areas on the ground floor and the nearest residential flats above.
25. The couple who live in the flat on the second floor are customers of Yates's and I get on well with them.

### **Hereford and the Night Time Economy**

26. Hereford's licensed premises and night time economy offer has changed dramatically in the 15 years since I have worked here. Many local nightclubs have close and trade across the town has dropped.
27. The current night time economy is extremely difficult to trade in.
28. Footfall at Yates's is down by around half of what it was one to two years ago. As an estimate, we welcomed about half as many customers on a recent Saturday night as we did on the same Saturday in 2014.
29. Since the application to vary the premises licence was granted in March 2015, I have been able to take advantage of the later hours which has helped my business enormously. My customers do not have to leave the premises early to try and gain entry somewhere else in Hereford but will stay in Yates's for the whole of their evening and go home afterwards.
30. Since the variation I have noticed a significant drop in the amount of people leaving the premises to go on to another licensed venue.
31. The later hours are vital to my business so that I have the flexibility to be able to offer a complete evening's entertainment to my customers. Many of them are an older crowd and looking for a relaxed and friendly environment for them to enjoy until later than 1am.

**This statement is true to the best of my knowledge and belief**

Signature: ..... Signature witnessed by .....

**TAB 10**

FLAT [REDACTED]  
JACOBS COURT  
KYRLE STREET  
HEREFORD  
HR1 2EW

14/10/15

Dear Sir/Madam

I am currently living in the flat [REDACTED] above Yates. I have no noise concerns about the current trading hours what so even though their back yard is directly under my balcony. This still does not cause me a problem.

If you need to contact me my number is [REDACTED]

Regards

[REDACTED]

**TAB 11**

**From:** Information Compliance [<mailto:information@westmercia.pnn.police.uk>]  
**Sent:** 28 July 2014 12:53  
**To:** Yates, Hereford  
**Subject:** FREEDOM OF INFORMATION REQUEST REFERENCE NO: RFI 5451

Dear Mr Neades

**FREEDOM OF INFORMATION REQUEST REFERENCE NO: RFI 5451**

I write in connection with your request for information which was received on 25th July 2014. Please find below the response to your request:

The number of alcohol related incidents connected to Yates Hereford, 58 Commercial Road, Hereford HR1 2BP each year for the last 3 years

**REPLY:** Period covered January 2011 to 28 July 2014:

2014 - total alcohol related incidents recorded 07

2013 - total alcohol related incidents recorded 29

2012 - total alcohol related incidents recorded 48

2011 - total alcohol related incidents recorded 40

Every effort has been made to ensure that the information provided is as accurate as possible

Your attention is drawn to the below which details your right of complaint.

Should you have any further enquiries concerning this matter, please write or telephone the Information Compliance Unit quoting the reference number above.

Yours sincerely

Mrs R Williams

Information Compliance Unit

Business Assurance and Improvement

West Mercia Police

PO Box 55

Hindlip

Worcester

WR3 8SP

01905 331545 / 331565



West Mercia Police in complying with their statutory duty under sections 1 and 11 of the Freedom of Information Act 2000 to release the enclosed information will not breach the Copyright, Designs and Patents Act 1988. However, the rights of the copyright owner of the enclosed information will continue to be protected by law. Applications for the copyright owner's written permission to reproduce any part of the attached information should be addressed to The Force Solicitor, West Mercia Police Headquarters, PO Box 55, Hindlip, Worcester, WR3 8SP.

## COMPLAINT RIGHTS

Are you unhappy with how your request has been handled or do you think the decision is incorrect?

You have the right to require West Mercia Police (WMP) to review their decision.

Prior to lodging a formal complaint you are welcome and encouraged to discuss the decision with the person that dealt with your request.

Ask to have the decision looked at again -

The quickest and easiest way to have the decision looked at again is to telephone the person named at the end of your decision letter.

That person will be able to discuss the decision, explain any issues and assist with any problems.

### Complaint

If you are dissatisfied with the handling procedures or the decision of WMP made under the Freedom of Information Act 2000 (the Act) regarding access to information, you can lodge a complaint with WMP to have the decision reviewed. WMP must be notified of your intention to complain within 2 months of the date of its response to your Freedom of Information request. Complaints should be made in writing and addressed to:

West Mercia Police Headquarters

Information Compliance Unit

Hindlip Hall

Hindlip

PO Box 55

Worcester

WR3 8SP

In all possible circumstances, WMP will aim to respond to your complaint within 2 months.

The Information Commissioner

After lodging a complaint with WMP if you are still dissatisfied with the decision you may make application to the Information Commissioner for a decision on whether the request for information has been dealt with in accordance with the requirements of the Act.

For information on how to make application to the Information Commissioner please visit their website at [www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk) Alternatively, phone or write to:

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

Phone: 01625 545700



[facebook.com/stonegatepubs](https://www.facebook.com/stonegatepubs)

[twitter.com/stonegatepubs](https://twitter.com/stonegatepubs)

[linkedin.com/company/stonegate-pub-company-limited](https://www.linkedin.com/company/stonegate-pub-company-limited)

*"Please Support Variety Childrens Charity - Stonegate's Charity for 2014"*

<http://www.justgiving.com/company/stonegate>

624

This e-mail (along with any attachments) may be confidential and is intended solely for the use of the intended recipient(s). Any views or opinions expressed are solely those of the author and do not necessarily represent those of Stonegate Pub Group. If you are not the intended recipient of this e-mail (along with any attachments) you must take no action based on it or copy/show it to anyone. Please contact the sender, if you believe that you have received this e-mail in error./ We make every effort to keep our systems free from viruses. However, you need to check this e-mail (along with any attachments) for viruses, since we take no responsibility for any computer virus which may inadvertently be transmitted by it. Stonegate Pub Group; registered number: FC 029833; registered office: Porter Tun House, 500 Capability Green, Luton, LU1 3LS

**TAB 12**



**Economy, Communities & Corporate**

Geoff Hughes

Mr Andy Grimsey

Email: [a.grimsey@popall.co.uk](mailto:a.grimsey@popall.co.uk)

Your Ref:

Our Ref: FOI IAT 10516

Please ask for: Claire Jacobs

Direct Line / 01432 260 340

Extension:

Fax:

E-mail: [accessstoinformation@herefordshire.gov.uk](mailto:accessstoinformation@herefordshire.gov.uk)

15 October 2015

Dear Sir,

**FREEDOM OF INFORMATION ACT REQUEST FOI IAT 10516**

Further to previous correspondence, your request for information has now been considered, and the council's response is set out below:

**In respect of Yates, 58 Commercial Road, Hereford, HR1 2BP**

**Q1 Please provide details of any complaints regarding noise, litter or other pollution which were made between 9 October 2013 and the date that you respond to this request**

- A. A premise history search has been carried out at the above premises for complaints made between 9 October 2013 to date, and I am advised that no complaints have been received over this period.

**Q2 In respect of each complaint please provide:**

- i) A brief summary, including the time and date of the complaint**
- ii) The nature of the complaint**
- iii) The name and address of the complainant (or if that is not possible for legal reasons, the street from which the complaint originated)**
- iv) How the complaint was made (by telephone, letter, etc)**
- v) And any action taken by the Environmental Health Department as a result of the complaint**

- A. N / A – no complaints have been received.

**Q3 Please confirm whether any enforcement action has been taken by your department in respect of the above premises in the period mentioned above, including any Noise Abatement Notices, formal or informal warnings (written or otherwise) and the dates of such enforcement action**



A. No enforcement action has been carried out at the above premises in the period requested.

If you are dissatisfied with the handling of your request or you would like a review of the response provided, further information regarding our review procedure is available in the 'Internal Review Procedure for EIR and FOI requests' which is published on Herefordshire Council's website via the following link:

<https://www.herefordshire.gov.uk/government-citizens-and-rights/data-protection-and-freedom-of-information/data-protection>

Further information is also available from the Information Commissioner at:

Information Commissioner's Office  
Wycliff House, Water Lane, Wilmslow, Cheshire, SK9 5AF

Telephone: 01625 545 745      [www.ico.org.uk](http://www.ico.org.uk)

Yours faithfully

**CLAIRE JACOBS**

**INFORMATION ACCESS OFFICER**