

HAMBLETON DISTRICT COUNCIL

Report To: Licensing Hearings Panel
4 July 2012

From: Director of Leisure and Health

**Subject: TEMPORARY EVENT NOTICE – WHINSTONE VIEW COUNTRY CLUB, GREAT
AYTON**

Great Ayton Ward

1.0 SUMMARY:

1.1 This report asks the Panel to consider a Temporary Event Notice for an event on Friday, 6 July and Saturday, 7 July 2012 at Whinstone View Country Club, Great Ayton.

2.0 PROCEDURE:

2.1 The procedure for Premises Licence hearings is attached as an annex to the agenda.

3.0 THE TEMPORARY EVENT NOTICE

3.1 The notice was received by the Licensing Team on 19 June 2012 and relates to an event planned to be held in a marquee adjoining Whinstone View Country Club. The Marquee currently is not licensed for any licensable activity.

3.2 The event is planned to be held between the hours of 19.00 to 23.30 on Friday 6 and Saturday 7 for the sale of alcohol and regulated entertainment.

3.3 As a consequence of the amendment of the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2011, the Hambleton District Council's Environmental Health Service are consulted along with North Yorkshire Police in relation to Temporary Event Notices.

4.0 PROMOTION OF LICENSING OBJECTIVES:

4.1 The four Licensing Objectives set out in the Licensing Act 2003 are:-

4.1.1 the prevention of crime and disorder;

4.1.2 public safety;

4.1.3 the prevention of public nuisance;

4.1.4 the protection of children from harm.

4.2 The Panel must carry out its functions with a view to promoting the Licensing Objectives.

5.0 POLICY CONSIDERATIONS:

5.1 In carrying out its licensing functions the Panel is required to have regard to:-

5.1.1 its Licensing Statement;

5.1.2 any guidance issued by the Secretary of State.

5.2 The Council's Statement of Licensing Policy includes part 6.0 Preventing Public Nuisance. This sets out policy in relation to noise in particular. The Policy applicable to this notice is attached as Annex 1.

5.3 Attached as Annex 2 is the relevant section of the Home Office's Amended Guidance issued under Section 182 of the Licensing Act 2003.

6.0 THE REPRESENTATIONS

6.1 The Environmental Health Service responded to the notice on 20th June 2012 with an Objection Notice on the basis of the requested activities in relation to potential noise nuisance to nearby residents. Modifications to the Temporary Event Notice have not been agreed between the Environmental Health Service and the applicants, therefore a hearing has been arranged to consider the Notice.

7.0 BRIEF OBSERVATIONS OF THE OBJECTION NOTICE:

7.1 The Objection Notice is concerned with the requirement for noise control measures which are sufficient to prevent an undermining of the licensing objectives and are therefore relevant.

8.0 DETERMINATION BY THE PANEL:

8.1 The Panel has to decide what action to take in respect of the Temporary Event Notice. If the objection is confirmed, they must issue a counter notice to refuse permission for the licensable activities.

DAVID GOODWIN

Background papers: Temporary Event Notice
Procedure for Premises Licence Hearings

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HAMBLETON
DISTRICT COUNCIL

**REVISED STATEMENT OF PREMISES LICENSING POLICY –
LICENSING ACT 2003**

1.0 GENERAL

1.1 Licensing under the Licensing Act 2003 is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Licensing Act 2003. Activities which require a licence under the Licensing Act 2003 and covered by this policy include:-

- retail sale of alcohol;
- supply of alcohol to club members;
- provision of entertainment to the public or club members or with a view to making profit, including raising money for charity where the entertainment involves:-
 - a theatrical performance;
 - film exhibition;
 - indoor sporting event;
 - a boxing or wrestling entertainment;
 - live music performance;
 - playing of recorded music;
 - dance performance;
 - provision of facilities for making music;
 - provision of dancing facilities;
 - supply of hot food or drink from a premises from 23.00 to 05.00 hours.

1.2 Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a Statement of its Licensing Policy every three years. Such a policy must be published before the Authority carries out any function in respect of individual applications made under the terms of the 2003 Act.

1.3 Before determining its policy for any three year period the Licensing Authority must consult the persons listed in Section 5(3) of the 2003 Act. These are:-

- (a) the Chief Officer of Police for the area;
- (b) the Fire Authority;
- (c) bodies representing local holders of Premises Licences;
- (d) bodies representing local holders of Club Premises Certificates;
- (e) bodies representing local holders of Personal Licences;
- (f) bodies representing businesses and residents in its area.

1.4 The views of all these bodies listed will be given proper weight when the policy is determined. In addition, the Council may consult other individuals or bodies with a stake in the licensing of premises covered by the 2003 Act.

1.5 This policy will cover all applications for Premises and Personal Licences and notification of temporary events, together with applications for renewals, transfer and variations of conditions.

2.0 FUNDAMENTAL PRINCIPLES

2.1 In carrying out its licensing functions the Authority will promote the licensing objectives which are:-

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

2.2 An individual may apply under the terms of the Act for a variety of permissions and any such application will be considered on its individual merits. Any person may make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

2.3 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act and the terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises or places is ultimately a matter of fact to be decided by the courts in cases of dispute. In addressing applications, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.

2.4 The Council will seek to use other mechanisms that are available for addressing problems caused by a minority of consumers behaving badly and unlawfully once away from licensed premises. For example:-

- planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council and other Local Authorities;
- powers of Local Authorities to designate parts of the Local Authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
- the prosecution of any Personal Licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- the confiscation of alcohol from adults and children in designated areas;

- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises;
- the power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

2.5 Consultation – it is the policy of the Licensing Authority that anyone directly affected by an application should be made aware of it and of the opportunity to make recommendations. This is to ensure that applications that may raise concerns should be brought to the attention of residents and businesses likely to be affected by the proposal. Such methods will be over and above statutory requirements and include direct mail shots, the use of the Licensing Authority's web site, and consultation with appropriate town and parish councils and businesses.

3.0 PREVENTING CRIME AND DISORDER

3.1 The Council will ensure that adequate measures are taken by licensees to reduce the risk of crime and disorder. The appropriate measures will depend on the type, size and location of premises and the activities to be carried out. However, the following are examples of issues that will be considered:-

- effective methods of communication between licensees and the Police (e.g., radio, paper, ringround, ringmaster);
- membership of a Pubwatch or similar scheme and active participation in that scheme:
- use of CCTV systems where appropriate;
- appropriate policies and practices relating to avoidance of underage drinking (e.g., use of ID schemes, referral logs, signage, etc);
- appropriate drugs policies and practices;
- glass and bottle policies and practices (e.g., introducing toughened drinking glasses, prohibiting the taking of glasses from the premises);
- effective control of the premises and record keeping (e.g., trained and registered door staff if appropriate, incident logs, training of staff);
- transport liaison arrangements (e.g., readily available information on access to taxis, public transport, etc).

4.0 FIRE SAFETY:

4.1 The Fire Authority has regulatory powers under the Regulatory Reform (Fire Safety) Order 2005 to enforce and control fire safety matters in licensed premises. The Council will not seek to duplicate these powers.

4.2 However, preventing the crime of arson relates to the Licensing Objectives. Consequently the Council will seek to ensure that adequate measures are taken by licensees to reduce the risk and opportunity for deliberate fire setting. This might be to ensure that the security arrangements of the premises reduces the risk that a fire might be started deliberately by actively controlling access to non-public and external areas. It may also include measures to ensure that the accumulation of and access to waste materials is controlled.

5.0 OTHER PUBLIC SAFETY MATTERS:

5.1 The Council will ensure that adequate measures are taken by licensees to reduce the risk to public safety. This may include provisions for restrictions on the number of persons who can attend a premises or part of a premises or a specific entertainment at any one time. It might also include a requirement to carry out or have evidence of certain safety inspections such as those relating to electrical or gas appliances or structural matters.

6.0 PREVENTING PUBLIC NUISANCE:

6.1 The Council will ensure that adequate measures are taken by licensees to reduce the risk of public nuisance. In particular, it will look at measures to limit noise nuisance, both from the premises and from customers entering and leaving the premises. Methods of control might include restrictions on hours, particularly late at night, noise limiters on musical equipment and sound insulation of buildings, plant and equipment.

6.2 The Council will also expect licensees to adopt measures to avoid problems caused by customers spilling out of premises because they have reached capacity or for other reasons.

6.3 The Council will ensure that adequate measures are taken to deal with litter problems created by a licensable use in the immediate vicinity of the premises.

7.0 CHILDREN:

7.1 Subject to the licensee's discretion and any conditions included in a Premises Licence or Club Premises Certificate, the 2003 Act does not prohibit children having free access to licensed premises of all kinds, including those selling alcohol for consumption on those premises. The Council recognises the great variety of premises for which licences may be sought. These include theatres, cinemas, restaurants, concert halls, cafés, take-aways and fast food outlets as well as public houses and nightclubs.

7.2 The Council will not limit the access of children to such premises unless it is necessary for the prevention of harm to children. General rules on access of children will be avoided. The individual merits of each application will be considered.

7.3 The Council will in particular take account of the following situations in respect of premises:-

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is commonly provided;

- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 7.4 There are a number of options available for limiting the access of children where that is necessary for the prevention of harm to children. The options include:-
- limitations on the parts of premises to which children can have access;
 - limitations on the hours when children may be present;
 - age limitations (below 18);
 - limitations or exclusions when certain activities are taking place;
 - requirements for accompanying adult;
 - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 7.5 The Council will not impose conditions requiring the admission of children to any premises. Where no licensing restriction is necessary, this should remain a matter for the discretion of the individual licensee or club.
- 7.6 In the case of premises giving film exhibitions, the Licensing Authority expects licensees to impose conditions that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Local Authority itself. The Council does not intend to adopt its own system of classification.
- 7.7 There should be at least one member of adult staff at places of public entertainment to control the access and egress of children and to assure their safety.
- 7.8 The Council commends to all licensees in sale and supply of alcohol the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.
- 7.9 The Council recognises the North Yorkshire Area Child Protection Committee as the “responsible authority” in respect of children’s issues. This will therefore be the body to which copies of applications are sent.

8.0 CUMULATIVE IMPACT:

- 8.1 It is possible that the impact on surrounding areas of the behaviour of customers taken together is greater in these cases than the usual impact from customers of individual premises. In these circumstances the Council may receive representations from a responsible authority or interested party that the cumulative effect of new licences is leading to an area becoming saturated with premises, making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. This might be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. This might lead the Council in turn to consider the question of whether the grant of any further Premises Licences or Club Premises Certificate would undermine one of the licensing objectives. In these circumstances the cumulative impact will be addressed in the context of the individual merits of any application.

8.2 The Council will not impose quotas that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. Nor does the Council feel it is appropriate to adopt a special policy of refusing new licences because any part of its area is already saturated with licensed premises.

8.3 The Council has duties to comply with its obligations under Section 17 of the Crime and Disorder Act 1998 in respect of crime and disorder and to the licensing objectives in the 2003 Act. The Council will consider representations based on the impact on the promotion of the licensing objectives in the Licensing Authority's area generally of the grant of the particular application before them. However, the onus will be on the objector to lay an evidentiary base for the assertion that the addition of the premises in question would produce the cumulative impact claimed. The impact can be expected to be different for premises with different styles and characteristics.

9.0 LICENSING HOURS:

9.1 When dealing with licensing hours, each application will be dealt with on its individual merits. Longer licensing hours with regard to the sale of alcohol are important to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.

9.2 The Council will not set fixed trading hours within designated areas. Stricter conditions with regard to noise control may be demanded in areas which have denser residential accommodation, but this will not limit opening hours without regard to the individual merits of any application.

9.3 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following Police representations in the case of isolated shops known to be a focus of disorder and disturbance because youths gather there.

10.0 INTEGRATING STRATEGIES:

10.1 The Council will secure the proper integration of its licensing function with local crime prevention, planning, transport, tourism and cultural strategies.

10.2 Conditions attached to Premises Licences and Club Premises Certificates will, if appropriate, reflect local crime prevention strategies. For example, the provision of closed circuit television cameras in certain premises.

10.3 Protocols agreed between the local Police and other Licensing Enforcement Officers will provide for them to report to the Local Authority Transport Committees and other relevant bodies so that those bodies may have regard

to the need to disperse people from town centres swiftly and safely to avoid concentrations which produce disorder and disturbance.

- 10.4 The Licensing and Environmental Protection Committee (the Committee) will receive, where appropriate, reports on the needs of the local tourist economy and the cultural strategy for the area to ensure that these are reflected in their considerations. The Committee will in particular monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing.
- 10.5 The Committee will keep abreast of the employment situation in the area and the need for new investment and employment where appropriate.
- 10.6 The Council will ensure that there is a proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing applications will not be a re-run of the planning application and will not cut across decisions taken by the Planning Committee or following appeals against decisions taken by that Committee. The Licensing and Environmental Protection Committee will, where appropriate, provide regular reports to the Planning Committee or Cabinet as appropriate on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This will enable the Planning Committee or the Cabinet to have regard to such matters when taking their decisions and avoid any unnecessary overlap.

11.0 DUPLICATION:

- 11.1 The Council will avoid duplication with other regulatory regimes so far as possible. For example, legislation governing health and safety at work and fire safety will place a range of general duties on employers and operators of venues, both in respect of employees and of the general public when on the premises in question. Conditions will only be attached to Premises Licences and Club Premises Certificates that are “necessary” for the promotion of the licensing objectives and if already provided for in other legislation, they cannot be considered necessary in the context of licensing law. Such regulations will not, however, always cover the unique circumstances that arise in connection with entertainment. Indeed, certain safety legislation includes exemption because it is assumed that licensing controls will provide the necessary coverage.

12.0 STANDARDISED CONDITIONS:

- 12.1 A key concept underscoring the 2003 Act is for conditions to be attached to licences and certificates, which are tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions will therefore be avoided and conditions will only be attached where they can be shown to be necessary for the promotion of the licensing objectives in any individual case. However, the pools of conditions from which appropriate and

proportionate conditions may be drawn in particular circumstances are attached in the Annexes to this Policy.

13.0 LIVE MUSIC, DANCING AND THEATRE:

13.1 In considering applications, proper account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the Council will be aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a substantial nature.

14.0 PROMOTION OF RACIAL EQUALITY:

14.1 The Council recognises that the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. It will apply these principles in undertaking its licensing function.

15.0 ENFORCEMENT:

15.1 The Council will establish and maintain protocols with the local Police on enforcement issues. This should provide for a more efficient deployment of Local Authority staff and Police Officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises.

15.2 These protocols will in particular provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The 2003 Act does not require inspections to take place, save at the discretion of those charged with this role. The principle of risk assessment and targeting will prevail and inspections will not be undertaken routinely but when and if they are judged necessary.

16.0 ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS:

16.1 The 2003 Act provides that decisions and functions may be taken or carried out by Licensing Committees or delegated Sub-Committees or, in appropriate cases, to officials supporting the Licensing Authority. The principle of delegation is supported in the interests of speed, efficiency and cost-effectiveness.

16.2 The Council will offer a minor variation process that allows applicants to apply for a variation of the licence that will have no adverse effect on the four licensing objectives through a streamlined process.

16.3 Functions under the Licensing Act will be dealt with as shown below:-

<u>Matter to be Dealt with</u>	<u>Licensing Hearings Panel</u>	<u>Officers:</u>
Application for Personal Licence.	If an objection made.	If no objection made.
Application for Personal Licence with unspent convictions.	All cases.	
Application for Premises Licence/Club Premises Certificate.	If a relevant representation made.	If no relevant representation made.
Application for provisional statement.	If a relevant representation made.	If no relevant representation made.
Application to vary Premises Licence/Club Premises Certificate.	If a relevant representation made.	If no relevant representation made.
Application to vary designated Personal Licence holder.	If an objection made.	All other cases.
Request to be removed as designated Personal Licence holder.		All cases.
Application for transfer of Premises Licence	If an objection made.	All other cases.
Applications for Interim Authorities.	If an objection made	All other cases.
Application to review Premises Licence/Club Premises Certificate.	All cases.	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		All cases.
Decision to object when Local Authority is a consultee and not the lead Authority.	All cases.	
Determination of a Police representation to a Temporary Event Notice.	All cases.	

7. Temporary event notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities that are not authorised by a premises licence or club premises certificate.

GENERAL

- 7.2 The system of permitted temporary activities is a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and local authority exercising environmental health functions at least ten working days before the event (although a premises user may give a limited number of TENs to the licensing authority less than 10 days before the event to which they relate).
- 7.4 If a temporary event notice is sent electronically via Business link or the licensing authority’s own facility, the licensing authority must notify the police and local authority exercising environmental health functions as soon as possible and no later than the first working day after the notice is given.
- 7.5 The police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the licensing authority imposing conditions on a temporary event notice. When giving a temporary event notice, consideration should be given to the four licensing objectives. The licensing authority only otherwise intervenes if the statutory permitted limits on temporary event notices would be exceeded.
- 7.6 A temporary event notice does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

LIMITATIONS

- 7.7 A number of limitations are imposed on the use of TENs by the 2003 Act. The limitations apply to:
- the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and 5 times in a calendar year for other people);
 - the number of times a TEN may be given for any particular premises (12 times in a calendar year);
 - the maximum length of time a TEN may have effect (168 hours or 7 days);

- the maximum total duration of the periods authorised by TENs in relation to individual premises (21 days in a calendar year); and
 - the maximum number of people attending at any one time (fewer than 500).
- 7.8 Proposed activities that exceed these limits will require a premises licence or club premises certificate.
- 7.9 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.
- 7.10 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.
- 7.11 There is nothing to prevent notification of multiple events at the same time, provided the first event is at least ten days away (or five days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the events are to take place in the same licensing authority (and police area), and the limits are not exceeded in the case of each notice.

WHO CAN GIVE A TEMPORARY EVENT NOTICE?

PERSONAL LICENCE HOLDERS

- 7.12 A personal licence holder can give a TEN at any premises on up to 50 occasions in any calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 12 TENs in respect of each premises in a calendar year.

NON-PERSONAL LICENCE HOLDERS

- 7.13 The 2003 Act provides that any individual aged 18 or over may give a TEN whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve combinations of licensable activities. In the absence of a premises user holding a personal licence, the 2003 Act limits the number of notices that may be given by any non-personal licence holder to 5 occasions in a calendar year (this limit is inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

STANDARD AND LATE TEMPORARY EVENT NOTICES

7.14 There are two types of TEN; a standard TEN and a late TEN. These are subject to different processes:

- a standard notice is given no later than 10 working days before the event to which it relates; and
- a late notice is given not before 9 and not later than 5 working days before the event.

STANDARD TEMPORARY EVENT NOTICES

7.15 “Ten working days” (and other periods of days which apply to other requirements in relation to TENS) exclude the day the notice is received and the first day of the event. Working days are Monday to Friday excluding Christmas Day, Good Friday and other Bank Holidays. A notice that is given less than 10 working days before the event to which it relates, when the premises user has already given the permitted number of late TENS in that calendar year, will be returned as void and the activities described in it will be not be authorised.

7.16 The police and local authority exercising environmental health functions have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.

7.17 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENS should ideally be given to them.

LATE TEMPORARY EVENT NOTICES

7.18 Late TENS are intended to be used by premises users who are required for reasons outside their control to, for example, change the venue at short notice. They should not be used save in exceptional circumstances.

7.19 As for a standard TEN, the police and local authority exercising environmental health functions have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives. If there is an objection from either the police or local authority exercising environmental health functions, the event will not go ahead. In these circumstances there is no scope for a hearing or the application of existing conditions.

7.20 Late TENS can be given up to five working days but no earlier than nine working days before the event is scheduled and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and local authority exercising environmental health functions. A late TEN given less than five days before the event to which it relates

will be returned as void and the activities to which it relates will not be authorised. The number of late TENs that can be given in a calendar year is limited to ten for personal licence holders and two for non-personal licence holders. Late TENs count towards the total number of TENs (for example, the limit of five TENs per year for non-personal licence holders and 50 TENs for personal licence holders). Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given.

ROLE OF THE LICENSING AUTHORITY

- 7.21 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.7 above). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate, or someone who is in business with the relevant premises user, in respect of the same premises. This is to prevent evasion of the seven-day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.
- 7.22 The 2003 Act defines an associate, in relation to the premises user, as being:
- the spouse or civil partner of that person;
 - a child, parent, grandchild, grandparent, brother or sister of that person;
 - an agent or employee of that person; or
 - the spouse or civil partner of a person listed in either of the two preceding bullet points.
- 7.23 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.
- 7.24 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.25 Where the TEN is in order, the relevant fee paid, the event falls within the prescribed limits and there has been no objection from the police or local authority exercising environmental health functions on the basis of any of the four licensing objectives, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically).
- 7.26 If the licensing authority receives an objection notice from the police or local authority exercising environmental health functions that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing

licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”), and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

- 7.27 Premises users are not required to be on the premises for the entire duration of the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children; and allowing disorderly conduct on licensed premises.
- 7.28 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.29 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. There is no requirement to record all the personal information given on a TEN.

POLICE AND ENVIRONMENTAL HEALTH INTERVENTION

- 7.30 The system of permitted temporary activities gives police and local authorities exercising environmental health functions the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.31 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance. However, in most cases, where (for example) alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (for example, at weddings or small social or sporting events) this should not give rise to the use of these powers.
- 7.32 Each of the police and local authority exercising environmental health functions (as an authorised person) have the right under sections 109(5) and (6) of the 2003 Act to request the premises user to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under Part 8 of the 2003 Act should disorder or noise nuisance be expected or arise.
- 7.33 If the police or local authority exercising environmental health functions believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within three working days of their receipt of the TEN.

- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, local authority exercising environmental health functions and the premises user may make representations to the licensing authority. If the police and/or local authority exercising environmental health functions give an objection to a late notice, the TEN will not be valid.
- 7.35 The police or local authority exercising environmental health functions may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified. If there is no agreement, the licensing authority must hold a hearing to consider the notice.

Following a recent telephone conversation with a member of your staff named Linda, I am writing a formal complaint in respect of noise pollution from the Whinstone's Bistro and Lodges, Great Ayton.

I am representing a number of neighbours who are being affected by the loud music covering events at the Bistro location on a number of occasions, the most recent dates being Saturday, 14th of April, Saturday 28th of April, Saturday 5th of May, 3rd, 4th & 9th of June.

The noise on the 14th of April was so loud that we were unable to hear any television programmes despite all the windows and doors being closed and a firework display yhat reverberated around the area.

The 28th of April, 5th of May, 3rd & 4th of June - we were able to hear the words of each song and the voice of the DJ when you opened a door or window and meant that we could access the garden because of noise.

On the 9th of June the music was again accompanied by a fireworks display that started at approximately 10:20 pm.
The duration of the noise ifs from early evening 7-7:30pm until approximately 11:30pm. We have found that we all can hear a "base" beat constantly in our houses.

On further investigation I found that the venue is a Marquee.
This is completely unacceptable and is impacting upon our family lives and privacy.

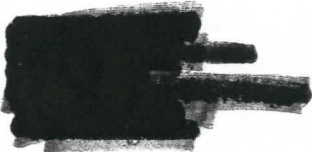
The issues we would like answers to are:-

- Are they allowed to hold numerous events such as weddings when clearly a tent has no sound proofing and when in our houses gardens the sound is unbearable.
- Is there a limit to the number of events.
- What is the process for measuring noise pollution.

I would be grateful if you would investigate our complaint thoroughly.
I look forward to hearing from you.

Please can you forward this to the Environmental team.

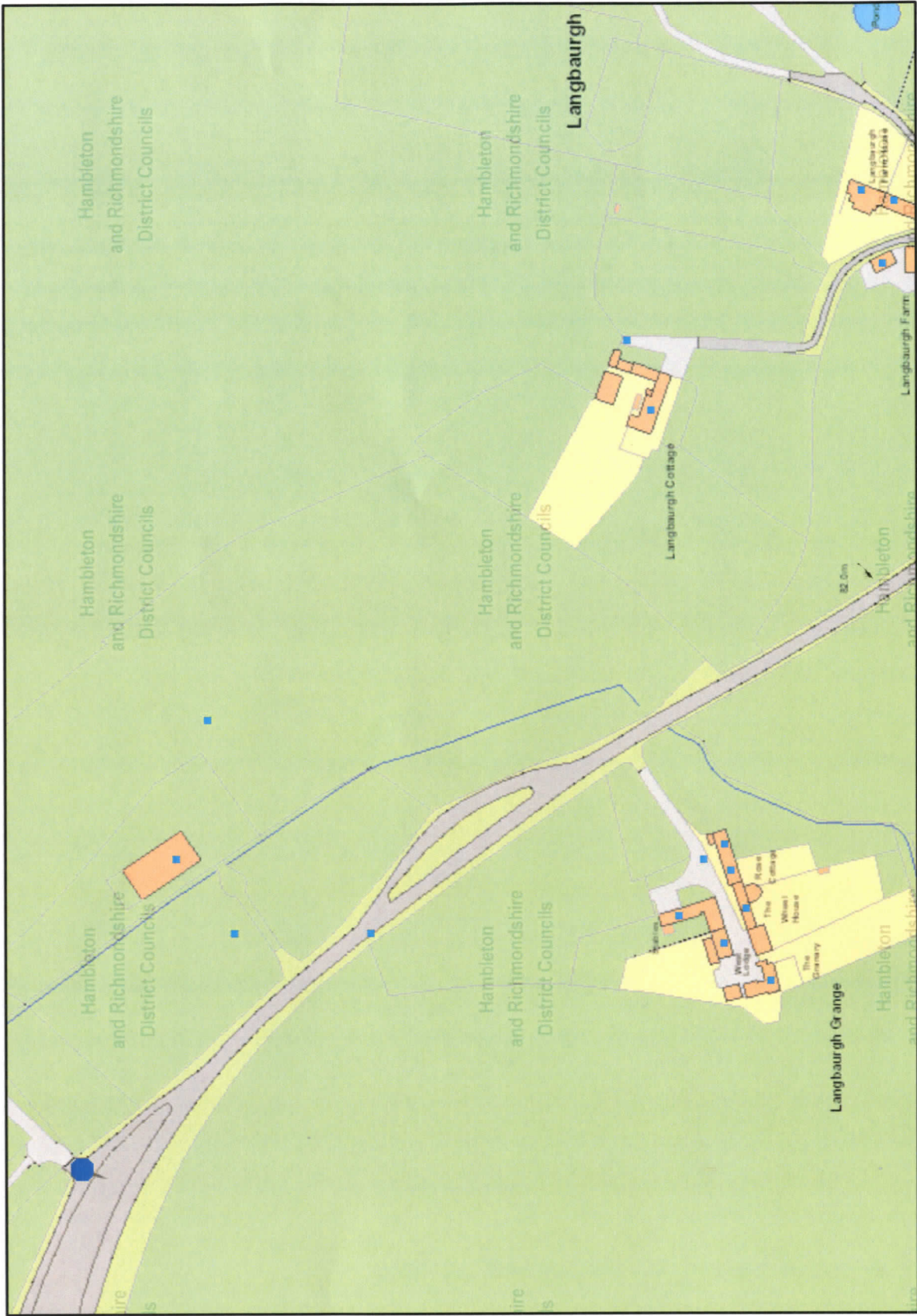
Regards,



Appendix 2

Author:

- RDC Addresses**
- Current
 - Provisional
 - Historical
- HDC Addresses**
- Current
 - Provisional
 - Historical



HAMBLETON DISTRICT COUNCIL
 Civic Centre, Stone Cross Northallerton DL6 2UU
 Telephone: 0845 1211 555 Fax: 01609 767228



1:2,500

Map Notes

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