



WAVERLEY BOROUGH COUNCIL

Licensing Team, Chief Executive's Dept, Waverley Borough Council, The Burys, Godalming, Surrey GU7 1HR

Application for a premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We RMH (WISPER) CARE LLP. (Insert name(s) of applicant) apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

sale hall *GU27 1AB*

Postal address of premises or, if none, ordnance survey map reference or description <u>WISPER PARK</u> <u>HIGH LANE</u> <u>1</u>		<u>ORDNANCE SURVEY</u> <u>SU9034SW</u>
Post town <u>MASLEMERE</u>	Post code <u>GU27 1AB</u>	

Telephone number at premises (if any) 01428-744001.

Non domestic rateable value of premises £ 13,500

Part 2 – Applicant Details

Please state whether you are applying for a Premises Licence as:

- Please tick ✓
- a) an individual or individuals* please complete section (A)
 - b) a person other than an individual*
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)

- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) The proprietor of an educational establishment please complete section (B)
- f) A health service body please complete section (B)
- g) A person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) The chief officer of police of a police force in England and Wales please complete section (B)

Please tick ✓

*If you are applying as a person described in (a) or (b) please confirm:

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - Statutory function; or
 - A function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname First names

Please tick ✓

I am 18 years old or over

Current postal address
If different from premises address

Post Town Postcode

Daytime contact telephone number

Email address (optional)

SECOND INDIVIDUAL APPLICANT (If applicable)

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

Surname First names

I am 18 years old or over Please tick ✓

Current postal address If different from premises address

Post Town Postcode

Daytime contact telephone number

Email address (optional)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name	RMH (WISPER) CARE LLP.
Address	PENTHOUSE FLAT. 6 UPPER JOHN STREET LONDON W1F 9HB.
Registered number (where applicable)	OC341730
Description of applicant (for example, partnership, company, unincorporated association etc.)	LIMITED LIABILITY PARTNERSHIP
Telephone number (if any)	01428-744001.
E-mail address (optional)	

Part 3 Operating Schedule

When do you want the premises licence to start?

Day	Month	Year
0	2	07 2013

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day	Month	Year
/	N/A	/

Please give a general description of the premises (please read guidance note 1)

RETIREMENT VILLAGE CLUB WITHIN THE GROUNDS WHICH ALSO INCLUDES 58 RESIDENTIAL PROPERTIES FOR THE OVER 55'S AND A 54 BED CARE HOME

ACTIVITIES WILL BE PROVIDED FOR ALL SUCH RESIDENTS AND THEIR VISITORS WITHIN THE CLUB ITSELF TO INCLUDE FILMS ON THE CLUB TV, ETC.

If 5000 or more people are expected to attend the premises at any one time, please state the number expected to attend

/

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedule 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick ✓

- | | | |
|----|--|-------------------------------------|
| a) | plays (If ticking yes, fill in box A) | <input checked="" type="checkbox"/> |
| b) | films (If ticking yes, fill in box B) | <input checked="" type="checkbox"/> |
| c) | indoor sporting events (If ticking yes, fill in box C) | <input type="checkbox"/> |
| d) | boxing or wrestling entertainment (If ticking yes, fill in box D) | <input type="checkbox"/> |
| e) | live music (If ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) | recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) | performance of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) | anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | <input type="checkbox"/> |

Provision of entertainment facilities:

- | | | |
|----|--|--------------------------|
| l) | making music (if ticking yes, fill in box I) | <input type="checkbox"/> |
| j) | dancing (if ticking yes, fill in box J) | <input type="checkbox"/> |
| k) | entertainment of a similar description to that falling within (l) or (j) (if ticking yes, fill in box K) | <input type="checkbox"/> |

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

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

In all cases complete boxes N, O and P

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	
Mon	10 ⁰⁰	22 ⁰⁰	Please give further details here (please read guidance note 3)	Both	
Tue	10 ⁰⁰	22 ⁰⁰			
Wed	10 ⁰⁰	22 ⁰⁰	State any seasonal variations for performing plays (please read guidance note 4)		
Thur	10 ⁰⁰	22 ⁰⁰			
Fri	10 ⁰⁰	22 ⁰⁰	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 (please read guidance note 5)		
Sat	10 ⁰⁰	22 ⁰⁰			
Sun	10 ⁰⁰	22 ⁰⁰			

MURDER MYSTERY

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	
Mon	10 ⁰⁰	23 ⁰⁰	Please give further details here (please read guidance note 3)	Both	
Tue	10 ⁰⁰	23 ⁰⁰			
Wed	10 ⁰⁰	23 ⁰⁰	State any seasonal variations for the exhibition of films (please read guidance note 4)		
Thur	10 ⁰⁰	23 ⁰⁰			
Fri	10 ⁰⁰	23 ⁰⁰	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 (please read guidance note 5)		
Sat	10 ⁰⁰	23 ⁰⁰			
Sun	10 ⁰⁰	23 ⁰⁰			

FILMS WILL BE SHOWN IN VARIOUS PARTS OF THE CLUB (eg. GAMES ROOM).

M

Sale of alcohol Standard days and timings (please read guidance note 6)			Will the sale of alcohol be for consumption on or off the premises or both - please tick (✓) (please read guidance note 7)	On the premises	✓	
Day	Start	Finish		Off the premises		
Mon	12 ⁰⁰	23 ⁰⁰	State any seasonal variations for the sale of alcohol (please read guidance note 4)	Both		
Tue	12 ⁰⁰	23 ⁰⁰				
Wed	12 ⁰⁰	23 ⁰⁰				
Thur	12 ⁰⁰	23 ⁰⁰		Non standard timings. Where you intend to use the premises for the sale of alcohol at different times to those listed in the column on the left, please list. (please read guidance note 5)		
Fri	12 ⁰⁰	23 ⁰⁰				
Sat	12 ⁰⁰	23 ⁰⁰				
Sun	12 ⁰⁰	23 ⁰⁰				

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name **ROBERT LESLIE WALE.**

Address **31 COLLEGE RIDE
RAGSMOT SURREY**

Postcode **GU19.5EW**

Personal licence number (if known) **SHBEPER-05129.**

Issuing licensing authority (if known) **SURREY HEATH BOROUGH.
COUNCIL.**

Personal licence expiry date (if known)

N

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)

NIL

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)
Day	Start	Finish	
Mon	00 ⁰⁰	00 ⁰⁰	<p>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list. (please read guidance note 5)</p> <p>THE PREMISES ARE OPEN TO THE PUBLIC 24 HOURS IN ORDER TO ALLOW FAMILY MEMBERS TO VISIT RESIDENTS IN AN EMERGENCY.</p>
Tue	00 ⁰⁰	00 ⁰⁰	
Wed	00 ⁰⁰	00 ⁰⁰	
Thur	00 ⁰⁰	00 ⁰⁰	
Fri	00 ⁰⁰	00 ⁰⁰	
Sat	00 ⁰⁰	00 ⁰⁰	
Sun	00 ⁰⁰	00 ⁰⁰	

P

Describe the steps you intend to take to promote the four licensing objectives:

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

- SUITABLE MANAGEMENT TO ATTEND PERSONAL LICENCE COURSE.
- ALL EMPLOYEES TO BE AWARE OF GENERAL CONDUCT AND LICENSING THROUGH EMPLOYEE
- STAFF TRAINING TO BE CARRIED OUT ON LICENSING ^{HANDBOOK}.

b) The prevention of crime and disorder

- SIA WILL SUPPORT EVENTS IN THE UNLIKELY REQUIREMENT OF WARRANTING SECURITY.
- NO IRRESPONSIBLE DRINKS PROMOTION.

c) Public safety

- LIABILITY INSURANCE COVER.
- LRB CHECKS
- TRAINED FIRST AIDERS ALWAYS ON SITE

d) The prevention of public nuisance

- SIA SUPPORT WHERE REQUIRED
- NOISE CONTROL WITHIN STATED HOURS
- VOLUMES UNDER THE CONTROL OF MANAGEMENT AT ALL TIMES.
- SIGNAGE TO ENSURE CLUB ATTENDEES RESPECT NOISE LEVELS

e) The protection of children from harm

- CHILD PROTECTION POLICY ADOPTED AND ADHERED TO.
- CHALLENGE 25 POLICY.
- USE OF ID IDENTITY IF REQUIRED.

Please tick

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

- I have made or enclosed payment of the fee
- I have enclosed a plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant's solicitor or other duly authorised agent. (See guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature: [Handwritten Signature]

Date: 9/07/2013

Capacity: ESTATE MANAGER

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature:

Date:

Capacity:

Contact Name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)	
MR ROBERT WALE 31 COLLEGE ROAD 01428 744001	
Post town	Post code
BAGSHOT	GU19 5EW
Telephone number (if any)	
07527422659	
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)	
Robert.Wale@manorlife.com	



WAVERLEY BOROUGH COUNCIL
Licensing Team, Waverley Borough Council,
The Burys, Godalming, Surrey GU7 1HR

Consent of Individual to being specified as premises supervisor
under the Licensing Act 2003

I ROBERT LESLIE WALES [full name of prospective premises supervisor]
of 31 COLLEGE ROAD, BAGSHOT, SURREY, GU19 5EW.....
.....
.....

[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises
supervisor in relation to the application for PREMISES.....
LICENCE TO BE GRANTED UNDER LICENSING ACT 2003.....[type of
application]

by RMH (WISPEERS) CARE LLP..... [name of applicant]
relating to a premises licence N/A.....[number of existing licence, if any] for
WISPEERS PARK, HIGH LANE, HASLEMERE,
SURREY, GU27 1AD.....

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by
RMH (WISPEERS) CARE LLP.....[name of applicant] concerning
the supply of alcohol at WISPEERS PARK, HIGH LANE,
HASLEMERE, SURREY, GU27 1AD.....

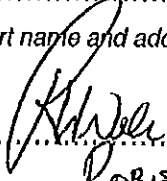
(name and address of premises to which application relates).

I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number SHBCPER-051209 [insert personal licence number, if any]

Personal licence issuing authority SURREY HEATH BOROUGH COUNCIL
SURREY HEATH HOUSE
KNOLL ROAD
CAMBERLEY, GU15 3HD
01276 707100

[insert name and address and telephone number of personal licence issuing authority, if any]

 signed

ROBERT WALL name (please print)

9/7/2013 dated

Our Ref: 10378 WVC
Your Ref:



**SURREY
POLICE**

Licensing Officer
Waverley Borough Council
Council Offices
The Burys
Godalming
Surrey
GU7 1HR

Pete Hathaway
Waverley Licensing Officer

24th July 2013

Dear Sir/Madam,

Licensing Act 2003 – Application for Premises Licence

Premises: Oak Hall, Wispers Lane, Haslemere

We have been in negotiations with the applicants and understand that they have now submitted an amendment to the application to include the following amended hours and conditions.

Hours open to the public 09:00 to 23:30 Monday to Sunday

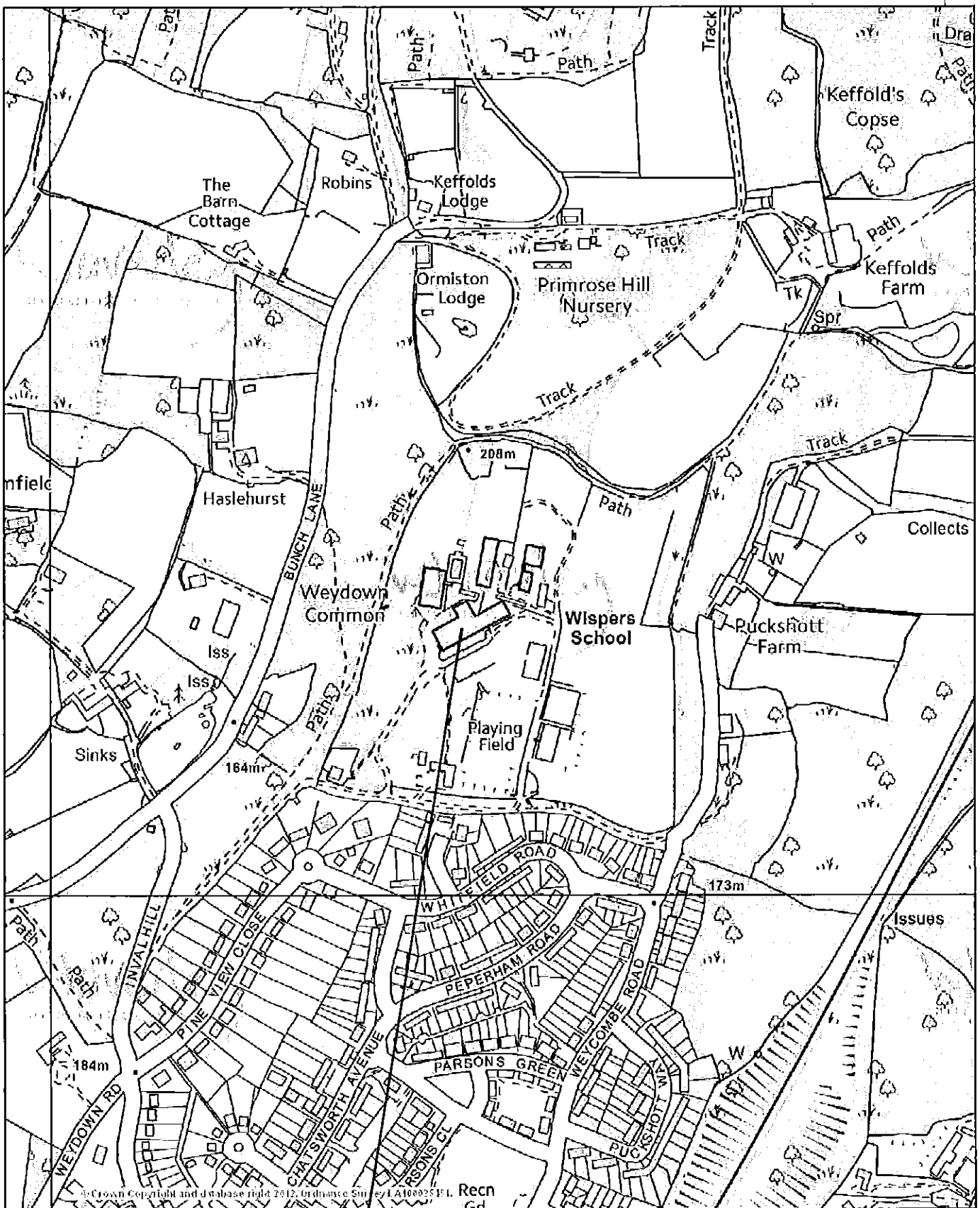
1. Staff engaged in the sale of alcohol shall be trained in the law relating to the sale/supply of alcohol and written records will be maintained and then kept for inspection for a minimum period of 12 months. The training will include the law relating to both the sale and the consumption of alcohol to persons under 18 and the refusal of sale of alcohol to persons who are drunk. There will be an ongoing training regime with refresher/reinforcement training at intervals of no more than six months.
2. The premises will operate a Challenge 21 policy and will only accept passport, photo driving licence or ID cards bearing the PASS hologram as forms of identification.
3. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Borough Council or the Police, which will record the following:
 - a. All crimes reported to the venue
 - b. All ejections of patrons
 - c. Any incidents of disorder
 - d. Any refusal of the sale of alcohol
 - e. Any visit by a relevant authority or emergency service

4. The premises shall only be used by club members, staff and their guests, except when it is hired out for private functions or Club functions open to the general public.
5. Private functions shall be booked in advance and shall be booked under a written hire agreement.
6. The club shall operate under club rules and under these rules a person may not be admitted to membership, or be admitted as candidates for membership or to any of the privileges of membership without an interval of at least two days between their nomination or application for membership and their admission.
7. A register of all members shall be kept at the premises
8. All external doors and windows will be kept closed during musical entertainment and in any case after 23:00, except for access to and egress from the premises.
9. Prominent, clear and legible notices shall be displayed at all exits requesting customers to respect the needs of local residents and to leave the premises and area quietly

This now allays our concerns and therefore Surrey Police have no objections to the grant of a premises licence under Section 17 of the Licensing Act 2003.

Yours faithfully,

Peter Hathaway
Waverley Licensing Officer



Waverley Borough Council
 The Burs, Godalming, Surrey
 GU7 1HR
 Telephone: 01483 523333
 Fax No: 01483 523118

Waverley
 BOROUGH COUNCIL

OAK HALL, WISPERS PARK, HIGH LANE, HASLEMERE

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Scale 1/5000 Date 15/8/2013
 Centre = 490430 E 134278 N

N
 1

①

RECEIVED
14 AUG 2013



Paul Hughes, Licensing Manager

Waverley Borough Council
The Burys
Godalming
Surrey
GU7 1HR

Dear Mr Hughes,

We are writing to formally object to the application for a license at Oak Hall, Wispers Lane, Haslemere, Surrey, GU27 1AB.

The Oak Hall Country Club located within the Wispers Park site on Wispers Lane, is quietly located in an Area of Outstanding Natural Beauty and is adjacent to a Site of Special Scientific Interest. Located on this site is not only the care home and extra care flats but also three privately owned freehold family homes with young children, all within meters of the 'Country Club'. The single lane track to the site is also lined with family homes that back onto it.

An extended hours bar and events facility operating until 11:30 PM seven days each week would not only be disruptive to the family homes within the development and those in the vicinity, with noise from arriving and leaving guests, staff, equipment delivery, as well as noise caused by music and films from the non-double glazed listed building but it is also completely out of context. It is out of context for the peaceful, quiet location and for the patrons who will use it.

This site has a C2 planning usage classification and cannot be a facility used by external fee paying visitors or external fee paying country club members. A facility permitting these members would require a different usage classification. In the approved planning application submitted by the Developers, the average age of residents of the site would be 79 years old. This raises the obvious question of why this age group category would require a bar, bistro and events facility operating until 1130 PM every day. This is excessive in the extreme and wholly inappropriate, not just for the residents in the site but also for this protected area and its neighbours.

In addition, there are no pavements leading to or from the site and no illumination around much of the

single track, one way system within the site. As the Wispers Park development is openly accessed by dog walkers, horse riders, rambling groups and children & parents from the surrounding area who use the single track, one way system to access public pathways in the surrounding woodland, the lack of pavements and illumination will put pedestrians at additional risk from vehicular movements. Therefore the permitted hours of operation should be significantly reduced from those proposed within this application

Recent precedent for a license issued to a C2 classified care facility would be Moorlands Lodge, Portsmouth Road, Hindhead GU26 6TJ which, while in contract is located in a centralized busy location, it has still been limited to the following restrictions: operating hours 0800-2000, seven days a week with the strict note 'The premises are not open to the general public but to guests/family of residents only. These restrictions are wholly appropriate for this development, its user group and to the Oak Hall, Wispers Park development. It also acknowledges the people who will be using the facility, their needs, the planning restrictions and the neighbours. We ask as a minimum, that these same restrictions are applied to the Oak Hall, Wispers Park site.

Regards

②

We have only this afternoon learnt of this licence application, as we have not seen any notice in the vicinity of the site nor been made aware of it by the applicant. We have therefore been unable to discuss the application with the applicant, and therefore whilst the Country Club may be for the use of the retirement village at the site, the application specifically talks of it being used for functions by the general public; this would therefore appear to be a very broad request and could result in various functions attended by any number of people at any time. The uncertainty as to what could be being envisaged by the applicant at this, or at any future time should the application be granted, is therefore a concern, particularly if this application is to be used as an additional source of revenue without any form of licence restriction which could have a serious adverse effect on the neighbours.

We have the following other concerns:

- > Protection of children / Public safety - There are families with children living in very close proximity of the premises, and we have concern for the danger of people drinking near to them in what is a very quiet residential area.
- > Public safety - the site is accessed by one, narrow, single lane road which also has a difficult entry / exit point to the highway. However, the application states an intention for club members, staff and their guests to use the premises, and indeed for it "to be hired out for private functions or Club functions open to the general public". We are concerned that there would be a danger to pedestrians / other users of this road as a result of individuals (which could be significant number given the intention for it to be open to the general public) using any licensed premises on that site, particularly if there is to be an increase in the number of users because of the application being granted.
- > Public Safety / Protection of Children - There is limited parking on site, which was a condition of planning due to the nature of the site. The allocated parking for flats leaves no, or minimal, spare parking, yet the application states that an intention for club members, staff and their guests to use the premises, and indeed for it "to be hired out for private functions or Club functions open to the general public". There is no public transport facilities to the site, therefore where will these people park?
- > Planning - It is not clear whether the site has obtained planning permission for a Country Club, with or without a licence, and we are not aware that there has been any specific consultation with neighbours about this use.
- > Prevention of public nuisance - The site is a conservation area, and is residential, and we are concerned about the late hours being applied for.
- > Prevention of crime and disorder - Later drinking and the lack of public transport to the premises increase the risk of drink driving.

Please ensure that any further correspondence is copied to me in respect of this application, including details of any planned Licensing hearing to consider the application.

HEARINGS

- 9.27 Regulations governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.
- 9.28 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.29 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.30 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.31 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.
- 9.32 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.33 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 9.34 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
 - the representations (including supporting information) presented by all the parties;
 - this Guidance;
 - its own statement of licensing policy.

- 9.35 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety.
- 9.36 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities in the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.
- 9.37 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

DETERMINING ACTIONS THAT ARE APPROPRIATE FOR THE PROMOTION OF THE LICENSING OBJECTIVES

- 9.38 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case by case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.39 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.40 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. Whilst this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

10. Conditions attached to premises licences and club premises certificates

GENERAL

- 10.1 This chapter provides advice and recommendations concerning best practice in relation to conditions attached to premises licences and club premises certificates.
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question.
- 10.3 All interests – licensing authorities; licence and certificate holders; authorised persons; the police; other responsible authorities; and local residents and businesses – should be working together in partnership to ensure collectively that the licensing objectives are promoted.
- 10.4 The courts have made it clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both.
- 10.5 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

PROPOSED CONDITIONS

- 10.6 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.7 In order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities when schedules are being prepared. Proper liaison may avoid the need for representations.
- 10.8 Conditions should be appropriate, proportionate and justifiable in meeting the licensing objectives. They should be written in a prescriptive format and be readily understood and enforceable.
- 10.9 It is also not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention. Conditions should be appropriate for the promotion of the licensing objectives and easily enforceable.

CONSISTENCY WITH STEPS DESCRIBED IN OPERATING SCHEDULE

- 10.10 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.11 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

IMPOSED CONDITIONS

- 10.12 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.
- 10.13 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

Proportionality

- 10.14 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.
- 10.15 Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives. Consideration should also be given to wider issues such as conditions already in place that address the potential negative impact on the promotion of the licensing objectives and the track record of the business. The physical safety of those attending such events should remain a primary objective.

Duplication with other statutory provisions

- 10.16 If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate to impose the same or similar duties as conditions.
- 10.17 So, licensing authorities should not seek to impose fire safety conditions that may duplicate any requirements or prohibitions that could be imposed under the Regulatory Reform (Fire Safety) Order 2005 (see Chapter 2).
- 10.18 The 2003 Act does not affect the continued use of inspection and enforcement powers conferred by other legislation; for example, the powers of an environmental health officer in relation to statutory nuisance under the Environmental Protection Act 1990.
- 10.19 However, these general duties will not always adequately address specific issues that arise on the premises in connection with, for example, certain types of entertainment. It is only where additional and supplementary measures are appropriate to promote the licensing objectives that conditions will need to be attached to a licence.

Hours of trading

- 10.20 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.21 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.22 Shops, stores and supermarkets should normally 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 good reasons, based on the licensing objectives, for restricting those hours.

Workers rights

- 10.23 It is not for the licensing authority to consider such matters as the rights of the workers employed on the premises who may be asked to work longer hours. There are existing protections under employment law and laws of contract.

PEOPLE WITH DISABILITIES

10.24 It is important that appropriate steps are taken to ensure legislative requirements in respect of health and safety are fully met, including in respect of all disabled people (including staff and performers). However, licensing authorities and other responsible authorities should avoid imposing inappropriate conditions which may actively deter operators from admitting or employing disabled people.

10.25 It is a legal requirement that facilities for disabled people at large (including staff and performers) should be provided at places of entertainment. Duties imposed by the Equality Act 2010 provide that any person providing a service to the public must comply with the duty to make reasonable adjustments to enable disabled people to access the service, where a disabled person would be at a substantial disadvantage compared to a non-disabled person⁵. This applies in regard to disabled people employed by or those who wish to obtain goods and services from licensed premises. No condition should therefore be attached to a licence or certificate which conflicts with or duplicates this requirement. Service providers also have a duty to make reasonable adjustments to any physical features which put a disabled person at a substantial disadvantage in accessing a service, or they have to provide the service by a reasonable alternative means. Access to buildings and their facilities is also a matter addressed in Building Regulations and planned alterations affecting access may involve the need to apply for building control approval.

10.26 The reasonable adjustments duty becomes applicable, if reasonable in all the circumstances of a particular case, where:

- a **“provision, criterion or practice” of the person on whom the duty falls, places a disabled person at a substantial disadvantage**. An example of a reasonable adjustment might be a restaurant with a no-dogs policy ‘waiving’ it in respect of a disabled person’s assistance dog. For example, a guide or hearing dog. Any condition of a licence or certificate which states that “pets” may not be present on licensed premises for public safety reasons must include a clear indication that the condition does not apply to guide or assistance dogs. Further advice can be obtained from the Equality and Human Rights Commission (EHRC) website at www.equalityhumanrights.com.
- a **physical feature puts a disabled person at a substantial disadvantage compared with a non-disabled person**.
- it is **appropriate to provide an auxiliary aid to help the disabled person overcome a substantial disadvantage compared to a non-disabled person**. For example, installing a hearing induction loop at the counter in an off-licence to assist a disabled person with a hearing impairment.

⁵ The accepted meaning of the term ‘substantial disadvantage’, for the purposes of the Equality Act 2010, is a disadvantage that is more than ‘minor or trivial’.

10.27 Licensing authorities may wish to offer advice to applicants for licences and certificates about how to achieve this, such as reminding them that they cannot wait until a disabled person wants to use their services but must think in advance (and on an ongoing basis) about what disabled people with a range of impairments might reasonably need; the duty to make reasonable adjustments is an 'anticipatory' duty for service providers.

10.28 The Equality Act 2010 by use of the word 'reasonable' recognises the need to strike a balance between the rights of disabled people and the interests of service providers.

10.29 The Equality Act 2010 does not apply to provision of services.

EQUALITY ISSUES

10.30 Licensing authorities need to be aware that the Equality Act 2010 lists a number of protected characteristics which must not be used as a reason to treat a person less favourably than another person (age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race (this includes colour; nationality; ethnic and national origins), religion or belief, sex, and sexual orientation). Treating a person less favourably than someone else because that person has one or more of these characteristics is discriminatory. The Equality Act 2010 also includes the public sector Equality Duty which requires public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations, between people with different protected characteristics.

10.31 Note that discrimination may be direct or indirect.

THE PERFORMANCE OF PLAYS

10.32 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

CENSORSHIP

10.33 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitation should normally be imposed.

COPYRIGHT AND ROYALTIES

10.34 Copyright law is intended to safeguard the livelihood of authors, composers, arrangers, playwrights, film-makers, publishers and makers of recordings and is extremely important. Offences relating to copyright are made "relevant offences" by the 2003 Act. Conditions attached to premises licences should not require adherence to requirements in the general law that the use of copyright material must be authorised. Licensing authorities may, however, remind applicants of the need to obtain Performing Right Society (PRS) licences and Phonographic Performance Ltd (PPL) licences and to observe other copyright arrangements.

MAJOR ART AND POP FESTIVALS, CARNIVALS, FAIRS AND CIRCUSES

10.35 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.

10.36 For other events, applications for many connected premises licences may be made which in combination will represent a single festival. It is important that licensing authorities should publicise the need for proper co-ordination of such arrangements and will need to ensure that responsible authorities are aware of the connected nature of the individual applications.

10.37 In the case of circuses and fairgrounds, much will depend on the content of any entertainment presented. For example, at fairgrounds, a good deal of the musical entertainment may be incidental to the main attractions and rides at the fair that are not themselves regulated entertainment.

10.38 In addition, in the context of festivals and carnivals, local authorities should bear in mind their ability to seek premises licences from the licensing authority for land or buildings under public ownership within the community in their own name. This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas where festivals and carnivals might take place. Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give performances in these places, although they would need the permission of the local authority to put on the event.

FIXED PRICES

10.39 Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act

prohibit a number of types of drinks promotions where they give rise to a significant risk to any one of the four licensing objectives.

10.40 Where licensing authorities are asked by the police, other responsible authorities or other persons to impose restrictions on promotions in addition to those restricted by the mandatory conditions, they should consider each application on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are appropriate for the promotion of the licensing objectives. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it would be appropriate for the licensing authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

LARGE CAPACITY VENUES USED EXCLUSIVELY OR PRIMARILY FOR THE "VERTICAL" CONSUMPTION OF ALCOHOL (HVVDs)

10.41 Large capacity "vertical drinking" premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.

10.42 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

MANDATORY CONDITIONS IN RELATION TO THE SUPPLY OF ALCOHOL

10.43 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

Designated Premises Supervisor

10.44 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no

designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.

10.45 The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).

10.46 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

Authorisation by personal licence holders

10.47 In addition, every premises licence that authorises the sale of alcohol must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. This does not mean that the condition should require the presence of the designated premises supervisor or any other personal licence holder on the premises at all times.

10.48 Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales.

10.49 "Authorisation" does not imply direct supervision by a personal licence holder of each sale of alcohol. The question arises as to how sales can be authorised. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.

10.50 The following factors should be relevant in considering whether or not an authorisation has been given:

- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
- the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
- there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
- there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.

10.51 It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period. This would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.

10.52 Written authorisation is not a requirement of the 2003 Act and its absence alone could not give rise to enforcement action.

10.53 It must be remembered that whilst the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

Arrangements for the mandatory licence conditions

10.54 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification and small measures) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a Designated Premises Supervisor and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.

10.55 Whereas the initial mandatory conditions in section 19 of the 2003 Act are set out in Annex A of the licence, the additional mandatory conditions made under section 19A of the 2003 Act are treated as if they were included in existing licences and certificates on the date that those conditions came into force.

10.56 Following their commencement, the mandatory conditions overrode any pre-existing conditions already included in a licence or certificate insofar as the mandatory conditions were identical to, or inconsistent with or more onerous than, any pre-existing conditions. It is not necessary to record on the face of existing licences and certificates the impact the introduction of the mandatory conditions has had on pre-existing conditions.

Irresponsible promotions

10.57 Under this condition, the "responsible person" (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have taken all reasonable steps to ensure that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises and carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which does not promote the licensing objectives.

Drinking games

10.58 Irresponsible promotions can include activities, whether drinking games or not, which may require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise. For example, this may include organised 'drink downing' competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit 'happy hours' as long as these are not designed to encourage individuals to drink excessively or rapidly.

Large quantities of alcohol for free or a fixed price

10.59 Irresponsible promotions can include the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price. This includes alcohol provided to the public or to a group defined by a particular characteristic, for example, a promotion which offers women free drinks before a certain time or "all you can drink for £1.0". This condition does not apply to a promotion or discount on alcohol for consumption with a table meal. Promotions can be designed with a particular group in mind (for example, over 65s). A common sense approach is encouraged, which may include specifying the quantity of

alcohol included in it or not targeting a group which could become more vulnerable or present a greater risk of crime and disorder as a result of excessive alcohol consumption.

Prizes and rewards

10.60 The sale, supply or provision of free or discounted alcohol or any other item as a prize to encourage or reward the purchase and consumption of alcohol can be within the definition of an irresponsible promotion. This may include promotions under which free or discounted alcohol is offered as a part of the sale of alcohol, for example, "Buy one and get two free" and "Buy one cocktail and get a second cocktail for 25p". This includes promotions which involve the provision of free or discounted alcohol within the same 24 hour period.

Sporting Events

10.61 Irresponsible promotions can include the provision of alcohol for free or for a discounted price in relation to a sporting event shown on the premises, where the sale, supply or provision of alcohol depends on the outcome of a race, match or other event. For example, this may include offering unlimited drinks based on the outcome of a sporting competition. It also applies to events which are unpredictable, such as offering free double shots for every foul committed in a football match, or heavily reduced drinks for five minutes after a try is scored in a rugby match.

Posters and Flyers

10.62 Irresponsible promotions can also include the sale or supply of alcohol in association with promotional materials on display in or around the premises, which can either be reasonably considered to condone, encourage or glamorise anti social behaviour or refer to the effects of drunkenness in any favourable manner.

Dispensing alcohol directly into the mouth

10.63 The responsible person (see paragraph 10.57) must ensure that no alcohol is dispensed directly by one person into the mouth of another person. For example, this may include drinking games such as the 'dentist's chair' where a drink is poured continuously into the mouth of another individual and may also prevent a premises from allowing another body to promote its products by employing someone to dispense alcohol directly into customers' mouths. An exception to this condition would be when an individual is unable to drink without assistance due to a disability.

Free tap water

10.64 The responsible person (see paragraph 10.57) must ensure that free portable tap water is provided on request to customers where it is reasonably available on the premises. What is meant by reasonably available is a question of fact; for example, it would not be reasonable to expect free tap water to be available in premises for which the water supply had temporarily been lost because of a broken mains water supply.

Age verification

- 10.65 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.57) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark.
- 10.66 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.67 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.
- 10.68 The premises licence holder or club premises certificate holder must ensure that staff (in particular staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy applied by the premises.

Smaller Measures

- 10.69 The responsible person (see paragraph 10.57) shall ensure that the following drinks, if sold or supplied on the premises, are available in the following measures:
- Beer or cider: 1/2 pint
 - Gin, rum, vodka or whisky: 25ml or 35ml
 - Still wine in a glass: 125ml

10.70 As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures – for example, by making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent, conspicuous place in the relevant premises (for example, at the bar).

10.71 This condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the requirement to make it available in 1/2 pints does not apply.

10.72 The premises licence holder or club premises certificate holder must ensure that staff are made aware of the application of this condition.

Exhibition of films

10.73 The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification – BBFC) or by the licensing authority itself.

10.74 The BBFC classifies films in accordance with its published Guidelines which are based on extensive research into public opinion and professional advice. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

10.75 The effect of paragraph 5 of Schedule 1 to the Act is to exempt adverts from the definition of regulated entertainment, but not to exempt them from the definition of exhibition of a film. Since the above mandatory condition applies to 'any film' it is therefore applicable to the exhibition of adverts.

Door supervision

10.76 Under section 21 of the 2003 Act, when a condition is included in a premises licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in section 21(3)(a) by reference to the Private Security Industry Act 2001 ("the 2001 Act")), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority ("the SIA") under the 2001 Act, or be entitled to carry out that activity by virtue of section 4 of the 2001 Act.

10.77 A premises licence need not require a person to hold a licence granted by the SIA if that person benefits from an exemption under section 4 of the 2001 Act. For example, certain

employees benefit from an exemption when carrying out conduct in connection with a certified sports grounds (section 4(6 to 12)). Furthermore, in certain circumstances persons benefit from an exemption where they operate under the SIA's Approved Contractor Scheme (section 15).

10.78 Conditions under section 21 of the 2003 Act should only relate to individuals carrying out security activities defined by section 21(3)(a) of the 2003 Act. Therefore, they should only relate to an activity to which paragraph 2(1)(a) of Schedule 2 to the 2001 Act applies (certain manned guarding activities) and which is licensable conduct within the meaning of section 3(2) of that Act. The requirement does not relate to individuals performing non-security related activities, and section 21 should not be used in relation to any such activities.

10.79 Section 21 of the 2003 Act continues to ensure that a premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as unlicensed premises. Those are:

- premises staging plays or exhibiting films;
- casinos or bingo halls licensed under the Gambling Act 2005;
- premises where a club certificate is in force when activities are being carried on under the authority of that certificate.

See paragraph 8(3) of Schedule 2 to the 2001 Act for full details.

10.80 It should be noted, however, that the 2001 Act will require contractors and a small number of employees (those managing/supervising and those supplied under contract) to be licensed as manned guards (rather than door supervisors) when undertaking licensable conduct on premises to which paragraph 8(3) of Schedule 2 to the 2001 Act applies.

10.81 It is therefore important that if a licensing authority intends that individuals must be present to carry out security activities (as defined by section 21(3)(a) of the 2003 Act) this should be explicit, as should the mandatory condition for those individuals to hold an SIA licence or be entitled to carry out that activity by virtue of section 4 of the 2001 Act. On the other hand, where a licensing authority intends that individuals must be present to carry out other activities (for example, activities related to safety or steward activities to organise, advise and direct members of the public) no mandatory condition should be imposed under section 21 of the 2003 Act. In all cases it is important when determining whether or not a condition is to be imposed under section 21 of the 2003 Act to consider whether the activities of any individual working in licensed premises fall within the definition of security activities in section 21(3)(a) of the 2003 Act. (Regardless of whether a condition is imposed under section 21 of the 2003 Act, under the 2001 Act the appropriate SIA licence must be held by any individual performing an activity for which they are licensable under that Act).