

Report to Licensing Sub Committee

Agenda
Item:

A.1

Meeting Date: 28th March 2014
Portfolio: Finance, Governance and Resources
Key Decision: Not Applicable:
Within Policy and Budget Framework NO
Public / Private Public

Responsible Authority Representations	Representations	Included	Attending
Cumbria Constabulary	None	No	Yes
Cumbria Fire Service	None	No	No
Environmental Health	None	No	No
Planning Services	None	No	No
Social Services	None	No	No
Trading Standards	None	No	No
Public Health	None	No	No
Health & Safety Executive	n/a	n/a	n/a
Other Party Representations			
David M Ward, St Aidans Road, Carlisle	Yes	Yes	Not known

Title: Licensing Act 2003 – Application for a Premises Licence
18-22 Devonshire Street, Carlisle
Report of: Director of Governance
Report Number: GD 15/14

Summary: 18-22 Lowther Street is located on the south side of Devonshire Street near the junction with Lowther Street in Carlisle City Centre. The applicant is applying for a new Premises Licence to allow the sale and supply of alcohol, Regulated Entertainment and Late Night Refreshment in accordance with the application. Representations have been made by the owner of nearby business premises.

Recommendations:

Members to reach a decision from the options outlined after hearing the evidence

Tracking

Executive:	N/A
Overview and Scrutiny:	N/A
Council:	N/A

1.1 **THE APPLICATION**

Premises Licence application under Section 17 Licensing Act 2003 (**Appendix 1**)

1.2 **Applicant:**

Home & Dry Total Services, Merchant House, 70 Victoria Place, Carlisle
(Mr R M Wood)

1.3 **Premises:**

18-22 Devonshire Street, Carlisle CA3 8LP

1.4 **Application:**

The premises at 18-22 Devonshire Street had previously been a Santander Bank until closing. An application for a Premises Licence has now been made under section 17 of the Licensing Act 2003. The premises is being converted and refurbished to provide a venue that will operate as a cafe/wine bar.

1.5 **The operating schedule includes:**

Relevant licensable activities:

Para. J - Sale by retail of alcohol

Provision of Regulated Entertainment including:

Para. B - Films, Para. C - Indoor sporting events, Para. E - Live music, Para. F - Recorded music, Para. G - Performance of dance, Para. H - Anything similar to previous.

Para. I - Late Night Refreshment
(All Appendix 1)

Hours of licensable activities:

Sale by retail of alcohol

Sunday to Saturday 1000hrs - 0300hrs (now varied to 0200hrs)

Regulated Entertainment

Sunday to Saturday 1000hrs - 0300hrs (now varied to 0200hrs)

Late Night Refreshment

Sunday to Saturday 2300hrs - 0300hrs (now varied to 0200hrs)

Premises closing time 0230hrs

Additional steps to promote the licensing objectives which include the prevention of crime and disorder, Public Safety, the prevention of public nuisance and the protection of children from harm can be seen in paragraph M within the application.

1.6 **Designated Premises Supervisor:**

Ronald Michael Wood, Merchant House, 70 Victoria Place, Carlisle.

- 1.7 The area for licensable activities which covers the ground floor and basement are indicated on the premises plan. **(Appendix 2a-b)**

2.1 **RELEVANT REPRESENTATIONS**

2.2 **Responsible Authorities:**

There are no representations from any Responsible Authorities.

2.3 **Other Persons:**

Mr D M Ward, St Aidans Road, Carlisle.

Mr Ward is the owner of commercial properties in Devonshire Street area and has concerns regarding a premises licence being granted in that area and contends there is reasonable evidence of factors which can adversely affect the prevention of crime and disorder, public safety and public nuisance. His letters of representation and the responses from the Licensing Manager are appended to this report. **(Appendix 3a-f)**

- 2.4 It is not necessary to comment in depth in this report on the individual items raised by Mr Ward. They are explained in the letters of response attached in sequence under Appendix 3. Any further explanation required can be given at the meeting.

2.5 In brief the licensing comments are:

- a) This application is for a premises licence, not a club premises certificate. There may have been some confusion as the newspaper advert was taken from a template and the option was to either delete Club Premises Certificate/Premises Licence in the title. Neither was deleted. However, the body of the advert clearly refers to an application for a premises licence.
- b) The majority of concerns raised by Mr Ward are planning considerations which is a separate regime to licensing and must be considered by the Development Control Committee. (See Para. 5.3, sub para. 13.55/56 – Planning and Building Control.
- c) Cumbria Constabulary and Cumbria Fire and Rescue Service have stated they are not making any representations regarding any of the licensing objectives.
- d) The original application was for licensable activities to terminate at 3am. Following mediation with Mr Wood, he has agreed to reduce these hours to 2am in line with other premises in the vicinity. Unfortunately Mr Ward was not available to meet to discuss the issues due to working away. A letter was sent to him on 26 February **(Appendix 3e)** where the offer of reduced hours to 2am was explained, however his response of 28 February **(Appendix 3f)** appears to have ignored this fact.

3.1 **CONSULTATION**

- 3.2 During the consultation period there had been one other representation from the owner of business premises in Devonshire Street. This was later withdrawn

following mediation between the objector, licensing office and the applicant who had agreed to reduce the terminal hour for licensing activities from 0300hrs to 0200hrs with the premises closing at 0230hrs.

- 3.3 Mr Ward, the remaining person making representations, has stated that he currently spends a significant amount of working time in Newcastle and as a result finds it difficult to attend a meeting with Licensing or the applicant and wishes his representation to be placed before the Sub Committee. As a result no agreement could be reached and therefore the application has been placed before the Sub Committee.
- 3.4 The applicant Mr Wood was provided with copies of the representations. He wrote to Mr Ward in response to his concerns and sent a copy to the licensing office. **(Appendix 4)**
- 3.5 To assist the sub-committee a street plan of the area has been produced showing nearby licensed premises **(Appendix 5)**. In addition a comparison chart of licensable activities and closing times for these premises is also attached **(Appendix 6)**.

4.1 **LOCAL LICENSING POLICY CONSIDERATIONS**

The Licensing Act 2003 requires the Council to publish a Statement of Licensing Policy that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

Members should have regard to all relevant information and it is considered that the following sections of the policy, (though not exclusively) have a bearing upon the application. *Paragraph numbers are taken from the policy:*

Introduction

1.2 Carlisle City Council is a licensing authority (the Authority) for the purposes of the Act. The Authority must carry out its licensing functions with a view to promoting the four licensing objectives, which are:

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

1.10. In determining its policy, the Authority considered the provisions of the Act and had particular regard to:

- the licensing objectives;
- the guidance issued by the Secretary of State under section 182 of the Act;
- the representations made following consultation;
- its duties and obligations under other legislation, including:

Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for his home and private life; and Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including, for example, the possession of a licence.

Crime and Disorder Act 1998 – section 17 of that Act imposes a duty on local authorities to exercise their functions with regard to the impact on crime and disorder and the need to do all it reasonably can to prevent crime and disorder in its area.

1.19. The Act limits the representations which can be made about licence applications and who can make such representations. Essentially, representations must relate to one or more of the licensing objectives and must be made by a person living or working in the vicinity of the premises or an organisation which represents such persons. Anyone considering making an objection is invited to discuss their objection with licensing officers prior to submitting their representation.

Fundamental Principles

The policy will promote the four licensing objectives contained in the Act, namely the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. These are the only matters that will be taken into account in determining applications and any conditions imposed must be necessary to achieve these.

Nothing in the Statement of Licensing Policy will undermine the rights of any person to apply under the Act for a variety of permissions and have their application considered on its individual merits as well as against the relevant policy and statutory framework. It does not override the right of any person to make representations on any application or to seek a review of a licence or certificate where they are permitted to do so under the Act.

2.1 All licensing applications will be determined on their individual merits following consideration of the proposals in the application and any relevant representations. In general, licences will be granted on the terms applied for, but licences will not normally be granted in terms which conflict with any of the policies in this document, unless an applicant is able to demonstrate that the exceptional circumstances of their application justify a departure from the policy. The Authority will not depart from the policy if any of the licensing objectives will be undermined by a proposal in the application.

2.2 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. The licensing function cannot be used for the general control of anti social behaviour once consumers are beyond the direct control of the individual, club or business holding the licence, certificate or other authorisation concerned. However the Authority expects holders of a licence,

certificate or permission, to make every effort to minimise the impact of their activities and anti social behaviour by their patrons within the immediate vicinity of their premises.

4.3. Prevention of Crime and Disorder

4.3.1 General Policy

The Authority's starting point is to seek a reduction in crime and disorder throughout the District, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998.

Licences may be granted if applicants can demonstrate that a positive reduction in crime and disorder will result, or that it will not increase, as a result of the application being granted.

4.3.4. Carlisle and Eden Crime and Disorder Reduction Partnership (*now Community Safety Partnership*)

Where appropriate, applicants will be expected to have regard to the information published by the Carlisle and Eden Crime and Disorder Reduction Partnership and consider the impact of their proposals on the issues identified as being of particular concern in the area for example:

- \ violent crime
- fear of crime;
- road safety;
- anti-social behaviour.

Applicants will be expected to propose steps to reduce the risks of such crimes increasing as a result of the licensable activities proposed.

Reason

The prevention of crime and disorder is one of the licensing objectives, which the Authority is under a duty to promote. The Authority recognises that some licensed premises can attract or encourage criminal behaviour, especially disorder problems where customers have consumed alcohol.

4.5 Prevention of Public Nuisance

4.5.1 General policy on Licensing Hours

4.5.2. The Authority recognises that fixed and artificially early closing times can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at the same time. Longer licensing hours, particularly relating to the sale of alcohol, may therefore be a factor in reducing disorder at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance.

4.5.3. The Authority will not seek to introduce any form of 'zoning' in relation to licensing hours. Zoning is defined as the setting of fixed trading hours within a designated area. All residents living in the vicinity of licensed premises have equal rights to make representations concerning applications for, and reviews of, premises licences, including hours of trading and to have those representations given equal weight regardless of where they live.

4.5.5. In general, the Authority will deal with the issue of licensing hours on the individual merits of each application. However, in the event of relevant representations, when issuing a licence stricter conditions are likely to be imposed with regard to noise control in the case of premises that are situated in predominantly residential and other noise sensitive locations.

Reason

Experience in other areas shows that zoning can lead to additional problems including the movement of people in search of premises opening later and can put greater pressure on town centres than is necessary.

4.5.6. Policy - Location of premises

4.5.7. The Authority will assess the potential impact of the premises against the characteristics of the area in which they are situated. For example, in the event of representation being made there would be close scrutiny of applications for a closing time of later than 11pm in respect of premises situated in quiet residential or other noise sensitive locations with low background noise. Greater flexibility on closing times would be considered where for example, applicants could demonstrate that:

- there is a high level of accessibility to public transport services;
- there is an appropriate amount of car parking, readily accessible to the premises, and in places where vehicle movement will not cause demonstrable adverse impact to local residents;
- the operating schedule indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance;
- the licensable activities would not be likely to cause adverse impact especially on local residents, or that, if there is a potential to cause adverse impact, appropriate measures are to be put in place to prevent or minimise that impact.

Reason

This part of the policy dealing with opening hours is based on a broad distinction between the approach to be taken in certain predominantly commercial areas like parts of the town centres and the rest of the District.

Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or

congestion on the footway. Public nuisance may also be caused by customers being noisy when leaving, leaving litter or taking up on-street car parking space needed by residents. The impact of noise generated by these activities, especially customers departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

Parts of the District are sensitive to the impact of licensable activities because they are either residential or close to residential areas. Many shopping areas are abutted by residential areas, including housing above commercial premises. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of customers arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents in preventing them from parking close to their homes and by increasing the danger from traffic in residential streets.

However, some commercial areas in the District, such as parts of town centres, may be more suitable locations for licensed activities, especially for those that have late opening hours or attract significant numbers of people. In town centres, more customers are likely to travel by public transport and the activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening, particularly when compared with predominantly residential areas so that additional noise may be less objectionable.

An entertainment use attracting large numbers of people should be very close to bus routes or taxi ranks, for instance. For the same reasons, the level of public transport accessibility will be an important factor in considering any exception to the normal closing times in any location.

4.5.8. Noise Policy

4.5.9. In the event of representations, the Authority will not normally grant a premises licence in terms which are, in its opinion, likely to result in increased noise disturbance to people living or working in the vicinity.

4.5.10. In particular, the Authority will give careful consideration to an application for a licence, for premises situated in a predominantly residential or other noise sensitive locations where the proposed hours of operation would be likely to result in unreasonable noise disturbance between the hours of 11pm and 7am.

4.5.11. The Authority expects the applicant to assess the likely sources of noise disturbance that could arise due to the proposed use consider the existing noise context of the area and propose practical steps to prevent noise disturbance or minimise its effects.

4.5.12. Potential sources of noise include:

- sound leakage from the licensed premises (from entertainment provided, customers on the premises, mechanical equipment etc);
- customers and staff arriving and leaving the premises (including car doors slamming);
- excessive noise from outside entertainment.

4.5.13. Practical steps could include:

- keeping doors and windows closed whilst entertainment is provided;
- installing soundproofing measures to the premises (specialist double glazing, acoustic hoods over extractor fan outlets etc);
- reducing sound levels inside the premises (inclusion of a sound limitation device in the sound system);
- ensuring that queues are directed to form leading away from residential premises;
- ensuring that sufficient door security staff manage queuing and leaving customers to minimise noise;
- erecting prominent notices at exits requesting customers to leave quietly;
- reducing the volume of music entertainment towards the end of the evening;
- giving free lollipops to customers leaving the premises;
- ensuring that sufficient transport is nearby to enable customers leaving the premises to disperse quickly;
- banning from the premises customers known to cause noise disturbance regularly on leaving the premises;
- ensuring that customers are encouraged to leave the premises (including any car park or forecourt) swiftly;
- ensuring the volume of outdoor entertainment does not cause noise disturbance;
- providing police supervision at closing times.

4.5.14. The Authority may impose conditions to ensure that appropriate steps are taken to minimise noise disturbance.

4.5.15. Live music, dancing and theatre

4.5.16. The Authority recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the economy and community, particularly for children and young people.

4.5.17. When considering applications for such events and the imposition of conditions on licences or certificates, the Authority will carefully balance the cultural needs with the necessity of promoting the licensing objectives.

4.5.18. Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.

Reason

The prevention of public nuisance is a licensing objective. Noise disturbance can be a public nuisance. The authority is required to promote the licensing objectives. Granting a licence in circumstances where nuisance is likely to be caused will undermine that objective. The Authority recognises that noise from licensed premises can cause great disturbance to people living and working near those premises. The authority recognises that noise can be a nuisance during the day and at night in both residential and commercial areas and other noise sensitive locations if not properly managed or controlled.

4.5.19. Tables and chairs outside premises including garden areas.

Policy

4.5.20. The Authority recognises that provision of tables and chairs outside premises, either on the highway or on private land, may enhance those premises. It can have the benefit of encouraging a continental-style café culture. However, late at night these same tables and chairs can contribute to noise and disorder problems. This is because they can encourage patrons and passers by to loiter rather than disperse. Licensees should note that in certain areas, byelaws prohibit the consumption of alcohol in public. Before planning to use tables and chairs outside premises (particularly where it is intended that alcohol will be sold) applicants should ensure that they will not contravene any byelaws or orders. Applicants should also ensure that other legislation, for example in relation to highways and planning will not be contravened.

4.5.21. In the event of representations being made, the Authority will carefully consider any application where outdoor tables and chairs are proposed to be provided. In particular, the Authority will assess the premises in the context of their location, the hours during which the premises are to be open, the proposed licensable activities and proposals for control of the tables and chairs outside the hours of operation.

Reason

This policy is designed to strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to prevent safety and nuisance problems.

4.8. Consideration of applications and the imposition of conditions

4.8.1. On granting a licence, the Authority may only impose conditions that are:

- required by law, and/or
- necessary for the promotion of the licensing objectives and
- proportionate

4.8.2 If no relevant representations are received, a licence will be granted on the terms sought, subject only to such conditions as are consistent with the operating schedule and which comply with the above paragraph and any relevant statutory conditions.

4.8.3. In deciding what conditions to impose, the Authority shall have regard to the operating schedule, together with the provisions of this policy statement, the law, government guidance and any relevant representations made. Where there is any ambiguity or uncertainty in the meaning of any part of the application, the application shall be interpreted in such a way as shall best promote the licensing objectives.

4.8.4. Where relevant representations are received, the Authority will consider those representations together with any representations of the applicant, having regard to the provisions of this policy, the law and government guidance. Where relevant representations have been made, the Authority will not normally grant a licence in terms which conflict with this policy statement. In particular it may:

- reject the application – if to do so is necessary to promote the licensing objectives and none of the following actions is reasonably practicable;
- grant the licence but exclude from its scope one or more of the licensable activities applied for in order to ensure that the licence complies with this policy and promotes the licensing objectives;
- grant the licence but modify such of the conditions imposed as is necessary to ensure compliance with this policy and to promote the licensing objectives;
- grant the licence but refuse to specify a particular person in the licence as the designated premises supervisor if to name that person would undermine the promotion of the licensing objectives;
- approve different parts of the premises for different activities.

4.8.5 The Authority will not impose conditions that duplicate other areas of regulation. For example, conditions will not be imposed which simply duplicate planning conditions or conditions attached to a fire certificate.

4.8.6. However, there may be occasions when conditions will be imposed which the Authority considers necessary for the promotion of the licensing objectives and which overlap with other areas of regulation, when for example the conditions on the fire certificate or planning permission do not adequately deal with those matters.

4.8.7. In general, any conditions imposed will be drawn from a pool of conditions.

4.8.8. Provided the licensing objectives are not undermined and the proposal does not conflict with the other statements in this policy, licences will be granted so that premises will be able to open to provide licensable activities between such times as the applicant sets out in his application.

4.8.9. When deciding what conditions to impose, the Authority will have regard to the particular requirements of people with disabilities and will, so far as possible, seek to ensure that none of the conditions imposed on licences will have the effect of excluding such persons access to licensed premises.

5.1 **SECRETARY OF STATE GUIDANCE (Section 182 Licensing Act 2003)**

Section 182 of the Licensing Act 2003 states that the Secretary of State must issue guidance to local authorities on the discharge of their functions under this Act. Amended guidance was laid before Parliament on 27 June 2011 and came into force immediately.

Members should have regard to all relevant information and it is considered that the following extracts from the Guidance, (though not exclusively) have a bearing upon the application. (*Paragraph numbers refer to the Guidance*):

Guidance on Crime and Disorder:

2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

Guidance on Public Nuisance:

2.18 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.19 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.20 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

2.21 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible

authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.22 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.

2.24 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

Where representations are made

9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.09 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.09 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

Relevant, vexatious and frivolous representations

9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A

representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters.

Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.

9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.

9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.

Conditions attached to premises licences

10.3 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

10.4 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.

10.5 It is 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.

Consistency with steps described in operating schedule

10.6 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.

10.7 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

10.8 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.

10.9 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

10.10 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. 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.

5.3 Fundamental Principles:

13.12 Statements of policies should make clear that:

- licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act, and
- conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.

13.13 A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

The need for licensed premises

13.18 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

Guidance regarding licensing hours:

13.42 With regard to licensing hours, the Government acknowledges that different licensing approaches 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 such decisions based on their local knowledge and in consultation with other 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.

13.43 Statements of licensing policy should set out the licensing authority’s approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The statement of licensing policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities, and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.

Planning and building control

13.55 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

13.56 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

6.1 OBSERVATIONS

6.2 Pursuant to the Licensing Act 2003, the Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

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

6.3 In making its decision, the Committee is also obliged to have regard to Guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy. Extracts are included in this report however copies are available on line or from the licensing office.

6.4 The Committee must also have regard to the representations made and the evidence given before them.

6.5 Paragraph 9.3 to 9.9 of the section 182 Guidance refers to 'where representations are made' and whether the Committee considers these to be relevant, vexatious or frivolous.

7.1 OPTIONS

The Committee may take such of the following steps as it considers necessary for the promotion of the licensing objectives:

As a guide members may:

1. Grant the application as requested.
2. Modify the conditions of the licence, by altering or omitting or adding to them.
3. Reject the whole or part of the application.

When considering their decision, members should refer to paragraph 4.8.4 of the Council's statement of Licensing Policy with regard to the options they should consider. (As above)

The Committee is reminded that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

In order to assist members and applicants and to achieve consistency, sample conditions for premise licences and club premises certificates have been prepared which may be utilised (Guidance GD6).

Contact Officer: Jim Messenger **Ext:** 7025

Appendices

attached to report:

- 1 - Application form**
- 2(a-b) - Premises plans**
- 3(a-f) - Letters from Mr Ward and responses from Licensing**
- 4 - Letter from Mr Wood**
- 5 - Street plan**
- 6 – Premises activities and times comparison chart**

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: Licensing Act 2003, Section 182 Guidance, Carlisle City Council Licensing Policy, premises application, representations and responses.

CORPORATE IMPLICATIONS/RISKS:

Chief Executive's -	n/a
Deputy Chief Executive –	n/a
Economic Development –	n/a
Governance –	Included within the report
Local Environment –	n/a
Resources -	n/a

CA06

Carlisle City Council
 Licensing Manager, Civic Centre, Carlisle CA3 8QG
 Tel: 01228 817523 Fax: 01228 817023
 Email: licensing@carlisle.gov.uk



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 that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We HOME & DRY TOTAL SERVICES

(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

Postal address of premises or, if none, ordnance survey map reference or description 18 – 22 DEVONSHIRE STREET CARLISLE CA3 8LP		
Post town	Postcode	
Telephone number at premises (if any)	07802165521	
Non-domestic rateable value of premises	£	

Part 2 - Applicant Details

Please state whether you are applying for a premises licence as

Please tick as appropriate

- | | | |
|---|-------------------------------------|-----------------------------|
| a) an individual or individuals * | <input type="checkbox"/> | please complete section (A) |
| b) a person other than an individual * | | |
| i. as a limited company | <input type="checkbox"/> | please complete section (B) |
| ii. as a partnership | <input checked="" type="checkbox"/> | please complete section (B) |
| iii. as an unincorporated association or | <input type="checkbox"/> | please complete section (B) |
| iv. other (for example a statutory corporation) | <input type="checkbox"/> | 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)
- g)a 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)

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

Please tick yes

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 <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev) <input type="checkbox"/>
Surname		First names		
I am 18 years old or over				<input type="checkbox"/> Please tick yes
Current postal address if different from premises address				
Post town		Postcode		
Daytime contact telephone number				
E-mail address (optional)				

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/>	Please tick yes
Current postal address if different from premises address					
Post town				Postcode	
Daytime contact telephone number					
E-mail address (optional)					

(B) OTHER APPLICANTS

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

Name HOME & DRY TOTAL SERVICES
Address MERCHANT HOUSE 70 VICTORIA PLACE CARLISLE CA1 1LR
Registered number (where applicable)
Description of applicant (for example, partnership, company, unincorporated association etc.) PARTNERSHIP
Telephone number (if any) 01228 599883
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start? ASAP

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

DD	MM	YYYY
<input type="text"/>	<input type="text"/>	<input type="text"/>

Please give a general description of the premises (please read guidance note 1)
CAFE/BAR SITUATED DEVONSHIRE STREET, CARLISLE CITY CENTRE.

If 5,000 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 Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick any that apply

- | | |
|---|--------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | X |
| c) indoor sporting events (if ticking yes, fill in box C) | X |
| 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) | X |
| f) recorded music (if ticking yes, fill in box F) | X |
| g) performances of dance (if ticking yes, fill in box G) | X |
| h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) | X |
| i) Provision of late night refreshment (if ticking yes, fill in box I) | X |
| j) Supply of alcohol (if ticking yes, fill in box J) | X |

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 6)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
Day	Start	Finish			Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 3)			
Tue						
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 4)			
Thur						
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 5)			
Sat						
Sun						

B

Films Standard days and timings (please read guidance note 6)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors	<input checked="" type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)			
Mon	1000	0300				
Tue	1000	0300				
			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 4)			
Wed	1000	0300				
Thur	1000	0300				
			<u>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</u> (please read guidance note 5)			
Fri	1000	0300				
Sat	1000	0300				
Sun	1000	0300				

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon	1000	0300	
Tue	1000	0300	<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Wed	1000	0300	
Thur	1000	0300	<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 5)
Fri	1000	0300	
Sat	1000	0300	
Sun	1000	0300	

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 4)		
Wed					
Thur					
			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri					
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors <input checked="" type="checkbox"/>	X
					Outdoors <input type="checkbox"/>	<input type="checkbox"/>
Day	Start	Finish				
Mon	1000	0300	Please give further details here (please read guidance note 3)			
Tue	1000	0300				
Wed	1000	0300	State any seasonal variations for the performance of live music (please read guidance note 4)			
Thur	1000	0300				
Fri	1000	0300	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5)			
Sat	1000	0300				
Sun	1000	0300				

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)		Indoors	<input checked="" type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon	0800	0300				
Tue	0800	0300				
			State any seasonal variations for the playing of recorded music (please read guidance note 4)			
Wed	0800	0300				
Thur	0800	0300				
			Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 5)			
Fri	0800	0300				
Sat	0800	0300				
Sun	0800	0300				

G

Performances of dance Standard days and timings (please read guidance note 6)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors	<input checked="checked" type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)			
Mon	1000	0300				
Tue	1000	0300				
Wed	1000	0300	<u>State any seasonal variations for the performance of dance</u> (please read guidance note 4)			
Thur	1000	0300				
Fri	1000	0300	<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 5)			
Sat	1000	0300				
Sun	1000	0300				

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Mon	1000	0300		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	1000	0300	<u>Please give further details here</u> (please read guidance note 3)		
Wed	1000	0300			
			<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 4)		
Thur	1000	0300			
Fri	1000	0300	<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat	1000	0300			
Sun	1000	0300			

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon	2300	0300			
Tue	2300	0300	<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 4)		
Wed	2300	0300	<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 5)		
Thur	2300	0300			
Fri	2300	0300			
Sat	2300	0300			
Sun	2300	0300			

J

Supply of alcohol Standard days and timings (please read guidance note 6)			<u>Will the supply of alcohol be for consumption – please tick</u> (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
Day	Start	Finish		Both	X
Mon	1000	0300	<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 4)		
Tue	1000	0300			
Wed	1000	0300			
Thur	1000	0300	<u>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri	1000	0300			
Sat	1000	0300			
Sun	1000	0300			

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

Name RONALD MICHAEL WOOD	
Address MERCHANT HOUSE 70 VICTORIA PLACE CARLISLE CA1 1LR	
Postcode	
Personal licence number (if known) PA106	
Issuing licensing authority (if known) CARLISLE	

K

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

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			<u>State any seasonal variations</u> (please read guidance note 4)
Day	Start	Finish	
Mon	0800	0330	
Tue	0800	0330	
Wed	0800	0330	
Thur	0800	0330	
Fri	0800	0330	<u>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</u> (please read guidance note 5)
Sat	0800	0330	
Sun	0800	0330	

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

b) The prevention of crime and disorder

A Risk Assessment will be carried out to determine whether or not door supervisors are required and if they are, door supervisors shall be provided at the Premises door to such a number as the management of the premises consider are sufficient to control the entry of persons to the Premises and for the keeping of order in the premises when they are used for licensable activities.

A tamper proof CCTV system shall be installed at the premises in liaison with and to the satisfaction of the Cumbria Police Licensing Safety Officers and shall be used to record during the hours that a licensable activity takes place on the premises. The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 28 days.

c) Public safety

A suitable fire risk assessment will be completed to satisfaction of Cumbria Fire Service.

All fire fighting equipment will be maintained in working order

d) The prevention of public nuisance

A representative of the Licence Holder shall conduct regular assessments of the noise coming from the premises and shall take steps to reduce the level of noise where it is likely to cause a nuisance to noise sensitive premises in the vicinity.

Refuse such as bottles shall be disposed of from the premises at a time when it is not likely to cause a disturbance to residents in the vicinity of the premises.

e) The protection of children from harm

The applicant will comply with the Challenge 21 Policy and shall require any person who appears to be under the age of 21 years to provide evidence of them being over 18 years of age.

Checklist:**Please tick to indicate agreement**

- I have made or enclosed payment of the fee. ☐
- I have enclosed the 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 designated 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 SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 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	
Date	
Capacity	

For joint applications, signature of 1st 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)

MERCHANT HOUSE
70 VICTORIA PLACE

Post town	CAMLISLE	Postcode	CA1 1LR
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

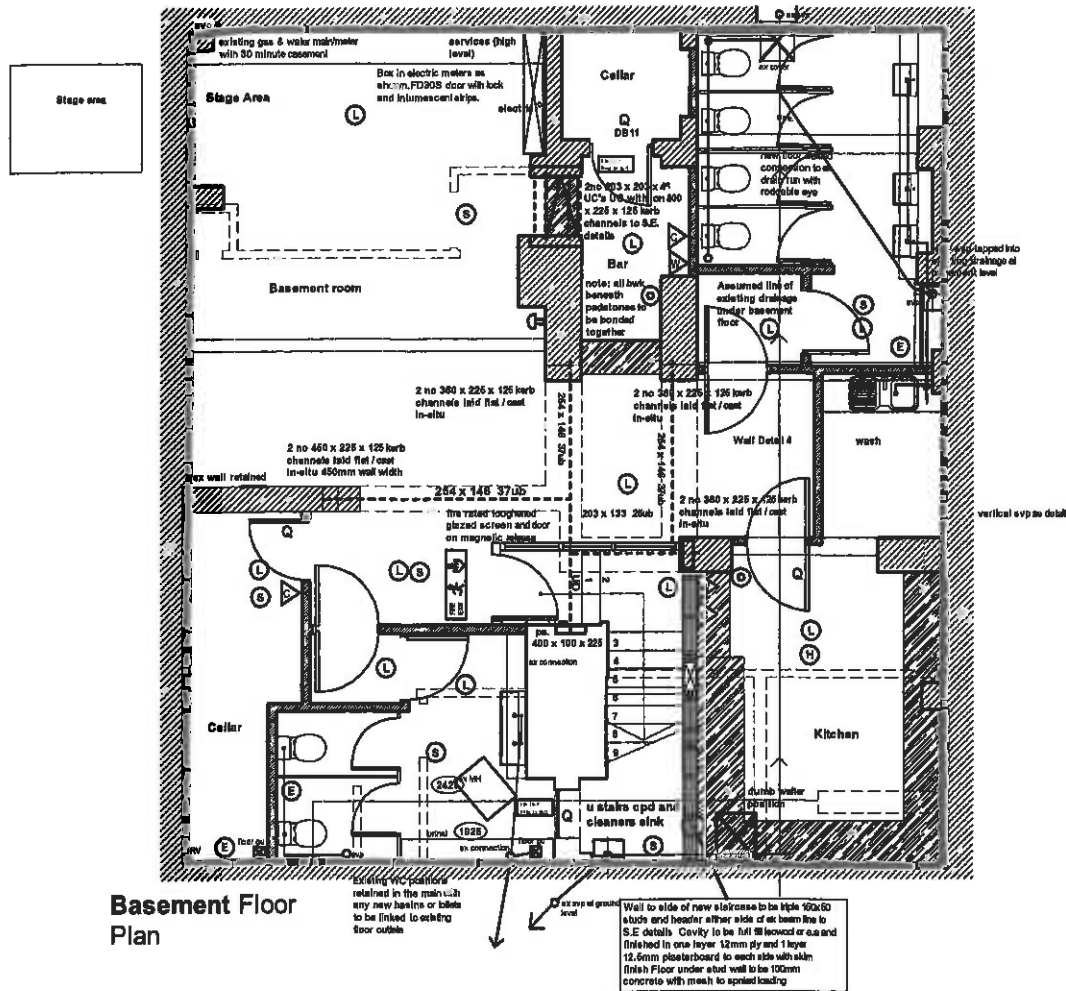
Notes for Guidance

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

mail @ blackboxarchitects.com

BOX

This drawing is copyright. Reproduction is not permitted. Do not scale from the drawing.
Any discrepancy must be reported to the architect immediately and before proceeding.

www.blackboxarchitects.com
[mail @ blackboxarchitects.com](mailto:mail@blackboxarchitects.com)


Project

18-22 Devonshire Street (McQueens Bar)

Drawing

Licence extent. First
Building Regulation Extract

Revision

Scale 1:100

Job no

13-188-L2

Date

Jan-14

Detail

Black Box Architects Limited.
Rickerby Buildings
Currock Road
Carlisle, Cumbria. CA2 4AU
Tel: 01228 402 200

BLACK BOX
architects

LICENSING MANAGER
GOVERNANCE DIRECTORATE
CARLISLE CITY COUNCIL
CIVIC CENTRE
CARLISLE
CA3 8QG

06/02/2014

Application for a Premises **CLUB** Licence
Former Santander (Alliance & Leicester) Building Society Premises
18/22 Devonshire St., Carlisle CA3 8LP

Rejection of this application is requested for these main reasons:

1. Introduction

Devonshire St. and the surrounding area have many listed and historic buildings which create one of the areas of quality in Carlisle

Within recent time there have been signs of decline in a full usage of commercial buildings, in particular the first floors and above. Carlisle City Council have indicated an aim of movement to residential in the increasing volume of unoccupied space in those "first floors and above"

2. I own the commercial properties of:

9 Devonshire St formerly Jessops with all 3 floors above empty over many years

11/13 Devonshire St now Reays with all 3 floors above empty for a considerable period
Each is "empty" due to the complete absence of demand. In fact if each was offered "free" there may well be the absence of acceptable tenants.

In these circumstances I had no alternative but to commence alteration of those upper floors to a total of six apartments in aggregate.

Each building and its situation was deserving of a quality conversion. Those at No 9 are well on the way and those at Nos. 11/13 are near ready for the market.

The quality conversion was intended to marry with quality occupants ..in line with the standards we all surely seek to flow through our City

3. It is thus a disaster to find that directly opposite there is the intention, subject to licence application, to create a **Night Club**. One shudders at the consequences as I now explain.

- 4** I understand that the Council policy is Botchergate is a "Mixed Use" area and is promoted as "The Leisure Quarter" and so suitable **Club** class activities. There is ample empty property down there, including the former Moods which, over years, has been seeking a tenant for all or part of the building
- 5** The crowds/clubbers in Botchergate are carefully controlled by the police who no doubt now have developed techniques despite the scaled down numbers of Cumbria Constabulary.
- 6** The new Devonshire St. **CLUB**, will prompt the movement of clubbers from and to Botchergate/Devonshire St. creating for the police greater difficulties of control. Certainly the movement will affect the atmosphere in the area between the two places and also the quiet movement of those who are not clubbers.
- 7** Thus the current simple and clear night division between Botchergate and the Devonshire St area will be adversely eroded.

This movement and erosion will also adversely affect in the evening:

- a. those pedestrians AND motorists moving in or through the Devonshire St. area
 - b. the patrons of the other evening leisure units in the city centre.
 - c. the proprietors of other units opening the evening who seek to strictly control entry to their premises
 - d. evidence of movements due to the absence of CCTV
- 8 The granting of this new CLUB licence could well establish a precedent for subsequent applications away from the Botchergate area.
- 9 **In particular I am greatly concerned as to the adverse impact on the qualities of life of all the residents of the quality compartments of 9 and 11/13 Devonshire St., Horrendous**
There is a long empty large office (upper floors) building adjacent to Greggs. The only use will be conversion to apartments ..but that can become a "NO" if the Club proceeds
- 10 **All in all I contend it will be a mistake to grant this Club licence ...and the adverse consequences will flow.**
- 11 I understand a proposed Club fire exit is via a rear passage behind the parade of Devonshire St. buildings and out via the arch area adjacent to John Taylors premises. Currently the archway area is locked at 1 a.m. ..but the Club licence applicant may well wish to leave open until 3 a.m.
The open rear passage area and the archway area are not conducive to creating qualities of acceptable behaviour in to-days climate of drugs and all the other activities which we learn via the press
These will arise nightly in that rear passage and archway area up to 3 a.m.
- 12 Devonshire St is a main vehicle roadway carrying traffic from the West and the south.
Traffic and Clubbers do not safely marry as the City Council have identified in creating Botchergate as a gated area.

Conclusion

I thus contend there is reasonable evidence of factors which can adversely affect:

- (a) Prevention of Crime and Disorder and/or
- (b) Public Safety, including motorists and/or
- (c) Public Nuisance and/or



DAVID M WARD



Governance Directorate

Director of Governance: M D Lambert LLB (Hons)

Civic Centre Carlisle CA3 8QG Telephone (01228) 817000 Fax (01228) 817023

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Council Website www.carlisle.gov.uk

COPY

Mr D M Ward
22 St Aidans Road
Carlisle
Cumbria
CA1 1L

Enquiries to:
Direct Dial:

Jim Messenger
01228 817523

10 February 2014

Dear Mr Ward

Licensing Act 2003 - 18-22 Devonshire Street, Carlisle

I acknowledge receipt of your letter dated 6 February 2014, in which you request the rejection of an application for a premises licence in respect of 18-22 Devonshire Street, Carlisle. I will comment on each of your paragraphs in order.

1. May I firstly mention that in your letter you make reference to Devonshire Street being in a quality area of Carlisle, listed and historical buildings and the potential for residential use of the buildings. These factors are planning issues, not something that is considered under the Licensing Act 2003. Any representation must be based solely on one or more of the four licensing objectives which are:

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

Relevant representations are about the likely effect of the grant of the premises licence, on the promotion of these objectives. Only representations based on these objectives will be considered.

2. I note you are currently converting property owned by yourself in Devonshire Street into apartments. No doubt you made a similar commercial decision to do this based on demand as has the owner of 18-22 Devonshire Street. Each application must be considered on its merits.

3. You refer on a number of occasions to a 'Club' or 'Night Club' licence. Under the Licensing Act 2003 there is no differential between a pub, bar or night club premises, they all require a 'premises' licence. The only reference to club is a private members club which requires a Club Premises Certificate. You will note that this application is for a 'Cafe/Bar' as described in the operating schedule.

4. Your reference to 'Mixed Use' area is a planning issue and will not be considered by licensing. Carlisle City Council Licensing Authority has no policy designating any particular area for liquor/entertainment activities. Each case is considered on its own merit.

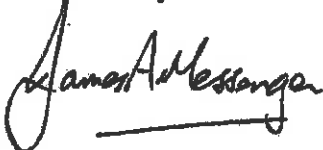
5. Cumbria Constabulary has said they will not be making any representations about this application.

6. The movement of customers between Botchergate/Devonshire Street is not an issue for licensing unless a crime and disorder issue can be attributed to a particular premise. As stated above the Police have said they are not making any representations.
7. There are currently six other similarly licensed premises within 100 yards of this application which haven't resulted in the problems you describe.
8. As stated previously this is not a 'Club', but the same licence as the other six mentioned in 7 above. I believe that the precedent has already been set, in that consideration of any application, in whatever area, will be made on its own merits.
9. We can only consider the use of the area at this time which comprises of minimal residential use. I understand your concern, however I note that you have not made any comments about Le Gall, Gilded Lily, and Concrete that trade in the immediate area, or the new 'Picasso', 'Hell Below' and 'Eaten by Monsters' applications that were considered only four months ago. The latter two are only yards from this current application and have the same licence, albeit the hours are slightly different.
10. As explained this is a premises and not a club licence which will be considered on its merits.
11. Cumbria Fire and Rescue Service have considered the application under the licensing objectives and make no representation. No 'unacceptable behaviour' as you describe in the passageway has been reported even though a similar premise currently uses that area.
12. If Devonshire Street ever became a cause of conflict between pedestrians/traffic I am sure the Police and Highways Authority would carry out a risk assessment as they did in Botchergate.

Once the consultation period is over we will arrange a mediation meeting between persons making representations and the applicant to see if any common ground can be reached. If this is not successful, a Licensing sub-committee will be arranged when you may appear and make any relevant representations.

Should you require any further information or wish to discuss the matter further, please contact this office on the telephone number above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'James Adleson', with a horizontal line underneath.

Licensing Manager



Governance Directorate

Director of Governance: M D Lambert LLB (Hons)

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18 February 2014

Dear Mr Ward

Licensing Act 2013 - 18-22 Devonshire Street, Carlisle

I refer to the above premises application and our correspondence in connection with this.

The end of the consultation period is approaching and I would appreciate a short meeting with you to discuss the next stage of the process. I can attend your premises or you are most welcome to come to the Civic Centre to discuss this if that is more convenient.

There is a fairly tight time scale to deal with this and I am looking at meeting with you the beginning of next week, Monday 24th or Tuesday 25th.

Can you please contact my office on the above telephone number and let me know when and where would suit you.

Yours sincerely

Licensing Manager

James Messenger
Licensing Manager
Carlisle City Council
Civic Centre
Carlisle



21.02.2014

Dear Mr Messenger,

Devonshire Street, Carlisle, "Club Application"

Reference your 18.2.2014 letter I currently spend a significant amount of my time working in Newcastle so it is difficult to agree a day and time to meet you in the short period made available.

The situation is as follows:

(a) I have re-read my 6.2.2014 letter. It quite clearly expresses my principal concerns about these main factors (not in order of priority) viz:

1. the official notice clearly refers to "Club".

If it is the policy of Carlisle City Council itself to allow the spread of additional "Club" activities into new areas in and around the centre of Carlisle concern should surface and the opportunity to express views about this policy be put forward on a pro active basis and before any such change in policy is implemented.

2. then there is the matter of "to 3 a.m.," opening on each and every day. That aspect coupled with "Club" of 1. above surely aggravates the situation.

It is not enough to envisage that, for example, that the 3am opening may/may not occur- the point is that it is obviously envisaged at some stage (otherwise why was it included in the official notice?)-hence the application. In addition it puts pressure on other city centre leisure entities to open to 3 a.m.. In turn this influences further that throng (see 4 below) to move from Botchergate to our city centre area.

3. Invariably in a "Club" there is a larger/sharper movement out, with the associated noise/throng, at or about closing time whereas a restaurant/bar can (typically) gradually wind down with those having eaten being less rowdy than those individuals surfacing en masse from a "Club".
4. there can be little dispute that the throng, both individuals and groups, in Botchergate in the evening and to 3 a.m. and beyond are of a character which may be cause for concern (and indeed are a cause for concern historically/currently)
5. Let us now consider points 1 to 4 above. Say it becomes popular for part of the 'drink led' throng to move to Devonshire Street. Is that pleasing/to be encouraged? I suggest it is not.

The way to discourage this movement is to divert from "Club" class and to restrict the opening hours to (well) prior to 3 a.m.

Also we as a city need to be aware that it is becoming increasingly common in other cities for restaurants to have a significant drink led "offer"-this needs to be monitored carefully to ensure a "Club" licence is effectively obtained via other means.

(b) I have stated my concerns as to the impact on current and future city centre residents. Carlisle City Council have expressed their wish to see upper (vacant) floors (and buildings) converted back to residential use, particularly in those cases where there is little alternative use for those properties. Carlisle City Council is more likely to see that aim achieved by care and consideration on both the planning and the licence side

(c) Your response of 10.2.14 was rather discouraging after the care I had taken in drafting my 6.2.14 letter.

On the basis your interest focuses in the sphere of licences it appears that some of my broader and deeper concerns should be considered not only by you but certainly elsewhere in the Civic Centre/the Council; all for the future well-being/improvement of our City, its residents and visitors.

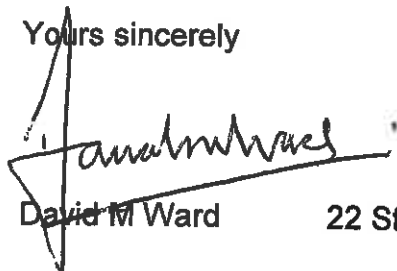
When standards/reputation fall it can be impossible to reverse.

I am considering seeking the aid of Mr Jason Gooding. In the interim please arrange for your Committee members to view and consider the correspondence between us ..their re-action to the constructive issues I raise and the points stated from your "licence officer" perspective will be of interest and value.

My objection is certainly not a personal one against the applicant ... my objection and points embraced those issues which I felt I had shown on a constructive basis via my 6.2.14 letter and to improve not only the use of buildings but a positive atmosphere within this area of Carlisle; this also positively dovetails with Carlisle City Council's stated ambition to bring more residential areas back into play in the town centre.

A "Club" licence (to 3a.m.) is not conducive to this urban regeneration that the Council, many property owners and myself are striving to achieve.

Yours sincerely

A handwritten signature in black ink, appearing to read 'David M Ward', is written over a large, stylized 'X' mark that spans across the signature line and the printed name below.

David M Ward

22 St. Aidans Rd., Carlisle CA1 1LS



Governance Directorate

Director of Governance: M D Lambert LLB (Hons)

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Jim Messenger
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26 February 2014

Dear Mr Ward

Licensing Act 2003 - 18-22 Devonshire Street, Carlisle

Thank you for your letter dated 21 February 2014 in connection with the above application.

We have now reached the end of the consultation period and I must now decide what course of action to take. The Home Office guidance states that we should mediate between the parties involved to see if a resolution can be reached. I have discussed the situation with Mr Wood and he said that he **has** already responded to you. He is prepared to reduce the licensed hours applied for from 3am until 2am which coincides with other premises in the immediate vicinity.

You point out that it will be difficult to meet in the short time period made available, I agree; however this period is fixed by legislation.

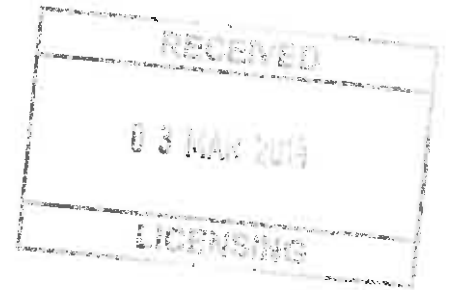
It is difficult to have a meaningful exchange by way of letter in circumstances like this and I would really appreciate it if you are able to spare some time to discuss the revised times made by Mr Wood. I am available daytime or evening Thursday, Friday or Saturday morning. If this is not possible could you please provide me with a telephone number then I can ring you.

Yours sincerely

Licensing Manager

James Messenger
Licensing Manager
Carlisle City Council
Civic Centre
Carlisle

28th February 2014



Dear Mr Messenger,

18-22 Devonshire St., Carlisle "Club" Application to 3 a.m.

a reader of my letters to you should see:

- (a) sensible points well articulated and logically put forward
- (b) areas and thoughts explored that are outside the strict boundaries of your "licence" sphere

Therefore please place before the committee this letter plus all the correspondence between you and I.

I have received an "open letter" from the applicant dated 24th February 2014
Be 100% assured and ALSO your Committee should be assured that there was not a vexatious degree in the points and principles I raised in my letters.

It is my clear view that more people in Carlisle should take an active interest in the various aspects of the qualities of our city and ensure that there is a co-ordinated approach to any developments/planning and licensing applications etc

I illustrated my concerns at two particular areas which are "Club" and 3 a.m. which were two aspects clearly set out and proposed in the legal and official notice published in the Evening News and Star of 28th January 2014.

I suggest the committee restrict to 2 a.m in lieu of 3 a.m. ...and, hopefully, find a way to neutralise my apprehension regarding the "Club" item which appeared in the said Legal & Official announcement.

Therefore, to reiterate, please place before the committee this letter and the previous correspondence between us for consideration of all the items I raised.

Yours sincerely

David M Ward 22 St. Aidans Rd. Carlisle CA1 1LS

RECEIVED

24 FEB 2014

R D INNS LIMITED

Merchant House, 70 Victoria Place,
 Carlisle CA1 1LR
 Tel- (01228) 526742 Fax- (01228) 524614
 Reg.3953666

24.2.14OPEN LETTER.

THE LICENSING MANAGER
 LICENSING DEPT.
 CIVIC CENTRE
 CARLISLE CA3 8QG.

Dear Sirs,

APPLICATION FOR PREMISES LICENCE 18-22
DEVONSHIRE ST. CARLISLE & OBJECTION TO SAME.

I HAVE RECEIVED A COPY OF A LETTER OF OBJECTION TO THE ABOVE FROM MR DAVID M. WARD DATED 6.2.14 I WISH TO COMMENT AS FOLLOWS.

- (A) I AM ALSO CONVERTING THE UPPER FLOORS OF 18-22 DEVONSHIRE ST. INTO HIGH QUALITY LETTING ACCOMODATION & WOULD NOT CONSIDER OPERATING A NIGHT CLUB BENEATH TO CAUSE MYSELF PROBLEMS. THE GROUND FLOOR & LOWER GROUND FLOOR WILL BE A BAR (WITH FOOD) MUCH THE SAME AS OTHERS IN THE VICINITY.
- (B) THERE IS ALREADY A MIGRATION FROM BUTCHERGATE TO CLUB CONCRETE & OUTRAGEDUS WITH A 24HR & 5AM LICENCE RESPECTIVELY. THEREFORE THERE IS ALREADY NO CLEAR DIVISION BETWEEN THE AREAS.
- (C) I AM AN EXPERIENCED LICENSEE & WOULD NOT ALLOW ANY "ADVERSE IMPACT" ON THE AREA, THE AGE & TYPE OF CUSTOMER WILL BE TIGHTLY CONTROLLED BY OUR DOOR SECURITY & MANAGERS (UNLIKE SOME OF OUR NEARBY COMPETITORS.)

(D)

MR. WARD STATES HIS CONCERN ON THE IMPACT ON THE RESIDENTS OF HIS FLATS QUOTE "HOMENOUS"

I OPERATE LE-GALL N°7 DEVONSHIRE ST. DIRECTLY NEXT DOOR TO HIS PROPERTY N°9 DEVONSHIRE ST. I HAVE HAD TO MOVE MY MANAGER OUT OF THE FLAT DUE TO NOISE FROM EATEN BY MONSTERS, AND LATE NIGHT DISTURBANCES FROM CLUB CONCRETE ONE OF WHICH IS OWNED BY MR. WARD OR ONE OF HIS COMPANIES.

THE REAR LANE (FRIARS COURT) WHICH IS OUR EXIT WHEN LOCKING UP AT LE-GALL IS USED BY MANY FOR DRUG TAKING AND IS VERY INTIMIDATING FOR MY STAFF. THIS WAS REPORTED BY ME TO BOTH MR WARD SENIOR & THE POLICE.

(E)

MR WARD ALSO STATES HIS CONCERNS ABOUT THE ARCHWAY GATE BEING OPEN LATE, THIS GATE IS REGULARLY LEFT OPEN ALL NIGHT BY THE PERSON WHO IS TASKED TO CLOSE IT. AS STATED THE "OPEN 24HRS LANE" FRIARS COURT IS ALREADY A HAVEN FOR DRUG USE & IS STREWN WITH BROKEN GLASS MOST MORNINGS. MR WARD SENIOR HAS PASSED COMMENT ON THIS SUBJECT TO ME IN THE PAST. SO IS WELL AWARE OF THE SITUATION.

(F)

I BELIEVE MR WARDS OBJECTION TO BE VEXATIOUS FOR THE FOLLOWING REASONS.

(i) MR WARD DID NOT OBJECT TO ANY OTHER LICENCE APPLICATION IN THE AREA.

(ii) MR WARD OR HIS COMPANIES OWN THE FREEHOLD OF EATEN BY MONSTERS, AND THE GUILDED LILLY AND THEREFORE HAVE A VESTED INTEREST IN PREVENTING ANY COMPETITION WITHIN THE AREA.

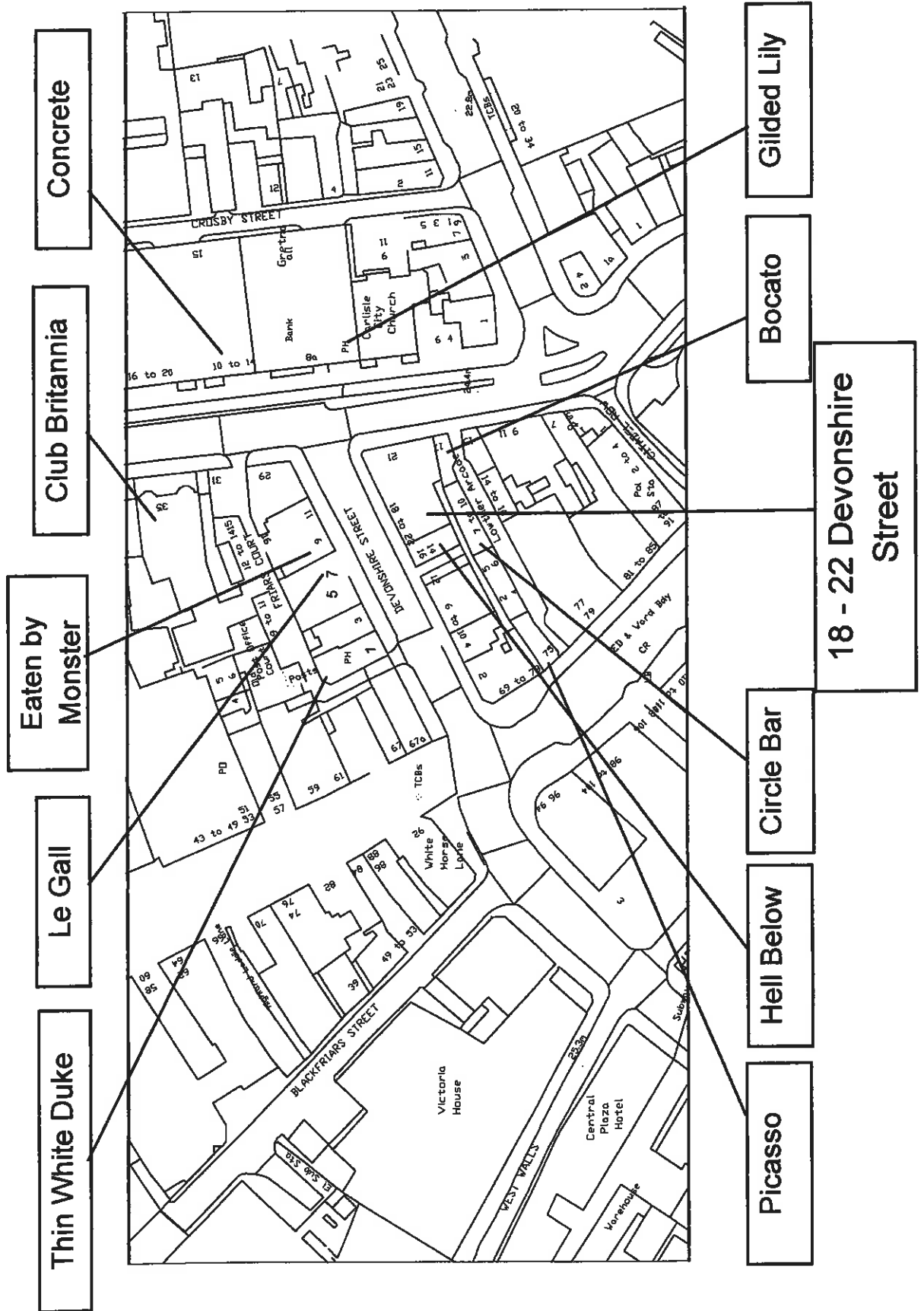
YOURS SINCERELY



MR. R. WOOD.

C.C. DAVID M. WARD 22 ST. AIDENS RD CALLISLE CAI 1LL

LIQUOR LICENSED PREMISES IN THE VICINITY OF 18-22 DEVONSHIRE STREET, CARLISLE



Licensing Act 2003 - Comparison chart of premises in vicinity of Devonshire Street, Carlisle

Premises	Live Music	Recorded Music	Late Night Refreshment	Films	Dance	Indoor Sport	Alcohol		Terminal Alcohol hour	Premises Open To
							On	Off		
Thin White Duke	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	2am	24 Hours
Le Gall	Yes	Yes	Yes	No	Yes	No	Yes	Yes	1am	1.30am
Eaten by Monsters	Yes	Yes	Yes	Yes	No	No	Yes	Yes	2am	2am
Club Britannia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	2am	2.30am
Concrete	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	24 Hours	24 Hours
Picasso	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	3am	3am
Hell Below	Yes	Yes	Yes	Yes	No	No	Yes	Yes	2am	2.30am
Circle Bar	Yes	Yes	Yes	Yes	No	Yes	Yes	No	1.30am	1.30am
18-22 Devonshire Street	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	2am (applied for)	2.30am (applied for)
Bocata	No	Yes	Yes	No	No	No	Yes	No	1.30am	1.30am
Gilded Lily	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	2.30am	2.30am