

SOUTH LAKELAND DISTRICT COUNCIL
Public Protection, South Lakeland House, Lowther Street, Kendal, Cumbria, LA9 4DQ
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**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure 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 PC1794 Rebecca Hunter (on behalf of PC2097 Victoria Haley)

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

The New Inn,

98 Highgate,

Post town

Kendal

Post code (if known)

LA9 4HE

Name of premises licence holder or club holding club premises certificate (if known)

████████████████████

Number of premises licence or club premises certificate (if known)

PL(A)0597

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates
(please complete (A) below)

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

Please tick ✓ yes

Mr Mrs Miss Ms

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

PC1794 Rebecca Hunter (OBO PC2097 Victoria HALEY)

Cumbria Constabulary,

Kendal Police Station,

Busher Walk,

Kendal

LA9 4RJ

Telephone number (if any)

101 ext 42097

E-mail address (optional)

Rebecca.hunter@cumbria.police.uk (Victoria.Haley@cumbria.police.uk)

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

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

Please tick one or more boxes ✓

Please state the ground(s) for review (please read guidance note 2)

We have grounds to believe that the licence holder is not promoting the licensing objectives of **Prevention of crime and disorder and the promotion of Public Safety.**

The reasons are –

- 1) The premises breached Coronavirus Health Protection Regulations 2020 on 17/10/20, specifically, “*Person responsible for business/service in Tier 1 area failed to stop business/provide service between 10pm and 5am*” (**Public Safety/Crime and Disorder**)
- 2) The premises provided unauthorised licensable activities on more than one occasion, specifically, operating in contravention of the conditions specified on the licence with regard to CCTV, “*Where CCTV equipment is fitted, it shall be maintained in good working order in accordance with the manufacturer’s instructions*” and “*The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 14 days*”. (**Crime and Disorder**)
- 3) The Licence Holder/DPS ([REDACTED]) has been obstructive during Police investigation, Specifically, making false claims to police regarding access to CCTV/ failure to supply CCTV to a relevant authority following a legitimate request. (**Crime and Disorder**)
- 4) The premises provided unauthorised licensable activities on more than one occasion, specifically, operating in contravention of the conditions specified on the licence with regard to “Active” participation in Barwatch. (**Crime and Disorder**)
- 5) The premises breached Coronavirus Health Protection Regulations 2020 on 24/10/20, specifically, “*Requirement to display QR Code, A relevant person must in an appropriate place display and make available a QR Code at relevant premises that they occupy or operate with a view to achieving the aim in paragraph 2 – The aim is to enable an individual who seeks to enter the relevant premises in a case set out in regulation 9 and has a smartphone in their possession to scan the QR Code with that smartphone as , or immediately after they enter the premises.*” (**Public Safety**)
- 6) The premises breached Coronavirus Health Protection Regulations 2020 on 24/10/20, specifically, “*Details to be requested under regulations 7 and 8 – The Following information must be requested under regulations 7 and 8*” namely “(e) the date and time that the individual entered the relevant premises” (**Public Safety**)

Please provide as much information as possible to support the application (please read guidance note 3)

1) **Breached Coronavirus Health Protection Regulations 2020 on 17/10/20, failure to close at 22:00 hours.**

Evidence –

- **Police Log CP-20201017-0286** - Report to Police of customers still on the premises.
- **SOE Wendy INGHAM – Business Crime Manager**
- **SOE B. ALLTON** – Witness statement evidencing persons still on the premises.
- **SOE PC2445 GARDNER**
- **Exhibit BG01 Bodycam footage** – PC2445 Gardner 17/10/2020
- **Exhibit BG02 Bodycam footage** – PC2445 Gardner 24/10/2020
- **Exhibit Bodycam footage** – PC1384 House 17/10/2020
- **Exhibit Bodycam footage** – PC2459 Masters 17/10/2020
- **Exhibit VJH-01** - Grassroots Venue sign
- **Exhibit VJH-03** – E-mail chain between PC2097 HALEY and Menna GRASSER
- **Exhibit VJH-04** – E-mail chain between PC2097 HALEY and [REDACTED]
- **Exhibit VJH-05** - E-mail chain between PC2097 HALEY and [REDACTED]
(containing attachments 1) card machine consolidation print 2) Printed Sign (VJH01) 3) PSD complaint)
- **Exhibit VJH16** – Email chain between PC2097 HALEY and [REDACTED]

Bar Watch Coordinator Wendy INGHAM will confirm that on 22nd September 2020 guidance was distributed to all premises within the Kendal Bar Watch group summarising the requirements to comply with the Coronavirus Health Protection Regulations, specifically, “*Doors closed by 10pm (not last orders everyone out and doors shut)*”. INGHAM will confirm that The New Inn were included in this circulation which was sent to them via scheme link messaging service. (SOE Wendy INGHAM Business Crime Manager)

At 22:45 Hours 17th October 2020, Cumbria Police attended The New Inn following a report (Police Log CP-20201017-0286) that members of the public were still within the premises past 22:00 hours, in contravention of the Coronavirus Health Protection Regulations 2020.

Police bodycam documents the visit (Exhibit BG01 Bodycam footage PC2445, Exhibit Bodycam footage PC1384 House 17/10/2020 & Exhibit Bodycam footage PC2459 Masters 17/10/2020).

Officers entered the premises to find a music band in the process of packing up, they confirmed to Police that they had ceased playing music at 22:20hours (Exhibit Bodycam footage – PC1384 House 17/10/2020)

PC2445 states there were “*about 10 customers within the pub who all still had half full drinks. There were customers sat drinking at the bar as well*” (SOE PC2445 GARDNER).

The Regulations stipulate that the premises must be closed at 22:00 hours, it is irrelevant that sales did not continue after this time, the continued consumption on the premises beyond 22:00 hours make out the offence.

[REDACTED] denied breaching the Regulations, claiming that he was legitimately operating beyond the 22:00 hour curfew as a “Grassroots Music Venue” and attempted to evidence this through the display of a notice (Exhibit VJH-01) which outlined a Grassroots music venue exemption.

The Coronavirus Regulations stipulate that “*Cinemas, theatres and concert halls can continue beyond 10pm, but only if the performance started before 10pm, and food and drink cannot be served after 10pm. This also applies to dedicated grassroots music venues (that is venues that would not be open unless a live performance was taking*

place)” The New Inn is a Public House, it does not fall into the category of a Cinema, Theatre or concert hall and it is not a premises open solely for the purpose of allowing a live performance to take place.

E-mail correspondence dated 22/10/2020 from Menna GRASSER (Music Venue Trust) provides written confirmation that “*The New Inn in Kendall is not a member of the MVA*” and would not be exempt from the 22:00 hour closure. GRASSER provides clarification of government legislation stating, “*Pubs or social clubs which operate as a normal licensed premises but host live performances are subject to the curfew*” (**Exhibit VJH-03**)

As a result of the breach in Coronavirus Regulations identified, [REDACTED] was issued with a fixed penalty ticket. For the purposes of transparency, we disclose that the initial fixed penalty ticket, issued to [REDACTED] on 17th October 2020 was issued incorrectly, owing to an administrative error with regard to the incorrect tier endorsed upon the ticket. On the advice of Cumbria Constabulary legal services, the original ticket was cancelled and a second ticket reissued on 24th October 2020, endorsed with the correct tier (tier 1) for the offence of “*A person responsible for business or service in a tier 1 area failed to stop business or provide service between 10pm and 5am*” contrary to Coronavirus Health Protection Regulations 2020. (**Exhibit SOE PC2445 GARDNER, BG01 Bodycam footage PC2445 Gardner 17/10/2020 & BG02 Bodycam footage PC2445 Gardner 24/10/2020**)

On the 31st October 2020 PC2097 HALEY e-mailed [REDACTED] the definition of premises exempt by virtue of being Grassroots Music venues as received from the Music Venue Trust and the fact that this did not include the New Inn (**Exhibit VJH16**). In response [REDACTED] offers “SORRY ABOUT MY DISTORTING THE NARRATIVE IN AN EFFORT TO ALLOW MY BUSINESS TO REMAIN OPEN A LITTLE LONGER” It is reasonable to interpret this comment to be an admission from [REDACTED] that he intentionally remained open past 10pm in the knowledge that his premises was not exempt from the curfew.

Additionally, it is apparent that the 17th October is not the only occasion that the New Inn has remained open beyond the 22:00 hours curfew. **Statement from witness [REDACTED]** states “*I have noticed on a number of occasions since the latest closing restrictions that the door is not closed at 2200 hours*” Which is an indication that the premises has not only committed an offence on the 17th October 2020 but has been repeatedly operating in breach of the Coronavirus Health Protection Regulations 2020, which is not only a criminal offence, undermining the Crime and Disorder objective but clearly undermines the licensing condition of promoting Public Safety.

2) Offence of providing an unauthorised licensable activity through contravention of the conditions specified on the licence with regard to CCTV.

Evidence –

- **Email P Cantley ref visit 29/09/2020**
- **Exhibit Bodycam footage – PC2445 Gardner 24/10/2020**
- **VJH08 – 1st written Police request for CCTV to [REDACTED] dated 26/10/20 13:46 hours and response from [REDACTED] dated 26/10/20**
- **VJH09 – 2nd written Police request for CCTV to [REDACTED] dated 26/10/20 15:04 hours and response from [REDACTED]**
- **VJH10 – 3rd written Police request for CCTV via Solicitor Malcom Ireland, Napthens Solicitors dated 27/10/20 and response from M.IRELAND**
- **VJH11 – 4th written Police request for CCTV to [REDACTED] dated 28/10/20 and response from [REDACTED]**
- **VJH12 – 5th written Police request for CCTV to [REDACTED] dated 29/10/20 and response from [REDACTED]**

- **VJH13** – Email from [REDACTED] to Police giving assurance that the CCTV would be recovered by engineers on 30/10/20
- **VJH14** – Email from [REDACTED] to Police updating that engineers were still to attend to recover the CCTV
- **VJH15** – TEXT evidence between mobile 07775982456 ([REDACTED]) and CCTV engineer
- **SOE 2097 Haley**
- **VJH19** – **Exhibit Bodycam footage** - PC2097 Haley

Annex 2 of Premises licence PL(A)0597 contains the condition “*A tamper proof CCTV system shall be installed at the premises in liaison with and to the satisfaction of the Cumbria Police Licensing and Community Safety Officers and shall be used to record during all hours that a licensable activity takes place on the premises. Where CCTV equipment is fitted, it shall be maintained in good working order in accordance with the manufacturer’s instructions. A written record shall be kept every time images are recorded by CCTV and shall include details of the recording medium used, the time and date recording commenced and finished. This record shall identify the person responsible for the recording and shall be signed by him/her. Where the recording is on a removable medium (ie. Videotape, compact disc, flashcard etc.) a secure storage system to store those recording mediums shall be provided. The images recorded by the CCTV system shall be retained in unedited form for a period of not less than 14 days*”

On 29th September 2020, P.CANTLEY, SLDC Licensing conducted a meeting with [REDACTED] (**Exhibit Email P Cantley ref visit 29/09/2020**) and at that time found the system was incapable of retaining footage for 14 days, in contravention of the licence condition. [REDACTED] was advised verbally of the need to rectify this or alternatively he would commit an offence under S136 of the 2003 Act.

As part of the investigation into a suspected offence on 17th October 2020, contrary to Coronavirus Health Protection Regulations 2020, Police required to seize CCTV footage from the premises as evidence. The 14 day retention period would mean that the required footage would only be retained until 31st October 2020. In total Cumbria Police were forced to make six formal requests for the relevant CCTV to be supplied.

- a) The first request to [REDACTED] to supply the required CCTV footage was made verbally on 24th October 2020 by PC2445 (**Exhibit Bodycam footage – PC2445 Gardner 24/10/2020**) No CCTV footage was supplied.
- b) The second request to [REDACTED] to supply the required CCTV footage was made in writing on 26th October 2020 at 13:46 hours by PC2097 (**Exhibit VJH08**). [REDACTED] responded “I WILL DISCLOSE THE EVIDENCE REQUESTED, AS LONG AS CUMBRIA CONSTABULARY RETURN THE CURTESY AND DISCLOSE ALL THE BODY CAM FOOTAGE FROM THE TIME OF THE INITIAL RAID. AND THE FOOTAGE TAKEN OF THE FINE ALLEGEDLY BEING ISSUED AND THE NAMES OF ALL OFFICERS INVOLVED”.

As a responsible licence holder, Cumbria Police would expect [REDACTED] to readily supply the requested footage in line with the Crime and Disorder objective and not subject to meeting a conditional request. Cumbria Police cannot simply supply bodycam footage to individuals and any such requests must be made through the prescribed channels to comply with Data Protection. PC 2097 HALEY Supplied [REDACTED] with the contact details to allow him to legitimately make this request via email on the same date (**Exhibit VJH09**). No CCTV was supplied by [REDACTED]

- c) The third request to [REDACTED] to supply the required CCTV footage was made in writing on 26th October 2020 at 15:04 hours by PC2097 HALEY (**Exhibit**

VJH09). The email outlined the premises licence condition in relation to CCTV and that continued refusal to supply the requested footage may be considered obstructive to the Police investigation. No CCTV footage was supplied and [REDACTED] responded "I VERY SORRY BUT I'M UNABLE TO RELEASE ANY FOOTAGE, DUE TO ADVICE RECEIVED FROM MY SOLICITORS. UNLESS YOU MAKE A FORMAL REQUEST FROM THE INVESTIGATING OFFICER IN THIS MATTER (WHO IS UNKNOWN TO ME) TO MY SOLICITOR AT NAPTHAM SOLICITORS"

- d) The fourth request for CCTV was made to M.IRELAND, Napthens LLP, in writing on 27th October 2020 by PC2097 HALEY (**Exhibit VJH10**). M.IRELAND responded that they were unable to assist as they had not been instructed by [REDACTED] in relation to the matter relating to the Fixed Penalty Notice, contrary to the assertion made by [REDACTED]. No CCTV was therefore supplied.
- e) The fifth request to [REDACTED] to supply the required CCTV footage was made in writing on 28th October 2020 by PC2097 HALEY (**Exhibit VJH11**). The email highlighted the response from Napthens and the fact that failure to surrender the footage would frustrate the Police investigation. The email outlined the Police seizure powers, which would allow the seizure of the entire system if necessary but requested cooperation to voluntarily surrender the footage, which would allow [REDACTED] to continue to provide licensable activity on his premises. [REDACTED] responded "I AM ABLE TO PROVIDE THE EVIDENCE YOU REQUESTED, BUT I FIND IT DIFFICULT TO ACCESS MY CCTV, AS IT IS A ANALOGUE DEVICE, I AM NOW GOING TO CONTACT MY PROFESSIONAL ANALOGUE CCTV EXPERT AS SOON AS THE FOOTAGE IS AVAILABLE I WILL PROVIDE ASAP" No CCTV was supplied. The inability of [REDACTED] to access the system draws into question his ability to effectively maintain the system as required by the condition of his Licence.
- f) The sixth request to [REDACTED] to supply the required CCTV footage was made in writing on 29th October 2020 by PC2097 HALEY (**Exhibit VJH12**). This email outlined the numerous requests which had been made for the required CCTV footage and the urgency to recover the footage within the 14 day retention period. [REDACTED] responded with a repeated assurance "I AM ABLE TO PROVIDE THE EVIDENCE YOU REQUESTED" and additionally "IF YOU WISH TO IGNORE MY ASURANCES ALL I CAN SAY IS I'M AWAITING AN APPOINTMENT FROM MY PROFESSIONAL, I BELIEVE THIS TO BE REASONABLE ACTIONS UNDER THE CIRCUMSTANCES" No CCTV was supplied.

[REDACTED] sent further email correspondence to PC2097 on 30th October 2020 stating "CUMBRIA CONSTABULARY WILL BE PLEASED TO LEARN THAT DAV CCTV ENGINEERS, WILL TODAY RECOVER THE CCTV FOOTAGE THAT YOU SEEK" (**Exhibit VJH14**) and a further email on 31st October 2020, stating [REDACTED] OF DAV CCTV ENGINEERS, CANCELLED HIS VISIT LATE LAST NIGHT, THIS WAS BECAUSE HE REALISED THAT MY CCTV WAS PASSWORD PROTECTED, UNFORTUNATELY I INHERITED THE CCTV FROM [REDACTED], THE PREVIOUS TENANT, WITHOUT THE PASSWORDS AND WAS ASSURED BY [REDACTED] (MYLANDLORD) THAT THE CCTV WAS IN GOOD WORKING ORDER, WHEN TAKING MY DEPOSIT FOR THE CCTV"

PC2097 HALEY made contact with [REDACTED] of DAV, Barrow on 31st October 2020 (**Statement PC2097 Haley**), who confirmed that he did have an appointment at the New Inn the day before (30th October 2020) but that this had been cancelled because [REDACTED] had informed him that he did not have the

password for the system. [REDACTED] subsequently supplied text correspondence to Police between [REDACTED] and [REDACTED] during which [REDACTED] requests a new CCTV unit (**Exhibit VJH15**).

PS1431 Scott-O'Neil and PC2097 Haley attended the New Inn on 31st October, having not received the requested CCTV footage and being the last day of the 14 day retention period for the CCTV. During this meeting, [REDACTED] demonstrated a complete ignorance in relation to the CCTV system, confirming that he had never accessed the system, stating "HOW SHOULD I KNOW IF ITS CHECKED AND FULLY WORKING, I'M NOT AN ENGINEER" and "I'VE HAD NO INSTRUCTIONS FOR IT, I INHERITED IT FROM [REDACTED]".

[REDACTED] also stated to Police that he did not believe that his system was recording for two weeks, in contravention of his licence conditions and when challenged that his actions had been a blatant stalling technique, to exceed the relevant 14 day retention period, [REDACTED] responded "I'M PROTECTING MY BUSINESS". Furthermore, he stated that the system had not been repaired since the 29th September 2020 when he was advised by P.CANTLEY that it was in breach of his licence conditions, stating "BEAR IN MIND AN ENGINEER HASN'T SEEN THIS, HE HASN'T DONE ANYTHING TO REPAIR IT, THIS IS AS PATRICK'S FOUND IT"

PS1431 accessed the CCTV system with the consent and in the presence of [REDACTED] and found the system to only record for a period of 24 hours, in breach of the licence conditions. (**SOE 2097 Haley/VJH19 – Exhibit Bodycam footage - PC2097 Haley**)

The evidence illustrates that [REDACTED] was made aware of the failings of his CCTV system on 29th September 2020 and was advised appropriately by Licensing Officer P.CANTLEY. Knowing that this system was in breach of the conditions of his licence, [REDACTED] has continued to conduct licensable activities, making no attempt to rectify the system until the sixth request from Cumbria Constabulary to supply CCTV footage. It is only at this point he made enquiries to replace the non-compliant system. His actions would appear to be dishonest, it is clear that he was aware from the meeting with P.CANTLEY that the system was incapable of retaining footage for the required period and yet continued to allow Cumbria Police to make repeated requests, and indeed made false assurances that he was able to recover the footage requested.

We assert that failure to comply with the conditions of his licence and apparent dishonesty, clearly undermine the Crime and disorder objective.

3) Licence Holder/DPS ([REDACTED]) Obstructive to Police investigation

As per evidence supplied at point 2 above.

Knowing his CCTV system to be incapable of recording for the required 14 day period, [REDACTED] failed to disclose this fact at the earliest opportunity, knowingly generating unnecessary work for Cumbria Constabulary, who were forced to make multiple requests, for footage which [REDACTED] knew could not be recovered.

Cumbria Police believe [REDACTED] maintained the façade that footage could be recovered in order to prevent Police from seizing the system, which would have prevented the premises from conducting licensable activities, thereby allowing the premises to continue trading despite being in breach of the Licence Conditions.

We assert that this obstructive behaviour clearly undermines the Crime and Disorder objective.

4) **Offence of providing an unauthorised licensable activity through contravention of the conditions specified on the licence with regard to Barwatch.**

Evidence –

- **SOE Wendy INGHAM - Business Crime Manager.**

Annex 2 of Premises licence PL(A)0597 contains the condition “*The licence holder and/or the designated premises supervisor or a person nominated by them shall actively participate and be a member of a pub and club watch scheme for the area within which the premises is located*”

Bar Watch Coordinator for Kendal Bar Watch group will state that despite the group meeting on a monthly basis “*The New Inn, Kendal has not sent a representative to a meeting since November 2019. [REDACTED] is currently barred from a lot of Licensed Premises in Kendal and this is the reason he does not attend*”.

The failure of a representative for the New Inn to attend a Bar Watch meeting for a period of one year is clearly a failure to “Actively participate” in the scheme and we would argue a failure to comply with the licence condition. Despite the difficulties that [REDACTED] personally faces in being involved in the scheme, due to being barred from a number of premises, this would not preclude a representative attending in his place.

We assert that this failure to comply with the conditions of his licence, undermines the Crime and Disorder objective.

5) **Failure to comply with requirements of Track and Trace, namely QR Code.**

Evidence –

- **SOE Wendy INGHAM - Business Crime Manager.**
- **SOE PS1917 PARKIN**

Coronavirus Health Protection Regulations 2020 stipulate “*Requirement to display QR Code, A relevant person must in an appropriate place display and make available a QR Code at relevant premises that they occupy or operate with a view to achieving the aim in paragraph 2 – The aim is to enable an individual who seeks to enter the relevant premises in a case set out in regulation 9 and has a smartphone in their possession to scan the QR Code with that smartphone as, or immediately after they enter the premises.*”

Wendy INGHAM will confirm that on 22nd September 2020, guidance was distributed to all premises within the Kendal Bar Watch group summarising the requirements to comply with the Coronavirus Health Protection Regulations and will confirm that The New Inn were included in this circulation which was sent via scheme link messaging service.

The message included the following advice “*First part is what came out last week, note about the QR codes! Three new pieces of legislation relating to COVID came into force on 18th September. 1. Test & Trace. It’s now a legal obligation that certain businesses/premises collect test & trace contact details from their customers 2. QR Unique Venue Code. Venues/premises must generate a unique QR code from Government website and display prominently in their premises (from 24th September)*”
(Exhibit SOE Wendy INGHAM - Business Crime Manager)

PS1917 PARKIN will state that he was on plain clothes duty on 24th October 2020, conducting COVID checks, when he entered the New Inn at 20:50 hours. “*Upon entry I could not identify any visible NHS Track and Trace QR code on display*”
(Exhibit SOE PS1917 PARKIN)

The failure to display or make available a QR code at the premises, despite receiving guidance to do so through Bar Watch via Scheme Link, demonstrates a further failure to adhere to the Regulations and a failure to promote the public safety objective.

6) **Failure to comply with requirements of Track and Trace, namely recording date and time.**

Evidence –

- **SOE Wendy INGHAM - Business Crime Manager.**
- **SOE PS1917 PARKIN**

Coronavirus Health Protection Regulations 2020 stipulate “*Details to be requested under regulations 7 and 8 – The Following information must be requested under regulations 7 and 8*” namely “*(e) the date and time that the individual entered the relevant premises*”

Wendy INGHAM will confirm that on 22nd September 2020, guidance was distributed to all premises within the Kendal Bar Watch group summarising the requirements to comply with the Coronavirus Health Protection Regulations, specifically a reminder as to the legal obligation to collect Track and Trace details. She will confirm that The New Inn were included in this circulation which was sent via scheme link messaging service (**Exhibit SOE Wendy INGHAM - Business Crime Manager**).

PS1917 PARKIN will state that he was on plain clothes duty on 24th October 2020, conducting COVID checks, when he entered the New Inn at 20:50 hours. He states “*I was asked by staff upon entry to sign their track and trace signing in register. I went to do this and noted it was a notebook style diary and the current page was turned to the following day Sun 25th October with multiple entries already listed. I turned the page back to the current date of the 24th which was full. I returned back to the original page on the 25th and it was not columnized or headed to a state that this page was actually referring to the 24th and was just a list of names and numbers not indicating to any time they were in and actively indicating an incorrect date which would make it nigh on impossible for the NHS Track and Trace team to correctly identify all persons in the New Inn on either Sat 24th or Sun 25th October 2020*” (**Exhibit SOE PS1917 PARKIN**)

There is an expectation as the Licence Holder and the Designated Premises Supervisor for The New Inn, that [REDACTED] has a positive obligation to make himself aware of the current legislation and implement the same at his premises for the safety of his customers, his staff and the community. He has been provided with the same advice and support via the Bar Watch group as all other premises and has the same opportunity to consult with PC2097 Haley, the Licensing Officer for the area, to seek clarity on any matter of which he may have been uncertain, but he has chosen not to do so. The result being that he has failed to comply with Coronavirus Health Protection Regulations 2020 and thereby undermined the Public Safety objective.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year

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

Cumbria Constabulary objected to the appointment of [REDACTED] as Designated Premises Supervisor for the New Inn in December 2019.

The grounds of the objection under the Crime and Disorder objective are as below;

1) First Barwatch ban –

February 2015 Bootleggers proposed [REDACTED] for a Barwatch Ban as a result of unacceptable behaviour.

[REDACTED] had been asked to leave by door-staff at the venue due to his behaviour, he refused to leave when asked and started to throw punches at them, shouting and swearing” (Exhibit TD/13)

All Barwatch members present voted in favour of [REDACTED] receiving a 6 month ban and [REDACTED] was informed of the ban in writing.

- This demonstrates [REDACTED] propensity to use violence
- This also demonstrates his oppositional and defiant behaviour, refusing to follow reasonable requests by other licencees.

2) Appeal of first Barwatch ban –

4th March 2015 – [REDACTED] attended personally to the appeal meeting and admitted that despite being aware of his Barwatch ban, “he had been in three Licensed Premises” in clear disregard for the ban and “showed no remorse”. The appeal was dismissed and the ban upheld, [REDACTED] was informed of the continued ban in writing. (Exhibit TD/13)

- Evidence that [REDACTED] openly flouted the Barwatch ban which had been legitimately imposed. This is important because participation in the Barwatch scheme forms part of the licence conditions for the New Inn under Annex 2, “The licence holder and/or the designated premises supervisor or a person nominated by them shall actively participate and be a member of a pub and club watch scheme for the area”. [REDACTED] cannot ensure compliance with this condition, when he has demonstrated such a clear disregard for the Barwatch Scheme, of which he would need to be a member.

3) Challenging behaviour and refusal to accept the Barwatch Ban –

November 2015 – following a bombardment of e-mails to various agencies challenging the Barwatch Ban, [REDACTED] attended Kendal Police Station, where he demanded a public apology from the Barwatch scheme in relation to his ban. He displayed concerning behaviour, challenging the Barwatch co-ordinator, who stated... “[REDACTED] got very irate with me to the point that PC Hemsley had to stand in and try to reason with him. He was asked to leave the Police Station. He refused to do so, he was argumentative and would not listen to reason and continued to shout at us both. After leaving the interview room [REDACTED] continued to shout at the CCTV camera in the front office and at the front office staff” (Exhibit TD/13)

- This demonstrates [REDACTED] hostile temperament, which is generally prone to anger in his dealings with Police and associated agencies.

4) Shotgun Licence revoked -

13th January 2016 “due to ██████████ being involved in incidents where his conduct has been irrational and aggressive.” A subsequent application for a Shotgun Licence by Mr ██████████ in September 2016 was refused, “Due to the fact that ██████████ has a previous certificate revoked in January 2016 and there has been no change in his circumstances”

- Further evidence of irrational and aggressive behaviour demonstrated by ██████████.

5) Burgundys Wine Bar incident –

5th March 2017 - Police Log CP-20170305-0009

██████████ had been asked to leave the premises following reports he had been acting inappropriately towards customers. ██████████ refused to leave and attempted to walk further into the venue, prompting the manager to take hold of his jacket, to which ██████████ made the initial call to Police.

PC2417 Dixon describes ██████████ as intoxicated and on explaining the lawfulness of the bar manager’s actions, the officer states “This seemed to aggravate ██████████ who began swearing at me, stating “SO HE CAN FUCKING ASSAULT ME”, his demeanour changed and he became increasingly aggressive, I would describe him as being deranged” ██████████ lunged towards PC2417 and the officer was forced to take action to defend himself, taking hold of ██████████ hands. ██████████ was arrested for Section 5 POA and he proceeded to resist arrest, “He struggled against me in an attempt to remove his hands from my grasp and began making fists with his hands, concerned he was going to punch me, I quickly attached one side of the cuff to his left wrist”. With the assistance of further Officers, ██████████ was secured but he continued to resist Officers and refused to voluntarily get into the Police vehicle. “He continued refusing to step down and get into the cage; as such I moved my position and went to take hold of his legs. Having taken hold of his legs, I lifted up and pulled ██████████ legs backwards, in order to remove him from the van step, As I was doing this ██████████ has turned and made a comment similar to “HAVE THIS THEN” before lifting his hands upwards, and bringing them down on top of my head, making connection to the rear of my head with the metallic part of the cuff. This caused pain and throbbing”

██████████ was further arrested for Police assault and continued to behave in a disorderly manner throughout his transport to custody, “repeatedly head butted and hit out at the cage walls” and continued on arrival at custody. (Exhibit TD/5)

Photograph of the injury to PC2417 (Exhibit TD/4)

PC2198 Game, PS1342 Chapman and PCHouse all corroborate the incident (Exhibit TD/6, TD/7 and TD/8)

- This violent crime committed by ██████████ upon an Emergency Services worker clearly demonstrates his unsuitability to be DPS. This is the most clear demonstration of his inability to uphold the Crime and Disorder objective.

6) Conviction for Assault a Constable –

PNC print shows that after a Not Guilty trial he was found guilty at Barrow Magistrates Court on 28/9/2017 of the offence of assault on a Police Officer from incident on 5th March 2017. ██████████ received a Community Order, costs, compensation and a Curfew requirement for 3 months with electronic tagging (curfew between 1800 to 0600 hours) (Exhibit TD/2).

7) Breach of court imposed curfew –

██████████ breached his curfew in that on two occasions he denied EMS tagging company entry to his premises to install the tagging equipment. (Exhibit TD/12 PNB entries)

Police log CP-20171228-0009 ██████████ was witnessed to have been inside the

Rifleman's Arms, Kendal on 23/12/2017 at 20.00 hours which was in direct breach of the curfew in place at the time.

- This demonstrates [REDACTED] defiance of authority and his propensity to flout the law, including court imposed penalties. A clear failure in his abilities to uphold the Crime and Disorder objective.

8) Second Barwatch Ban –

As a result of the incident occurring at Burgundy's Wine Bar, [REDACTED] was proposed for a second Barwatch ban, which was imposed for 12 months and [REDACTED] was informed of the ban in writing.

[REDACTED] appealed the ban and was granted the opportunity to appeal the ban in person in July 2017. [REDACTED] "had to be asked to leave by the DPS due to the fact that he kept asking questions of the committee and refused to answer some of the questions the committee put to him. He was awkward and argumentative towards licensees who were in attendance" (Exhibit TD/13)

[REDACTED] is "not welcome" to personally attend monthly Bar Watch meetings in his capacity as DPS, due to his historical behaviour and "he is banned still from many of the other licensed premises due to individual problems they have had with him"(Exhibit TD/13)

- The fact that [REDACTED] is personally barred from the local Barwatch scheme meetings by local licencees, most clearly undermines the Crime Prevention objective, and highlights his unsuitability to be DPS.
- When he has himself been the subject of a barwatch ban on two occasions and failed to comply with the ban, raises questions over his suitability to propose individuals for the Barwatch Scheme himself.

9) Obstructive towards Police –

14th July 2019 – Police attended an incident outside the New Inn Public House which was unrelated to the premises. [REDACTED] approached the Officers who were speaking to a suspect of a serious offence.

"I viewed his behaviour to be hostile rather than friendly. As he approached me he stated "IM THE LANDLORD" waving his arm behind him at the New Inn. Due to his demeanour, I told him to step away and return to the premises. The male then demanded "DOES THIS NEED TO HAPPEN HERE" I took this to relate to the arrest. I again told [REDACTED] to step away from me, that we were dealing with something and that it was nothing for him to worry about. [REDACTED] demeanour was becoming more hostile and aggressive towards me. He stated at that he felt I was rude and threatening towards him. I told him again to "STEP AWAY" I also stated to him "I KNOW WHO YOU ARE AND YOUR PREVIOUS CONDUCT TOWARDS POLICE OFFICERS YOU NEED TO LEAVE NOW" I made it clear to him that I thought he was a threat to me. His behaviour and body language had remained confrontational and aggressive throughout our interaction. The level of which seemed to increase when he didn't get the answer or response he clearly believed he deserved. [REDACTED] immediately became irate shouting "IM GOING TO GET MY PHONE"... [REDACTED] reappeared on the street and approached me with his mobile phone outstretched into my face. He shouted at me in a goading manner "SAY THAT AGAIN OFFICER, THE BIT ABOUT ME BEING VIOLENT" These had not been the words I had used and I did not respond to him, it was clear that he was trying to initiate conflict and create a situation where an officer would react to him in potentially unprofessional way. I simply ignored [REDACTED] continued back to my vehicle and collected some evidence bags. As I returned [REDACTED] again pushed his phone into my face I cannot remember what he was saying at this stage, I simply told him "I'M NOT SPEAKING TO YOU"" (Exhibit TD/16)

- This incident demonstrates [REDACTED] is obstructive towards Police even when they are dealing with incidents not directly relating to him and this clearly undermines the Crime and Disorder objective, as in his role as DPS he would ordinarily be expected to support Police in the execution of their lawful duties, not to intervene and challenge their

actions.

10) Disorderly behaviour at Kendal Police Station –

28th October 2019 – PC1351 Dodd Licensing officer spoke to [REDACTED] at Kendal Police Station at the request of [REDACTED]. “He then came across as becoming agitated and raised his voice, he started to tell me that he should be allowed to run his own pub and started questioning me as to why he should not ... He was talking over me and really not listening to anything I was trying to say. I had to ask him to leave the interview room as I was getting nowhere with him. He stayed sat and continued in this manner. I felt the need to leave the room, which I did, and walked into the front office where I wedged the interview room door open with my left foot. I did this as there was CCTV recording in this area and I wanted a recording of any further interaction I had with him. He became demanding as to why he should not be DPS of his own Public House, that his conviction was spent, why did I feel the need to be in a CCTV area. At one stage he waved at the cameras and pulled the chair nearer the door in a childish manner. After about three minutes of trying to speak to [REDACTED] and reason with him and tell him time and time again of the correct procedure I decided to walk away from him as he would not listen to me. I told him to leave the Police Station”

- It is essential that the DPS is able to work closely with Cumbria Police in order to uphold the Crime and Disorder Objective. The behaviour demonstrated by [REDACTED] demonstrates again his inability to communicate reasonably with police and an inability to work collaboratively with Police or other agencies.

[REDACTED] applied in Summer 2020 to become both the Licence Holder and the DPS for the New Inn.

It is always the aim and objective of Cumbria Police to work with applicants, to assist them and provide the support necessary for them to succeed. Despite the previous Police objection to the appointment of [REDACTED] as DPS, he demonstrated a clear desire to take on the role and make a success of the premises. Furthermore owing to the effect of Coronavirus, specifically the closure of Licensed Premises, the New Inn had not been trading and as such there were no additional grounds to object other than those offered in the original objection. Cumbria Police therefore did not object to the new application submitted by [REDACTED].

PC2097 HALEY met with [REDACTED] on 4th February 2020 when she introduced herself to be the Police Licensing Officer. At this point PC HALEY expressed that she wanted to have a positive relationship with [REDACTED] and offered him ongoing assistance in relation to any licensing matters.

Please tick ✓

yes

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

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date **12/11/2020**

.....

Capacity **Cumbria Police Licensing Officer**

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.