

REPORT OF CORPORATE DIRECTOR FOR COMMUNITIES

REVIEW & SUMMARY REVIEW OF PREMISES LICENCE

Licensing Act 2003 Sections

52 and 53C

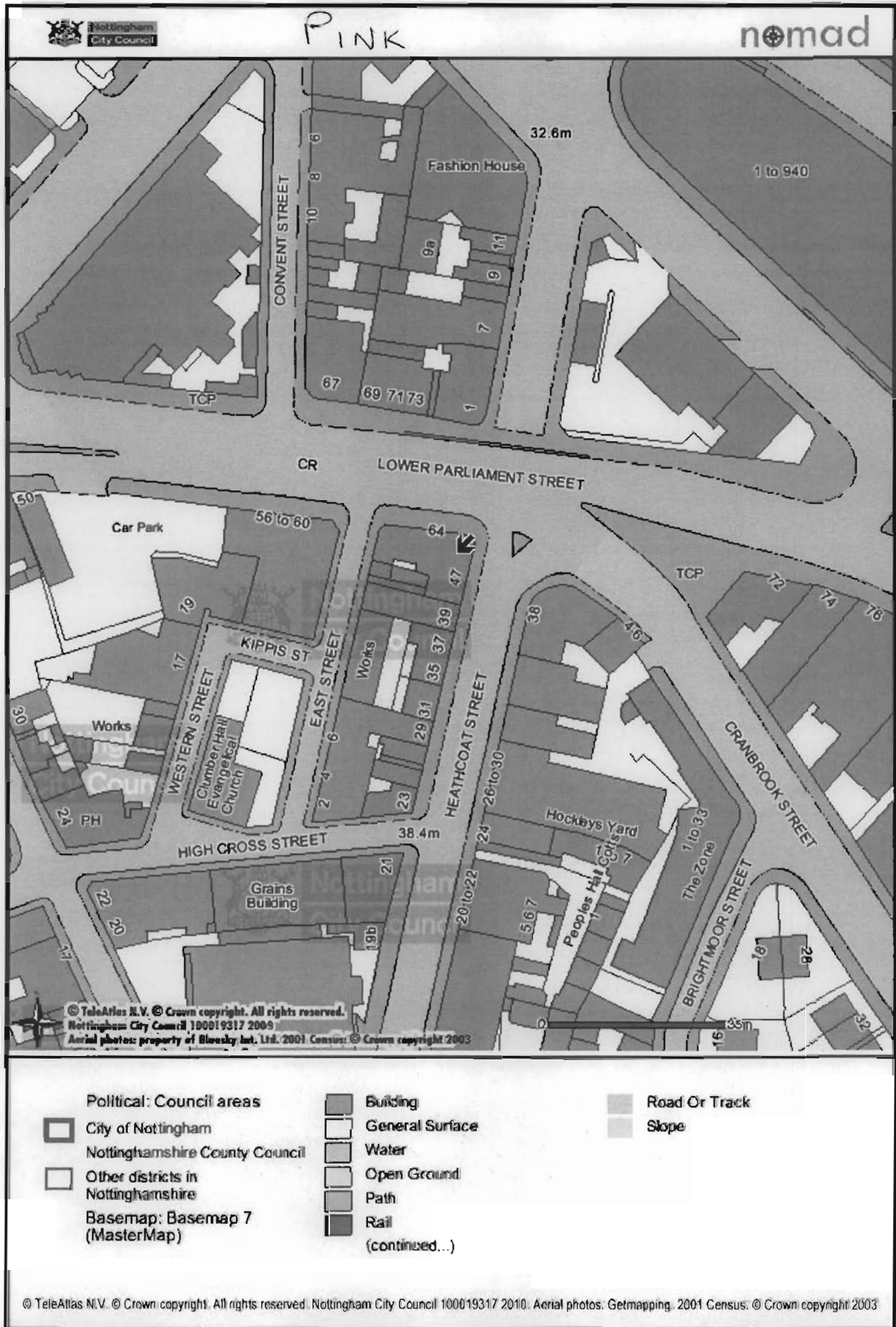
The report shall consider applications for both reviews for the premises licence and any relevant representations. These reviews result from applications made by the Police on 3 November 2010 and 26 November 2010.

Premises concerned	<p>Pink 47 Heathcoat Street Nottingham NG1 3AG</p> <p>Please see attached Premises Licence</p>
Premises licence holder	Lauren Dee Foster
Party submitting summary review	<p>Nottinghamshire Police</p> <p>Please see attached applications.</p>
Date applications Received:	3 and 26 November 2010
Last date for representations:	<p>1 and 10 December 2010</p> <p>The Licensing Officer displayed public notices for both applications in accordance with the Licensing Act 2003 (Premises Licence) Regulations 2005 from 4 November 2010 to 1 December 2010 and from 26 November 2010 to 10 December 2010 inclusive.</p>
Relevant representations received	None
Matters which the Authority has asked the parties to clarify	<ol style="list-style-type: none"> 1. Identification of all issues (both factual legal) which are in dispute. 2. Identification of all areas of law, Guidance and Policy upon which they intend to rely.
Interim Steps already taken	<p>In accordance with Section 53B of the Act the Authority determined on 29 November 2010 that the following interim steps should be taken in respect of the Premises Licence:-</p> <p>The licence should be suspended with immediate effect. (copy determination attached)</p>

Issues	
<p>Issue 1</p>	<p><u>Whether it is necessary and proportionate to take any one or more of the steps identified below in order to promote the Licensing Objectives.</u></p> <ol style="list-style-type: none"> 1. To modify the conditions of the licence permanently or for a temporary period of up to 3 months; and/or 2. To exclude a licensable activity from the scope of the licence permanently or for a temporary period of up to 3 months; and/or 3. To remove the designated premises supervisor; and/or 4. To suspend the whole premises licence for a period not exceeding 3 months; or 5. To revoke the licence. <p>The Police have requested in the Summary Review application that the Licensing Authority shall review the premises licence with a view to revoking the same.</p>
<p>Issue 2</p>	<p>The Panel should determine, (bearing in mind its determination in relation to Issue 1,) which of the interim steps already imposed should cease when the determination in relation to Issue 1 takes effect.</p>
<p>Relevant Legislation</p>	<p>S51 – 53 Licensing Act 2003 – Review S53C Licensing Act 2003 – Summary Review</p>
<p>Relevant Policy</p>	<p>Paragraphs 9.28 of the Statement of Licensing Policy</p>
<p>Relevant Guidance</p>	<p>Chapter 11 of the Guidance issued under section 182 of the Licensing Act 2003 Paragraphs 5.1 to 5.7 of the DCMS non-statutory guidance on expedited/summary licence reviews</p>
<p>Published documents referred to in compiling this report</p>	<p>Licensing Act 2003 (as amended)</p> <p>Guidance issued under Section 182 of the Licensing Act 2003.</p> <p>DCMS non-statutory guidance on expedited/summary licence reviews</p> <p>Statement of Licensing Policy issued by Nottingham City Council.</p>

Andrew Errington
Director of Community Protection
Central Police Station, North Church Street, Nottingham NG1 4BH

Contact Officer: Zoey Mayes, Assistant Licensing Officer Tel: 0115 915 6082





Licensing Act 2003

Community & Culture

Lawrence House
Talbot Street
Nottingham
NG1 5NT
Tel: 0115 915 5555
Fax: 0115 915 6145

Premises Licence

Premises licence number: 036005

Part 1 – Premises details

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

Pink
47 Heathcoat Street

Post town Nottingham

Post code NG1 3AG

Telephone number

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

Films – Indoors;
Live Music – Indoors;
Recorded Music – Indoors;
Performances of Dance – Indoors;
Provision of Facilities for Making Music – Indoors;
Provision of Facilities for Dancing – Indoors;
Provision of Facilities for Entertainment Similar to Music/Dance – Indoors;
Late Night Refreshment – Indoors;
Sale by Retail of Alcohol

(Varied: 2 November 2007)

The times the licence authorises the carrying out of licensable activities

Films, Live Music & Recorded Music, Performances of Dance, Provision of Facilities for Making Music, for Dancing and for Entertainment Similar to Music/Dance:

Monday	from 11.00 hrs to 03.00 hrs the following morning
Tuesday	from 11.00 hrs to 03.00 hrs the following morning
Wednesday	from 11.00 hrs to 03.00 hrs the following morning
Thursday	from 11.00 hrs to 03.00 hrs the following morning
Friday	from 11.00 hrs to 03.00 hrs the following morning
Saturday	from 11.00 hrs to 03.00 hrs the following morning
Sunday	from 12.00 hrs to 03.00 hrs the following morning

New Year's Eve from the start of permitted hours to the end of permitted hours on New Year's Day.

An additional hour on Friday, Saturday, Sunday & Monday of each bank holiday weekend, Maundy Thursday, Christmas Eve & Boxing Day.

If applicable, an additional hour on the morning when British Summer Time commences.

(Varied: 2 November 2007)

Late night refreshment:

Monday	from 23.00 hrs to 03.00 hrs the following morning
Tuesday	from 23.00 hrs to 03.00 hrs the following morning
Wednesday	from 23.00 hrs to 03.00 hrs the following morning
Thursday	from 23.00 hrs to 03.00 hrs the following morning
Friday	from 23.00 hrs to 03.00 hrs the following morning
Saturday	from 23.00 hrs to 03.00 hrs the following morning
Sunday	from 23.00 hrs to 03.00 hrs the following morning
New Year's Eve	from 23.00 hrs to 05.00 hrs the following morning

An additional hour on Friday, Saturday, Sunday & Monday of each bank holiday weekend, Maundy Thursday, Christmas Eve & Boxing Day.

If applicable, an additional hour on the morning when British Summer Time commences.

(Varied: 2 November 2007)

Sale by Retail of Alcohol:

Monday	from 11.00 hrs to 03.00 hrs the following morning
Tuesday	from 11.00 hrs to 03.00 hrs the following morning
Wednesday	from 11.00 hrs to 03.00 hrs the following morning
Thursday	from 11.00 hrs to 03.00 hrs the following morning
Friday	from 11.00 hrs to 03.00 hrs the following morning
Saturday	from 11.00 hrs to 03.00 hrs the following morning
Sunday	from 12.00 hrs to 03.00 hrs the following morning

New Year's Eve from the start of standard times to the start of standard times on New Year's Day.

An additional hour on Friday, Saturday, Sunday & Monday of each bank holiday weekend, Maundy Thursday, Christmas Eve & Boxing Day.

If applicable, an additional hour on the morning when British Summer Time commences.

(Varied: 2 November 2007)

The opening hours of the premises

Monday	from 11.00 hrs to 03.30 hrs the following morning
Tuesday	from 11.00 hrs to 03.30 hrs the following morning
Wednesday	from 11.00 hrs to 03.30 hrs the following morning
Thursday	from 11.00 hrs to 03.30 hrs the following morning
Friday	from 11.00 hrs to 03.30 hrs the following morning
Saturday	from 11.00 hrs to 03.30 hrs the following morning
Sunday	from 12.00 hrs to 03.30 hrs the following morning

New Year's Eve from the start of standard times to the start of standard times on New Year's Day.
An additional 30 minutes after the non-standard finish times for the provision of licensable activities.

(Varied: 2 November 2007)

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

Alcohol - On the premises
Alcohol - Off the premises

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Lauren Dee Foster, 3 Kensington Gardens, Carlton, Nottingham NGG4 1EA

(Transferred 19 December)

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

Not applicable


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

Emma Woodcock

(Varied 19 December 2008)

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

BROX00843 – Broxtowe Borough Council

Signed: 
Licensing Officer

Dated: 5 October 2005
Varied: 21 December 2005
Varied: 2 November 2007

Annex 1 - Mandatory conditions (Varied: 2 November 2007)

S19 Licensing Act 2003

1. No supply of alcohol may be made under this licence
 - a. At a time when there is no designated premises supervisor in respect of it or,
 - b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

S. 20 Licensing Act 2003

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made

- a. by the British Board of Film Classification (BBFC,) where the film has been classified by that Board, or
- b. by the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20 (3) (b) of the Licensing Act 2003 applies to the film.

S21 Licensing Act 2003

Only individuals licensed by the Security Industry Authority may be used at the premises to guard against:

- a. unauthorised access or occupation (e.g. through door supervision), or
- b. outbreaks of disorder, or
- c. damage

Annex 2 - Conditions consistent with the Operating Schedule (Varied: 2 November 2007)

1. Electrical sockets used by entertainers shall be fitted with residual current device protection (complying with BS7671; Requirements for Electrical Installations) and labelled accordingly.
2. The dance floor shall be clearly delineated and shall be positioned in such a way as to ensure the safety of persons using the dance floor.
3. The arrangements for access around the dance floor and for seating in the vicinity of the dance floor shall be such that neither dancers nor others, seated or otherwise, are put at risk of injury.
4. The premises will employ SIA trained door staff from 22.00 hours to closing time on Fridays and Saturdays.
5. The premises will maintain and operate the existing CCTV system to the standards agreed with the Police Licensing Officer providing a 24 hour facility.
6. No person under 18 years of age shall be allowed to remain on the premises at those times that alcohol is being supplied or after 22.00 hours.

Conditions agreed with the Police:

1. A Challenge 21 scheme shall operate at the premises. Any person who appears to be under 21 years of age shall not be supplied with alcohol unless they produce an acceptable form of identification (passport or driving licence or PASS accredited card.)
2. CCTV cameras shall be installed and maintained in the premises in accordance with Police recommendations, and sufficient staff shall be trained to use the system. Images

shall be retained for at least 31 days and shall be made available immediately upon request to Officers of Responsible Authorities.

3. A bound and sequentially paginated incident/accident book shall be kept to record all instances of disorder, damage to property, personal injury and refusals of service at the premises. This book to be made available for inspection and copying by the Police and other officers of Responsible Authorities immediately upon request and all such books to be retained at the premises for at least 2 years.
4. A bound book shall be kept and updated daily, containing the names, addresses, dates of birth, SIA registration number and hours worked of door supervisors employed on any particular day. This book shall be kept at the premises for at least 12 months and shall be made available for inspection and copying by the Police immediately upon request.

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

Not applicable

Annex 4 – Plans

Plan received with the application on 6 August 2005
Drawing Number: 202886/001
Dated: March 2005
Plan applicable from the date of issue of the licence

Dated: 21 December 2005
Varied: 2 November 2007

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 H. E. READ [Deputy Force Solicitor, for and on behalf of the Chief Constable]
(Insert name of applicant)

apply for the review of a Premises Licence under section 51 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	
PINK 47 HEATHCOTE STREET	
Post town	Post code (if known)
NOTTINGHAM	NG1 3AG

Community & Culture - Licensing

Time received _____

3 - NOV 2010

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

Number of premises licence or club premises certificate (if known)
036005

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises

- 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

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 H. E. READ [for and on behalf of the Chief Constable of Nottinghamshire] Deputy Force Solicitor Nottinghamshire Police Headquarters Legal Services Sherwood Lodge Arnold Nottingham NG5 8PP
Telephone number (if any) 0300 300 9999 Ex:800 2674
E-mail address (optional)

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

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

The licensing objectives of the Prevention of Crime and Disorder, Public Safety, the Prevention of Public Nuisance and the Protection of Children from Harm have been seriously undermined at this premise.

The Premises trade as a late bar/nightclub, with a premises licence that allows the sale of alcohol both on and off the premises, in addition to other licensable activities. Originally, the concept put forward by the operator was that the premises were for the use of gay/ lesbian customers, but it appears that this is no longer the case.

At all material times, the Premises Licence Holder (PLH) has been Lauren Dee Foster.

The Designated Premises Supervisor (DPS) between 12th December 2008 and 17th December 2008 was Emma Woodcock, but since the latter date the PLH has also been the DPS.

1. The Prevention of Crime and Disorder.

The Applicant alleges that since Ms. Foster took over the premises in December 2008, the premises have offered licensable activities otherwise than in accordance with an authorisation, by virtue of the fact that:

- i. the CCTV system at the premises has not been maintained in accordance with Police recommendations;
- ii. alcohol has been sold/supplied outside of the premises permitted hours;
- iii. the door supervisors register has not been maintained;

- iv. the incident/accident book has not been maintained;
- v. persons under the age of 18 years have been permitted to remain on the premises whilst alcohol is being supplied; and
- vi. persons under the age of 18 years have been permitted to remain on the premises after 2200 hours.

Breaches of the conditions on the licence are criminal offences in themselves, as well as evidence of failure to uphold the licensing objectives.

Since December 2008, the Police have offered advice and warned the PLH / DPS on numerous occasions, both verbally and, on 4 occasions, in writing.

It is clear that the DPS/PLH has no proper control over the premises and as a consequence the licensing objectives have been seriously undermined as a result of the incompetent management practices that exist.

2. Public Safety.

A responsible operator should place the welfare of the public first, and should use every measure available to ensure that safety. Numerous incidents of disorder have occurred and weapons have been found in the premises which causes the Police concern. The PLH/DPS has failed to implement changes to allay these concerns and therefore puts her customers at risk.

3. The Prevention of Public Nuisance

On numerous occasions since December 2008 the PLH/DPS has failed to responsibly manage the premises, which has resulted in numerous incidents of disorder both within the premises and in the immediate vicinity causing nuisance in the locality.

4. The Protection of Children from Harm

On 25 September 2009 during a Test Purchase Operation, a test purchase operative, being a young person under 18 years of age, successfully purchased alcohol at the premises; thus breaching s146(1) of the Licensing Act 2003.

On several occasions the PLH/DPS has permitted persons under the age of 18 years to remain on the premises whilst alcohol is being sold/supplied and in any event permitted such persons to remain on the premises after 2200 hours, contrary to condition 6 of the premises licence.

These premises have been irresponsibly managed and the operator has failed to engage with the Police and attempt to properly solve the problems that exist there. It appears that it is no longer properly run as a gay/ lesbian bar, and this has sometimes put gay customers at a disadvantage when they expect it to be still run as such only to be confronted with homophobic attitudes from other customers using the venue.

In the circumstances, on account of the woefully inadequate and poor management at the premises, it is felt that it would be a necessary and proportionate response to a review of the premises licence to revoke the said licence.

Please provide as much information as possible to support the application
(please read guidance note 2)

The current Designated Premises Supervisor (DPS) took over in December 2008. In April 2009, 5 months after becoming the DPS, she received a written warning for failing to attend meetings to discuss incidents, failing to return telephone calls, and failing to engage with the Police, as a Responsible Authority. Following on from this, a further written warning was given to the DPS for several breaches of the premises licence that had been identified on 1st May 2009, and related to the CCTV system, door supervisors' register and the incident/accidents register.

On 25th September 2009, the premises failed a test purchase, as a 14-year-old operative successfully purchased 3 bottles of Smirnoff Ice Vodka, resulting in a written warning being given to the premises licence holder. This was closely followed by an allegation being made that a 15-year-old boy was sold alcohol at the premises on 30th September 2009. On 9th October 2009 there was a further allegation of the premises selling to underage persons, in addition to operating outside their permitted hours, and further, on the 14th August 2010, an incident involving a drunken 16 year old, who had been in the premises drinking, came to light. These and other instances show that the operator is not managing the premises in a responsible manner as regards acting in the interests of children and safeguarding their welfare, therefore, greatly undermining the licensing objectives.

Further breaches of the licence were again identified on 16th October 2009, namely operating outside of permitted hours on numerous occasions [viewed on CCTV footage] and the door supervisor register being incomplete. On this date, CCTV footage was viewed from 11th October 2009 at 0316 hours, which showed a male purchasing alcohol and that at 0340 hours customers were still inside the venue, despite alcohol sales only being permitted until 0300 hours and the premises terminal hour being 0330 hours. In view of this breach, CCTV footage was also viewed from 10th October 2010. At 0305 hours staff were seen to be selling alcohol and at 0340 hours customers were still inside the premises. Sales of alcohol after 0300 hours were also observed on 3rd October 2010. When questioned regarding this, the DPS displayed ignorance as to exactly what the permitted hours were on the premises licence. A warning letter was served on her in relation to the breaches identified above.

In October 2009, Pink entered the top 15 venues within the city centre for incidents of crime and disorder, assaults, damage to property and drunkenness. Its presence in the top 15 was surprising, since the maximum occupancy for the premises is only 400. All premises in the top 15 are visited on a monthly basis to discuss all incidents at the premises and to monitor the premise's management. In March 2010, Pink was the fourth worst premise for the type of incident outlined above, which is wholly unacceptable for a premise of this size. It is not in the top 15 at present due to intensive policing which cannot be sustained and is a drain on resources.

The first monthly meeting was held on 20th January 2010, when a licensing officer met with the DPS/PLH and the manager, Edward Chamberlain, to discuss recent incidents. The DPS was unable to produce the incident book when requested to do so, as she could not locate it at the time; this is a clear breach of condition 3 of the licence. CCTV footage was viewed from 17th December 2009 at 0200 hours, and it was established that some of the images were of poor quality. Ms. Foster was asked to arrange for a CCTV engineer to check the system and correct any defects forthwith. Ms. Foster then went on to produce the door supervisors' register, however, this was not completed in accordance with condition 4 of the licence. Despite previous advice and warnings, it became clear that the management of the

premises had not improved and the DPS was still reluctant to engage.

In February 2010, a customer was arrested at the premises for being in possession of a lock knife. The CCTV images were again not of a satisfactory quality. It also became clear that there was no proper method in place to monitor accurately the number of customers in the premises at any one time, the procedure being to guess and if the premises looked full no one else was permitted to enter. Further, it became apparent to the Police that the door supervisors were not even aware of what the safe occupancy figure actually was. Police officers who visited the premises observed that the DPS was unhelpful and spent the majority of her time chatting with her staff, again, displaying an unwillingness to engage as would be expected of a responsible operator.

As a result of the breaches of licence and evidence of poor management, the DPS was invited to a meeting with the Neighbourhood Policing Inspector to discuss the expectations the Police had of a DPS in a city centre premises. The DPS was advised that a review of the licence would be inevitable if there was no improvement in how the premises were managed.

On 16th February 2010, a licensing officer met the DPS and manager again. Ms. Foster advised that some CCTV cameras had been replaced. However, on viewing the footage, the quality of the images was still not to the satisfaction of the Police being poor and indistinct.

Following this visit, and an incident of disorder at the premises on 13th/14th February, Ms. Foster was again invited to meet with the Neighbourhood Policing Inspector to discuss the way the premises were being operated. She did not suggest any measures of her own volition to reduce the violence at the premises, additional door staff and improvements to the CCTV system both being instigated at the request of the Police.

In May 2010, the DPS submitted a Temporary Event Notice for licensable activities for a 24-hour period from 1100 hour on 31st July 2010 to 1100 hours on 1st August 2010. Due to the history of the premises the Police formally objected to the event and a hearing was subsequently arranged, which the DPS failed to attend. The Licensing Panel decision was to issue a counter notice to prevent the event from taking place. In view of the history of non-compliance, the Licensing Panel were concerned that the DPS would not properly manage the premises.

In June 2010, the PLH submitted an application to vary the licence to allow for longer hours. This application was objected to by the Police and was subsequently withdrawn. The fact that the application was made at all shows that the PLH had failed to grasp the serious nature of the incidents occurring at the premises giving rise to Police concerns, repeated advice and warnings, none of which had resulted in any improvement.

In April, May and August 2010, Ms. Foster permitted persons under the age of 18 years to remain on the premises after 2200 hours and on 2 of these occasions alcohol was also being sold/supplied. This is contrary to condition 6 of the premises licence and a clear breach of the licence.

Further, between 17th and 26th September 2010, the DPS failed to provide CCTV footage to police officers when requested to do so and undermined criminal prosecutions in her failure to comply. It appears that this was partly due to there being insufficient staff trained to operate the system, which is in contravention of condition 2 of the premises licence.

A licensing compliance visit was conducted by divisional licensing officers on 30th September 2010, which resulted in several breaches of the premises licence being identified, particularly in respect of the incident/accident log and the CCTV system.

The premises were again visited on 7th October 2010. This resulted in a s19 Closure Notice for failing to maintain the CCTV system being served on the bar manager, as the DPS/ PLH had failed to attend at the agreed date and time. In view of this, consideration is being given to a prosecution under s136 Licensing Act 2003 for unauthorised licensable activities.

Intelligence has been gathered that indicates that Ms. Foster has lost control of the premises. She is rarely on site to deal with issues that arise. The Police accept that a DPS does not have to be on site at all times, however, there is an expectation that the DPS will be in day to day control and it is clear from the number of incidents generated at, or in the immediate vicinity, of the venue, from persons who have either been in Pink or have been refused entry, that the DPS is not a responsible operator and has lost control. The door team are unable to control the doors, either due to insufficient numbers, failure to adequately tackle/manage disorder or simply by their aggressive attitude towards members of the public, resulting in confrontational arguments and the attendance of the emergency services. The door team itself has changed on a number of occasions, which has done nothing to help the worsening situation at the venue. The number of incidents at the premises resulted in the usual door team refusing to work on the 2nd October and 3rd October. Door persons from Escucha and the now closed B Bar were drafted in at short notice to assist, which does not reflect good management practices.

There is also intelligence to suggest that the premises is subject to open drug use and supply. For example, on 28th August 2010, a female was conveyed to the QMC for showing classic signs of mixing alcohol and cocaine. The female when questioned said that she had snorted cocaine with an unknown male in the toilets at the premises. Those using the drugs clearly thought that they would be able to do so uninterrupted at this venue. Further, officers have noted the smell of cannabis that appears to emanate from the venue.

Since December 2008, the premises have persistently been operated in breach of the premises licence. The DPS/PLH has failed to manage and/or operate the premises responsibly and has failed to heed Police advice when offered. Even as recently as 31st October 2010, officers observed door staff being unable to control people awaiting admission to the premises, and people trying to gain entry by rushing the doors and avoiding payment.

Due to the failure to properly manage/operate the premises, the Police are of the opinion that it would be reasonable and proportionate to request that the Licensing Authority revoke the premises licence.

Amplification of these matters will be given at any subsequent hearing and any supporting documentary evidence will be provided in accordance with Nottingham City Council's Licensing Policy 2008-2011.

Nottinghamshire Police reserve the right to put forward any new matters should they come to our attention prior to any hearing.

Please tick yes

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

If yes please state the date of that application

Day Month Year

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

N/A

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

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature

H. E. Read

Date

2nd November 2010

Capacity Deputy Force Solicitor

for and on behalf of the Chief Constable

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

H. E. READ [for and on behalf of the Chief Constable]
Deputy Force Solicitor
Nottinghamshire Police Headquarters
Legal Services
Sherwood Lodge
Arnold

Post town

Nottinghamshire

Post Code

NG5 8PP

Telephone number (if any)

03003009999 Ext 8002871

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

**Application for the review of a premises licence under section 53A of the
Licensing Act 2003 (premises associated with serious crime or disorder)**

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 the 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.**

I, **Ian Holmes**, on behalf of the chief officer of police for the Nottinghamshire Police, area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**PINK
47 Heathcoat Street**

Post town: **NOTTINGHAM**

Post code (if known): **NG1 3AG**

2. Premises licence details:

Name of premises licence holder (if known):

Lauren FOSTER

Number of premises licence (if known):

036005

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in her opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)



4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

In the early hours of Friday 26 November 2010 a serious unprovoked assault took place inside the above premises, which resulted in an individual sustaining injuries caused by a weapon, needing hospital treatment. This was followed by a further more serious unprovoked assault outside the premises involving persons having been involved in disorder inside the premises immediately prior, which resulted in a second individual sustaining serious facial injuries caused by a different weapon, again needing hospital treatment.

The Police have serious concerns that if allowed to remain open there are insufficient safeguards to ensure that there will not be a further serious incident particularly if the current management remains in place. The Police have no faith in the management who appear wholly inadequate and place profit above responsible trading.

There is an on going police investigation to apprehend the offenders and it is felt that if persons involved, or others associated with the incident, are able to re-visit the venue as customers, further conflict could result.

The premises is attracting a 'bad crowd' with their music policy of playing R n B style music that in the experience of the Police has a tendency to cause incidents of crime and disorder and anti social behaviour. The premise is also attracting persons who previously frequented nearby premises that had its premises licence revoked on 27 September 2010.

Lauren Foster has been the Premises Licence Holder and Designated Premises Supervisor since December 2008 has been in day-to-day control of the premises.

In April 2009, 5 months after becoming the DPS, she received a written warning for failing to attend meetings to discuss incidents, failing to return telephone calls, and failing to engage with the Police, as a Responsible Authority. Following on from this, a further written warning was given to the DPS for several breaches of the premises licence that had been identified on 1st May 2009, and related to the CCTV system, door supervisors' register and the incident/accidents register.

On 25th September 2009, the premises failed a test purchase, as a 14-year-old operative successfully purchased 3 bottles of Smirnoff Ice Vodka, resulting in a written warning being given to the premises licence holder. This was closely followed by an allegation being made that a 15-year-old boy was sold alcohol at the premises on 30th September 2009. On 9th October 2009 there was a further allegation of the premises selling to underage persons, in addition to operating outside their permitted hours, and further, on the 14th August 2010, an incident involving a drunken 16 year old, who had been in the premises consuming alcohol, came to light. These and other instances show that the operator is not managing the premises in a responsible manner as regards acting in the interests of children and safeguarding their welfare, therefore, greatly undermining the licensing objectives.

Further breaches of the licence were again identified on 16th October 2009, namely operating outside of permitted hours on numerous occasions [viewed on CCTV footage] and the door supervisor register being incomplete. On this date, CCTV footage was viewed from 11th October 2009 at 0316 hours, which showed a male purchasing alcohol and that at 0340 hours customers were still inside the venue, despite alcohol sales only being permitted until 0300 hours and the premises terminal hour being 0330 hours. In view of this breach, CCTV

footage was also viewed from 10th October 2010. At 0305 hours staff were seen to be selling alcohol and at 0340 hours customers were still inside the premises. Sales of alcohol after 0300 hours were also observed on 3rd October 2010. When questioned regarding this, the DPS displayed ignorance as to exactly what the permitted hours were on the premises licence. A warning letter was served on her in relation to the breaches identified above.

In October 2009, Pink entered the top 15 venues within the city centre for incidents of crime and disorder, assaults, damage to property and drunkenness. Its presence in the top 15 was surprising, since the maximum occupancy for the premises is only 400. All premises in the top 15 are visited on a monthly basis to discuss all incidents at the premises and to monitor the premise's management. In March 2010, Pink was the fourth worst premise for the types of incident outlined above, which is wholly unacceptable for a premise of this size. It is not in the top 15 at present due to intensive policing which cannot be sustained and is a drain on resources.

The first monthly meeting was held on 20th January 2010, when a licensing officer met with the DPS/PLH and the manager, Edward Chamberlain, to discuss recent incidents. The DPS was unable to produce the incident book when requested to do so, as she could not locate it at the time; this is a clear breach of condition 3 of the licence. CCTV footage was viewed from 17th December 2009 at 0200 hours, and it was established that some of the images were of poor quality. Ms. Foster was asked to arrange for a CCTV engineer to check the system and correct any defects forthwith. Ms. Foster then went on to produce the door supervisors' register, however, this was not completed in accordance with condition 4 of the licence. Despite previous advice and warnings, it became clear that the management of the premises had not improved and the DPS was still reluctant to engage.

In February 2010, a customer was arrested at the premises for being in possession of a lock knife. The CCTV images were again not of a satisfactory quality. It also became clear that there was no proper method in place to monitor accurately the number of customers in the premises at any one time, the procedure being to guess and if the premises looked full no one else was permitted to enter. Further, it became apparent to the Police that the door supervisors were not even aware of what the safe occupancy figure actually was. Police officers who visited the premises observed that the DPS was unhelpful and spent the majority of her time chatting with her staff, again, displaying an unwillingness to engage as would be expected of a responsible operator.

As a result of the breaches of licence and evidence of poor management, the DPS was invited to a meeting with the Neighbourhood Policing Inspector to discuss the expectations the Police had of a DPS in a city centre premises. The DPS was advised that a review of the licence would be inevitable if there was no improvement in how the premises were managed.

On 16th February 2010, a licensing officer met the DPS and manager again. Ms. Foster advised that some CCTV cameras had been replaced. However, on viewing the footage, the quality of the images was still not to the satisfaction of the Police being poor and indistinct.

Following this visit, and an incident of disorder at the premises on 13th/14th February, Ms. Foster was again invited to meet with the Neighbourhood Policing Inspector to discuss the way the premises were being operated. She did not suggest any measures of her own volition to reduce the violence at the premises; additional door staff and improvements to the CCTV system both being instigated at the request of the Police.

In May 2010, the DPS submitted a Temporary Event Notice for licensable activities for a 24-

hour period from 1100 hours on 31st July 2010 to 1100 hours on 1st August 2010. Due to the history of the premises the Police formally objected to the event and a hearing was subsequently arranged, which the DPS failed to attend. The Licensing Panel decision was to issue a counter notice to prevent the event from taking place. In view of the history of non-compliance, the Licensing Panel were concerned that the DPS would not properly manage the premises.

In June 2010, the PLH submitted an application to vary the licence to allow for longer hours. This application was objected to by the Police and was subsequently withdrawn. The fact that the application was made at all shows that the PLH had failed to grasp the serious nature of the incidents occurring at the premises giving rise to Police concerns, repeated advice and warnings, none of which had resulted in any improvement.

In April, May and August 2010, Ms. Foster permitted persons under the age of 18 years to remain on the premises after 2200 hours and on 2 of these occasions alcohol was also being sold/supplied. This is contrary to condition 6 of the premises licence and a clear breach of the licence and undermines the protection of children from harm objective.

Further, between 17th and 26th September 2010, the DPS failed to provide CCTV footage to police officers when requested to do so and undermined criminal prosecutions in her failure to comply. It appears that this was partly due to there being insufficient staff trained to operate the system, which is in contravention of condition 2 of the premises licence.

Divisional licensing officers conducted a licensing compliance visit on 30th September 2010, which resulted in several breaches of the premises licence being identified, particularly in respect of the incident/accident log and the CCTV system.

The premises were again visited on 7th October 2010. This resulted in a s19 Closure Notice for failing to maintain the CCTV system being served on the bar manager. In view of this, consideration is being given to a prosecution under s136 Licensing Act 2003 for unauthorised licensable activities.

Intelligence has been gathered that indicates that Ms. Foster has lost control of the premises. She is rarely on site to deal with issues that arise. The Police accept that a DPS does not have to be on site at all times, however, there is an expectation that the DPS will be in day to day control and it is clear from the number of incidents generated at, or in the immediate vicinity, of the venue, from persons who have been in Pink that the DPS is not a responsible operator and has lost control. The door team are unable to control the doors, either due to insufficient numbers, failure to adequately tackle/manage disorder or simply by their aggressive attitude towards members of the public, resulting in confrontational arguments and the attendance of the emergency services. The door team itself has changed on a number of occasions, which has done nothing to help the worsening situation at the venue. The number of incidents at the premises resulted in the usual door team refusing to work on the 2nd October and 3rd October. Door persons from Escucha and the now closed B Bar were drafted in at short notice to assist, which does not reflect good management practices.

There is also intelligence to suggest that the premise is subject to open drug use and supply. For example, on 28th August 2010, a female was conveyed to the QMC for showing classic signs of mixing alcohol and cocaine. The female when questioned said that she had snorted cocaine with an unknown male in the toilets at the premises. The persons using the drugs clearly thought that they would be able to do so uninterrupted at this venue. On 10 October 2010, following an eviction from the premises, a male was stopped searched by Police and

found to be in possession of Cannabis. On 7 November 2010 a person was searched and found in possession of cannabis and cocaine outside the venue, after allegedly trying to supply others in the queue. Further, officers have noted the smell of cannabis that appears to emanate from the venue.

Since December 2008, the premises have persistently been operated in breach of the premises licence. The DPS/PLH has failed to manage and/or operate the premises responsibly and has failed to heed Police advice when offered. Even as recently as 31st October 2010, officers observed door staff being unable to control people awaiting admission to the premises, and people trying to gain entry by rushing the doors and avoiding payment.

These premises have been irresponsibly managed and the operator has failed to engage with the Police and attempt to properly solve the problems that exist there. It appears that it is no longer properly run as a gay/ lesbian bar, and this has sometimes put gay customers at a disadvantage when they expect it to be still run as a safe environment, only to be confronted with homophobic attitudes from other customers using the venue.

As a result of all the incidents, allegations and intelligence, the Police served a standard review application on 3 November 2010 and this is listed for hearing on 23 December. The Police are now of the opinion that due to the seriousness of the latest incident and past history of the premises as regards the operators' failure to uphold the licensing objectives, that an expedited review is now necessary and indeed the only course of action.

It is our request that the Licence is suspended until a review hearing takes place.

Other options available to the Police have been considered but are felt to be inappropriate in these circumstances.

The Police consider that an expedited review of the premises licence would allow the Licensing Authority to urgently assess the steps that need to be taken to ensure that the Licensing Objectives are not undermined, particularly the Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety.

The nature of the incident has resulted in a complete loss of confidence in the operators' ability to effectively manage the premises and uphold the licensing objectives. The Police also consider that for a venue of this type there are inadequate safeguards and conditions on the premises licence.

Numerous visits have been carried out at the premises by the City Licensing Enforcement Officers to offer advice and support to the Premises Licence Holder and Designated Premises Supervisor. It is clear that the premises have been allowed to run in such a way that the licensing objectives were seriously undermined. Management was so poorly inadequate that serious problems were not tackled despite Police advice.

These serious incidents, that resulted in at least 3 individuals being injured, has placed members of the Public in exceptional danger and as such we would request that the panel gives urgent consideration to suspension of the premises licence to protect the public from serious harm, with a view to ultimate revocation of the licence.

Signature of applicant:



Date: 26 November 2010

Capacity: Legal Assistant

Contact details for matters concerning this application:

Address:

Nottinghamshire Police
Headquarters Legal Services Department
Sherwood Lodge
Arnold
Nottingham
NG5 8PP

Telephone number(s): 0115 8002671

email: ian.holmes@nottinghamshire.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or

- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

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53/1

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Licensing Act 2003

CERTIFICATE UNDER SECTION 53A(1)(B) OF THE LICENSING ACT 2003

I, *HELEN CHAMBERLAIN* hereby certify that in my opinion the premises described below are associated with both serious crime and serious disorder

Premises: Pink, 47 Heathcoat Street, Nottingham NG1 3AG

Premises Licence Number: 036005

Designated Premises Supervisor: Lauren Foster

I am a Superintendent in the Nottinghamshire Police Service.

I am giving this certificate because I am of the opinion that other procedures under the licensing act are inappropriate in this case. The Police served a standard review application on 3 November 2010 and this is listed for hearing on 23 December. I am of the opinion that due to the seriousness of the latest incident and past history of the premises as regards the operators' failure to uphold the licensing objectives, that an expedited review is now necessary and indeed the only course of action.

In the early hours of Friday 26 November 2010 a serious unprovoked assault took place inside the above premises, which resulted in an individual sustaining injuries caused by a weapon, needing hospital treatment. This was followed by a further more serious unprovoked assault outside the premises involving persons having been involved in disorder inside the premises immediately prior, which resulted in a second individual sustaining serious facial injuries caused by a different weapon, again needing hospital treatment.

There are concerns that the actions of the staff may have impaired the investigation and reduced the ability to establish fast track actions within the Golden Hour Principles. There is evidence that the staff tried to cover up the use of a weapon and cleaned the crime scene prior to Police attendance.

The Licence Holder has failed to engage with my officers and as a result of this a warrant has been executed to gain entry to the premises, where my officers found the floors of the venue wet having just been cleaned.

The overall history of the premises shows that the Police have tried to work with the management, given advice, warnings both verbal and written regarding breaches of conditions, failure to co-operate with the Police and recommendations have been suggested with a view to reducing the number of incidents that have taken place at the premises. The operators have failed to act on this advice.

I have serious concerns that if allowed to remain open there are insufficient safeguards to ensure that there will not be a further serious incident particularly if the current management remains in place. I have no faith in the management who appear wholly inadequate and place profit above responsible trading.

There is an on going police investigation to bring the offenders to justice and I cannot risk persons involved or others associated with the incident being allowed to re-visit the venue as customers, where further conflict could result.

I have considered other options available to the Police and do not consider that any are appropriate in the circumstances.

I consider that an expedited review of the premises licence would allow the Licensing Authority to urgently assess the steps that need to be taken to ensure that the Licensing Objectives of the Prevention of Crime and Disorder and Public Safety are not undermined. The operation as it stands puts the Public at risk, and I have no confidence in the management to remedy this.

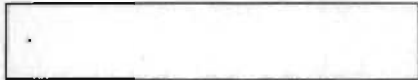
It is my request that the Licence is suspended until the review hearing takes place.

Signed:

Date:



14.15 26.11.10



Decision:
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NOTTINGHAM CITY COUNCIL

SPECIAL LICENSING PANEL

**RECORD OF THE LICENSING AUTHORITY'S DETERMINATION ON INTERIM STEPS
PENDING REVIEW (s53A AND B OF THE LICENSING ACT 2003)**

1. Date of Hearing	29 November 2010
2. Panel/Committee members present	Councillor Cresswell (Chair) Councillor Grocock Councillor James Wildgust
3. Legal Advisor and other persons present	John Pickstone, Solicitor Martin Parker, Committee Administrator
4. Declarations of interests by members and officers	None.
5. Premises being summarily reviewed	Pink 47 Heathcoat St Nottingham NG1 3AG
6. Name of Premises Licence Holder	Lauren FOSTER
7. Material taken into consideration	The application under s. 53A Licensing Act 2003 The certificate by Nottinghamshire Police under s 53(1)(B) Licensing Act 2003 The Premises Licence Other material with the papers before the Panel

<p>8. Issue for Determination</p>	<p>Whether it is necessary and proportionate to take any one or more of the interim steps identified below pending the full review of the licence, and if so to determine whether those interim steps shall take effect immediately or at some later date but prior to the full review:-</p> <p><u>Steps which may be taken</u></p> <ol style="list-style-type: none"> 1. To modify the conditions of the licence and/or 2. To exclude the sale of alcohol by retail from the scope of the licence and/or 3. To remove the designated premises supervisor; and/or 4. To suspend the premises licence <p>The Police have formally requested that the Panel consider their request that the premises licence be suspended.</p>
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9. Decision

The Panel considered the application and found that:-

The premises known as Pink was licensed for the sale of alcohol and that a senior member of Nottinghamshire Police, namely Superintendent Helen Chamberlain had given a certificate in accordance with s 53A(1)(b) Licensing Act 2003 and that those premises, in her opinion, were associated with both serious crime and serious disorder. The Panel therefore concluded that the application for summary review of the premises licence was valid.

The Panel noted the facts mentioned by the Police in the application, and, in particular, those relating to serious incidents that took place on in the early hours of 26 November 2010. These were: an unprovoked assault within the PINK premises with a weapon causing wounding that required hospital treatment, and an unprovoked attack outside the Pink premises which involved persons who had been involved in disorder inside the premises immediately beforehand. As a result a second individual sustained facial injuries that required hospital treatment.

The Panel noted history of shortcomings and breach of licence conditions set out in the police application. The application for review was on the basis that the premises are associated with serious crime and serious disorder, in accordance with s 53A(1)(b) and felt that its decision should be informed by the factual situation linked to the crime and disorder mentioned by the police.

Based on police evidence, the Panel decided that there had been serious crime and serious disorder as mentioned above in the third paragraph of this section and proceeded to consider the interim steps that might be taken in accordance with section 53B as detailed in section 8 above.

The police expressed the view that they had lost confidence in the operator's ability to manage the premises and uphold the licensing objectives. This was based on evidence mentioned in the police application and, in particular: -

- (i) Faults with the CCTV system and its management.**
- (ii) No improvement in the management of the premises despite a warning by the neighbourhood police inspector in February 2010 that unless management improved there would be no alternative left to the police other than an application for a review of the licence.**
- (iii) the failure, in September 2010, to provide CCTV footage from the premises when requested by the police who on investigation concluded that there were insufficient**

trained staff to operate the CCTV system properly.
(iv) the police observation, on 31 October 2010 as regards door staff who were unable to control the situation when some customers were waiting in a queue for admission to the premises but others tried to gain entry by rushing the doors in order to avoid payment.

The Panel then considered the steps that might be taken

1. Modification of licence conditions

Given the police's concerns about management of the premises, and their past history, including several breaches of licence conditions mentioned in the police application, the Panel felt that there was a real possibility that conditions would not be adhered to.

2. Exclusion of licensable activity

As regards exclusion of a licensable activity, the premises were a draw and would remain so. It considered that exclusion of certain licensable activities would disappoint customers and might lead to disorder.

3 The revocation of the licence

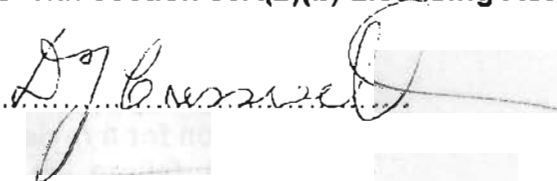
The panel felt that this would be inappropriate in advance of full awareness of the facts which was likely to be forthcoming at a full review hearing.

4. Suspension of the Licence

The Panel felt that this would be a suitable immediate measure to prevent serious crime and serious disorder. In arriving at this conclusion it considered the matters set out at 1 to 3 above and had regard to the possible costs implications of imposing conditions, in circumstances where a full review would be likely to lead to better promotion of the licensing objectives.

The Panel therefore decided to suspend the licence with immediate effect until the licensing panel's decision on the review of the licence that is required to take place in accordance with section 53A(2)(b) Licensing Act 2003.

Signed



Dated 29 November 2010