

# North Somerset Council

**REPORT TO: The Licensing sub-committee**

**DATE OF MEETING: Monday 17 April 2023**

**SUBJECT OF REPORT: Application to review the Premises Licence for Posh Spice, 86 High Street, Nailsea, BS48 1AS**

**TOWN OR PARISH: Nailsea**

**OFFICER/MEMBER PRESENTING: Director of Public Health and Regulatory Services**

**KEY DECISION: No**

## **RECOMMENDATIONS**

That the Committee considers the evidence presented within the application made by Immigration Enforcement to review the Premises Licence and takes any remedial action deemed appropriate in relation to the Premises Licence.

### **1. SUMMARY OF REPORT**

1.1 An application was received from Home Office Immigration Enforcement; a Responsible Authority under the Licensing Act 2003, requesting the review of the Premises Licence at Posh Spice, 86 High Street, Nailsea.

Concerns have been raised that the premises has been visited twice in the past year and on both occasions Immigration Officers encountered immigration offenders working in the premises.

In view of concerns raised, Immigration Enforcement have recommended that the Premises Licence is reviewed.

### **2. POLICY**

2.1 The North Somerset Licensing Authority's Statement of Licensing Policy (2021-2025) applies to the application made. In particular, paragraphs 40-48 of the Licensing Policy relate to the review application.

2.2 Regard must be given to the Statutory Guidance issued under section 182 of the Licensing Act 2003 and the Licensing Act itself.

### **3. DETAILS**

3.1 The review application was received from Immigration Enforcement on 8 March 2023 requesting a review of the Premises Licence at Posh Spice and a further supporting

statement was received on 15 March 2023. A copy of the application made and supporting statement is shown at **Appendix A**.

3.2 The premises is a two-story building with the licenced premises being located solely on the ground floor. The licence has licensable activities including late night refreshment and the sale of alcohol.

3.3 The review application relates to the following licensing objectives:

- a) Crime & Disorder
- b) Public Safety

3.4 The grounds for review are based on the outcome of two Immigration Enforcement visits to the premises. On 24 June 2022 four immigration offenders with no right to work in the UK were encountered and on 18 February 2023 three were found to be working in licensed areas. On the second occasion the three immigration offenders were three of the four people encountered on the first visit.

Immigration Enforcement have concerns that the premises licence holder has not adequately promoted the licensing objectives.

3.5 There are residential and commercial properties in the proximity of the licensed premises.

3.6 A plan of the licensed premises is shown at **Appendix B**.

3.7 A copy of the current Premises Licence is shown at **Appendix C**.

3.8 The Designated Premises Supervisor for the premises is Mr Mohammed Shaju Miah, personal licence number NSC/023400, issued by North Somerset Council.

3.9 The Premises Licence has been in force since 19 August 2005 and held by Mr Golap Miah since this date.

#### **4. CONSULTATION**

4.1 In accordance with the requirements of the Act the Home Office Immigration Enforcement team have served copies of the application to review the Premises Licence upon the responsible authorities, the Licensing Authority and the Premises Licence holder.

4.2 A notice of application for the review of a Premises Licence was first displayed on 9 March 2023 at 86 High Street, Nailsea and at the offices of the Licensing Authority, Weston-super-Mare Town Hall, in a central and conspicuous place for a period of not less than 28 consecutive days.

4.3 An electronic version of the notice was also placed on the North Somerset Council website.

4.4 Representations regarding the review application made were invited from interested parties and responsible authorities.

4.5 As a result of the consultations carried out no further representations were received.

## **5. FINANCIAL IMPLICATIONS**

**Costs** - None

**Funding** - None

## **6. LEGAL POWERS AND IMPLICATIONS**

- 6.1 The Licensing Authority recognises that its licensing function is only one means of securing the delivery of the service. The Licensing Authority will therefore continue to work in partnership with other stakeholders, such as the Police, Crime & Disorder Partnerships and the Vehicle and Vehicle Standards Agency (DVSA) towards the promotion of any licensing objectives.
- 6.2 In undertaking this licensing function, the Licensing Authority has regard to the following legislation:
- Environmental Protection Act 1990
  - Health Act 2006
  - The Smoke-free (Premises and Enforcement) Regulations
  - The Equality Act 2010
  - The European Convention on Human Rights, which is applied by the Human Rights Act 1998
  - The Rehabilitation of Offenders Act 1974 (Exceptions) (Amendment) Order 2002
  - Licensing Act 2003
  - Gambling Act 2005
- 6.3 The Licensing Authority also has regard to any other relevant legislation, strategies, policies and guidance in its decision-making

## **7. CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS**

There are no climatic or environmental implications within this report.

## **8. RISK MANAGEMENT**

- 8.1 Regularly reviewing licensing policies and practices and using a risk-rated approach to both proactive and reactive enforcement reduces the risk to the Authority. Ensuring MoU agreements are in place with external partner agencies will also help strengthen roles and responsibilities surrounding Licensing work.

## **9. EQUALITY IMPLICATIONS**

No equality impact assessment has been required as part of this report.

## **10. CORPORATE IMPLICATIONS**

- 10.1 An appeal against the decision of the Licensing Authority may be made to the Magistrates' Court by the applicant for the review, the holder of the Premises Licence, or any other person who made relevant representation to the application, within 21 days of receipt in writing of any decision made.

## **11. OPTIONS CONSIDERED**

- 11.1 The authority must, having regard to the application, and any relevant representations, take such of the steps mentioned below as it considers appropriate for the promotion of the licensing objectives.
- 11.2 The steps outlined in section 52 (4) of the Licensing Act 2003 which can be considered are:
- (a) to modify the conditions of the licence;
  - (b) to exclude a licensable activity from the scope of the licence;
  - (c) to remove the designated premises supervisor;
  - (d) to suspend the licence for a period not exceeding three months;
  - (e) to revoke the licence;
- 11.3 In deciding whether to use the powers outlined above, the licensing authority is required, as far as possible, to seek to establish the cause or causes of the concerns which the representations identify. Any remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.
- 11.4 Any detrimental financial impact that may result from the licensing authority's decision should be appropriate and proportionate to the promotion of the licensing objectives in the circumstances that gave rise to the application for the review.

## **AUTHOR**

Caz Horton, Licensing Officer

## **APPENDICES**

Appendix A – Copy of Review application  
Appendix B – Plan of the premises  
Appendix C – Copy of current Premises Licence

## **BACKGROUND PAPERS**

Licensing Act 2003 and associated Regulations.  
Guidance to the Licensing Act issued under section 182 of the Licensing Act 2003.  
North Somerset Council Statement of Licensing Policy (2021-2024)



## **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 or typed in **black ink**. Use additional sheets if necessary.

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

**I IO Marcus Johnson**

\_\_\_\_\_ (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 Posh Spice, 86 High St, Nailsea, Bristol BS48 1AS	
Post town Nailsea	Post code (if known) <b>BS48 1AS</b>
Name of premises licence holder or club holding club premises certificate (if known)	
Number of premises licence or club premises certificate (if known)	

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

**(A) Details of individual applicant (fill in as applicable)**

<b>Please tick</b>									
Mr		Mrs		Miss		Ms		Other title	
(for example, Rev)									
Surname									
First names									
I am 18 years old or over					<b>please tick yes</b>				
Current postal address if different from premises address									
Post town		Portishead			Post Code				
Daytime contact telephone number									
E-mail address (optional)									

**(B) Details of other applicant**

<b>Name and address</b>
<b>Telephone number (if any)</b>
<b>E-mail address (optional)</b>

**(C) Details of responsible authority applicant**

Name and address IO Marcus Johnson Immigration Enforcement Conference House, Conference Avenue, Portishead, Bristol, BS20 7LZ
Telephone number (if any) 07876392438
Marcus.Johnson22@homeoffice.gov.uk

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

	<b>Please tick one or more boxes</b>
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 type="checkbox"/>
4) the protection of children from harm	<input type="checkbox"/>

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

Immigration Enforcement have visited posh spice under section 179 of the licensing act 2003 on two occasions in the past year, first on 24/06/2022 and a second time on 18/02/2023. On both occasions Immigration Officers have encountered a large number of immigration offenders working in licensed areas in direct contradiction to the law around licensable activity.

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

On Immigration Enforcement's first visit on 24/06/2022 Immigration officer entered the premises under a Schedule 10 warrant to search for an immigration offender working in breach of his bail conditions. Upon entering we encountered five members of staff working. Checks of these members of staff revealed that four out of the five were immigration offenders and had no right to work in the UK. All of the immigration offenders identified stated that no checks on their immigration status were conducted when they were hired and that they never provided any identification to the management of Posh Spice before commencing work. The manager of the premises was informed that the four employees had no right to work in the UK and that it is a condition of their alcohol license that they cannot employ people with no right to work and must conduct the relevant immigration checks before employing people.

Immigration Enforcement visited Posh Spice for a second time on 18/02/2023 under section 179 of the Licensing Act 2003 accompanied by colleagues from North Somerset Council Licensing team, acting on intelligence surrounding illegal workers working at Posh Spice. Upon entering Posh Spice five workers were encountered and questioned regarding their immigration status. Out of these five workers three of them were immigration offenders. The three offenders encountered were three of the four offenders previously encountered on our visit on 24/06/2022.

It is the responsibility of Posh Spice's management to check the documentation, immigration status and right to work of staff before employing them. This is a condition of the restaurants alcohol license. The fact that Immigration Enforcement have visited the address twice and informed the management of this after making four arrests and have then returned and encountered the same immigration offenders with no right to work working on the premises again shows a blatant disregard for the conditions of their Alcohol License and the legal requirement to conduct immigration checks by the management of Posh Spice.



Have you made an application for review relating to this premises before **Please tick yes**

If yes please state the date of that application Day Month Year

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

**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 | x
- I understand that if I do not comply with the above requirements my application will be rejected | x

**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   
.....

Date 08/03/2023  
.....

Capacity Immigration Officer  
.....

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

<b>Notes for Guidance</b> <ol style="list-style-type: none"><li>1. The ground(s) for review must be based on one of the licensing objectives.</li><li>2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.</li><li>3. The application form must be signed.</li><li>4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.</li></ol>
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5. This is the address which we shall use to correspond with you about this application.



# Immigration Enforcement

## Immigration representation in support of an application for the review of a premises Licence

On behalf of the Secretary of State, Home Office (Immigration Enforcement) makes representations in support of the following application for the review of a premises licence, relating to the prevention of crime and disorder objective, including the prevention of illegal working and immigration crime in licensed premises.

IE wishes to make representations on an application for a review of a premises licence.

<b>Details of Premises:</b>			
<b>Premises Licence Holder:</b>			
Mr Golap Miah			
<b>Name and Address of Premises:</b>			
Posh Spice 86 High Street, Nailsea			
<b>Post Town:</b>	Bristol	<b>Post Code:</b>	BS48 1AS

### Representations are being made for the following reasons:

On 24/06/22 Immigration Officers from Wales & West of England ICE conducted a visit at Posh Spice 86 High Street, Nailsea Bristol, BS48 1AS, due to intel the Home Office had received regarding Illegal workers at the premises with no right to be working in the United Kingdom.

Entry was gained by Immigration Officers from Wales & West of England ICE under Section 179 of the Licensing Act 2003.

Previous visits have been made to the premises in the past where arrests were made. The company is registered as: Bari and Sons Nailsea LTD 86 High Street BS48 1AS on companies' house, and Golap Miah as the director from 1 June 2016. However, other searches have appear to show the premises is still known as Posh Spice.

Immigration officers conducted two visits on separate occasions at, Posh Spice 86 High Street Nailsea Bristol BS48 1AS. The first visit was on 24/06/2022 where illegal workers were encountered by immigration officers. The manager was informed at the time of the visit that, four employees had no right to work in the UK and it was a condition of their licence that they cannot employ people with no right to work.

A most recent visit by immigration officers on 18/02/2023 where five people were encountered of which, three offenders previously encountered on 24/06/2022 were also encountered, shows a complete disregard for their alcohol licence conditions and legal requirements to complete immigration checks.

A civil penalty notice was issued to Mr Golap Miah.

**Signatures**

**Signature of Responsible Authority**

**Home Office Immigration Enforcement**

**Date:**

**15/03/2023**

**Capacity:**

**Responsible  
Authority**

**Details of Responsible Authority**

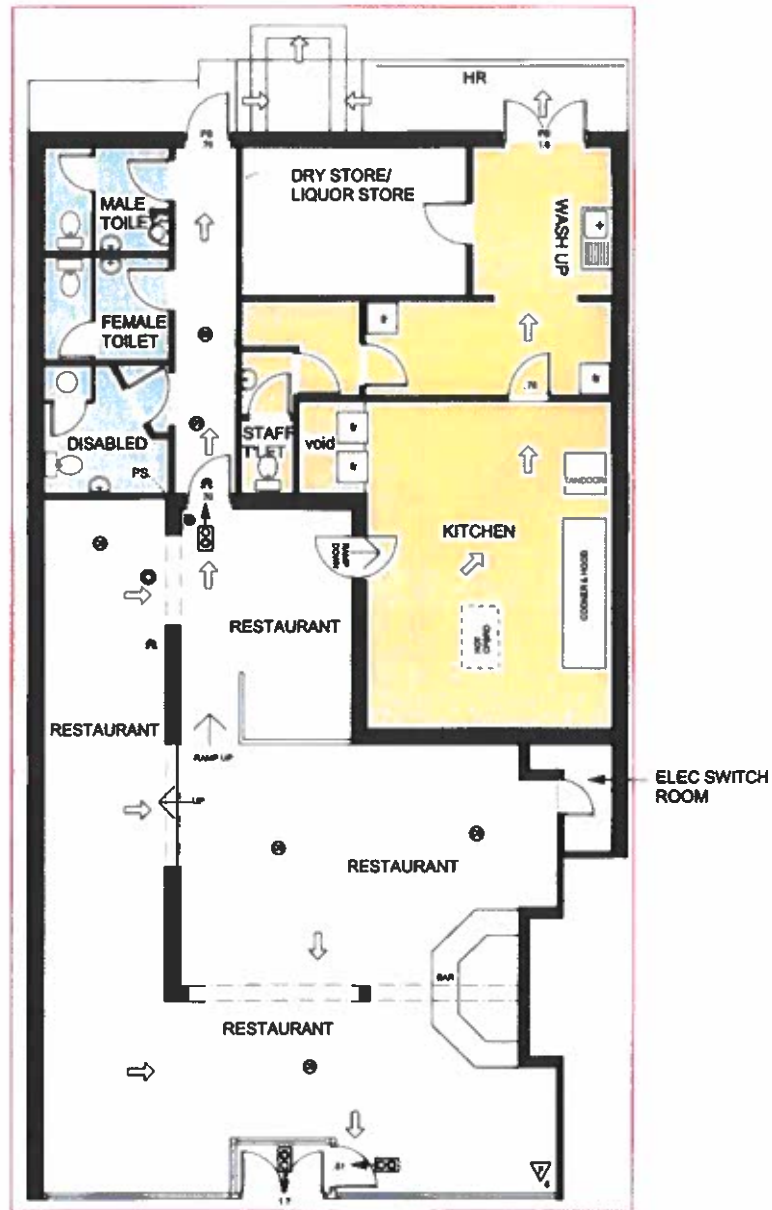
**Name and Address:**

Home Office Immigration Enforcement  
The Alcohol and LNR Licensing Team  
40 Wellesley Road  
Croydon  
CR9 2BY

**Email address  
(optional):**

[alcohol@homeoffice.gov.uk](mailto:alcohol@homeoffice.gov.uk)

'Posh Spice' Restaurant, Nailsea, North Somerset scale 1:100 @ A3, July 2005



**KEY TO SYMBOLS**

⊕	AUTOMATIC FIRE ALARM- HEAT	▲	WATER EXTINGUISHER
⊙	FIRE ALARM CALL POINT	▲	DRY POWDER EXTINGUISHER
⊗	AUTOMATIC FIRE DETECTION SMOKE	▲	CO2 EXTINGUISHER
⚡	AUDIBLE WARNING DEVICES	—	FIRE EXTINGUISHER HOSE REEL
⊕	EMERGENCY LIGHTING POINTS	→	EXIT ROUTE
⊙	EXIT SIGN	▽	FOAM EXTINGUISHER
⊕	DIRECTIONAL ILLUMINATED BOX	⊕	SPRINKLER
•	CALL LIGHT	□	TOILETS
—	EXTENT OF LICENSED PREMISES	□	BAR COUNTER & LIQUOR STORAGE
□	AREAS FOR CONSUMPTION OF INTOXICATING LIQUOR		
□	KITCHEN & STAFF AREAS		

NOTE- SPRINKLER IDENTIFICATION BASED ON ARCHITECTS DRG DATE 0 JUNE 2004

# Premises Licence

## Part A

Premises licence number

NSC/018688	Issue date: 19 August 2005
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Postal address of premises, or if none, ordnance survey map reference or description:

Posh Spice  
86 High Street  
Nailsea

Post town: Bristol

Post code: BS48 1AS

Telephone number: 01275 349153/854560

Where the licence is time limited the dates

None

### Licensable activities authorised by the licence

Late Night Refreshment

Supply of Alcohol

**The times the licence authorises the carrying out of licensable activities:**

Late Night Refreshment		This activity is permitted: Indoors		
		Seasonal Variation		Non standard timings
Day	From	To		
Monday	23:00hrs	00:00hrs	None	
Tuesday	23:00hrs	00:00hrs		
Wednesday	23:00hrs	00:00hrs		
Thursday	23:00hrs	00:00hrs		
Friday	23:00hrs	00:00hrs		
Saturday	23:00hrs	00:00hrs		
Sunday	23:00hrs	23:30hrs		



<b>Supply of Alcohol</b>			<b>Seasonal Variation</b>	<b>Non standard timings</b>
<b>Day</b>	<b>From</b>	<b>To</b>	None	None
Monday	11:00hrs	00:00hrs		
Tuesday	11:00hrs	00:00hrs		
Wednesday	11:00hrs	00:00hrs		
Thursday	11:00hrs	00:00hrs		
Friday	11:00hrs	00:00hrs		
Saturday	11:00hrs	00:00hrs		
Sunday	12:00hrs	23:30hrs		
<b>The supply of alcohol is authorised for consumption:  Only On the premises</b>				

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

**Name:** Mr Golap Miah

**Address:** 86 High Street, Nailsea, Bristol, BS48 1AS

**Telephone Number:** 01275 349153/854560

**E-mail:**

**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:**

**Name:** Mr Mohammed Shaju Miah

**Address:** 20 Banks Close, Clevedon, BS21 5DP

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

**Number:** NSC/023400

**Issuing Authority:** North Somerset Council

# **Annex 1 – Mandatory Conditions**

## **4. RESTAURANT PREMISES and RESTAURANT AND RESIDENTIAL PREMISES**

### **Permitted Hours**

(S. 95 LA 1964)

Alcohol may be sold or supplied:

- (1) On weekdays, other than Christmas Day, Good Friday or New Year's Eve from 10 a.m. to 12 p.m.
- (2) On Sundays, other than Christmas Day or New Year's Eve, and on Good Friday: 12 noon to 11.30 p.m.
- (3) On Christmas Day: 12 noon to 11.30 p.m.
- (4) On New Year's Eve, except on a Sunday, 11 a.m. to midnight;
- (5) On New Year's Eve on a Sunday, 12 noon to 11.30 p.m.
- (6) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31<sup>st</sup> December).

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours to the consumption of the Alcohol on the premises;
- (b) during the first twenty minutes after the above hours, the taking of the Alcohol from the premises unless the Alcohol is supplied or taken in an open vessel;
- (c) during the first thirty minutes after the above hours the consumption of the Alcohol on the premises by persons taking meals there if the Alcohol was supplied for consumption as ancillary to the meals;
- (d) consumption of the Alcohol on the premises or the take of sale or supply of Alcohol to any person residing in the premises.

### **Mandatory Conditions**

1. (1). No supply of alcohol may be made under this premises licence:-

- (i) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (ii) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(2) Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

2. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:
- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
  - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
    - (i) the outcome of a race, competition or other event or process, or
    - (ii) the likelihood of anything occurring or not occurring;
  - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
3. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
4. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
5. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

6. The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

## **Annex 2 – Conditions consistent with the operating Schedule**

### **2.1 General**

None

### **2.2 The Prevention of Crime and Disorder**

None

### **2.3 Public Safety**

None

### **2.4 The Prevention of Public Nuisance**

None

### **2.5 The Protection of children from harm**

None

## **Annex 3 – Conditions attached after a hearing by the licensing authority**

None.

## **Annex 4 – Plans**

Original plans with North Somerset Council, Licensing Team, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ.