

[Insert name and address of relevant licensing authority and its reference number (optional)]

**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 Licensing Officer Louise Busfield on behalf of the Chief Officer of Dorset Police

(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	
Xchange Bar 4 The Triangle	
Post town Bournemouth	Post code (if known) BH2 5RY

Name of premises licence holder or club holding club premises certificate (if known)
Mr Martin Friend Mr Stuart Kimber

Number of premises licence or club premises certificate (if known)
BH083617

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 Drug & Alcohol Harm Reduction Team Bournemouth Police Station 5 Madeira Road Bournemouth Dorset BH1 1QQ
Telephone number (if any) 01202 227824
E-mail address (optional) Licensing@dorset.pnn.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 ✓

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

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

The Prevention of Crime and Disorder. Specifically that the premises is involved in criminal activity that undermines the licensing objective. Dorset Police no longer have confidence in the DPS or Premises Licence Holder.

Public Safety. Dorset Police have concerns regarding the widespread use of drugs at the premises and the risk that this poses to the community.

The Premises Licence Holders are not exercising the levels of control necessary over the premises to ensure that the Licensing Objectives are being upheld.

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

This application for a review of the premises licence for *XCHANGE Wine Bar*, 4 The Triangle, Bournemouth, is being submitted by Dorset Police on the grounds of the licensing objectives of the *Prevention of Crime & Disorder and Public Safety*.

It is and always has been the intention of *Dorset Police Drug & Alcohol Harm Reduction Team* (DAHRT) to engage and support licensees throughout Dorset to promote the four licensing objectives of Preventing Crime & Disorder, Preventing Public Nuisance, Promoting Public Safety and Protecting Children from Harm.

It is our expectation that all licensees will endeavour to meet these objectives and fulfil their duty as licensees with responsibilities to uphold these objectives and meet the conditions of their premises licence.

In this instance, however, Dorset Police have received a series of reports of incidents and intelligence that suggest that the operators at *XCHANGE Wine Bar* are failing to meet these objectives, potentially facilitating criminal activity and failing in their duty to protect their patrons.

In advance of providing details of the incidents and concerns that have led to this Application to Review the Premises Licence, I will explain how Dorset Police structure our engagement towards attempting to achieve improvements to licensed premises in a collaborative approach to achieve efficient improvements and avoid bringing concerns before the Licensing Sub-Committee where possible.

Dorset Police are generally advised of an incident or intelligence linked to a specific premises. In the first instance, isolated incidents or intelligence may not be corroborated or may be unreliable and we would therefore consider a premises at this stage to be of *Interest* to us. This might necessitate a letter to be sent to the DPS or indeed a visit from the local Policing Team or a Police Licensing Officer.

In the event that our concerns are heightened in any way, either through corroborating the initial report/intelligence or we receive further reports from Police Officers or the public, then the premises will then be escalated and be of *Concern* to us. At this stage Licensing Officers and the Licensing Sergeant will discuss how it is most appropriate to manage the risk with the DPS and Premises Licence Holder during an arranged meeting. It is made clear at this time to the DPS/Premises Licence Holder that the premises is of concern.

In the event that the premises continues to underperform or is failing to act on the concerns of Dorset Police then the Licensing Officer will engage the support of the Licensing Authority and other agencies to determine a collaborative approach towards persuading the DPS/Premises Licence Holder to make improvements to their working practices. Whilst it remains the responsibility of the DPS/Premises Licence Holder to make improvements, suggestions are generally made by Dorset Police Licensing Officers and our partners as to the areas of particular concern to encourage improvement during this phase which we refer to as the *Problem Solving Profile* stage.

Having received significant engagement and having been offered advice by Dorset Police and our partners where appropriate, if the premises continue to underperform or continues to raise concerns then we will seek to escalate the premises to a phase we refer to as *Target*. This is overseen by the Drug & Alcohol Harm Reduction Team Inspector and is communicated to our partners and will include a period of collating evidence towards a *Review*. We will also meet with the DPS/Premises Licence Holder to ensure that they fully understand the position and that Dorset Police consider that their premises is not upholding the Licensing Objectives.

It is important to note that during any of the phases detailed above, Dorset Police seek to engage

the support and co-operation of the DPS/Premises Licence Holder to avoid the a Licensing Sub-Committee Hearing. In the event that this is not possible, then the premises will escalate to the final phase, referred to as *Review*, at which point the application is made to seek a Review of the Premises Licence.

There are occasions when the risk or nature of the concern does not allow all phases to be explored. This will generally be in serious cases where the Licensing Act 2003 supports an immediate escalation to a latter phase or where the nature of the incident casts immediate doubt over the ability of the premises to operate safely and lawfully. On these occasions, the evidence produced in support of the Review will generally be relatively current.

Due to the engagement that we undertake, where each or most of the phases of engagement have been explored in advance of the Review being submitted, it may be that some of the evidence being produced is up to 12 months (or in some cases longer) old. This should serve only to confirm that the premises has been underperforming over a sustained period of time despite structured engagement. We will endeavour to highlight the above phases of engagement chronologically throughout the document.

On the 14th March 2019 Dorset Police received a report that the DPS of the *XCHANGE*, Stuart Kimber, had been admitted to Royal Bournemouth General Hospital having taken a recreational substance known as GHB. He had then been reported as '*missing*' from the hospital having discharged himself without informing the staff prior to receiving necessary treatment.

This was of concern for Dorset Police as we were initially concerned for the welfare of Mr Kimber and we were also concerned that Mr Kimber would be unable to continue as the DPS of *XCHANGE* due to his apparent poor health and potential substance dependency. Thankfully Mr Kimber was safely located and spoken to by officers who were able to confirm that Mr Kimber was experiencing an unexpectedly difficult time in his personal life. At this stage the premises was recorded as being of *Interest* to the Dorset Police DAHRT.

On the 28th May 2019 Dorset Police received intelligence from a customer of *XCHANGE* that there was a male who was selling cocaine and "G", a liquid drug, at the premises. The male's name was not known, however, a description was provided by Dorset Police.

At this stage the DAHRT considered this premises to be of *Concern* given that the intelligence regarding drug use at the premises could be corroborated.

In August 2019 a visit was conducted by Licensing Officer Sarah Dutton following receipt of intelligence relating to the drug use at the premises. Licensing Officer Sarah Dutton met Mr Kimber who seemed rather blasé when asked whether drugs were a concern for him at the *XCHANGE*.

Mr Kimber advised that '*Carl*', the SIA officer at the time of the visit, would conduct searches of patrons upon entry and any items found would be placed within the on-site drug safe. The drug safe was emptied during the visit and there were no items present other than a metal chain and an unused syringe.

Mr Kimber advised during the same visit that staff training was not up-to-date, however, he assured Licensing Officer Sarah Dutton that he would put training in place immediately.

Mr Kimber advised Licensing Officer Sarah Dutton that the business was struggling financially and whilst he was trying to save money, he was encouraged and accepted that he should not be undermining the Licensing Objectives when doing so.

Mr Kimber advised that there were some issues with the security contractor that he was using, however, he would be seeking to make changes to the company being used in order to improve their reliability and performance. Mr Kimber advised that he had been employing two SIA staff

on Saturday evenings, however, the Incident Log Book reflected only one SIA member of staff working on Saturday evenings over the previous 4 weekends.

On the 15th November 2019 Dorset Police received a third party report that a male had been 'spiked' at *XCHANGE*. 'Spiked' is a term generally associated with perpetrators deliberately contaminating the drink of another, without their knowledge, in order to increase their intoxication and reduce their ability to defend themselves and make clear decisions to protect themselves.

The drink that the victim had consumed had been handled only by the serving member of staff, identified only as 'Stuart' and most alarmingly, the informant had been discouraged by SIA staff from calling an Ambulance when the victim had become unconscious. Instead, the SIA member of staff had said words to the effect, "*Your friend will be fine, he's just been given 'G', but he'll be awake in a minute*". The same member of staff also discouraged calling any emergency service as this would result in the premises "*being under investigation*".

Further investigations by Dorset Police led to a copy of the Report of attendance being obtained from South Western Ambulance Trust (SWAST) which states that a Paramedic reported on arrival, "*Initially security guard reluctant to let crew in to club saying that they can wake patient up. Then friend came out saying that they can't wake him so security let crew in*". This behaviour from the SIA staff is of concern and the delay in permitting entry may have had far more serious implications for the victim.

Dorset Police requested CCTV from *XCHANGE* as part of the investigation into this matter, however, were advised that there was a fault with the CCTV and there was therefore no CCTV available to produce as requested. This was a breach of their licence conditions.

At this stage, having begun to corroborate concerning activity at *XCHANGE*, the premises was escalated to being of such a concern that we escalated the premises to *Problem Solving Profile*.

On the 1st December 2019 Police received a report of a Rape that had occurred in Bournemouth Town Centre in the early hours of the morning. This report remains a 'live' investigation and we are therefore unable to provide any further details relating to the incident.

As part of this investigation CCTV was requested from *XCHANGE*. Detectives from Bournemouth CID made numerous enquiries to the premises for the CCTV, however, despite numerous calls and visits, experienced significant delays before eventually receiving the CCTV from the premises.

Any delays such as those experienced in this case frustrates any investigation, however, delays to serious investigations do impact significantly on the investigation due to the number of lines of enquiry that are required to be completed within strict timescales.

Later that same day Police were informed of a 'concern for welfare' reported by Mr Kimber relating to a member of staff working at *XCHANGE*. This member of staff, who was accommodated in the flats above *XCHANGE*, under the control of Mr Kimber, was identified by Mr Kimber as being a known drug user. Upon gaining entry to the accommodation, the member of staff was discovered in a state of distress and intoxication through drink or drugs at a time when they had been responsible for opening *XCHANGE* to the public.

On the 5th December 2019 Licensing Officer Louise Busfield and DC Loader of Bournemouth visited *XCHANGE* in response to the report regarding the report of a Rape in Bournemouth Town Centre. On attendance Louise Busfield and DC Loader met with SIA staff Cormac Georgiou and Mr Stuart Kimber.

It was during this visit that CCTV was produced to DC Loader as requested, however, the portable record of the footage later transpired as being unreadable and a further copy was requested. That further copy of the CCTV footage revealed that of the 8 CCTV cameras present at the premises

only 2 were operational. There were problems with the hardware required to download the footage which resulted in issues creating copies of the footage.

An engineer was later arranged and the hardware issues resolved. It had been apparent that the 6 cameras that had not been operational had been disconnected by persons unknown and this was rectified by the engineer.

Also highlighted during the visit by Licensing Officer Louise Busfield and DC Loader was that there continued to be no staff training records as had been highlighted by Licensing Officer Sarah Dutton during a previous visit.

On the 20th December 2019 Licensing Officer Louise Busfield eventually managed to speak with Mr Kimber after numerous attempts to reach him via telephone who advised that he had been difficult to contact due to being a victim of a fraud offence. Mr Kimber reported that he had arranged for a new CCTV system to be installed at *XCHANGE* and that he had increased SIA staff to two operatives on Saturday evenings during the Christmas period. Mr Kimber also advised that he had applied to remove Martin Friend as a Premises Licence Holder whilst offering reassurance that he intended to improve the operation of the premises. He also advised that he had introduced staff training logs to the premises.

On the 22nd December 2019 Dorset Police received anonymous information that males were seen taking cocaine in the toilets at *XCHANGE*. Caller details were obtained, however, the informant wished only to pass the information for intelligence purposes only.

In the early hours of New Year's Day 2020 Police received calls from a confused and distressed male who eventually informed Police that he was at 4A The Triangle, the flat above *XCHANGE*. A short time later Police received a further call from Ambulance control advising that they had received a report of a male who had fallen from height from a flat in the area of The Triangle.

On arrival, Ambulance discovered a male who was experiencing a drug-induced episode and who had fallen from a second-floor window on to the pavement below. This male had sustained a significant amount of physical trauma as a result of the fall.

Whilst there are no further investigations being conducted in relation to this matter and no indication of third party involvement, this incident is of concern to DAHRT.

In addition to the above flats being strictly for the use as accommodation for staff and their guests, *XCHANGE* had allegedly been operational until 0600hrs and the accommodation above *XCHANGE* is reported by Mr Kimber as having been used as a venue for a staff celebration once the premises had been closed to the public, using alcohol from *XCHANGE*.

Whilst assurances have been given that the victim had not been inside *XCHANGE* during the evening of New Year's Eve, a request for CCTV footage of the evening could not be produced by Mr Kimber or his partner, Mr Friend, upon request due to a problem with the CCTV hard drive.

On the 2nd January 2020 officers from the Bournemouth Neighbourhood Policing Team attended 4A The Triangle in response to a '*concern for welfare*' for a male who is known to frequent the address. Upon conducting a brief search of the flat in company with Mr Kimber, officers noted that a room within the flat, identified by Mr Kimber as being the 'Dressing Room' for entertainers for *XCHANGE* and the room where the CCTV system was stored for *XCHANGE*, also showed signs of being a room used for drug use. Officers noted several syringes and other drug paraphernalia consistent with recreational drug use was present and suspected due to Mr Kimber's demeanour that he was heavily involved in drug abuse.

On the 8th January 2020 Dorset Police were advised by Sarah Rogers of BCP Council Licensing Authority that they had received intelligence from a former member of staff and occasional visitor to *XCHANGE* that '*it is commonplace for the bar and security staff to intoxicated (either by*

alcohol or drugs) whilst on duty'. At the time of submission of this application we have been unable to make contact with the original informant, however, we are hopeful that we will be able to provide further details to the Licensing Sub-Committee in due course.

On the 9th January 2020 Sergeant Gareth Gosling and Licensing Officer Louise Busfield reviewed the Town Centre CCTV footage which captured the incident of the male falling from a second floor window above *XCHANGE*. The footage clearly shows the male fall from some height and details the support received from persons who originate from 4A The Triangle but who also move freely in and out of *XCHANGE*.

On Monday 13th January 2020 a visit was conducted at *XCHANGE* by Sergeant Gareth Gosling and Licensing Officer Louise Busfield as due to the severity of the incident and the suggestion from attending officers that the premises was open for business at the time of the incident, the premises had been escalated to *Target* as there was concern that proper control was not being exercised over the premises.

The CCTV was requested from Mr Kimber for the 1st January 2020, however, the system was unable to recall the footage from the hard drive. This footage would have been able to clearly identify whether the premises was open to the public during the incident on the 1st January 2020. Despite the request being made only 12 days later, and the premises licence stating that the footage should be available for 31 days, the CCTV was irretrievable.

Sergeant Gareth Gosling and Licensing Officer Louise Busfield discussed concerns with Mr Kimber, and later, Mr Friend. Both understood the concerns being raised and were requested to determine whether they consider that they can continue to deliver a safe and lawful venue going forward as it was clear from the incidents and intelligence being received that they were failing to achieve both to a satisfactory standard. As Premises Licence Holders, Mr Friend and Mr Kimber were asked to consider the measures that they believe to be appropriate to introduce to the premises in order to address the concerns of Dorset Police and to provide the proposals during a meeting in a future meeting.

Sergeant Gareth Gosling and Licensing Officer Louise Busfield met with Mr Friend and Mr Kimber at Bournemouth Police Station at 2.00pm on Wednesday 15th January 2020.

During that meeting Mr Kimber was asked to provide details of the improvements and changes that are being proposed by them to the current operating schedule to improve the safety and compliance of the premises. The proposals made were as follows –

1. Change of Manager for *XCHANGE*. It is proposed that a member of staff who had been the DJ at the premises but who has a good understanding of the premises would be promoted to be the Manager.
2. Introduction of Staff uniform to help distinguish staff from customers.
3. Prevention of staff from drinking whilst on duty. The premises has always operated as a 'family' which permitted staff to enjoy alcoholic drinks alongside customers. It was accepted by Mr Kimber that this policy needed to be changed to improve the performance of the staff.
4. Introduction of '501' Town Centre Radio to the Premises. This would help to connect the premises to other premises in the area.
5. Regular internal staff meetings.
6. Toilet Attendant to be introduced at peak times.
7. Potentially seeking to open earlier in the evening and then consideration to be given to closing earlier dependant on commercial factors.
8. Introduction of ID scanner to the premises to improve connectivity with other premises. Mr Kimber advised that the ID Scanner would be used for new or unfamiliar customers, however, would not be used for regular customers.
9. Improved CCTV. This has already been introduced, however, concerns remain regarding the ability of the CCTV storage to retain footage for the conditioned period.

10. Mr Friend advised that he is seeking to introduce drink spiking detection 'stirrers' to the premises to provide reassurance to customers that they can be alerted to their drink being contaminated. No changes or reassurances were proposed as to how the premises might prevent drink spiking from occurring.
11. The numbers of SIA trained staff would be increased to two on Saturday evenings to meet the peak demand.

Sergeant Gareth Gosling explained that the above measures being introduced to the premises are considered to be basic measures that should be in place at any late-night vertical drinking venue in this area.

Following the meeting with Mr Friend and Mr Kimber, due to the lack of significant changes being proposed to meet the level of concern, the premises was upgraded to *Review* following discussions with Inspectors Matt Baxter (DAHRT) and Jon Wasey (Bournemouth South Neighbourhood Policing).

The Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 states at 11.24 that in cases such as this the Licensing Authority should '*ensure the promotion of the crime prevention objective*'.

In doing this, Section 182 Guidance states at 11.26 that it is the Licensing Authority's role to solely '*determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective*'.

Consideration should also be given to circumstances where activity has taken place '*despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence*'. We have illustrated above that it is indeed the two Premises Licence Holders that are employed at the premises and who are also in daily control of the business with oversight over all aspects of the business. There is also concern that it is indeed staff at the premises that may be complicit in the criminality at the premises.

The Guidance envisages at section 11.28 that '*where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered*'.

There can be no excuse for licensees failing to act to tackle crime within their premises, particularly where the crime leads to significant harm and vulnerability. When considering the relevance of the review and the potential sanctions, if any, that the Sub-Committee may choose, it should be emphasised that Dorset Police and other partner agencies are working tirelessly to improve standards within our licensed community and consider that the operating standards at *XCHANGE* are falling far short of the level expected.

Dorset Police invite the Sub-Committee to consider all of the options available to them under the Licensing Act 2003 with particular consideration to be given to revocation of the Premises Licence as we do not consider at this time that the other options available to the Sub-Committee would sufficiently meet the concerns that we have regarding this premises.

□

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

yes

Please tick ✓

- 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 **27th November 2019**

Capacity **Police Sergeant**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

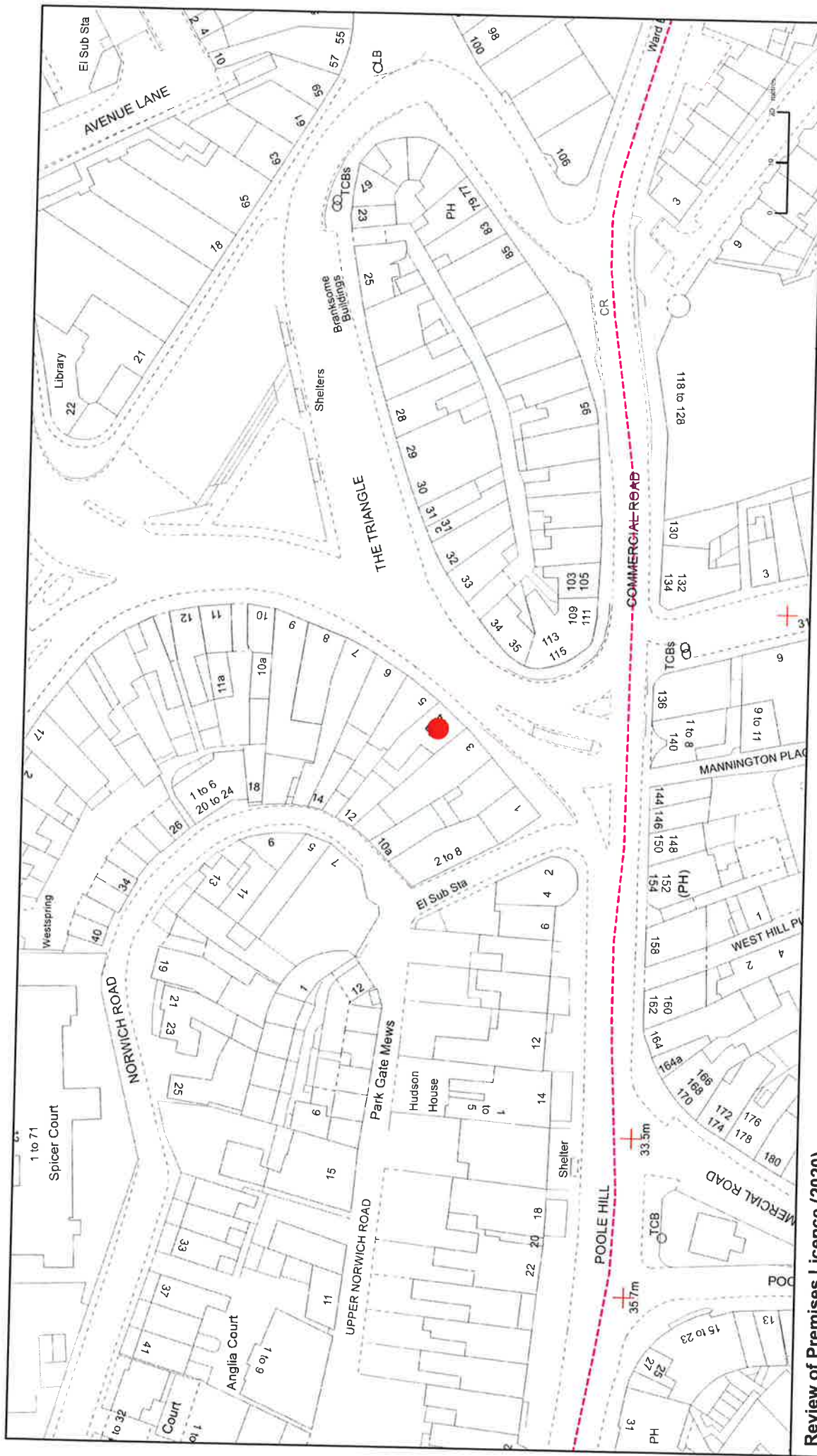
Post Code

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.



Review of Premises Licence (2020)

Xchange Bar, 4 The Triangle, Bournemouth



Scale: 1:1000 @ A4

Date: 04 March 2020

Creator: Sarah Rogers-Senior Licensing Officer

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