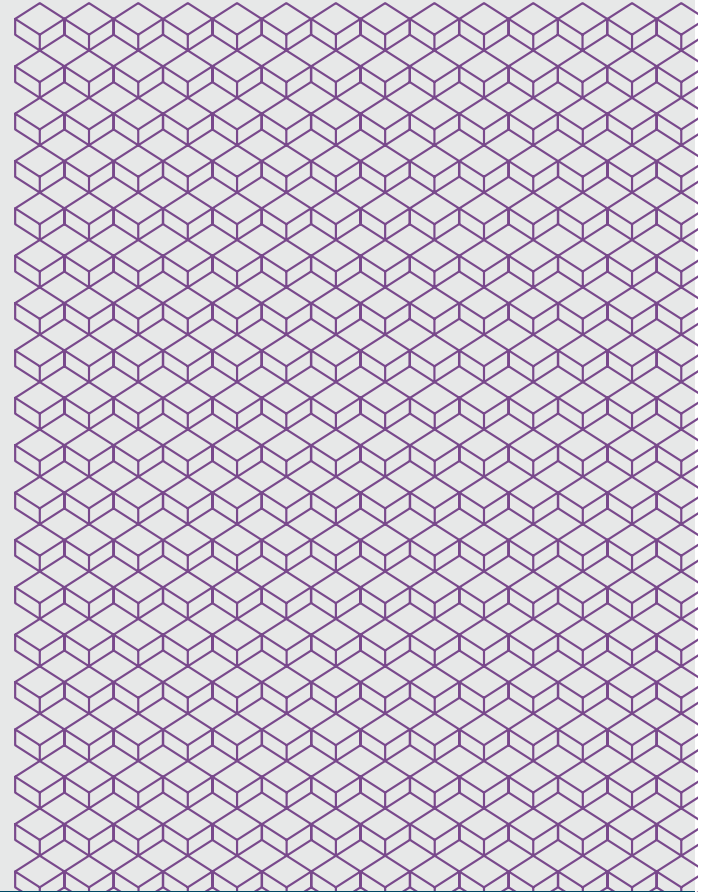




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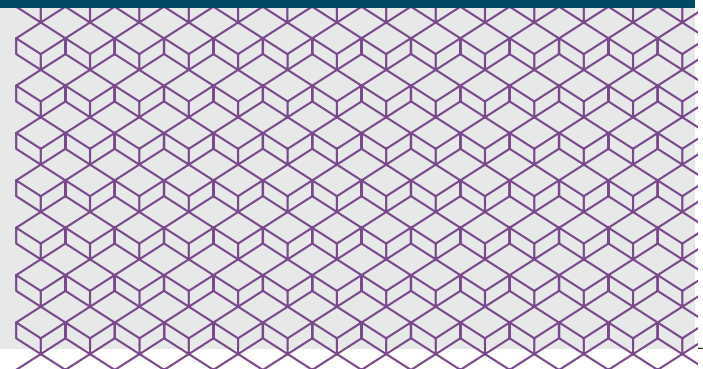


A Community Guide to Alcohol Licensing in Ireland

Produced by

The National Community Action on Alcohol Network

By Sarah Tracey, Barrister at Law



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ISBN: 1 87353 2350

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Design and Layout by: mannadesign.net

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Foreword & Acknowledgements

In September 2016 the Public Interest Law Alliance (PILA) was delighted to welcome Alcohol Forum as a member organisation.

PILA, a project of access-to-justice group FLAC, was established with one overarching aim in mind; the promotion and development of public interest law. Public interest law is a way of working with the law for the benefit of marginalised and disadvantaged people. This can be achieved in a variety of ways for example; litigation, law reform or legal education. PILA is of the view that public interest law is a real, tangible force for change in Irish society –that the law can be used by everyone.

PILA operates a pro bono referral scheme that matches expertise in the legal profession with specific legal needs in the not-for-profit social justice sector. We work with our partner organisations to identify opportunities where the law and legal expertise can add value to the work of social justice organisations.

The National Community Action on Alcohol Network, which is convened and supported by the Alcohol Forum, had growing concerns about the widespread availability of alcohol in their communities. Recognising the link between the licencing of alcohol and its consumption, Alcohol Forum approached PILA for support in developing a legal guide on the licencing process.

PILA and FLAC would like to take this opportunity to sincerely thank Sarah Treacy, Barrister at Law, who generously gave of her time pro bono to develop this excellent resource for social justice organisations. The Guide is an excellent first step in supporting communities to become involved in alcohol licencing in Ireland. We would also like to thank Paula Leonard of Alcohol Forum who has worked tirelessly to ensure that the guide reflects the concerns and issues raised by the members of the Community Action on Alcohol, resulting in an excellent accessible guide for all concerned.

The support of a number of people in reviewing the document has been much appreciated; Alan Kirwan of Kirwan McKeown James solicitors, Ann Byrne, An Garda Siochana, Dublin 12 Community Action on Alcohol, Marianne Beasley, Listowel Community Action on Alcohol and Yvonne Woods from the Free Legal Advice Centres.

Eithne Lynch, Legal Officer

Public Interest Law Alliance

Background and Context

This booklet has been designed as a resource for individuals and communities who have concerns about the availability of alcohol and the harm arising from its misuse in their area.

Alcohol is a mood-altering drug which has been part of human history for centuries. Given its position as a legal psychoactive substance, it has many roles and functions – as a relaxant, as an accompaniment to socializing and celebration, as a source of employment and as a generator of tax revenue. However, the harmful use of alcohol has a serious effect on public health and is considered one of the main risk factors for poor health globally. The harm to individuals, families and communities is significant. Here in Ireland, eighty-eight people die as a result of alcohol misuse every month, with alcohol being a factor in over 50% of suicides, 33% of all road fatalities and as the cause of one in four deaths of young males aged 15 -39.

Alcohol consumption in Ireland almost trebled over the four decades between 1960 (4.9 litres) and 2001 (14.3 litres) and while consumption experienced a downward trend in the years following 2001, rates have been increasing again over the past three years. According to 2016 figures, consumption rates were 11.46 litres of pure alcohol per person aged 15+, an increase of 4.8% from 2015 (10.93 litres). When consideration is given to the 20% of the population aged 15 and over who do not drink alcohol, our alcohol consumption rises to 14.33 litres per person in real terms.

There are several reasons why controls are needed on how, where and when alcohol can be sold. These include:

- Alcohol is not an ordinary product, it is a legal psychoactive substance that causes a range of harms;
- Alcohol plays a part in a myriad of family, health and social problems, with harm reaching beyond the drinker to those around them, including families, neighbours and the wider community
- Evidence shows that more widely available alcohol is, the more people consume.

It is now broadly recognised that the number and type of retailers selling alcohol in a community have an influence on alcohol consumption and alcohol related harm. A growing body of international evidence highlights the way in which changes to the alcohol retail environment contribute to health inequalities in society. Here in Ireland there has been a rapid and significant shift in the way in which alcohol is accessed and consumed over the past two decades. According to the Health Research Board, pub licenses decreased by 19.1% between 1998 and 2013. During the same period, wine and spirit off licenses increased by 377%. This dominance of the off-trade sector continues and by 2015, off licenses accounted for a 62% share of all the alcohol sales.

Community Action on Alcohol

Community Action on Alcohol is one of the ten interventions recommended in the Global Alcohol Strategy to prevent and reduce alcohol harm. Here in Ireland, the Alcohol Forum initiated a Pilot Community Action on Alcohol Project in 2015, funded by the HSE and with a governance group based in the Department of Health. The project aimed to build the capacity of communities, through Local and Regional Drug and Alcohol Task Forces to identify alcohol issues and develop Local Alcohol Action Plans. Building on the success of the pilot project, the National Community Action on Alcohol Programme was developed and the work continues to expand to new areas and it is envisaged that by the end of 2017, community action on alcohol will have been initiated in at least 20 communities across Ireland.

The National Community Action on Alcohol Network was formed in early 2017 to support the continued development of community action on alcohol in Ireland and to facilitate collective working on issues of common

concern. The majority of community action groups which comprise the Network were developed as part of the National Community Action on Alcohol Programme (CAAP). A small number, Ballymun Community Action on Alcohol and the Galway City Alcohol Strategy group, pre-existed the development of the CAAP and are involved in the Network.

Alcohol licensing and the changing alcohol retail environment was a key issue identified by participating groups when the idea of a National Network was first discussed in mid-2016. Representatives from diverse communities across Ireland expressed concern about the widespread availability of alcohol in their communities and they wanted to develop their knowledge of the licensing process to enable them to become more active on this issue. Community Action on Alcohol groups wanted to know about how licenses are granted and how and on what grounds communities can object to new and existing licenses.

The Guide itself is an important first step in supporting communities to become involved in alcohol licensing in Ireland¹. Other areas of interest for future work may include lobbying for changes to the Licensing regime, working with others on projects which focus on the issue of Alcohol Outlet Density (AOD) and alcohol harm and advocating for the establishment of community licensing committees similar to those already operating in Scotland.

Paula Leonard, National Lead, CAAP

Alcohol Forum

¹ The Guide provides an overview of the process of granting and renewal of liquor licences. The Guide does not address claims of discrimination under the Equal Status Acts against licenced premises and the circumstances in which a licence can be temporarily suspended under the Intoxicating Liquor Act 2008. Information can be obtained from www.citizensinformation.ie/en/justice/criminal_law/criminal_offences/alcohol_and_the_law.html

Introduction

Licences for the sale of alcohol exist to regulate who may sell alcohol, from where they may sell it and how they may sell it. Intoxicating liquor may only be sold by a person holding a licence for a specified premises. Furthermore, the licence-holder may only sell the alcohol from the premises in respect of which the licence is held. Finally, the alcohol may only be sold in accordance with the terms of the licence for example as regards opening hours, where the alcohol may be consumed, and to whom the alcohol may be sold.

An **on-licence** grants the holder permission to sell intoxicating liquor for consumption either on or off the premises. Most current on-licences are full licences, that is, any type of alcohol may be sold during all permitted opening hours. Certain other licences exist (although they are not popular) which entitle the holder to sell only certain types of alcohol (e.g. a Beerhouse licence) or only during reduced hours (e.g. with a condition that the premises be closed on a Sunday or that they close one hour earlier than normal closing time or both).

An **occasional licence** permits an existing on-licence-holder to sell alcohol during a special event, from a place other than that to which his existing on-licence is attached. (For example, a bar might have a drinks tent at a festival or Christmas market).

An **off-licence** grants the holder permission to sell intoxicating liquor for consumption off the premises. There are 5 types of off-licence: the spirits retailer's off-licence, beer retailer's off-licence, wine retailer's off-licence, sweets retailer's off-licence (sweets are products like mead) and the cider retailer's off-licence. An off-licence will need to hold licences for each type of product that it wishes to sell but they are routinely applied for simultaneously.

In addition, special licences are required in respect of certain premises, for example hotels, restaurants, theatres, railway refreshment rooms, bog premises, and cultural and sporting venues.

Further licences are required in respect of public dancing and public music and singing (these licences grant permission only to hold a public dance or other entertainment and do not entitle the holder to sell alcohol.)

In addition to on-licences proper, there are a number of 'exemptions' which may be obtained in order to allow an already licenced premises to open during otherwise prohibited hours. Bars that wish to gain such exemptions to stay open late (e.g. late-opening night clubs) will almost certainly require a public dance licence in order to be granted the exemption. Exemptions cannot be objected to. Therefore, if you wish to object to the operation of a nightclub you must object to the public dance licence.

A central concern of licensing law has always been the sometimes-problematic impact that the consumption of alcohol can have on individuals and communities. For this reason the licensing statutes generally include a right for community members to object to the grant of a new licence or a renewal of a licence.

Where, when and how to object

This booklet is intended to be a practical guide to when, where and how to object to a proposed grant or renewal of a licence.

How will I know that an application is being made?

For all applications for a new licence (whether an on-licence or an off-licence) there is a requirement that the applicant advertise their notice of intention to make such an application in a newspaper circulating in the place in which the proposed premises are situated. This advertisement must circulate at least 21 days before the application is to be made. The superintendent of the Garda Síochána also must be put on notice of any application for a new licence.

An applicant for an annual public dancing licence must publish notice of their intention to make such application at least one month before the hearing.

It will be important to keep an eye out for applications for a declaration as to the fitness and convenience of a proposed licensed premises under section 15 of the Intoxicating Liquor Act 1960. This is because once such a declaration is granted there can be no objection, other than an objection on the ground of the character of the applicant, when the full application for a new licence is made.

Licences must be renewed each year. They are renewed on foot of renewal notices issued by Revenue. This is a formal, administrative process and there is generally no appearance in court. Most licences (both on- and off-licences) expire on 30th September each year. The exception to this is where a wholesale dealer's licence is held in conjunction with other off-licences – in that case all the licences will expire on 30th June. You can check what type of licence(s) an off-licence holds at <http://bit.ly/RegLiqLic>. For all licences (other than a wholesale dealer's

licence) you can assume that an application for renewal will be happening around the end of September each year. Likewise, where an off-licence holds a wholesale dealer's licence, you can assume that the renewal application is being made in July each year.

What licences can I object to?

You can object to any application for a new licence or any renewal of a licence in the civil parish that you live in, or otherwise occupy or pay rates in (e.g. as a business person).

In relation to public dancing licences, any person who appears, to the judge, to be interested in the application may be heard in opposition.

The Superintendent of the Garda Síochána of the district in which the premises are situated is also a competent objector. If you have concerns about a licence for a premises but are not yourself a competent objector, it may be useful to contact the relevant superintendent and relay your concerns.

Where and when should I object?

Applications for new on-licences are made to the Circuit Court in the town nearest the premises and in the county in which the premises are situated. If you wish to make an objection in writing (which is not necessary) you should address it to the County Registrar of that circuit. You can find the contact details for Circuit Courts online at <http://bit.ly/CtyCrtOff>.

Applications for new off-licences are made to the District Court in which the premises is situated. If you wish to make

an objection in writing (which is not necessary) you should address it to the District Court Clerk for that district. You can find the contact details for the District Courts online at <http://bit.ly/DistCtList>.

The very first application for a public dancing licence may be made at any sitting of the district court in which the premises are situate. Public dancing licences are not renewed, a new application must be made each year.

Applications for any subsequent public dancing licences (i.e. after the first licence is granted) are made at the annual licensing court (in September each year). Applications for a temporary public dancing licence are not preceded by any publication, however notice must be served on the Superintendent of the Garda Síochána within whose district the premises are situate at least 48 hours before the matter is heard. In any event, the advertisement of the notice of intention to apply for a new licence will identify the court in which the hearing will take place, along with the date and time of the hearing.

Objections to renewals should be made to the relevant District Court for the premises. Objections to renewals, in all cases except where off-licences are held with a wholesale beer dealer's licence, should be made at the annual licensing court. You should contact the relevant District Court office to find out the date. Objections to renewals where an off-licence is held in conjunction with a wholesale beer dealer's licence should be made at the last sitting of the District Court for the transaction of summary business in the month of June. Again, contact the District Court office to get this date.

What objections will be considered by the Court?

The objections that a Court will consider depend on the type of application that is being made.

For applications for new licences, the advertisement of the

notice of intention to apply will state for which statutory provision the licence is being applied. Once you know the provision under which the application being made, you can refer to the quick guide to see which objections are available. The next section below (page 6 onward) on substantive grounds of objection discusses what type of evidence you might use to convince the judge that s/he should not grant the licence based on your objection.

There are also certain formal matters which the Applicant must prove to the court. If any of these formal proofs are not provided the court is not entitled to grant the licence. The court will be alive to these requirements, however the formal proofs for each type of application are listed below so that if you feel that any of the proofs has not been provided, or has not been sufficiently proved, you can raise it as a further ground of objection - see page 11 for details.

As regards objections to renewals, the only objections that will be considered are:

- An objection on the grounds of the character of the licence holder;
- An objection on the grounds of the manner in which the premises are conducted.

The objections which may be made in relation to public dancing licences are considered separately below as they are quite different from the objections which apply to applications for liquor licences.

How can I convince the Court that a licence should not be granted, based on my objection?

First, the Applicant must provide prima facie evidence that the court should not prohibit the licence for any reason. This means that the Applicant will deal with each of the permissible grounds of objection and provide some evidence to satisfy the court that it should not refuse the licence on any of the available grounds. Once s/he has

overcome this hurdle, it is for the objector to counter with evidence that the Court should refuse the licence on one or more of the available grounds of objection.

Each of the grounds of objection are really matters of practical common sense which must be considered in light of all of the relevant facts; for example, the Court should refuse to grant the licence because it would be justified to do so having regard to the character, misconduct or unfitness of the applicant.

Below the common grounds for objection are discussed along with the types of considerations and evidence that might be presented to convince a Court that a licence should be refused.

Can I appeal the judgement of the Court?

Yes. Decisions of the District Court (that is, decisions in relation to applications for new off-licences and all decisions on renewals) can be appealed to the Circuit Court. Decisions of the Circuit Court (that is, decisions in relation to all applications for new on-licences) can be appealed to the High Court. Please see pages 16 and 17 for a step-by-step guide to appealing a decision.

A Note on Costs

Constance Cassidy SC notes in 'Cassidy on the Licensing Acts' that none of the licensing acts make any reference to costs and that 'the general practice in licensing applications and appeals is for the court to decline to make an order for costs... In practice the lower courts will only make an order for costs against an unsuccessful objector/ appellant only where it is deemed appropriate.'

While it is unlikely that you will face any cost consequences if you are unsuccessful in your objection or appeal this is not an absolute rule and the court always retains a discretion to award costs against any party. If an objection was thought to be baseless, frivolous, vexatious or made in bad faith, a judge may be more inclined to make a costs order.

The main grounds of objection

The character, misconduct or unfitness of the applicant

Character and misconduct are generally considered together (as misconduct is evidence of character). Character relates to an Applicant's public reputation. Unfitness refers to the Applicant's fitness to run a licensed premises (and not to, for example, moral fitness).

Facts that have been considered under this ground of objection when deciding whether or not to prohibit the grant of a licence have included:

- Previous convictions for breaches of the licensing code.²
- An attempt by an applicant to make a payment to objectors in return for the withdrawal of their objection was considered to be misconduct which enabled the judge to prohibit the granting of a licence.³
- The Applicant's knowledge of the trade: in *R(Leslie) v Monaghan Justices*⁴ the judge found that the Applicant was unfit to hold a licence, in part because he did not have any knowledge or experience in the licensed trade.
- The Applicant's ability or willingness to supervise the premises: if there is evidence that a premises will not be adequately supervised by the Applicant, this will be evidence that suggests that the Applicant is unfit to hold a license.
- The lease terms for the premises: in *R v Holborn Licensing JJ ex parte Stratford Catering Co Ltd* [1926] All ER Rep 279 it was held that evidence that the Applicant's tenancy could be brought to an end with one month's notice was evidence from which the court could infer that he was likely to be indifferent to the proper running of the premises.
- Breaches of the planning acts.
- The Applicant's health, temper and disposition.⁵

These factors which have previously been considered are indicative only. There are myriad issues in any given case which may be relevant to the question of whether the character, misconduct or unfitness of the applicant is such as to satisfy the judge that the licence should be prohibited.

In *Re Peter Kingston*⁶ it was found that the Applicant's attempts to meet the legitimate concerns of objectors was evidence of good character.

Where an application is made by a nominee of a limited company, it is not clear in law whose character is to be assessed (i.e. the character of the nominee or of the company). If you come upon this situation it would be prudent to present evidence as to the character of both the nominee and the company if available.

Where the application is made by a limited company, it is only the character of the company (that is, its public reputation) and not the character of any of its directors which is relevant.

In sum, an objection under this ground must be supported by evidence which points to a deficit in the Applicant's character, or to some misconduct on the part of the Applicant, or to some unfitness to carry on a licensed premises on the part of the Applicant which, when considered against all the facts of the case, will be sufficient to satisfy a judge that the licence should not be granted.

Unfitness or inconvenience of the new premises

A premises will not be fit and convenient if:

- It has previously been disqualified from ever being licensed;
- A license in respect of the premises has previously been forfeited.

² *R v Birmingham Justices* (1876) 40 J.P. 132.

³ *Application of Neighbourhood Public House Ltd, Unreported, High Court, Costello J, May 11, 1978.*

⁴ (1901) 35 ILTR 35.

⁵ *R v Hyde JJ, ex parte Atherton* [1912] 1 KB 645.

⁶ [2005] IEHC 444.

Note also that if a premises had previously been licensed as a public house but then changed to an off-licensed premises, it may not revert to being a public house. If the Applicant has secured a declaration as to fitness, s/he must show the court that the premises have in fact been constructed in accordance with the plans that were previously approved. If there is a material difference between the plans approved and the completed premises, this will be evidence for the court to conclude that the licence should be prohibited under this ground of objection.

Aside from the specific scenarios discussed above that will automatically disqualify a premises on this ground, the following facts that have also considered under this ground of objection:

- Ability of the Gardaí to respond to and/or control the premises.⁷
- Current issues of control and public order in the area (but note that concerns about potential future public order issues will not be relevant).⁸
- The creation of traffic hazards.⁹
- Any issues created by entrances and exits to the premises.
- The physical layout, internal fixtures and fittings, fire safety, toilet provision, light and air.¹⁰
- The demography of the local area (e.g. a high proportion of children, teenagers and young people).¹¹
- Other facilities in the area which may be affected by the premises (e.g. schools, housing estates, sporting facilities, youth clubs, care homes, residences of senior citizens).¹²
- The existence of a teenage drinking problem in the area.¹³
- Whether the premises is likely to be 'seriously detrimental to the quiet enjoyment of adjoining premises'.¹⁴
- Nuisance.

- Environmental concerns.
- Public safety.
- Whether there is planning permission in place for all intended uses of the premises.
- The effect large numbers of persons leaving the premises at closing time will have on the area.

Again, the factual matters discussed above are indicative only. Also, they are only matters to be considered, and the existence of any similar factual matters in a new objection will be matters to be considered. However the weight to be attached to any such matter, in the context of all other factual matters of the case, will be for the court to determine. The existence of any of the above facts in a new objection does not guarantee that an objection will be upheld.

The authorities stress that in making a decision under this heading, all factors which arise from the locality must be considered.

Unsuitability for the needs of persons residing in the neighbourhood

This is a new ground of objection created by the 2000 Act. There does not appear to be any case law on how it should be construed. However, like each of the other grounds of objection, its determination will be fact specific.

It is likely that, in order to advance an objection on this ground an objector would need to be clear on:

- Who are the persons who reside in the neighbourhood?
- What are their needs?
- In what way is the proposed new premises unsuitable for those needs?

⁷ *R (Leslie) v Monaghan JJ (1901) 35 ILTR.*

⁸ *Application of Colum Lyons (HC, Ó Caoimh J, 30 July 2004, see also In re Cummins (HC) (1964) IR 67.*

⁹ *In re O'Brien (1974) 108 ILTR 141.*

¹⁰ *In re Centennial Properties Ltd (HC, Finlay P, 20 December 1983).*

¹¹ *Ibid.*

¹² *Ibid and see also In re Nutgrove Inns Ltd (Barron J, 19 July 1984).*

¹³ *Ibid.*

¹⁴ *Application of Flynn [1963] IR 301.*

Noted licensing law expert Constance Cassidy SC notes in relation to this new ground of objection: ‘...Where it is proposed to introduce a nightclub into a built-up residential area the court will have particular regard to this ground.’¹⁵

The adequacy of the existing number of licensed premises of the same character in the neighbourhood

In considering this ground the court may have regard to both existing premises and proposed premises in relation to which a declaratory order as to fitness and convenience is in place. The Court may only consider the number of licensed premises of the same character as that which is challenged, i.e. if you are challenging a pub with a 7-day on-licence, the Court can only look at other premises with a 7-day on-licence in the neighbourhood.

In order to mount a challenge under this ground you will need to provide evidence of the actual number of relevant existing premises in the neighbourhood. ‘Neighbourhood’ is not defined in the legislation and the boundaries of the neighbourhood for the purpose of the objection will have to be drawn based on the facts of the particular case.

The key question to be answered under this ground of challenge is whether the existing number of licensed premises of the same character satisfies the existing level of demand for such premises. Factors that will be taken into account in this regard have included:

- Changes in volume of sales;
- Changes in population.

Note that the court must only take into account existing demand. It should not take into account any projected increase in demand due to, for example, a planned new residential development.

The number of previously licensed houses in the neighbourhood

Neighbourhood is not a concept defined in the statute, its definition for the purposes of any particular case will depend on the factual circumstances which prevail.

In *Re Tivoli Cinema Ltd* [1992] 1 IR 412 and in *Colum Lyons* the respective judgments considered, under the rubric of ‘neighbourhood’, a radius of 250 yards from the proposed premises. In *Blueridge* the court considered that a neighbourhood would certainly take in a radius of 1 mile and a population of 16,000 people.

The planning designation of an area will be an important, but not conclusive consideration. Similarly, traditional or official geographic boundaries will not determine the concept for the purposes of the licensing code.

Once an appropriate boundary to the neighbourhood has been drawn, the issue to be considered is whether the existing number of licensed premises in the area is such that a new licence should not be granted. Generally this has been treated as an inquiry into whether the existing provision is sufficient or adequate to meet the existing demand.

The demand to be met must be existing demand – any projected increases in demand (due, for example to development in the area) are not relevant to the court’s task in this regard.¹⁶

Issues that have been taken into account when assessing objections under this head have included:

- Changes in population/demography.
- Drinking habits – that is, periods of maximum and minimum demand. Note that it is not relevant to the

¹⁵ *Cassidy on the Licensing Acts (Third Edn, 2010) para 22-24.*

¹⁶ *Re Thomas J Cummins* [1964] IR 67.

court's task under this head that at times of peak demand there are queues outside premises or at the bar.¹⁷

- Changes in the number of licensed premises in the area.¹⁸
- Any enlargement of existing premises to meet demand.¹⁹
- Any unused space in existing pubs.²⁰
- Changes in sales patterns.²¹
- Lapses or extinguishment of licenses.²²
- Tourist traffic.²³
- The nature of the premises – for example, in *Re Doyle's Application* [1946] IR 125, the court found that a hotel serves a different customer base.²⁴

Note that the economic interests of other licensees in the area is not a relevant consideration under this head.

An Applicant may also object to a finding against him/her under this heading on the grounds of competition law. Competition law is beyond the scope of this guide and should such an issue be raised, you should seek independent legal advice.

Manner in which a premises has been conducted in the previous year

It is open to a competent objector to object to the renewal of a licence on the ground that the premises has not been conducted in an orderly manner in the year immediately prior to the renewal.

Any evidence that the premises has been conducted in a disorderly manner would be relevant to this ground. Woods and Andrews note that '*Convictions for "after hours" trading, permitting drunkenness on the premises, serving to drunken or under age persons, etc., would constitute evidence of a "disorderly house"*'²⁵

¹⁷ *Re Slattery* (Unrep, High Court, Teevan J, 1959).

^{18, 19, 20} *Ibid.*

²¹ *Whitesheet*.

²² *Kingston*.

²³ *Application of O'Brien* (1974) 108 ILTR 14.

²⁴ See also *Wheatfield Inns (Belfast) Ltd v Croft* [1978] 3 NIJB.

²⁵ *Woods and Andrews, Liquor Licensing Laws in Ireland* (4th Edition, May 2011).

Certain other matters which may be raised as objections under specific statutory provisions

In order for a licence to be granted under one of the relevant provisions, the criteria of that particular provision must be met. Therefore, if you feel that the criteria for a provision have not been met, you may raise failure as a ground of objection in addition to the other statutory grounds of objection.

Section 2(1) Licensing (Ireland) Act 1902

An application will be made under this section where there was a licence attached to a premises, but that licence has lapsed at some stage during the last five years.

Criteria

In order to come within this section, the following criteria must be met by the Applicant:

- A licence attached to the premises at some stage during the last five years. The previous licence should not have been a hotel licence.
- The purpose of the application for the new licence must be to operate the premises as a licensed premises – a new licence should not be granted under this section if the applicant only wants to revive the licence in order to extinguish it for profit.²⁶
- Note that a new licence under this section must not be any more extensive than the licence which previously existed. So, for instance, you cannot make an application for a full publican's licence in respect of a premises to which the previous licence was only a six-day licence.

Section 6 Licensing (Ireland) Act 1902

An application will be made under this section where a licensee is extending the area that is to be used as a licensed premises into an attached or adjoining premises.

Criteria

In order to come within this section, the following criteria must be met by the Applicant:

- The granting of the new licence to take in the attached or adjoining premises will render the resulting premises more suitable for the business carried on therein.
- The additional area must be 'attached or adjoined' to the pre-existing premises. In particular, the entirety of the premises to which the new licence may be granted must form 'a single entity' and must be 'regarded as a whole' and be capable of being licensed as 'one unit'.²⁷
- Note that i) the new licence must include the pre-existing premises (i.e. the new licence cannot cover only the part of the structure that is attached/ adjoining) and ii) the new licence must be of the same character of the original licence (i.e. if the pre-existing licence was an off-licence, the new licence must also be an off-licence).

²⁶ *In re Ryan (HC) (1964) Ir Jr Rep 41.*

²⁷ *In re Hannigan Holdings Ltd (2000) 4 IR 369*

Section 14 Intoxicating Liquor Act 1960

An application will be made under this section where a licensed premises has been demolished and a licence is sought in relation to the new premises in substitution.

Criteria

In order to come within this section, the following criteria must be met by the Applicant:

- The original premises have been demolished. The original premises must have been demolished not more than 2 years before giving notice to the County Registrar (in the case of an on-licence) or the District Court Clerk (in the case of an off-licence).
- The new premises are either:
 - On the site of the original premises or
 - In the immediate vicinity of the previous site and it is shown that the location of the new premises is unlikely of itself to have a materially adverse effect on the business carried on in any licensed premises. [An objection on this ground should be made by the licensee of the premises which it is alleged will be affected.]
- The new premises are more suitable for the business carried on therein.
- The new licence granted must be of the same character as the previous licence.

Definition of 'Immediate vicinity' and 'materially adverse effect'

'Immediate vicinity' is an imprecise term the definition of which will depend on the facts of the case. Factors to be considered in defining this term in any given case will include:

- The actual distance between the sites;

- Whether they can be considered to be in the same or different trading areas, or areas of a different character;²⁸
- The features of the area, for example, whether there is any obvious physical differentiation or separation between the two sites (such as a river);²⁹
- A comparison of the character of the original area and the proposed new site.³⁰ In particular, in *Perfect Pies Limited, Redmond Doran & Ors, objectors*³¹ Lynch J noted that 'Premises which are quite near to demolished premises will not be in the immediate vicinity of such demolished premises if they are in social or economic areas which are incompatible with each other'.

The question of whether the grant of a new license at the new site will have a 'materially adverse effect' on premises in the area is a question of fact to be determined in light of all the facts. Matters that have been taken into consideration in previous determinations of this issue have included:

- Whether the new premises will increase trade generally in the area;³²
- The nature of the business to be carried on at the new premises;³³
- The future potential of the premises in the hands of the licensee or in the hands of some future assignee;³⁴
- The potential for extension of the licensed area.³⁵

In *In re Irish Cinemas*, Butler J had the following to say about the evidential requirements under this section:

"It will be seen that here the applicant is required to establish a negative, and a negative with regard to conditions which do not exist at the time of the application and in relation to the business carried on in other premises of which, in the ordinary way, he can have no first hand knowledge. It follows, in my view, that all the applicant can be required to do is establish prima facie by evidence of existing conditions or of what has happened and/or by competent opinion as to what is

²⁸ *Application of Power Supermarkets Ltd (19690) (HC) 103 ILTR 137*

²⁹ *Application of Walls (1969) (HC)(103) ILTR 113*

³⁰ *In re Charlton investment Ltd (HC, unrep, judgment of O'Hanlon J, 4 August 1987)*

³¹ *ILRM 737*

³² *In re Irish Cinemas (1972) (HC) (106) ILTR 17*

³³ *Ibid*; see also *In re Brendan McGrath, Applicant (HC, unrep, judgment of O'Hanlon J, 4 August 1987)*

³⁴ *In re Brendan McGrath, Applicant (HC, unrep, judgment of O'Hanlon J, 4 August 1987).*

³⁵ *Ibid.*

likely to happen, that the granting of the licence to him will not have the materially adverse effect mentioned in the section. If such a prima facie case is established the court can find the requirements satisfied and grant the licence. An objector is then left in the position where he must either run the risk of the court so acting or he must himself adduce affirmative evidence, from experience of its own trade and its figures or otherwise, to show that the new licence in the new location would have this materially adverse effect."

Sections 6 to 9 of the Intoxicating Liquor Act 1953

An application will be made under this section where a licensed premises has been demolished by a local authority and a licence is sought in relation to the new premises in substitution.

The Applicant must be the holder of a certificate that declares that a licensed premises have been or are to be demolished and that a particular site acquired by the authority is approved by them as a site for licensed premises in substitution of the previous premises.

Under these sections there is no requirement that the Applicant satisfy the court that the premises were licensed when they were demolished, the application can be brought before the premises are demolished, the new premises need not be in the immediate vicinity and there is no time limit within which the application must be brought. Any new licence will be of the same character as the licence attached to the original premises, which means that an off-licence cannot be substituted for an on-licence.

Where an applicant who is a holder of the local authority certificate wishes to build a new premises on the proposed site, it is open to him or her to apply, under section 8 of the 1953 Act for a declaration that the proposed premises would be fit and convenient to be so licensed.

Criteria

In order to come within this section, the following criteria must be met by the Applicant:

- The Applicant must hold the certificates declaring that the original premises have been/are to be demolished and that the site acquired by the authority is approved by them as a site for substitute premises.
- It is open for a licensee of another licensed premises in the neighbourhood to object to the proposed licence on the basis that the existence of a licence for the premises would be unreasonably detrimental to the business then carried out in some licensed premises in the neighbourhood. However this ground will not be considered if:
 - The premises are erected on the site of the previously licensed premises; or
 - The local authority certifies that the original site is not available as a site for licensed premises and it appears to the Court that the existence of a licensed premises on the new proposed location is unlikely of itself to have a materially adverse effect on the business carried on in the neighbouring premises.

Section 22 of the Intoxicating Liquor Act 1943

An application will be made under this section where a previously existing licensed premises has been destroyed (by fire or some other unavoidable cause).

Criteria

In order to come within this section, the following criteria must be met by the Applicant:

- The previous premises have been destroyed, and that this destruction occurred no more than 2 years before

the application for the new licence.

- That a licence was attached to the original premises when they were destroyed.
- That the new premises are within the immediate vicinity of the previous premises.

Section 21 of the Intoxicating Liquor Act 1943

An application will be made under this section where a licensee wishes to substitute a new, 'more convenient premises in a rural area' for a pre-existing licence.

Criteria

In order to come within this section, the Applicant must meet the following criteria:

- That the new premises are more convenient.
- An existing licensee in the neighbourhood may object on the basis that the existence of the new premises would be unreasonably detrimental to the business then carried on in the neighbourhood of the new premises.
- That the new premises are within the immediate vicinity of the pre-existing premises.
- That both premises are within the same district court area.
- That neither the existing premises nor the new premises are situated in a county or other borough, an urban district or a town having town commissioners.

Objecting to a Public Dancing Licence

The grounds to objecting to a Public Dancing Licence are set out at s2(2) Public Dance Halls Act, 1935 (as amended). Under that section the District Court Judge may consider, by way of objection any matter which may appear to him to be relevant. He must consider the following eight matters in any such application (that is, the applicant must satisfy the judge *prima facie* that the licence applied for should not be prohibited on any of these grounds):

- a) The character and the financial and other circumstances of the applicant for such licence;
- b) The suitability of the place to which such application relates;
- c) The facilities for public dancing existing in the neighbourhood of such place at the time of such application;
- d) The accommodation for the parking of vehicles in the neighbourhood of such place;
- e) The probable age of the persons who would be likely to make use of such place for public dancing;
- f) Whether the situation of such place is or is not such as to render difficult the supervision by the Garda Síochána of the management of and proceedings in such place
- g) The hours during which the applicant proposes that public dancing should be permitted in such place;
- h) The arrangements, where appropriate, that have been made to ensure that persons entering or making use of such place are not in possession of any controlled drug and that the place is not used for the sale, supply or distribution of any controlled drug.

It will be for the objector to provide some evidence on one of the grounds above (or in relation to some other relevant matter), that the public dancing licence should be prohibited.

Step-by-step guide to objecting to the renewal of a licence

1. Check what date the relevant licence will expire. For off-licences which also hold a wholesale dealer's licence, all licences attaching to the premises will expire on 30th June. All other licences expire on 30th September. You can check if a wholesale dealer's licence is attached to a premises online at <http://bit.ly/RegLiqLic>.
2. **If the licence expires on 30th September**, you will make your objection at the Annual Licensing Court in the relevant District Court. Find out the date of the annual licensing court from the district court office.
3. **If the licence expires on 30th June**, you will make your objection at the last sitting of the District Court for the transaction of summary business in the month of June. Again, find out the date of the relevant sitting from the District Court office.
4. Fill in Form 80.1 of the District Court Rules which is the 'Notice of objection to renewal of intoxicating liquor licence' (see appendix).
5. Serve the notice (Form 80.1) on the licence holder. You can serve the notice by ordinary post, by registered post, or in person. **The notice must be served on the licence holder at least 21 days from the date when your objection will be heard** (i.e. the date of the annual licensing court or the last sitting of the district court for summary business in June).
6. Lodge notice along with the statutory declaration as to service (see appendix) with the District Court Clerk. **The notice must be lodged no later than seven days before the date of the relevant sitting.** You will need to pay the applicable court fee.

Step-by-step guide to appealing a District Court decision

1. Fill in Form 101.1 called 'Notice of Appeal to Circuit Court' (see appendix).
2. Serve the form on every person who will be affected by the appeal (i.e. the licence holder). You must serve this notice within 14 days of the decision. If the licence holder was represented by a solicitor at the District Court you should serve the Notice of Appeal on the solicitor. If (s)he was not represented by a solicitor You can serve the notice either:
 - a.) Personally, or by leaving it at the residence or business of the other party with a staff member or family member who is over 16 years of age.
 - b.) By registered post.
3. Complete the statutory declaration as to service. You will need to have this declaration witnessed by either a District Court judge, a commissioner for oaths, a practising solicitor, a peace commissioner or a notary public.
4. Lodge the notice and the statutory declaration, within 14 days from the date of the decision, with the District Court Clerk for the district in which the application was heard. You can lodge the documents either in person at the District Court office, or by post.

Step-by-step guide to appealing a decision of the Circuit Court to the High Court

At certain times of the year, the High Court sits at places around the country other than Dublin – this is called the High Court on circuit. When you are appealing, you can choose whether you want the appeal to be heard in the High Court in Dublin or to the High Court when it is on circuit.

Appealing a decision of the Circuit Court to the High Court in Dublin

1. Complete the Notice of Appeal for an appeal to the High Court in Dublin in Appendix I of the Circuit Court Rules (see appendix to this booklet).
2. Serve the notice on all parties directly affected by the appeal. The notice should be served within 10 days of the date on which the decision was pronounced in open court. You can serve the notice either:
 - a.) Personally, or by leaving it at the residence or business of the other party with a staff member or family member who is over 16 years of age.
 - b.) By registered post.
3. Within the same 10-day period you must lodge two copies of the notice of appeal with the High Court Central Office in Dublin.

Appealing a decision of the Circuit Court to the High Court on Circuit

1. Complete the Notice of Appeal for an appeal to the High Court on circuit in Appendix I of the Circuit Court Rules (see appendix to this booklet).
2. Serve the notice on all parties directly affected by the appeal. The notice should be served within 10 days of the date on which the decision was pronounced in open court. You can serve the notice either:
 - a.) Personally, or by leaving it at the residence or business of the other party with a staff member or family member who is over 16 years of age.
 - b.) By registered post.
3. Within the same 10-day period, lodge the following documents with County Registrar of the Circuit in which the application was heard:
 - a.) A copy of the notice of appeal endorsed with the date of service;
 - b.) An affidavit of service of the notice of appeal. An affidavit is a statement of facts which you know to be true and which you are swearing to be true. You should have an affidavit drawn up by, and then sign it in front of, a solicitor.
4. Before the hearing of the appeal you must also lodge an attested copy of the Circuit Court Order with the County Registrar.

Appendix 1: Sample documents

The names and details used in the worked examples are fictitious and used for illustrative purposes only. No identification with actual persons or premises is intended or should be inferred.

Form 80.1 – For Objecting to the renewal of a licence

Courts (No. 2) Act, 1986

section 4

NOTICE OF OBJECTION TO RENEWAL OF INTOXICATING LIQUOR LICENCE

District Court Area of

District No.

..... Objector

TAKE NOTICE that the above-named objector, of will object at the sitting of the District Court to be held at on the ... day of 20... at ... a.m./p.m. to the RENEWAL of the * ... licence attached to the premises situate at in court area and district aforesaid on the following grounds:-

Dated this ... day of 20...

Signed

Objector/Solicitor for Objector

To

of

(the holder of the licence attached to the above premises).

** Describe nature of licence*

THE DISTRICT COURTBALBRIGGAN DISTRICT COURT³⁶Record No: 20XX/1234³⁷DISTRICT NO: XX³⁸

BETWEEN

JOAN BLOGGS³⁹

OBJECTOR

COURTS (NO. 2) ACT, 1986

SECTION 4

NOTICE OF OBJECTION TO RENEWAL OF INTOXICATING LIQUOR LICENCE

TAKE NOTICE that the above-named objector, of 1 Church Street, Balbriggan, Co. Dublin⁴⁰ will object at the sitting of the District Court to be held at Balbriggan District Court on the on the 10th day of October 2017 2017 at 10.30 a.m⁴¹ to the RENEWAL of the 7-day on-licence attached to the premises situated at 1 Main Street in the court area and district aforesaid on the following grounds:-

[IN THIS SECTION YOU SHOULD SET OUT EACH OF THE GROUNDS UPON WHICH YOU INTEND TO OBJECT. SET THEM OUT BRIEFLY BUT MENTION EVERYTHING UPON WHICH YOU INTEND TO RELY.]

1. The character of the applicant. The applicant has a conviction for a breach of the licensing code and is not a fit person to carry on a licensed premises.
2. The manner in which the premises has been carried on in the previous year. The premises has been conducted in a disorderly manner in the previous year, in particular, the applicant was convicted of serving alcohol to underage persons on these premises.

DATED THE 15 DAY OF APRIL 2017**SIGNED:** _____

Objector

TO: Joe Bloggs
Of 1 Gray Street, Balbriggan, Co Dublin
(the holder of the licence attached to the above premises)

³⁶ Enter the name of the relevant District Court.

³⁷ Enter the record number – you can get this from the District Court office.

³⁸ Enter the district court number – you can get this from the District Court office.

³⁹ Enter the name of the objector.

⁴⁰ Enter address of the objector here.

⁴¹ You can get the date and time of the sitting from the District Court.

Statutory declaration as to service by ordinary post

41.02

Declaration as to service by ordinary post

Schedule C

O.41,r.14

District Court Area of

District No.

Record number

#Between

..... Claimant

..... Respondent

STATUTORY DECLARATION AS TO SERVICE BY ORDINARY POST

I,..... of..... aged sixteen years and upwards, do solemnly and sincerely declare that:

1. I served this original document by posting a copy of the document at Post Office at.....a.m./p.m. on the day of 20...., in a prepaid envelope addressed to the above *respondent/*claimant at the address stated in the document *(pursuant to an order of the Court dated the day of 20....).

*2. The certificate of posting of the envelope is attached.

3. The envelope has not to this date been returned undelivered to the sender

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed:.....

Declared before me..... [name in capitals] a *(Judge of the District Court) *(commissioner for oaths/practising solicitor) *(peace commissioner) *(notary public) by the said

*[who is personally known to me]

*[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this Declaration by the production to me of

†passport no. issued on the day of..... by the authorities of , which is an authority recognised by the Irish Government,

†national identity card no. issued on the day of..... by the authorities of which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. (..... issued on the day of..... by the authorities of which is an authority recognised by the Irish Government,

†refugee travel document no. issued on the day of..... by the Minister for Justice and Equality,

† travel document (other than refugee travel document) issued on the day of..... by the Minister for Justice and Equality,]

at this day of 20..... Signed:

*Judge of the District Court *Commissioner for Oaths / *Practising Solicitor / *Peace Commissioner /*Notary Public.

This statutory declaration has been filed with the District Court Clerk at..... on theday of20...

NOTE: This declaration must be made not earlier than ten days after the day on which the envelope is posted.

** Delete where inapplicable.*

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

#It is not necessary to repeat the title where a statutory declaration is endorsed on the document. Substitute the appropriate form of title to the civil proceeding concerned, where different.

THE DISTRICT COURTBALBRIGGAN DISTRICT COURT⁴²Record No: 20XX/1234⁴³DISTRICT NO: XX⁴⁴

BETWEEN

JOAN BLOGGS⁴⁵

OBJECTOR

and

JOE BLOGGS

APPLICANT

STATUTORY DECLARATION AS TO SERVICE BY ORDINARY POST

I, JOAN BLOGGS, of 1 Church Street, Balbriggan, Co. Dublin⁴⁶ aged sixteen years and upwards do solemnly and sincerely declare that:

1. I served this original document by posting a copy of the document at Balbriggan Post Office at 10.30am on the 15th day of April 2017 in a prepaid envelope addressed to the above Applicant and the address stated in the document.
2. The certificate of posting of the envelope is attached.
3. The envelope has not to this date been returned undelivered to the sender.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

SIGNED: _____

[YOU WILL NEED TO TAKE THIS TO A JUDGE OF THE DISTRICT COURT / COMMISSIONER FOR OATHS/ PRACTISING SOLICITOR / PEACE COMISSIONER / NOTARY PUBLIC TO FILL IN THE REMAINDER OF THIS FORM]

E.G.

Declared before me John Doe (practising solicitor) by the said Joan Bloggs who is personally known to me at Jones & Co Solicitors, 2 Main Street, Balbriggan, County Dublin this 16th Day of April 2017.

Signed: John Doe (Practising Solicitor)

This statutory declaration has been filed with the District Court Clerk at [to be filled by clerk] on the 17th Day of April 2017.

⁴² Enter the name of the relevant District Court.

⁴³ Enter the record number – you can get this from the District Court office.

⁴⁴ Enter the district court number – you can get this from the District Court office.

⁴⁵ Enter the name of the objector.

⁴⁶ Enter address of the objector here.

Statutory declaration as to service by registered post

41.01

Statutory declaration of service of a document by registered post

*Schedule C**O.41, r. 14*

District Court Area of

District No.

Record number:

#Between

..... Claimant

..... Respondent

STATUTORY DECLARATION AS TO SERVICE BY REGISTERED PREPAID POST

Courts Act 1964, section 7

I, of aged sixteen years and upwards, do solemnly and sincerely declare that:

1. I served this original document by

*posting a true copy thereof at a.m./p.m. on the day of 20.... at..... Post Office in a registered prepaid envelope addressed to the above *respondent *claimant at the address stated in this document.

*by depositing a true copy thereof in an envelope at a.m./p.m. on the day of 20.... with a postal service provider authorised to provide a registered items service and registered as such in the register maintained under section 40 of the Communications Regulation (Postal Services) Act 2011.

2. The address to which the envelope was sent is the last known residence or most usual *place of residence/*place of business of the person to whom the document is directed.

3. The certificate of posting of the envelope is attached.

4. I am (the *prosecutor/complainant/applicant/ in the proceedings) *(authorised by the person bringing/appealing the proceedings to post the said envelope).

5. At the time of posting the envelope the original document was duly issued *and stamped.

6. *The envelope has not to this date been returned undelivered to the sender.

*The envelope has been recorded as delivered on the day of 20....

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed:

Declared before me [name in capitals] a *(Judge of the District Court) *(commissioner for oaths/practising solicitor) *(peace commissioner) *(notary public) by the said

*[who is personally known to me],

*[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this Declaration by the production to me of

†passport no. issued on the day of by the authorities of , which is an authority recognised by the Irish Government,

†national identity card no. issued on the day of by the authorities of which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. (..... issued on the day of by the authorities of which is an authority recognised by the Irish Government,

†refugee travel document no. issued on the day of by the Minister for Justice and Equality,

† travel document (other than refugee travel document) issued on the day of by the Minister for Justice and Equality,]

at this day of 20..... Signed:

*Judge of the District Court *Commissioner for Oaths / *Practising Solicitor /

*Peace Commissioner /*Notary Public.

This statutory declaration has been filed with the District Court Clerk at on the day of 20.....

NOTE: This declaration must be made not earlier than ten days after the day on which the envelope is posted.

* Delete where inapplicable.

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

‡It is not necessary to repeat the title where a statutory declaration is endorsed on the document. Substitute the appropriate form of title to the civil proceeding concerned, where different.

THE DISTRICT COURTBALBRIGGAN DISTRICT COURT⁴⁷Record No: 20XX/1234⁴⁸DISTRICT NO: ⁴⁹

BETWEEN

JOAN BLOGGS⁵⁰

OBJECTOR

and

JOE BLOGGS

APPLICANT

STATUTORY DECLARATION AS TO SERVICE BY REGISTERED PREPAID POST

I, JOAN BLOGGS, of 1 Church Street, Balbriggan, Co. Dublin⁵¹ aged sixteen years and upwards do solemnly and sincerely declare that:

1. I served this original document by posting a copy of the document at Balbriggan Post Office at 10.30am on the 15th day of April 2017 in a registered prepaid envelope addressed to the above Applicant and the address stated in the document.
2. The address to which the envelope was sent is the last known residence or most usual place of residence of the person to whom the document is directed.
3. The certificate of posting of the envelope is attached.
4. I am the objector in the proceedings.
5. At the time of posting the envelope the original document was duly issued.
6. The envelope has been recorded as delivered on the 18th day of April 2017.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

SIGNED: _____

[YOU WILL NEED TO TAKE THIS TO A JUDGE OF THE DISTRICT COURT / COMMISSIONER FOR OATHS/ PRACTISING SOLICITOR / PEACE COMISSIONER / NOTARY PUBLIC TO FILL IN THE REMAINDER OF THIS FORM]

E.G.

Declared before me John Doe (practising solicitor) by the said Joan Bloggs who is personally known to me at Jones & Co Solicitors, 2 Main Street, Balbriggan, County Dublin this 16th Day of April 2017.

Signed: John Doe(Practising Solicitor)

This statutory declaration has been filed with the District Court Clerk at [to be filled by clerk] on the 20th Day of April 2017.

⁴⁷ Enter the name of the relevant District Court.

⁴⁸ Enter the record number – you can get this from the District Court office.

⁴⁹ Enter the district court number – you can get this from the District Court office.

⁵⁰ Enter the name of the objector.

⁵¹ Enter address of the objector here.

Statutory Declaration as to personal service

41.03

Statutory declaration as to personal service

Schedule C

O.41,r.14

District Court Area of

District No.

Record number

‡Between

..... Claimant

..... Respondent

STATUTORY DECLARATION AS TO PERSONAL SERVICE

I,..... of..... aged sixteen years and upwards, do solemnly and sincerely declare that:

1. I duly served this original document on the day of 20...., by handing a copy thereof to:

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed:

Declared before me [name in capitals] a *(Judge of the District Court) *(commissioner for oaths/practising solicitor)

*(peace commissioner) *(notary public) by the said

*[who is personally known to me]

*[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this Declaration by the production to me of

†passport no. issued on the day of..... by the authorities of , which is an authority recognised by the Irish Government,

†national identity card no. issued on the day of..... by the authorities of which is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. (..... issued on the day of..... by the authorities of which is an authority recognised by the Irish Government,

†refugee travel document no. issued on the day of..... by the Minister for Justice and Equality,

† travel document (other than refugee travel document) issued on the day of..... by the Minister for Justice and Equality,]

at..... this.....day of..... 20.....

Signed:.....

*Judge of the District Court *Commissioner for Oaths / *Practising Solicitor / *Peace Commissioner /*Notary Public.

This statutory declaration has been filed with the District Court Clerk at..... on the day of 20....

** Delete where inapplicable.*

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

‡It is not necessary to repeat the title where a statutory declaration is endorsed on the document. Substitute the appropriate form of title to the civil proceeding concerned, where different.

THE DISTRICT COURTBALBRIGGAN DISTRICT COURT⁵²Record No: 20XX/1234⁵³DISTRICT NO: XX⁵⁴

BETWEEN

JOAN BLOGGS⁵⁵

OBJECTOR

and

JOE BLOGGS

APPLICANT

STATUTORY DECLARATION AS TO SERVICE BY PERSONAL SERVICE

I, JOAN BLOGGS, of 1 Church Street, Balbriggan, Co. Dublin⁵⁶ aged sixteen years and upwards do solemnly and sincerely declare that:

1. I duly served this document on the 15th Day of April 2017, by handing a copy thereof to Joe Bloggs.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

SIGNED: _____

[YOU WILL NEED TO TAKE THIS TO A JUDGE OF THE DISTRICT COURT / COMMISSIONER FOR OATHS/ PRACTISING SOLICITOR / PEACE COMISSIONER / NOTARY PUBLIC TO FILL IN THE REMAINDER OF THIS FORM]

E.G.

Declared before me John Doe (practising solicitor) by the said Joan Bloggs who is personally known to me at Jones & Co Solicitors, 2 Main Street, Balbriggan, County Dublin this 16th Day of April 2017.

Signed: John Doe (Practising Solicitor)

This statutory declaration has been filed with the District Court Clerk at [to be filled by clerk] on the 20th Day of April 2017.

⁵² Enter the name of the relevant District Court.

⁵³ Enter the record number – you can get this from the District Court office.

⁵⁴ Enter the district court number – you can get this from the District Court office.

⁵⁵ Enter the name of the objector.

⁵⁶ Enter address of the objector here.

Form 101.1 – Appeal from District Court to Circuit Court

No. 101.1

0.101, r.1

NOTICE OF APPEAL TO THE CIRCUIT COURT

(Civil Proceedings)

District Court Area of District No.

(Title of Proceedings)

TAKE NOTICE that (insert here, as appropriate, the Plaintiff/ the Respondent/the Applicant/(or) name the Third Party or other party appealing)
hereby appeals to the Judge of the Circuit Court at the next sitting of the Circuit Court at
from the *(Decree) *(Dismiss) *(Order(s)) made by the Judge of the District Court in the above-mentioned proceedings on
the day of 20... .

(OR)

from so much of the *(Decree) *(Dismiss) *(Order(s)) made by the Judge of the District Court in the above-mentioned
proceedings on the day of 20... , as declared

(set forth the part complained of)

Dated this day of 20....

Signed.....

Appellant/Solicitor for Appellant

To (the opposing Party/Parties)

of

To the Clerk of the District Court,

at

**Delete words inapplicable*

NOTICE OF APPEAL TO THE CIRCUIT COURT

(CIVIL PROCEEDINGS)

BALBRIGGAN DISTRICT COURT

RECORD NO: 20XX/1234

DISTRICT NO. XX

BETWEEN

JOAN BLOGGS

OBJECTOR

And

JOE BLOGGS

APPLICANT

TAKE NOTICE that the objector hereby appeals to the Judge of the Circuit Court at the next sitting of the Circuit Court at Dublin Circuit Court from the Order made by the Judge of the District Court in the above-mentioned proceedings on the 15th Day of April 2017.

DATED THIS 16TH DAY OF APRIL 2017**SIGNED:** _____

Appellant

TO: Joe Bloggs

Of 1 Gray Street, Balbriggan

To the Clerk of the District Court,

At Balbriggan District Court

Appeal of a Circuit Court Decision to the High Court in Dublin

S.I. No. 20 of 1989

No. 1.

O. 61, r. 2

NOTICE OF APPEAL TO HIGH COURT SITTING IN DUBLIN. **THE HIGH COURT.**

Circuit No. ...

County of

Between A.B.

Plaintiff,

and C.D.

Defendant.

Take notice that the defendant C.D. [or plaintiff A.B. or other person appealing] hereby appeals to the High Court, sitting in Dublin at the first opportunity after the expiration of ten days from the date of service hereof from the whole of the judgment of the Circuit Court given herein the ... day of, 20... [or from so much of the judgment, of the Circuit Court Judge given herein the ... day of, 20..., as [set out the portion complained of].

Dated

(Signed)

To/Chief Registrar,

Central Office, High Court

To/

NOTICE OF APPEAL TO THE HIGH COURT SITTING IN DUBLIN
THE HIGH COURT

DUBLIN CIRCUIT COURT

RECORD NO: 20XX/1234

BETWEEN

CIRCUIT NO. X

JOAN BLOGGS

OBJECTOR

And

JOE BLOGGS

APPLICANT

TAKE NOTICE that the objector Joan Bloggs hereby appeals to the High Court, sitting in Dublin at the first opportunity after the expiration of ten days from the date of service hereof from the whole of the judgment of the Circuit Court given herein the 15th day of April, 2017.

DATED THIS 16TH DAY OF APRIL 2017

SIGNED: _____

Appellant

TO: Chief Registrar,
Central Office, High Court

TO: Joe Bloggs
Of 1 Gray Street, Balbriggan

Appeal of a Circuit Court Decision to the High Court on Circuit

No. 2.

O. 61, r. 2

NOTICE OF APPEAL TO HIGH COURT ON CIRCUIT

[Heading as in Form No. 1]

Take notice that the defendant C.D. [or plaintiff A.B., or other person appealing] hereby appeals to the High Court on Circuit sitting at at the next sitting thereof after the expiration of ten days from the date of service hereof from the whole of the judgment of the Circuit Court given herein, the ... day of, 20 ..., [or from so much of the judgment of the Circuit Court given herein the day of , 20... , as [set out the portion complained of].

Dated

(Signed)

To/County Registrar,

County of

To/

NOTICE OF APPEAL TO THE HIGH COURT SITTING ON CIRCUIT
THE HIGH COURT

DUBLIN CIRCUIT COURT

RECORD NO: 20XX/1234

BETWEEN

CIRCUIT NO. X

JOAN BLOGGS

OBJECTOR

And

JOE BLOGGS

APPLICANT

TAKE NOTICE that the objector Joan Bloggs hereby appeals to the High Court, sitting at Cork at the next sitting thereof after the expiration of ten days from the date of service hereof from the whole of the judgment of the Circuit Court given herein the 15th day of April, 2017.

DATED THIS 16TH DAY OF APRIL 2017

SIGNED: _____

Appellant

TO: Chief Registrar,
Central Office, High Court

TO: Joe Bloggs
Of 1 Gray Street, Balbriggan

Appendix 2: Organisations

The Alcohol Forum

Established in North West in 2007, The Alcohol Forum is a national charity dedicated to preventing and reducing the physical, psychological and social harms caused by alcohol misuse through working directly with individuals, families and communities.

T: **(+353) 074 91 25596**

W: **www.alcoholforum.org**

The National Community Action on Alcohol Network

Formed with the support of the Alcohol Forum, the National Community Action on Alcohol Network was established in 2017 to create a mechanism for members to work collectively on issues and to develop and disseminate theory, research and expertise useful to understanding and improving the design and delivery of community action on alcohol in the Irish context.

T: **(+353) 074 91 25596**

W: **www.alcoholforum.org**

FLAC (the Free Legal Advice Centres)

FLAC (Free Legal Advice Centres) is a human rights organisation which exists to promote equal access to justice for all. FLAC offers basic legal information through their telephone information line at 1890 350250/01-874 5690. Free legal advice is available through a network of volunteer evening advice centres – see www.flac.ie/help. FLAC also campaigns on a range of issues including personal debt, fairness in social welfare law, public interest law and civil legal aid.

Read more at **www.flac.ie**

The Public Interest Law Alliance

PILA (Public Interest Law Alliance), a project of FLAC, is a public interest law network that seeks to engage the legal community and civil society in using the law to advance social change. It operates a pro bono referral scheme for social justice organisations in Ireland.

Read more at **www.pila.ie**.

Appendix 3: Quick Guide

Type of Licence sought	Application made under	Purpose of section	Section to object under	Objections available
On Licence	S18 Intoxicating Liquor Act 2000	General on-licence	Section 18 Intoxicating Liquor Act 2000	Section 18 Objections: i) The character, misconduct or unfitness of the applicant; ii) The unfitness or inconvenience of the premises; iii) The unsuitability of proposed premises for the needs of persons residing in the neighbourhood; iv) The adequacy of the existing number of licensed premises of the same character in the neighbourhood
Off Licence	S18 Intoxicating Liquor Act 2000	General off-licence	Section 7(1) Intoxicating Liquor Act 2008	Section 7(1) Objections: i) The character, misconduct or unfitness of the applicant; ii) The unfitness or inconvenience of the premises; iii) The unsuitability of proposed premises for the needs of persons residing in the neighbourhood; iv) The adequacy of the existing number of licensed premises of the same character in the neighbourhood
On Licence	S2(1) Licensing (Ireland) Act 1902	Premises licensed during the previous 5 years - this type of licence will be applied for where there was an existing licence attached to a premises, but that licence has lapsed at some stage during the last 5 years.	Section 4 Licensing (Ireland) Act 1833	Section 4 Objections: i) The character, misconduct or unfitness of the applicant; ii) Unfitness or inconvenience of the House or Place; iii) Number of previously licensed houses in the neighbourhood
Off Licence	S2(1) Licensing (Ireland) Act 1902	Premises licensed during the previous 5 years - this type of licence will be applied for where there was an existing licence attached to a premises, but that licence has lapsed at some stage during the last 5 years.	Section 7(1) Intoxicating Liquor Act 2008	Section 7(1) Objections: i) The character, misconduct or unfitness of the applicant; ii) The unfitness or inconvenience of the premises; iii) The unsuitability of proposed premises for the needs of persons residing in the neighbourhood; iv) The adequacy of the existing number of licensed premises of the same character in the neighbourhood

Type of Licence sought	Application made under	Purpose of section	Section to object under	Objections available
On Licence	S6 Licensing (Ireland) Act 1902	New licence for premises attached to or adjoining a licensed premises (which have been licensed at any time during the preceding 5 years)	Section 4 Licensing (Ireland) Act 1833	<p>Section 4 Objections:</p> <ul style="list-style-type: none"> i) The character, misconduct or unfitness of the applicant; ii) Unfitness or inconvenience of the House or Place; iii) Number of previously licensed houses in the neighbourhood <p>Under section 6, a judge may only grant a new licence under this section in order to render the premises more suitable for the business carried on therein. It may also be open to an objector to raise an issue under this basis/provision.</p>
Off Licence	S6 Licensing (Ireland) Act 1902	New licence for premises attached to or adjoining a licensed premises (which have been licensed at any time during the preceding 5 years)	Section 7(1) Intoxicating Liquor Act 2008	<p>Section 4 Objections:</p> <ul style="list-style-type: none"> i) The character, misconduct or unfitness of the applicant; ii) Unfitness or inconvenience of the House or Place; iii) Number of previously licensed houses in the neighbourhood <p>Under section 6, a judge may only grant a new licence under this section in order to render the premises more suitable for the business carried on therein. It may also be open to an objector to raise an issue under this basis/provision.</p>
On Licence	S14 Intoxicating Liquor Act 1960	New licence in respect of premises substituted for demolished premises	Section 4 Licensing (Ireland) Act 1833	<p>Available grounds:</p> <ul style="list-style-type: none"> i) the character, misconduct or unfitness of the applicant, ii) the unfitness of the new premises <p>Although not technically a ground for objection, the Court can refuse to grant a licence on the following additional bases:</p> <ul style="list-style-type: none"> iii) that the operation of a licence on the new site will have a materially adverse effect on the business of licensed premises in the area (section 14(c)(2) Intoxicating Liquor Act 1960

Type of Licence sought	Application made under	Purpose of section	Section to object under	Objections available
Off Licence	S14 Intoxicating Liquor Act 1960	New licence in respect of premises substituted for demolished premises	Section 4 Licensing (Ireland) Act 1833	<p>Available grounds:</p> <ul style="list-style-type: none"> i) the character, misconduct or unfitness of the applicant, ii) the unfitness of the new premises <p>Although not technically a ground for objection, the Court can refuse to grant a licence on the following additional bases:</p> <ul style="list-style-type: none"> iii) that the operation of a licence on the new site will have a materially adverse effect on the business of licensed premises in the area (section 14(c)(2) Intoxicating Liquor Act 1960
On Licence	Sections 6 - 9 Intoxicating Liquor Act 1953	New licence in lieu of licensed premises demolished by a local authority	Section 7 Intoxicating Liquor Act 1953	<p>Available grounds:</p> <ul style="list-style-type: none"> i) the character, misconduct or unfitness of the applicant ii) the unfitness or inconvenience of the premises iii) that the existence of a licence for the premises would be unreasonably detrimental to the business then carried on in some licensed premises in the neighbourhood.
Off Licence	Sections 6 - 9 Intoxicating Liquor Act 1953	New licence in lieu of licensed premises demolished by a local authority	Section 7 Intoxicating Liquor Act 1953	<p>Available grounds:</p> <ul style="list-style-type: none"> i) the character, misconduct or unfitness of the applicant ii) the unfitness or inconvenience of the premises iii) that the existence of a licence for the premises would be unreasonably detrimental to the business then carried on in some licensed premises in the neighbourhood.
On Licence	Section 22 Intoxicating Liquor Act 1943	New licence in respect of premises substituted for destroyed premises	Section 4 Licensing (Ireland) Act 1833	<p>Available grounds:</p> <ul style="list-style-type: none"> i) the character, misconduct or unfitness of the applicant, ii) the unfitness of the new premises
Off Licence	Section 22 Intoxicating Liquor Act 1943	New licence in respect of premises substituted for destroyed premises	Section 4 Licensing (Ireland) Act 1833	<p>Available grounds:</p> <ul style="list-style-type: none"> i) the character, misconduct or unfitness of the applicant, ii) the unfitness of the new premises

Type of Licence sought	Application made under	Purpose of section	Section to object under	Objections available
On Licence	Section 21 Intoxicating Liquor Act 1943	New licence for more convenient premises in a rural area	Section 21 Intoxicating Liquor Act 1943	Available Grounds: i) Unfitness or inconvenience of the new premises; ii) that the existence of a licence in respect of the new premises would be unreasonably detrimental to the business then carried on in some licensed premises in the neighbourhood of the new premises
Off Licence	Section 21 Intoxicating Liquor Act 1943	New licence for more convenient premises in a rural area	Section 21 Intoxicating Liquor Act 1943	Available Grounds: i) Unfitness or inconvenience of the new premises; ii) that the existence of a licence in respect of the new premises would be unreasonably detrimental to the business then carried on in some licensed premises in the neighbourhood of the new premises
Declaration as to fitness and convenience of a premises	Section 15 Intoxicating Liquor Act 1960	Declaration as to fitness and convenience of a premises	Section 4 Licensing (Ireland) Act 1833	Section 4 Objections: i) The character, misconduct or unfitness of the applicant; ii) Unfitness or inconvenience of the House or Place; iii) Number of previously licensed houses in the neighbourhood
Renewal of Licence			Section 4(6) Courts (No. 2) Act 1986	Available grounds: i) the character of the licensee; ii) the manner in which the premises were conducted in the year immediately preceding the renewal

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ISBN: 1 87353 2350

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