



Meeting of the

LICENSING SUB COMMITTEE

Tuesday, 17 November 2009 at 6.30 p.m.

A G E N D A

VENUE

The Council Chamber, Town Hall, Mulberry Place, 5 Clove Crescent,
London, E14 2BG

Members:	Ward Represented
Chair: Councillor Peter Golds	Blackwall & Cubitt Town
Councillor Rachael Saunders	Mile End East
Councillor David Snowdon	Millwall

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

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LONDON BOROUGH OF TOWER HAMLETS

LICENSING SUB COMMITTEE

Tuesday, 17 November 2009

6.30 p.m.

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. DECLARATIONS OF INTEREST (Pages 1 - 2)

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Chief Executive.

	PAGE NUMBER	WARD(S) AFFECTED
3. RULES OF PROCEDURE	3 - 14	
To note the rules of procedure which are attached for information.		
4. UNRESTRICTED MINUTES	15 - 22	
To confirm as a correct record of the proceedings the unrestricted minutes of the Licensing Sub-Committee held on 20 th October 2009.		
5. ITEMS FOR CONSIDERATION		
5 .1 Application to Review the Premises Licence for A&Y Wines, 116 Brick Lane, E1 6RL (LSC 037/910)	23 - 112	Spitalfields & Banglatown
5 .2 Application to Review the Premises Licence for City View Food & Wine, 457a Bethnal Green Road London E2 9QH (LSC 038/910)	113 - 190	Bethnal Green North
5 .3 Application to Review the Premises Licence for Commercial Confectionery, 141 Commercial Road, London E1 4PX (LSC 039/910)	191 - 240	Whitechapel

Agenda Item 2

DECLARATIONS OF INTERESTS - NOTE FROM THE CHIEF EXECUTIVE

This note is guidance only. Members should consult the Council's Code of Conduct for further details. Note: Only Members can decide if they have an interest therefore they must make their own decision. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending at a meeting.

Declaration of interests for Members

Where Members have a personal interest in any business of the authority as described in paragraph 4 of the Council's Code of Conduct (contained in part 5 of the Council's Constitution) then s/he must disclose this personal interest as in accordance with paragraph 5 of the Code. Members must disclose the existence and nature of the interest at the start of the meeting and certainly no later than the commencement of the item or where the interest becomes apparent.

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- (a) An interest that you must **register**
- (b) An interest that is not on the register, but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of inhabitants of the ward affected by the decision.

Where a personal interest is declared a Member may stay and take part in the debate and decision on that item.

What constitutes a prejudicial interest? - Please refer to paragraph 6 of the adopted Code of Conduct.

Your personal interest will also be a prejudicial interest in a matter if (a), (b) and either (c) or (d) below apply:-

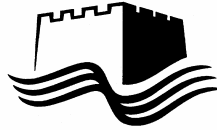
- (a) A member of the public, who knows the relevant facts, would reasonably think that your personal interests are so significant that it is likely to prejudice your judgment of the public interests; AND
- (b) The matter does not fall within one of the exempt categories of decision listed in paragraph 6.2 of the Code; AND EITHER
- (c) The matter affects your financial position or the financial interest of a body with which you are associated; or
- (d) The matter relates to the determination of a licensing or regulatory application

The key points to remember if you have a prejudicial interest in a matter being discussed at a meeting:-

- i. You must declare that you have a prejudicial interest, and the nature of that interest, as soon as that interest becomes apparent to you; and
- ii. You must leave the room for the duration of consideration and decision on the item and not seek to influence the debate or decision unless (iv) below applies; and

- iii. You must not seek to improperly influence a decision in which you have a prejudicial interest.
- iv. If Members of the public are allowed to speak or make representations at the meeting, give evidence or answer questions about the matter, by statutory right or otherwise (e.g. planning or licensing committees), you can declare your prejudicial interest but make representations. However, you must immediately leave the room once you have finished your representations and answered questions (if any). You cannot remain in the meeting or in the public gallery during the debate or decision on the matter.

TOWER HAMLETS



LICENSING COMMITTEE

**RULES OF PROCEDURE
GOVERNING APPLICATIONS FOR
PREMISES LICENCES
AND OTHER PERMISSIONS
UNDER THE LICENSING ACT 2003**

1. Interpretation

- 1.1 These Procedures describe the way in which hearings will be conducted under the Licensing Act 2003, as set out in the Licensing Act 2003 (Hearings) Regulations 2005 (as amended). The Procedures take into account the Licensing Act (Premises Licences and Club Premises Certificates) Regulations 2005. The Procedures also include the time limits within which a hearing must commence (see Appendix A) and will be used by the Licensing Committee and Licensing Sub-Committee when conducting hearings.
- 1.2 The Hearings Regulations provide (Regulation 21) that a Licensing Authority shall, subject to the provisions of those Regulations, determine for itself the procedure to be followed at a hearing.
- 1.3 These Procedures, therefore, set out the way in which Licensing Sub-Committee Meetings will be conducted under the Licensing Act 2003, following the requirements of the Hearings Regulations. Wherever appropriate they have included the procedures followed successfully when determining licence applications under previous legislation.
- 1.4 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations (Regulation 31).

2. Composition of Sub-Committee

- 2.1 The Sub-Committee will consist of no less than three members and no business shall be transacted unless at least three members of the Licensing Committee are present and able to form a properly constituted Licensing Sub-Committee. In such cases the Chair shall have a second or casting vote. The Councillor for the ward in which the applicant's premises are situated, or where either the applicant or the objector resides, shall not normally form part of the Sub-Committee for that item on the agenda.

3. Timescales

- 3.1 Most hearings must take place within 20 working days from the last date for representations to be made with the following exceptions:

Within 10 working days from the last date for the police to object to:

- conversion of an existing licence;
- conversion of an existing club certificate;
- an application for a personal licence by an existing justices licence holder;
- and

Within 10 working days from the date the Licensing Authority receives the notice for a review of the premises licence following a closure order.

Within 7 working days from the last date for the police to object to:

- a temporary event notice.

Within 5 working days from the last date for the police to object to:

- an interim authority notice (Note: the police must give notice of their objection within 48 hours of being given a copy of the notice).

Note: Where a hearing is likely to take longer than one day, the Authority must arrange for the hearing to take place on consecutive days.

3.2 **Timescale for notice of hearings to be given**

In most cases, the Authority shall give notice of a hearing no later than 10 working days before the first day on which the hearing is to be held. The following are exceptions to that rule:

At least five working days notice must be given to the parties of the date of a hearing for determination of:

- conversion of an existing licence
- conversion of an existing club certificate
- application for a personal licence by the holder of a justices licence
- review of a premises licence following a closure order

At least two days notice must be given to the parties to a hearing for determination of:

- police objection to an interim authority notice
- police objection to a temporary event notice

3.3 **Persons who must be notified of a hearing**

The persons who must be notified of a hearing are set out below as a summary:

- any applicant for any licence or certificate or a temporary event notice.
- any person who has made relevant representations about an application for a licence or for review of a licence (note for any representations deemed frivolous, vexatious or repetitious under Section 18(7)(c) or similar sections of the Licensing Act 2003 the objector must be notified of the Authority's decision as soon as possible and in any event before any hearing).
- Any police officer who has given notice of objection to:
 - a person specified as a Designated Premises Supervisor
 - an interim authority

- transfer of a premises licence
 - a temporary event notice
 - a personal licence
- Any holder of a premises licence or club premises certificate where:
- application is made for review

Note: Anyone given notice of a hearing is a party and that is how that expression is used in these Rules of Procedure.

3.4 Information to be provided in a notice of hearing

The information that must be included in a notice of hearing includes:

- The procedure to be followed at the hearing;
- The right of the party to attend and to be assisted or represented by any person whether legally qualified or not;
- The ability to give further information in support of their application where the Authority has sought clarification;
- The right to question any other party if given permission by the Authority;
- The right to address the Authority;
- Notice of any particular points on which the Authority will want clarification at the hearing;
- The consequences if a party does not attend or is not represented at the hearing;
- For certain hearings particular documents must accompany the notice which is sent to parties informing them of the hearing. Reference must be made to Schedule 3 of the Hearings Regulations for this purpose.

3.5 Failure of Parties to Attend the Hearing

If a party has informed the Authority that they will not be attending or be represented at the hearing, it may proceed in their absence.

If a party does not give notice that they will not be attending but fails to attend and is not represented, the Authority may either:

- a) adjourn the hearing if it considers it to be necessary in the public interest or
- b) hold the hearing in the party's absence

If the Authority holds the hearing in the absence of a party, it will consider at the hearing the application, representation or notice given by the party.

If the Authority adjourns the hearing to a specified date it must forthwith the parties of the date, time and place to which the hearing has been adjourned.

Note: Transition hearings cannot be adjourned to a date beyond the date that which causes an application to be deemed as determined by default.

4. Procedure at the Hearing

4.1 The usual order of proceedings will be as set out below. The Sub-Committee will allow the parties an equal maximum time period in which to give further information in support of their application, representation or response. Where the Authority has given notice that it will seek clarification on that point at the hearing or where permission has been given to call any further persons to give supporting evidence, the Sub-Committee may allow the parties to question any other party and to address the Licensing Sub-Committee. The Sub-Committee will seek, in all cases, to avoid repetition of points (whether included in written material or otherwise), irrelevancy, or any abuse of the procedure.

At the beginning of the hearing the procedure to be followed will be explained to the parties. The hearing will, so far as is possible, take the form of a discussion, led by the Sub-Committee. Cross-examination will not be permitted unless the Sub-Committee considers it necessary.

- i) The Chair will begin by explaining how the proceedings will be conducted, and indicate any time limits that may apply to the parties to the application.
- ii) The report will be briefly introduced by an Officer of the Licensing Section summarising the application.
- iii) The Sub-Committee will then consider any requests by a party for any other person to be heard at the hearing in accordance with the Regulations. Permission will not be unreasonably withheld provided proper notice has been given.
- iv) A summary of the nature and extent of the application by the applicant or their representative. This should be brief, avoid repetition of material already available to the Committee in the Officer's report or otherwise, and include any reasons why an exception should be made to the Council's Licensing Policy, where appropriate. The submission may be followed by the evidence of any person who has been given permission by the Committee to give supporting evidence on behalf of the applicant.
- v) A summary of the reasons for making representations about the application by any interested party. This should be brief and avoid any repetition of information already made available to the Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the objectors.
- vi) A summary of the reasons for making representations by or on behalf of any Responsible Authority. This should be brief and avoid any repetition of information already made available to the Licensing Sub-Committee

either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the Responsible Authority.

- vii) Members of the Sub-Committee may ask any questions of any party or other person appearing at the hearing.

4.2 The following requirements of the Hearing Regulations will also be followed by the Licensing Sub-Committee:

- a) The Sub-Committee will be guided by legal principles in determining whether evidence is relevant and fairly admissible. In particular, hearsay evidence may be admitted before the Sub-Committee but consideration will always be given to the degree of weight, if any, to be attached to such evidence in all the relevant circumstances.
- b) The Sub-Committee may impose a time limit on the oral representations to be made by any party. In considering whether to do so, and in considering the length of any such time limit, the Sub-Committee will take into account the importance of ensuring that all parties receive a fair hearing, and the importance of ensuring that all applications are determined expeditiously and without undue delay.
- c) In considering the time limits referred to in (b) above, regard must be had to the requirement to allow each party an equal amount of time.

4.3 When considering any representations or notice made by a party, the Authority may take into account documentary or other information produced by a party in support of their application, representation or notice, either:

- a) before the hearing, or
- b) with the consent of all other parties, by the Sub-Committee at the hearing

The Authority will disregard any information given by a party, or any other person appearing at the hearing, which is not relevant to:

- a) their application, representation or notice; and
- b) the promotion of the licensing objectives or the crime prevention objective where notice has been given by the police.

4.4 All hearings shall take place in public save that:

- a) The Licensing Sub-Committee may exclude the public from all or part of a hearing where it considers that, on balance, it is in the public interest to do so.
- b) The parties and any person representing them may be excluded in the same way as another member of the public

c) The Licensing Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- refuse to permit the person to return; or
- allow them to return only on such conditions as the authority may specify.

4.5 Any person so excluded may, before the end of the hearing, submit to the Authority in writing, any information which, they would have been entitled to give orally had they not been required to leave. Where there are a number of items on the agenda, the adjournment of that item for a short period, whilst another item is heard, may allow this process to be carried out effectively.

5. Determination of Application – Time Limits

5.1 The Licensing Sub-Committee must make its determination at the conclusion of the hearing where the application is for:

- a) Conversion or variation of an existing licence during transition
- b) Conversion or variation of an existing club certificate during transition
- c) A review of a premises licence following a closure order
- d) A personal licence by the holder of a justices licence
- e) A counter notice following police objection to a temporary event notice

5.2 In any other case the Authority must make its determination within the period of five working days, beginning with the day, or the last day, on which the hearing was held.

5.3 Where a hearing has been dispensed with because all of the parties have agreed that a hearing is unnecessary (and the Authority has agreed, giving notice to the parties in writing), then the Authority must make its determination within 10 working days beginning with the day the authority gives such notices to the parties. The Team Leader (Licensing) shall be authorised to make the determination on behalf of the Authority.

6. Record of Proceedings

6.1 The Authority must arrange for a record to be taken of the hearing in a permanent and intelligible form and for that record to be kept for six years from the date of determination. Where an appeal is brought against a determination by the Authority, the record must be kept for six years from the date of disposal of the appeal.

7. Irregularities

7.1 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations

7.2 Clerical mistakes in any document recording a determination of the Authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the Authority.

8. Notices

8.1 In accordance with the Regulations, any notices must be given in writing. Such a notice may be sent electronically, providing:

- a) it can be accessed by the recipient in a legible form;
- b) it is capable of being reproduced as a document for future reference;
- c) the recipient has agreed in advance to receive it in such form;
- d) a copy is sent in documentary form forthwith to the recipient.

9. Appeals

9.1 Either those who have made an application or those who have made representations on an application may appeal to the Magistrates Court.

Note: An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the Licensing Authority of their decision.

APPENDIX A

Application Type	Period of Time within which Hearing to be Held (after reps have closed)	Notice Period of Hearing	Notice Sent To	Attendee Reply Form Back In
Section 18 (3)(a) (determination of application for premises licence)	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 35(3)(a) (determination of application to vary premises licence).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days	10 working days	Applicant (premises holder); Chief Officer of Police who has given notice; The proposed premises supervisor	5 working days
Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice; The present holder of the premises licence	5 working days
Section 52(2) (determination of application for review of premises licence).	20 working days	10 working days	The holder of the premises licence of where application applies; People who have made representations; Applicant	5 working days
Section 120(7)(a) (determination of application for grant of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days	10 working days	The holder of the licence; Chief Officer of Police who has given Notice	5 working days
Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days

grant of personal licence).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 31(3)(a) (determination of application for a provisional statement).	5 working days	2 working days	The person who has given Notice; Chief Officer of Police who has given Notice	1 working day
Section 48(3)(a) (cancellation of interim authority notice following police objection).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 72(3)(a) (determination of application for club premises certificate).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 85(3) (determination of application to vary club premises certificate).	20 working days	10 working days	Club that holds club premises certificate; People who have made representations; Applicant	5 working days
Section 88(2) (determination of application for review of club premises certificate).	7 working days	2 working days	The premises user; Chief Officer who has given Notice	1 working day
Section 105(2)(a) (counter notice following police objection to temporary event notice)	10 working days	5 working days	The holder of the premises licence; People who have made representations	2 working days
Section 167(5)(a) (review of premises licence following closure order).	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days
Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days	5 working days	Applicant (club) Chief Officer who has given Notice	2 working days
Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).				

APPENDIX B

Regulation 8

Action Following receipt of notice of hearing	
1.	A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating:
(a)	whether he intends to attend or be represented at the hearing;
(b)	whether he considers a hearing to be unnecessary.
2.	In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
3.	In the case of a hearing under:
(a)	section 48(3)(a) (cancellation of interim authority notice following police objection), or
(b)	section 105(2)(a) (counter notice following police objection to temporary event notice),
	the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
4.	In the case of a hearing under:
(a)	section 167(5)(a) (review of premises licence following closure order),
(b)	paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
(c)	paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
(d)	paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),
	the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.
5.	In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

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LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 20 OCTOBER 2009

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Peter Golds (Chair)

Councillor Rupert Eckhardt
Councillor Rachael Saunders

Other Councillors Present:

Councillor Tim Archer
Councillor Stephanie Eaton

Officers Present:

Simmi Yesmin – (Senior Committee Officer)
Zakir Hussain – (Solicitor)
Jackie Randall-Peltier – (Acting Licensing Services Manager)

Applicants In Attendance:

Right Honourable David Mellor - River Lounge
Alun Thomas - River Lounge (Counsel – Davenport Lyons)
Lewis Opton - River Lounge (Davenport Lyons)
David Leonard - River Lounge
Mike Hossam - River Lounge
Grant Stevens - River Lounge
Paul Garwood - River Lounge
Colin Mitchell - River Lounge
Penny Coham - River Lounge
Hushiar Ali - Mangos Restaurant
Muktar Miah - Mangos Restaurant

Objectors In Attendance:

David Dadds - River Lounge (Counsel)
Randheer Kalsi - River Lounge
Mrs Kalsi - River Lounge
Mr Anderson - River Lounge
Mr Aylott - River Lounge
Ms Byford - River Lounge

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

Councillor Peter Golds declared a personal interest in agenda item 5.1, Application to review the premises licence for River Lounge, 50 St Katherine's Way, London E1w 1LA on the basis that he had previously been on a site visit in the area.

3. RULES OF PROCEDURE

The rules of procedure were noted.

4. UNRESTRICTED MINUTES

The unrestricted minutes of the Licensing Sub Committee meeting held on 24th September 2009 and 30th September 2009 were agreed as a correct record.

5. ITEMS FOR CONSIDERATION**5.1 Application for a Review of the Premises Licence for The River Lounge, 50 St Katharine's Dock, London, E1W 1LA (LSC 029/910)**

At the request of the Chair, Jackie Randall, Acting Licensing Services Manager introduced the report which detailed the application to review the premise licence for River Lounge, 50 St Katherine's Way, London E1w 1LA. It was noted that the application had been received by the Right Honourable David Mellor (local resident) and supporting the review were local residents.

Mr Alun Thomas, Counsel for the Applicant (Mr David Mellor) stated that supporting documents submitted by the Premises License Holder were late submissions and therefore should not be accepted. However the Sub Committee agreed that these should be considered as these had been submitted 24 hours before the meeting and made available to all parties.

Mr David Dadds Counsel for the Premises License Holder (Mr Kalsi) stated that he would be speaking on behalf of Mr Kalsi and did not wish to discuss any issues relating to covenants, or lease arrangements as these were not relevant to the licensing application.

Mr Thomas briefly explained the history of the area, and the events which had lead to the review. He also explained the noise nuisance which had occurred and still continues to occur and the impact it had on his client and local residents. Mr Thomas further explained that despite many attempts made by Mr Mellor to discuss matters, Mr Kalsi had not reciprocated. Mr Thomas

stated that the River Lounge was currently not trading as a Members Club which is what its premises license required and he then highlighted the conditions on the licence which were listed on page 96 of the agenda.

Mr Thomas explained that the 48 hour membership rule was currently not being adhered to; he drew members' attention to photographs which highlighted the location of the premises and its close proximity to the homes of local residents. This was disputed by Mr Dadds, who did not feel that the photographs were a true reflection of where certain properties were located. It was noted that there had been 21 private parties in one month, It was further noted that the premises was not constructed to be used as a pub/bar as there was no lobby or sound insulation and this premises was now believed to be used as a pub by using Temporary Events Notices (TEN).

Mr David Mellor gave a brief background of the local area, how long he'd live there and the public nuisance he and his partner had experienced. He explained that when these premises were run by previous owners there had been no complaints as it only catered for a quiet drink and a meal. Mr Mellor stated that when Mr Kalsi took over the premises he attracted a younger clientele who had no concept of residential areas. He then described the events which occurred on 1st May 2009 where the noise levels were audible all over his house. He then referred Members to page 138 of the agenda which listed a chronology of events in relation to noise nuisance and when complaints had been made. Mr Mellor explained that on 30th July 2009 there had been 37 people on the balcony causing noise nuisance which was later confirmed by CCTV cameras which Area Security had access to and due to this a letter was served by the landlord to Mr Kalsi. He concluded by saying that throughout summer there had been excessive use of the balcony causing public nuisance. It was also noted that a large bouncer is on the door and this causes apprehension to local residents.

The Chair then invited the residents, who wished to address the Committee, Johan Denekamp, Colin Mitchell, Paul Garwood and Grant Stevens were among the residents who spoke in support of the application, each addressing similar concerns in relation to public nuisance, noise nuisance, and anti-social behaviour, and referred to their representations within the agenda.

The Chair then invited Mr Dadds, Council for Mr Kalsi to address the Sub-Committee. Mr Dadds began by explaining that the premise was run professionally and it was believed that both the Police and Environmental Health also shared the same view, and referred members to emails from the Police and Environmental Health. He explained that it was a food lead business which meets the licensing objectives and continues to meet it

He stated that having assessed the current conditions and the concerns of local residents they were happy to accept a condition for a noise limiter on the license. He also explained that there had been an incident where his client had felt threatened by Mr Mellor and had to call the police and it was felt that after this incident, all these complaints had started and that a clear assertion had been made by Mr Mellor that the premises would be closed down.

Mr Dadds went on to explain that in actual fact the premises had a premises license and not a club license and therefore the Premises Licence Holder, Mr Kalsi could operate and regularise his rules of membership how he wishes to and therefore management could change the rules as they see fit. He explained that the Metropolitan Police and the Local Authority were notified of the change to the membership rules. He also explained that the 21 parties that had been referred to, all had TEN applications and the police had not objected to this.

He then referred to the maps they had submitted which identified where the objectors and supporters were located in relation to the premises, he also highlighted other businesses/premises in the local area which were of close proximity to the River Lounge. Mr Dadds stated that he was unaware that Area Security had CCTV cameras in operation.

Mr Dadds made reference to letters of support from local residents and customers. He then addressed the complaints logged by Mr Mellor. He stated that they were happy to apply further conditions to the license by way of introducing the following; CCTV cameras, SIA door supervisors, noise limiter installed, limit the use of the balcony to certain times, limit the number of people allowed to access it at any one time, and also limit the music equipment to only the sound system with no additional equipment.

Mr Dadds then called upon Mr Anderson, Acoustic Engineer who gave the results of the assessment of the premises. Mr Aylott was also called as an observer who presented his observations of the premises and gave evidence that the membership rules had been adhered to and that noise was not audible.

Members then asked questions of both parties.

In response to a question Mr Dadds explained the current licence of the premises by which the licence holder can regulate its own membership criteria. Members also asked questions about the events on 30th July 2009, the security currently in place, why monitoring from Environmental Health was refused, and the number of TENs applications applied for.

The chair asked for concluding remarks from both parties.

Mr Dadds briefly summarised his submission and stated the proposals put forward on behalf of the Premises Licence Holder.

Mr Thomas summarised the applicant's submission and particularly highlighted the noise nuisance caused to local residents and insisted that the premises should be operated with the previous membership rule. He concluded that the premises was not suitable to operate and urged members to revoke the license.

Under standing orders, the Chair extended the meeting by a further 30 minutes in accordance with Part 4 section 9.1 of the Council's Constitution.

The Chair advised that the Sub Committee would at 9.16pm adjourn to consider the evidence presented. The Members reconvened at 9.37pm, the Chair reported that the Sub Committee had unanimously;

Resolved

That the premises licence for River Lounge, 50 St Katherine's Way, London E1w 1LA be **REVOKED**.

5.2 Application for a New Premises Licence for Mango Restaurant, 90 Brick Lane, London E1 6RL (LSC 030/910)

At the request of the Chair, Jackie Randal, introduced the report which detailed the application for a new premise licence for Mango Restaurant, 90 Brick Lane, London E1 6RL. It was noted that an objection had been received from a local resident.

Mr Muktar Miah, addressed the committee on behalf of the applicant, he briefly explained the local trade in Brick Lane and stated that alcohol would only be served with food, and therefore intoxication would be limited. It was also noted that conditions had been agreed both with Environmental Health and Police.

In response to questions it was noted that new ownership had commenced from 27th July 2009 and the restaurant was currently operating with TEN applications. It was also confirmed that no touts had been employed.

The Chair advised that the Sub Committee would at 9.50pm adjourn to consider the evidence presented. The Members reconvened at 9.58pm, the Chair reported that the Sub Committee had unanimously;

Resolved

That the application for a new premises licence for Mango Restaurant, 90 Brick Lane, London E1 6RL be **GRANTED** and include the following conditions;

Sale of Alcohol

Monday to Saturday	from 12:00 hrs to 23:30 hrs
Sunday	from 12:00 hrs to 23:00 hrs

The Provision of Late Night Refreshment:

Monday to Saturday	until 00:00 hrs (last orders 23:30 hrs)
Sunday	until 23:30 hrs (last orders 23:00 hrs)

Hours premises are open to the public:

Monday to Saturday	from 12:00 hrs to 00:00 hrs
Sunday	from 12:00 hrs to 23:30 hrs

Additional Conditions

- Waste materials shall not be placed in the external bins during the night hours (23:00 hrs to 07:00 hrs the following day)
- There shall be no collection or deliveries between 23:00 hrs and 07:00 hrs.
- CCTV to be installed or maintained (one to be positioned outside the main door). The CCTV system shall incorporate a recording facility and any recording shall be retained and stored in a suitable and secure manner for a minimum of 31 days. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for licensable activity. There must also be someone on the premises who can download the images and present them immediately on request by a police officer or other regulatory authority.
- The Premises Licence Holder or the DPS or any person who controls the premises or any persons concerned in the management of the premises shall not cause or permit a person to solicit for custom for the premises in any street or public place.
- To adhere to licensing objectives, the DPS, the Premises Licence Holder or a manager who has written permission, which can be supplied to the police or other responsible authority, to be on the premise.
- To prohibit touting for the premises.

5.3 Application for a New Premises Licence for the Golden Heart, 110 Commercial Street, London E1 6LZ (LSC 031/910)

This item was deferred at the request of the Applicant and would be considered at the Extraordinary Licensing Sub Committee due to be held on 28th October 2009.

6. EXCLUSION OF PRESS AND PUBLIC

The Sub Committee **RESOLVED**

That, under the provision of Section 100A of the Local Government Act, 1972 as amended by the Local Government (Access to Information) Act 1985, the Press and Public be excluded from the meeting on the grounds that it contains information defined as exempt in Part 1 of Schedule 12A to the Local Government Act 1972.

7. RESTRICTED MINUTES

The restricted minutes of the Licensing Sub Committee meeting held on 3rd September 2009, 24th September 2009 and 30th September 2009 were agreed as a correct record.

The meeting ended at 10.00 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee

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Agenda Item 5.1

Committee: Licensing Sub-Committee	Date: 17th November 2009	Classification: UNRESTRICTED	Report No. LSC 037/910	Agenda Item No.
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Report of: Colin Perrins Head of Trading Standards and Environmental Health (Commercial) Originating Officer: Nick Kemp	Title: Licensing Act 2003 Application to Review the Premises Licence for A&Y Wines, 116 Brick Lane, E1 6RL. Ward affected: Spitalfields & Banglatown
---	---

1.0 Summary

Name and
Address of premises: **A&Y Wines. 116 Brick Lane, E1 6RL.**

Licence under review: **Licensing Act 2003**
 • **Sale by retail of alcohol**

Representations: **Environmental Protection**
 • **Trading Standards**

2.0 Recommendations

2.1 That the Licensing Committee considers the application for review and then adjudicates accordingly.

LOCAL GOVERNMENT 2000 (Section 97) LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
<ul style="list-style-type: none">Guidance Issued under Section 182 of the Licensing Act 2003Tower Hamlets Licensing PolicyFile		020 7364 5498

3.0 Review Application

This is an application for a review of the premises licence for **A&Y Wines, 116 Brick Lane, E1 6RL**.

3.1 The review was triggered by Tower Hamlets **Trading Standards**.

3.2 A copy of the review application is attached in **Appendix 1**.

4.0 The Premises

4.1 The premises licence was issued on 27th September 2005. On 9th October 2008 the licence was varied, extending the terminal hours of sale from 23:00 hours to 02:00 hours. A copy of the current licence is contained in **Appendix 2**.

4.2 Maps showing the premises, surrounding area and vicinity of local residents are included in **Appendix 3**.

5.0 Representations

5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by John McCrohan, Tower Hamlets Trading Standards Service Manager. Details of his representations are contained in **Appendix 1**.

A representation supporting the review has also been received from a local resident. Details are contained within **Appendix 4**.

5.2 Only representations that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

5.3 In the view of the responsible authority the review is necessary to achieve the licensing objectives of:

- The protection of children from harm.

6.0 Review Explained

- 6.1 The Licensing Act 2003 was described by the Government at the time as “light touch” but as Baroness Blackstone stated in the Lords at the time of the second reading (26 Nov 2002) “Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review could result in the modification of the licence, its suspension, or ultimately, revocation.”
- 6.2 The Department for Sport, Culture and Media Affairs has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 5**. It is available on the Government’s website, www.culture.gov.uk. It was substantially revised on the 28 June 2007.
- 6.3 Members are asked to note the comments in relation Crime and Disorder. In particular the DCMS advice is that “The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”
- 6.4 The Department for Sport, Culture and Media Affairs has issued guidance under Section 182 of the Licensing Act 2003 in relation to the protection of children from harm which is contained in **Appendix 6**.
- 6.5 The London Borough of Tower Hamlets policy in relation to the protection of children is contained within **Appendix 7**.
- 6.6 In relation to its advice on representations in its revision of the 28 June 2007 the DCMS has also advised that “there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.” It has also issued revised guidance about Crime and Disorder, and the pool of conditions which might be considered in relation to any identified problems. **See Appendix 8**.
- 6.7 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 9**. The Pool Conditions in the Policy are the same as the Government’s.

- 6.8 The DCMS has also issued guidance about the prevention of public nuisance and the pool of conditions which might be considered in relation to any identified problems is contained in **Appendix 10**.
- 6.9 The Council's Licensing Policy in relation to Public Nuisance is contained in **Appendix 11**.
- 6.10 The DCMS has advised that in relation to reviews "It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between those groups in a way that would undermine the benefits of co-operation. It would be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review."
- 6.11 The licensing authority itself cannot trigger a review; that can only be done by a responsible authority or an interested party (local resident or business).
- 6.12 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The Licensing Services Manager Ms Jacqueline Randall is the delegated officer who deals with this on behalf of the licensing authority. All the matters stated in 3.3 and 3.4 were considered before any representations were accepted for inclusion in this report.
- 6.13 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should not reject the grounds for a review because:
- The ground is not relevant to one or more of the licensing objectives
 - In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

7.0 **Review Advertisement**

- 7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure

it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.

- 7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.
- 7.3 The procedure for a review can be summarised as follows:
- A review is triggered by a responsible authority or interested party
 - Consultation is conducted for 28 full days
 - Other responsible authorities or interested parties may join in the review
 - Members conduct a hearing
 - Members make a determination
 - All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

8.0 Licensing Officer Comments

8.1 The Governments advice in relation to reviews is contained in **Appendix 5**. Members must consider all the evidence and then decide from the following alternatives:

- Take no further action as they do not consider it proportionate to do so
- Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
- Suspend the licence for a period
- Revoke the licence completely

8.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.

8.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.

8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”

8.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

9.0 **Legal Comments**

9.1 The Council's legal officer will give advice at the hearing.

10.0 **Finance Comments**

10.1 There are no financial implications in this report.

11.0 Appendices

- Appendix 1** Copy of the review application
- Appendix 2** Current Premises Licence
- Appendix 3** Maps of the premises and surrounding area
- Appendix 4** Representation from Megan Williams – Local Resident.
- Appendix 5** Guidance issued under Section 182 by the Department for Sport, Culture and Media Affairs for reviews.
- Appendix 6** Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning the **protection of children from harm.**
- Appendix 7** The London Borough of Tower Hamlets policy in relation to the **protection of children.**
- Appendix 8** Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning **Crime and Disorder**
- Appendix 9** London Borough of Tower Hamlets Licensing Policy in relation to the prevention of **Crime and Disorder**
- Appendix 10** Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning **Public Nuisance**
- Appendix 11** London Borough of Tower Hamlets Policy in relation to the prevention of **Public Nuisance**
- Appendix 12** Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning **Planning and Building Control**

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Appendix 1

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 John Patrick McCrohan

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description A & Y Wines, 116 Brick Lane, E1 6RL	
Post town	Post code (if known) E.1 6RL

Name of premises licence holder or club holding club premises certificate (if known) Awal ABDUL and Rahman MUHBUB

Number of premises licence or club premises certificate (if known) 12839
--

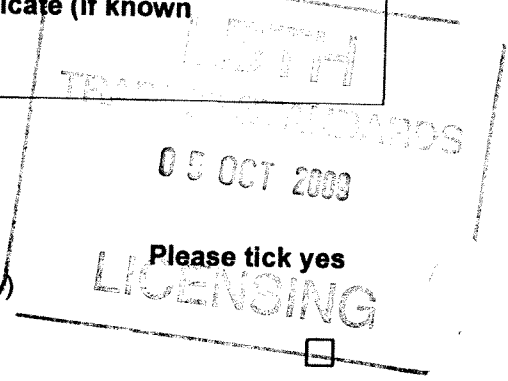
Part 2 - Applicant details

I am

1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises

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



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

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

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

n/a

First names

n/a

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

n/a

Post town

n/a

Post Code

n/a

Daytime contact telephone number

n/a

E-mail address (optional)

n/a

(B) DETAILS OF OTHER APPLICANT

Name and address

n/a

Telephone number (if any)

n/a

E-mail address (optional)

n/a

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address John McCrohan Trading Standards Service London Borough of Tower Hamlets Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY
Telephone number (if any) 020 7364 66674
E-mail address (optional) john.mccrohan@towerhamlets.gov.uk

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

Please tick one or more boxes

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

Please state the ground(s) for review (please read guidance note 1)
Please refer to attached document.

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

Please refer to attached document.

Please tick yes

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

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--	--	--

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

n/a

Please tick yes

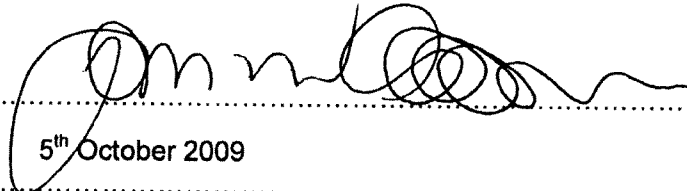
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 3)

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

Signature



Date

5th October 2009

Capacity **TRADING STANDARDS SERVICE MANAGER**

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

A & Y Wines, 116 Brick Lane, London , E 1 6RL

Licence No 12839 - (Licence Holders — Awal ABDUL and Rahman MUHBUB)

Application for the Review of the Premises Licence under Section 51 of the
Licensing Act 2003

London Borough of Tower Hamlets – Trading Standards Service

REPRESENTATIONS

-
1. The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to the protection of children from harm ,
licensing objective 4
 2. Staff on three separate occasions sold alcohol to young people under the age of eighteen undertaking test purchasing exercises with the Trading Standards Service.
 3. Test purchases undertaken by trading standards departments are carried out in accordance with a nationally agreed Code of Best Practice between the trading standards profession (Trading Standards Institute), Local Authorities Coordinators of Regulatory Services (LACORS) and the Department for Culture, Media and Sport.

4. On 30th May 2006, Mr. Kobir AHMED a member of staff sold alcohol to a child aged sixteen. This resulted in a fixed penalty notice of £80 being given by the Police to the seller.
5. On 5th June 2008, Mr. Mohammed NAZRUL a member of staff sold alcohol to a child aged sixteen. This resulted in a fixed penalty notice of £80 being given by the Police to the seller.
6. On 21ST August 2009, Mr. Kobir AHMED a member of staff sold alcohol to a child aged sixteen. This resulted in a fixed penalty notice of £80 being given by the Police to the seller.
7. In all three cases where sales were made they could have been avoided by the seller asking the test purchaser her/his age and for him/her to produce a recommended proof of age card.
8. The 'patchy' performance of the staff employed by the business has prompted this review.
9. To prevent future sales of this nature the applicant seeks to have the four conditions below added to the premises licence — **it does not seek to have the licence revoked.**

10. Conditions:

(1) The Designated Premises Supervisor must be present on the premises when all alcohol sales are made

(2) The introduction of the 'Challenge 21' policy and 'No ID No Sale' policy which is supported with signage at all entrances and in the serving areas.

NOTE: It is generally accepted that the age of young people between the age of 16 to 18 is very difficult to assess, particularly girls — by challenging young people who look younger than 21 it gives an acceptable margin for error. This has been accepted throughout the Country by the Police and has been adopted by off-licenses and major supermarket chains.

(3) Only documents which include a photograph of the purchaser are acceptable to prove that persons age, e.g. passport, new style driving licence and only PASS - approved age cards, e.g. portman card, citizens card.

NOTE: This ensures that only acceptable forms of identification are accepted.

(4) A 'Refusals book is maintained, which documents the date and time a refusal of sale is made, the reason for the refusal and the member of staff refusing the sale. The licensee or the Designated Premises Supervisor should monitor the Log on a regular basis and sign it to show it has been done.

NOTE: The Log demonstrates that members of staff are challenging under age purchasers, the level of problem, the time of day that staff must be more diligent. In short it is a good management tool. It was recommended to Off-licence holders by British Institute of Innkeeping (BIIAB) handbook.

John Patrick McCrohan

Trading Standards Service Manager

London Borough of Tower Hamlets

Appendix 2



(A & Y Wines)
 116 Brick Lane
 London
 E1 6RL

Licensable Activities authorised by the licence
 Retail sale of alcohol

See the attached licence for the licence conditions

Signed by

John Cruse *J. Cruse*
 Team Leader Licensing

Date: 27/09/05
 (Amended on the 9/10/08)



Part A - Format of premises licence

Premises licence number

12839

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description (A & Y Wines) 116 Brick Lane London	
Post town London	Post code E1 6RL
Telephone number 0207 247 9403	

Where the licence is time limited the dates
N/A

Licensable activities authorised by the licence
The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

The sale by retail of alcohol

Monday to Sunday

08 00 hrs to 02 30 hrs the following day

The opening hours of the premises

Monday to Sunday

08 00 hrs to 02 30 hrs the following day

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

Off sales only

Part 2

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

Awal Abdul & Rahman Mahbub
4 Woodall Close
London
E14 0HB
0207 515 2935

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

N/A

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

Abdul Awal
4 Woodall Close
London
E14 0HB

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

Personal licence number: **9965**
Issuing authority: **London Borough of Tower Hamlets**

Annex 1 - Mandatory conditions

No supply of alcohol may be made under the premises licence-

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

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

Annex 2 - Conditions consistent with the operating Schedule

None

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

CCTV to be maintained in good working order with tapes to be kept for 31 days and to be made available upon request at 24 hours notice to the Metropolitan Police and officers from the London Borough of Tower Hamlets who are authorised under the Licensing Act 2003.

Annex 4 - Plans

The plans are those submitted to the licensing authority on the following date:

22 JUL 2005



Part B - Premises licence summary

Premises licence number

12839

Premises details

Postal address of premises, or if none, ordnance survey map reference or description
(A & Y Wines)
116 Brick Lane
London

Post town
London

Post code
E1 6RL

Telephone number
0207 247 9403

Where the licence is
time limited the
dates

N/A

Licensable activities
authorised by the
licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

The sale by retail of alcohol
Monday to Sunday
08 00 hrs to 02 30 hrs the following day

The opening hours of the premises

Monday to Sunday
08 00 hrs to 02 30 hrs the following day

Name, (registered) address of holder of premises licence

**Awal Abdul &
Rahman Mahbub** **4 Woodall Close
London
E14 0HB
0207 515 2935**

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

Off sales only

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

N/A

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

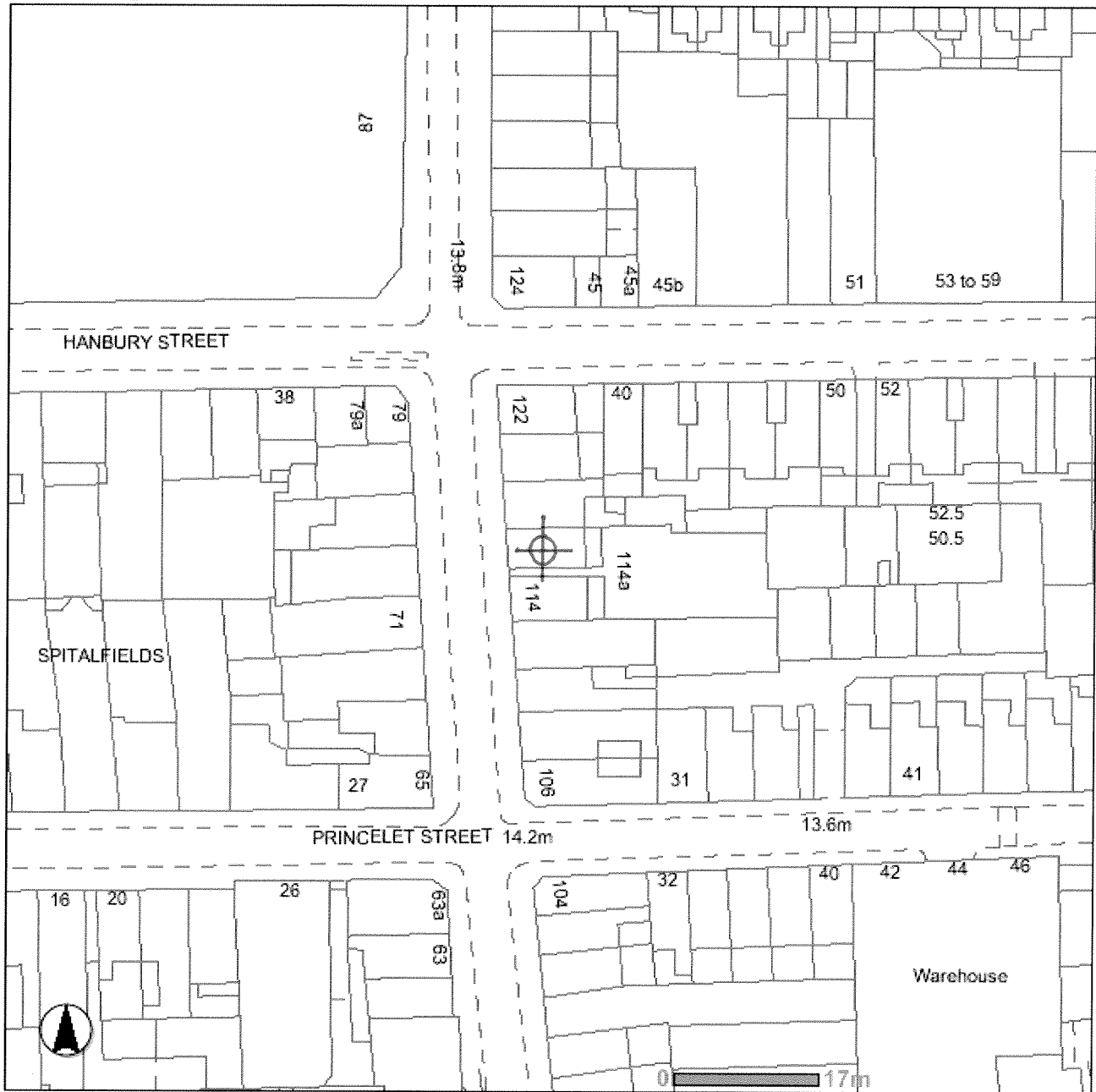
Abdul Awal

State whether access to the premises by children is restricted or prohibited

No

Appendix 3

Map



Scale 1:750

Map of:

Site Plan

Notes:

116 Brick Lane - large

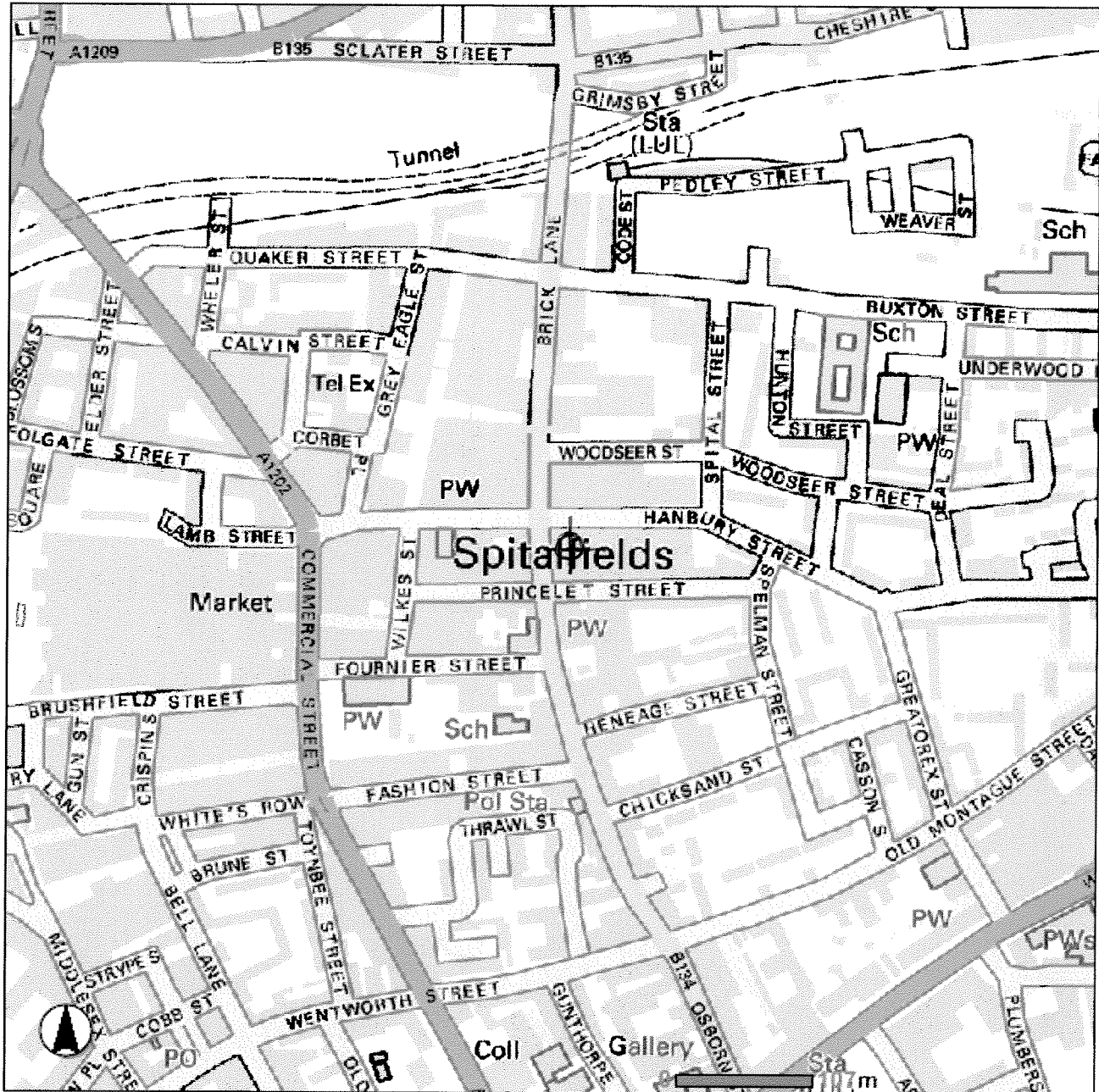
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Licence Number: LA100019288

Map



Scale 1:5000

Map of:

Site Plan

Notes:

116 Brick Lane - small

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Licence Number: LA100019288

Appendix 4

Nick Kemp

From: Megan Williams [studio@enterarchitecture.co.uk]
Sent: 30 October 2009 10:04
To: Nick Kemp
Subject: Application review A&Y Wines (116 Brick Lane)
Attachments: 20091002_114_116 BL.pdf; ATT26547826.htm; 20091003_114_116 BL.pdf; ATT26547827.htm; 20091011a_114_116 BL.pdf; ATT26547828.htm; 20091011b_114_116 BL.pdf; ATT26547829.htm; 20091011c_114_116 BL.pdf; ATT26547830.htm; 20091017_114_116 BL.pdf; ATT26547831.htm

Dear Nick

We spoke on the phone earlier this week regarding Trading Standard's current application review in relation to the above off license shop. I would like to add that as a resident living directly across the street from the shop I would not only support this review but also the revocation of the shop's existing license on the grounds the proprietor is clearly and consistently not conducting business in accordance with license requirements, namely the obligation to ensure that anti-social behaviour emanating from the shop as a result of alcohol sales, etc. is effectively discouraged.

In fact, as you will hopefully appreciate from the photographs (attached) taken during the weekends of 2, 11 and 17th October 2009, customers regularly loiter in the area just outside this and the shop at 114 while they wait to gain entrance to the nearby restaurants, effectively turning the street into an open-air bar. As with most open drinking in the street the tendency towards various forms of anti-social behaviour such as fighting and shouting are inevitable. Residents living above the street and attempting to enjoy their own homes is severely curtailed by this practice. Are not the terms of a license meant to protect residents' amenity? I installed secondary glazing some while ago to deal with the noise on Brick Lane but even this is not sufficient to muffle it.

I also understand that most of the restaurants now have licenses to sell alcohol inside their premises, making the existence of four off-licenses in the stretch of a single block very dubious and excessive. Why must there be so many of these establishments except to support an unregulated nightlife to the detriment of the rest of the neighbourhood?

Kind regards

Megan Williams
Director

enterarchitecture
Curtain House
Unit 112
134-146 Curtain Road
London EC2A 3AR
t 00 +44 (0) 207 193 0874
f 00 +44 (0) 207 160 9386
e studio@enterarchitecture.co.uk
w www.enterarchitecture.co.uk

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From: Megan Williams [studio@enterarchitecture.co.uk]
Sent: 02 November 2009 10:00
To: Nick Kemp
Subject: Application review A&Y Wines (116 Brick Lane)

Dear Mr. Kemp

RE APPLICATION REVIEW A&W WINES AT 116 Brick Lane

We spoke on the phone last week regarding Trading Standard's current application review in relation to the above off license shop. I would like to add that as residents, my husband and I live directly across the street from the shop and we would not only support this review but also the revocation of the shop's existing license on the grounds the proprietor is clearly and consistently not conducting business in accordance with license requirements, namely the obligation to ensure that anti-social behaviour emanating from the shop as a result of alcohol sales, etc. is effectively discouraged.

In fact, as you will hopefully appreciate from the photographs (attached) taken during the evenings of 2, 3, 11 and 17th October 2009, customers regularly loiter in the area just outside this shop (one of four off-licenses in the stretch of a single block!) while they wait to gain entrance to the nearby restaurants. Even though most of the restaurants now have licenses to sell alcohol inside their premises, this practice of loitering has become an extension of the restaurants as customers drink while they wait to be seated, effectively turning the street into an open-air bar.

On various occasions returning home in the evening I have been accosted by customers gathered around my entrance drinking and smoking, again while they wait to be seated or because they can't smoke inside the restaurants. They obviously think they're partying but to me their behaviour is intimidating and makes me feel unsafe in my own neighbourhood.

Living in this area of course I appreciate that there is a thriving commercial component here, however this should not prevent me from enjoying my home (I installed secondary glazing some while ago to deal with the noise on Brick Lane but even this is not sufficient to muffle it anymore). This is also a densely residential area as well and my own experience has lead me to feel that the anti-social aspects of the restaurants and off-licenses are literally out of control. Are not the terms of a license meant to bring balance and to protect residents' amenities also? And why must there be so many of these establishments (off-licenses) except to support an unchecked nightlife to the detriment of the rest of the neighbourhood?

Kind regards

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Appendix 5

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

- 11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.
- 11.17 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:
to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - to suspend the licence for a period not exceeding three months;
 - to revoke the licence.
- 11.18 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

- 11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.
- 11.21 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.22 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would

also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.

- 11.23 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.
- 11.24 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.
- 11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected; for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for unlawful gaming and gambling; and
 - for the sale of smuggled tobacco and alcohol.

- 11.26 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. 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. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.
- 11.27 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

Appendix 6

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely. This would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Access for children to licensed premises – in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities.

The Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to:
 - heavy or binge or underage drinking;
 - drugs;
 - significant gambling; or
 - any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature,there should be a strong presumption against permitting any access at all for children under 18 years.

- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access under the above circumstances, should when preparing new operating schedules or club operating schedules or variations of those schedules:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case the Secretary of State recommends that, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act

Age Restrictions – specific

Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities will need to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity that are unlikely to require age restrictions, for example:
 - family entertainment; or
 - non-alcohol events for young age groups, such as under 18s dances,
- types of event or activity which give rise to a more acute need for age restrictions than normal, for example:
 - during “Happy Hours” or on drinks promotion nights;
 - during activities outlined in the first bullet point in the first paragraph above.

Age restrictions – cinemas

The British Board of Film Classification classifies films in accordance with its published Guidelines which are based on extensive research into public opinion and professional advice. The Secretary of State therefore recommends that licensing authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

Licensing authorities should be aware that the BBFC currently classifies films in the following way:

- U Universal – suitable for audiences aged four years and over
- PG – Parental Guidance. Some scenes may be unsuitable for young children.
- 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
- 15 – Passed only for viewing by persons aged 15 years and over.
- 18 – Passed only for viewing by persons aged 18 years and over.

Licensing authorities should note that these classifications may be subject to occasional change and consult the BBFC's website at www.bbfc.co.uk before applying relevant conditions.

The Secretary of State considers that, in addition to the mandatory condition imposed by section 20, conditions restricting the admission of children to film exhibitions should include that:

- where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into an age restrictive category no person appearing to be under the age specified shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring any persons under a specified age to be accompanied by an adult no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult, and the licence holder shall display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. For example:

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE]
CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained.”

Theatres

The admission of children to theatres, as with other licensed premises, is not expected to be restricted normally unless it is necessary to promote the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play should normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached.

However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children during any emergency (See Part 3).

Performances especially for children

Where performances are presented especially for unaccompanied children in theatres and cinemas, licensing authorities will also wish to consider conditions to specify that:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities should also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.

- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

Proof of Age cards

Proof of age cards are discussed under Part 1 in connection with the prevention of crime and disorder. However, a requirement for the production of proof of age cards before any sale or supply of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the "Challenge 21" or other similar initiatives.

Under the “Challenge 21” initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older – would need to produce appropriate proof of age before making such a purchase.

Appendix 7

London Borough of Tower Hamlets Policy in relation to the Protection of Children from Harm

Licensing Policy

The Policy recognises the wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or Entertainment. The Act does not prohibit children from having access to any licensed premises, the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm. (**See Section 9 of the Licensing Policy**).

The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises (**See Section 9.4 of Licensing Policy**).

The Licensing Authority recommends applicants to consult with the Area Child Protection Committee or such other body, as they consider appropriate. (**See Section 9.3 of the Licensing Policy**).

The Licensing Authority will consider attaching conditions to protect children from harm and these may include Conditions drawn from the Model Poll of Conditions relating to the Protection of Children from Harm. (**See Appendix 2 Annex H of the Licensing Policy**). In particular Members may wish to consider a range of conditions that are to be tailored to the particular premises and their activities (this list is not exhaustive):

- Limiting access of children to premises
- Limitations on the hours when children maybe present
- Limitations or exclusions when certain activities are taking place
- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 23:00, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time
- Notices on premises displaying age restrictions
- Conditions requiring sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency
- Requirements of staff supervision in areas occupied by children
- Whether conditions appropriate for restricting use of special effects around children
- Adequate chaperones for children
- Requirement for production of proof of age cards

Police Powers

Part 8 of the Licensing Act 2003 enables a senior police officer to close down a premises for up to 24 hrs when there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety.

Section 169A(2) of the Licensing Act 2003 enables a senior police officer (or inspector of weights and measures) to close premises for maximum of 48 hours to prohibit the sale of alcohol for repeatedly selling alcohol to underage persons.

Guidance Issued under Section 182 of the Licensing Act 2003

The Licensing Policy has adopted the recommended Pool of Conditions as permitted (13.20 and Annex D).

The protection of children from harm includes the protection of children from moral, psychological and physical harm (2.41)

In the context of many licensed premises such as pubs, restaurants, café bars and hotels, it should be noted that the Secretary of State recommends that the development of family-friendly environments should not be frustrated by overly restrictive conditions in relation to children. (2.42)

Licence conditions should not duplicate other legislation (1.16).

Conditions, where they are necessary, should reflect the licensable activities taking place on the premises (2.47)

The Secretary of State considers that representations made by the child protection bodies and the police in respect of individual applications should be given considerable weight when they address necessary issues regarding the admission of children. (2.48)

Other Legislation

Violent Crime Reduction Act 2006

The Act introduces new measures to ensure that police and local communities have the powers they need to tackle guns, knives and alcohol-related violence.

Confiscation of Alcohol (Young Persons) Act 1997

Alcohol Confiscation – any person in a public place or trespassing **if any under 18** have drunk or likely to drink. Dispose on the spot unless local instructions direct otherwise.

Appendix 8

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

Crime and Disorder Act 1998

- 1.28 All local authorities must fulfil their obligations under section 17 of the Crime and Disorder Act 1998 when carrying out their functions as licensing authorities under the 2003 Act.
- 1.29 Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making. It places a duty on certain key authorities, including local authorities and police and fire and rescue authorities to do all they reasonably can to prevent crime and disorder in their area.
- 1.30 The Government believes that licensing authorities should, as a matter of good practice, involve Crime and Disorder Reduction Partnerships (CDRPs) in decision-making in order to ensure that statements of licensing policy include effective strategies that take full account of crime and disorder implications.

Pool Conditions

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

Annex D

Conditions relating to the prevention of crime and disorder

It should be noted in particular that it is unlawful under the 2003 Act:

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk
- knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

CORE PRINCIPLES

1 When applicants are preparing their operating schedules or club operating schedules, responsible authorities are considering applications and licensing authorities are considering applications following the receipt of relevant representations, they should consider whether the measures set out below are necessary to promote the licensing objectives.

2. Any risk assessment to identify necessary measures should consider the individual circumstances of the premises (including local knowledge) and take into account a range of factors including:

- the nature and style of the venue;
- the activities being conducted there;
- the location; and
- the anticipated clientele.

Under no circumstances should licensing authorities regard these conditions as standard conditions to be automatically imposed in all cases.

1. Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and any breach could give rise to prosecution.
2. Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.
3. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are unnecessary.

CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

Text/Radio pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These conditions may also be appropriate and necessary in other areas.

It is recommended that a condition requiring the text/radio pager links to the police should include the following requirements:

- the text/pager equipment is kept in working order at all times;
- the pager link is activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- any police instructions/directions are complied with whenever given; and
- all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

Door supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out individuals excluded by court bans or by the licence holder;
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside venues. Where the presence of door supervisors conducting security activities is to be a condition of a licence,

which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:

- the number of supervisors;
- the displaying of name badges;
- the carrying of proof of registration;
- where, and at what times, they should be stationed on the premises; and
- whether at least one female supervisor should be available (for example, if female customers are to be given body searches).

Door supervisors also have a role to play in ensuring public safety (see Part 2) and the prevention of public nuisance (see Part 4).

Bottle bans

Glass bottles may be used as weapons to inflict serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises. This should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- • no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);
- In appropriate circumstances, the condition could include exceptions, for example, as follows:
- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Bottle bans may also be a relevant necessary measure to promote public safety (see Part 2).

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons and in untoughened form, can cause very serious injuries. Where necessary, consideration should therefore be given to conditions requiring the use of safer alternatives which inflict less severe injuries. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of plastic containers or toughened glass may be a necessary condition during the televising of live sporting events, such as international football matches, when there may be high states of excitement and emotion fuelled by alcohol.

The use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Part 2).

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licensed for the sale of alcohol for consumption off the premises. However, consideration should be given to a condition preventing customers from taking alcoholic and other drinks from the premises in open containers (eg glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on taking open containers from the premises may also be relevant necessary measures to prevent public nuisance (see Part 4).

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing during particular sports events. Conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Restrictions on drinking areas may also be relevant necessary measures to prevent public nuisance (see Part 4).

Capacity limits

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition

is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled (see above).

Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent these crimes, it may be necessary for certain licensed premises to require the production of “proof of age” before sales are made. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security. While conditions may refer directly to PASS accredited proof of age cards, they should also allow for the production of other proof, such as photo-driving licences, student cards and passports.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the “Challenge 21” or other similar initiatives. Under the “Challenge 21” initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older – would need to produce appropriate proof of age before making a purchase.

Proof of age may also be relevant and necessary to protect children from harm (see Part 5).

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the display of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area

as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels.

However, conditions specifically designed to address irresponsible drinks promotions or discounting at individual premises may be permissible provided they are necessary for the promotion of the licensing objectives. Licensing authorities should be aware that there may often be a very fine line between responsible and irresponsible promotions. It is therefore vital that they consider these matters objectively in the context of the licensing objectives and before pursuing any form of restrictions at all, take their own legal advice.

Signage

It may be necessary for the normal hours at which licensable activities are permitted to take place under the terms of the premises licence or club premises certificate to be displayed on or immediately outside the premises so that it is clear if breaches of these terms are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises which have exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to licences for these premises which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption (see paragraphs 10.58-10.64) to control entry for the purpose of compliance with the capacity limit.

Appendix 9

Licensing Policy Adopted by the London Borough of Tower Hamlets

- 5.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

- 5.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonable can to prevent crime and disorder in the Borough.

Appendix 10

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE

It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which may result from arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

Noise and vibration

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:
- a simple requirement to keep doors and windows at the premises closed;
- limiting live music to a particular area of the building;
- moving the location and direction of speakers away from external walls or walls that abut private premises;
- installation of acoustic curtains;
- fitting of rubber seals to doorways;
- installation of rubber speaker mounts;
- requiring the licensee to take measure to ensure that music will not be audible above background level at the nearest noise sensitive location;
- require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
- noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).

Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted.

The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light pollution

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas (see Part 1 for further detail).

Appendix 11

London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance

Licensing Policy

The policy recognises that noise nuisance can be an issue, especially if a premises is open late at night. **(See Sections 8.1 of the Licensing Policy).**

While all applications will be considered on their merits, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents. **(See Section 12.11).**

The Licensing Authority expects the applicant to have addressed all nuisance issues relating to the premises in their operating schedule and to have sought appropriate advice from the Council's Environmental Health Officers. **(See Section 8.2 of the Licensing Policy).**

The Licensing Authority will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Poll of Conditions relating to Crime and Disorder. **(See Appendix 2 Annex D of the Licensing Policy).** In particular Members may wish to consider (this list is not exhaustive):

- hours of opening (this needs to be balanced against potential disorder caused by artificially early closing times)
- Whether certain parts should close earlier than the rest (for example a "beer garden", or restricted in their use)
- Whether or not certain activities should have to close at an early hour, for example live music
- Conditions controlling noise or vibration (for example, noise limiters, keeping doors and windows closed).
- Prominent clear and legible notices at all exits requesting the public to respect the needs of local residents and leave the premises and area quietly
- Conditions controlling the use of explosives, pyrotechnics and fireworks
- Conditions controlling the placing of refuse
- Conditions controlling noxious smells
- Conditions controlling lighting (this needs to be balanced against potential crime prevention benefits)

Police Powers

Part 8 of the Licensing Act 2003 enables a senior police officer to close down a premises for up to 24 hrs. A premises causing a nuisance resulting from noise emanating from the premises.

Guidance Issued under Section 182 of the Licensing Act 2003

The Licensing Policy has adopted the recommended Pool of Conditions as permitted (13.20 and Annex D).

The prevention of public nuisance could include low-level nuisance, perhaps affecting a few people living locally as well as major disturbance affecting the whole community (2.33).

Licence conditions should not duplicate other legislation (1.16).

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.36) and may address disturbance as customers enter or leave the premises but it is essential that conditions are focused on measures within the direct control of the licence holder (2.38).

Other Legislation

The Environmental Protection Act 1990, Part 111 gives Environmental Health Officers the power to deal with statutory nuisances.

The Anti-social Behaviour Act 2003, Sections 40 and 41 give Environmental Health Officers the power of closure up to 24 hours in certain circumstances.

Appendix 12

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning Planning and Building Control

PLANNING AND BUILDING CONTROL

- 13.64 The statement of licensing policy should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.
- 13.65 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 13.66 The granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 13.67 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 13.68 Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap. A planning authority may also make representations as a responsible authority as long as they relate to the licensing objectives.

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Agenda Item 5.2

Committee: Licensing Sub-Committee	Date: 17th November 2009	Classification: UNRESTRICTED	Report No. LSC 038/910	Agenda Item No.
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Report of: Colin Perrins Head of Trading Standards and Environmental Health (Commercial) Originating Officer: Nick Kemp	Title: Licensing Act 2003 Application to Review the Premises Licence for City View Food & Wine, 457a Bethnal Green Road, E2 9QH Ward affected: Bethnal Green North
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1.0 Summary

Name and
Address of premises: **City View Food & Wine, 457a Bethnal Green Road, E2 9QH**

Licence under review: **Licensing Act 2003**

- **Sale by retail of alcohol**

Representations: **Environmental Protection**

- **Trading Standards**

2.0 Recommendations

2.1 That the Licensing Committee considers the application for review and then adjudicates accordingly.

LOCAL GOVERNMENT 2000 (Section 97) LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
<ul style="list-style-type: none">• Guidance Issued under Section 182 of the Licensing Act 2003• Tower Hamlets Licensing Policy• File		020 7364 5498

3.0 **Review Application**

This is an application for a review of the premises licence for **City View Food & Wine, 457a Bethnal Green Road, E2 9QH.**

3.1 The review was triggered by Tower Hamlets **Trading Standards.**

3.2 A copy of the review application is attached in **Appendix 1.**

4.0 **The Premises**

4.1 The premises licence was issued on 6th September 2005. A copy of the current licence is contained in **Appendix 2.**

4.2 Maps showing the premises, surrounding area and vicinity of local residents are included in **Appendix 3.**

5.0 **Representations**

5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by John McCrohan, Tower Hamlets Trading Standards Service Manager. Details of his representations are contained in **Appendix 1.**

5.2 Only representations that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

5.3 In the view of the responsible authority the review is necessary to achieve the licensing objectives of:

- The prevention of Crime & Disorder.
- The protection of children from harm.

6.0 **Review Explained**

6.1 The Licensing Act 2003 was described by the Government at the time as “light touch” but as Baroness Blackstone stated in the Lords at the time of

the second reading (26 Nov 2002) “Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review could result in the modification of the licence, its suspension, or ultimately, revocation.”

- 6.2 The Department for Sport, Culture and Media Affairs has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 4**. It is available on the Government’s website, www.culture.gov.uk. It was substantially revised on the 28 June 2007.
- 6.3 Members are asked to note the comments in relation Crime and Disorder. In particular the DCMS advice is that “The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”
- 6.4 The Department for Sport, Culture and Media Affairs has issued guidance under Section 182 of the Licensing Act 2003 in relation to the protection of children from harm which is contained in **Appendix 5**.
- 6.5 The London Borough of Tower Hamlets policy in relation to the protection of children is contained within **Appendix 6**
- 6.6 In relation to its advice on representations in its revision of the 28 June 2007 the DCMS has also advised that “there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.” It has also issued revised guidance about Crime and Disorder, and the pool of conditions which might be considered in relation to any identified problems. **See Appendix 7**.
- 6.7 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 8**. The Pool Conditions in the Policy are the same as the Government’s.
- 6.8 The DCMS has also issued guidance about the prevention of public nuisance and the pool of conditions which might be considered in relation to any identified problems is contained in **Appendix 9**.
- 6.9 The Council’s Licensing Policy in relation to Public Nuisance is contained in **Appendix 10**.
- 6.10 The DCMS has advised that in relation to reviews “It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties

and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between those groups in a way that would undermine the benefits of co-operation. It would be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.”

- 6.11 The licensing authority itself cannot trigger a review; that can only be done by a responsible authority or an interested party (local resident or business).
- 6.12 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The Licensing Services Manager Ms Jacqueline Randall is the delegated officer who deals with this on behalf of the licensing authority. All the matters stated in 3.3 and 3.4 were considered before any representations were accepted for inclusion in this report.
- 6.13 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should not reject the grounds for a review because:
- The ground is not relevant to one or more of the licensing objectives
 - In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.
 -

7.0 Review Advertisement

- 7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.
- 7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.
- 7.3 The procedure for a review can be summarised as follows:
- A review is triggered by a responsible authority or interested party
 - Consultation is conducted for 28 full days
 - Other responsible authorities or interested parties may join in the review

- Members conduct a hearing
- Members make a determination
- All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

8.0 Licensing Officer Comments

8.1 The Governments advice in relation to reviews is contained in **Appendix 4**. Members must consider all the evidence and then decide from the following alternatives:

- Take no further action as they do not consider it proportionate to do so
- Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
- Suspend the licence for a period
- Revoke the licence completely

8.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.

8.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.

8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”

8.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

9.0 Legal Comments

9.1 The Council’s legal officer will give advice at the hearing.

10.0 Finance Comments

10.1 There are no financial implications in this report.

Appendices

- Appendix 1** Copy of the review application
- Appendix 2** Current Premises Licence
- Appendix 3** Maps of the premises and surrounding area
- Appendix 4** **Guidance issued under Section 182** by the Department for Sport, Culture and Media Affairs for reviews.
- Appendix 5** Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning the **protection of children from harm.**
- Appendix 6** The London Borough of Tower Hamlets policy in relation to the **protection of children.**
- Appendix 7** Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning **Crime and Disorder**
- Appendix 8** London Borough of Tower Hamlets Licensing Policy in relation to the prevention of **Crime and Disorder**
- Appendix 9** Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning **Public Nuisance**
- Appendix 10** London Borough of Tower Hamlets Policy in relation to the prevention of **Public Nuisance**
- Appendix 11** Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning **Planning and Building Control**

Appendix 1

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 John Patrick McCrohan

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description City View Food and Wine, 457a Bethnal Green Road, London, E.2 9QH	
Post town	Post code (if known) E.2 9QH

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

Number of premises licence or club premises certificate (if known) 11910
--

Part 2 - Applicant details

I am

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

LICENSING
Please tick yes

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

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

Please tick

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname

n/a

First names

n/a

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

n/a

Post town

n/a

Post Code

n/a

Daytime contact telephone number

n/a

E-mail address (optional)

n/a

(B) DETAILS OF OTHER APPLICANT

Name and address

n/a

Telephone number (if any)

n/a

E-mail address (optional)

n/a

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address John McCrohan Trading Standards Service London Borough of Tower Hamlets Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY
Telephone number (if any) 020 7364 66674
E-mail address (optional) john.mccrohan@towerhamlets.gov.uk

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

Please tick one or more boxes

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

Please state the ground(s) for review (please read guidance note 1)
Please refer to attached document.

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

Please refer to attached document.

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

If yes please state the date of that application

Day		Month		Year	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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

n/a

Please tick yes

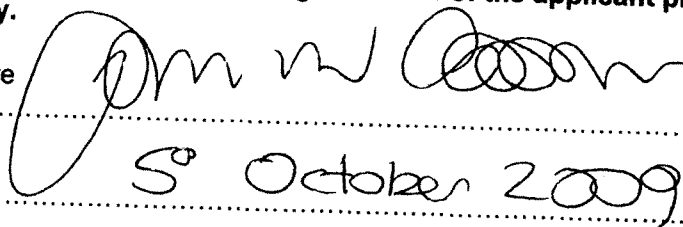
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 3)

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

Signature



Date

5th October 2009

Capacity **TRADING STANDARDS SERVICE MANAGER**

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

City View Food and Wine, 457A Bethnal Green Road, E.2 9QH

Licence No 11910- (Licence Holder — Hasan DURNA)

Application for the Review of the Premises Licence under Section 51 of the
Licensing Act 2003

London Borough of Tower Hamlets – Trading Standards Service

REPRESENTATIONS

-
1. The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to the prevention of crime and disorder (licensing objective 1) and the protection of children from harm (licensing objective 4).
 2. Staff on two separate occasions sold age-restricted product to young people below the age of eighteen undertaking test purchasing exercises with the Trading Standards Service.
 3. A quantity of counterfeit DUREX trade marked condoms were seized from the premises.
 4. Test purchases undertaken by trading standards departments are carried out in accordance with a nationally agreed Code of Best Practice between the

trading standards profession (Trading Standards Institute), Local Authorities Coordinators of Regulatory Services (LACORS) and the Department for Culture, Media and Sport.

5. On 25th November 2007, Trading staff visited the premises and found a quantity of counterfeit DUREX trade marked condoms and seized them under Section 93 of The Trade Marks Act 1994. The possession of fraudulently trade marked items is an offence under Section 92 of the aforesaid Trade Marks Act 1994
6. On 15th March 2009 a member of staff sold cigarettes to a child aged sixteen. This resulted in a warning letter being sent to the business owner.
7. On 18th August 2009, Mr. Ismail Ardi a member of staff sold alcohol to a child aged sixteen. This resulted in a warning letter being sent to the Premises Licence Holders and Designated Premises Supervisor.
8. In both cases where sales were made they could have been avoided by the seller asking the test purchaser her/his age and for him/her to produce a recommended proof of age card.
9. The fake condoms had been bought for cash from a "man with a van".
10. The reckless way the business buys stock and the 'patchy' performance of the staff employed by the business has prompted this review.
11. To prevent future under age sales and to improve the management of the premises, the applicant seeks to have the four conditions below added to the premises licence — **it does not seek to have the licence revoked.**
12. Conditions:

(1) The Designated Premises Supervisor must be present on the premises when all alcohol sales are made

(2) The introduction of the 'Challenge 21' policy and 'No ID No Sale' policy which is supported with signage at all entrances and in the serving areas.

NOTE: It is generally accepted that the age of young people between the age of 16 to 18 is very difficult to assess, particularly girls — by challenging young people who look younger than 21 it gives an acceptable margin for error. This has been accepted throughout the Country by the Police and has been adopted by off-licenses and major supermarket chains.

(3) Only documents which include a photograph of the purchaser are acceptable to prove that persons age, e.g. passport, new style driving licence and only PASS - approved age cards, e.g. portman card, citizens card.

NOTE: This ensures that only acceptable forms of identification are accepted.

(4) A 'Refusals book is maintained, which documents the date and time a refusal of sale is made, the reason for the refusal and the member of staff refusing the sale. The licensee or the Designated Premises Supervisor should monitor the Log on a regular basis and sign it to show it has been done.

NOTE: The Log demonstrates that members of staff are challenging under age purchasers, the level of problem, the time of day that staff must be more diligent. In short it is a good management tool. It was recommended to Off-licence holders by British Institute of Innkeeping (BIIAB) handbook.

John Patrick McCrohan

Trading Standards Service Manager

London Borough of Tower Hamlets

Appendix 2



(City View Food & Wine)
457A Bethnal Green Road
London
E2 9QH

Licensable Activities authorised by the licence

Retail sale of alcohol

See the attached licence for the licence conditions

Signed by

John Cruse 
Team Leader Licensing

Date: 6/9/05



TOWER HAMLETS

LICENSING ACT 2003

Part A - Format of premises licence

Premises licence number

11910

Part 1 - Premises details

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

(City View Food & Wine)
457A Bethnal Green Road

Post town
London

Post code
E2 9QH

Telephone number
020 7613 4333

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Alcohol

- Monday to Sunday, from 00:00 hours to 00:00 hours (24 hours)

The opening hours of the premises

- Monday to Sunday, from 00:00 hours to 00:00 hours (24 hours)

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

Off sales only

Part 2

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

Hasan Durna
23 Edred House
Homerton Road
Hackney
London
E9 5PN

Tel: 0207 613 4333

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

N/A

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

Hasan Durna
23 Edred House
Kingsmead Estate
London
E9 5PN

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

Issuing Authority: London Borough of Hackney
Personal Licence Number: LBH-PER-N-0489

Annex 1 - Mandatory conditions

No supply of alcohol may be made under the premises licence-

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

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

Alcohol

- Monday to Sunday, from 00:00 hours to 00:00 hours (24 hours)

Annex 2 - Conditions consistent with the operating Schedule

1. Notices to be displayed stating "CCTV in operation"
2. Clear and legible notices to be prominently displayed reminding customers to respect neighbours and leave quietly
3. Acceptance of accredited proof of age cards for example, the Connections Card and Citizen Card, new type of driving licences, a passport, an official identity card issued by HM forces or by an EU country, bearing the photograph and date of birth of bearer.

4. Clear and legible notices to be prominently displayed showing a message such as "If you appear to be under age 21, you will be required to prove you are over 18"

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

None

Annex 4 - Plans

The plans are those submitted to the licensing authority on the following date:

05 February 2007



Part B - Premises licence summary

Premises licence number

11910

Premises details

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

(City View Food & Wine)
457A Bethnal Green Road

Post town

London

Post code

E2 9HQ

Telephone number

020 7613 4333

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

Retail sale of alcohol

The times the licence authorises the carrying out of licensable activities

Alcohol

- Monday to Sunday, from 00:00 hours to 00:00 hours (24 hours)

The opening hours of the premises

- Monday to Sunday, from 00:00 hours to 00:00 hours (24 hours)

Name, (registered) address of holder of premises licence

Hasan Durna
23 Edred House
Homerton Road
Hackney
London
E9 5PN

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

Off sales supplies

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

N/A

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Hasan Durna

State whether access to the premises by children is restricted or prohibited

No

Appendix 3

Map



Scale 1:1228

Map of:

Site Plan

Notes:

City View Food & Wine - large scale

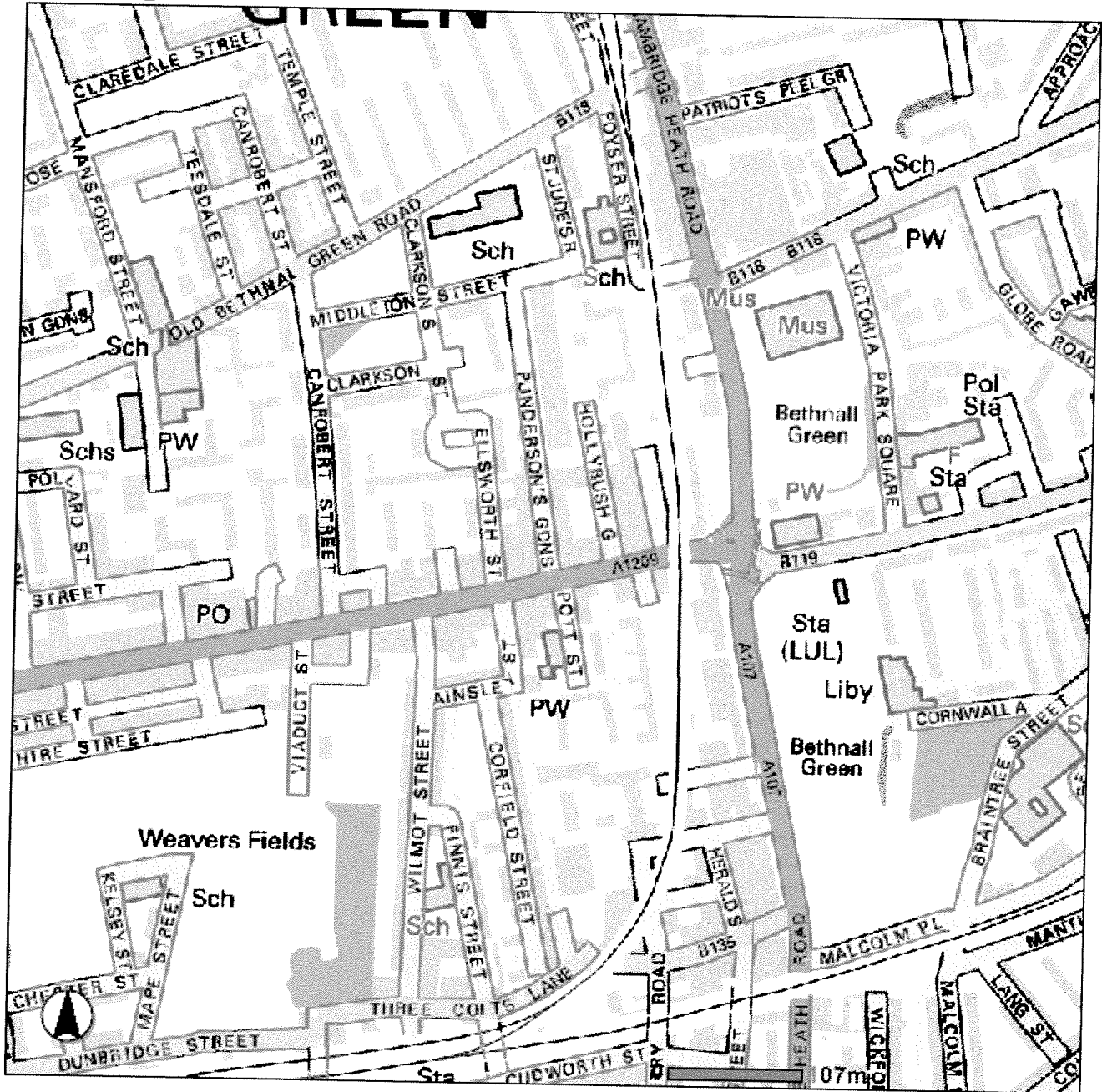
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Supplied by London Borough of Tower Hamlets

Licence Number: LA100019288

Map



Scale 1:5000

Map of:

Site Plan

Notes:

City View Food & Wine - small scale

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Appendix 4

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

- 11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.
- 11.17 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:
- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - to suspend the licence for a period not exceeding three months;
 - to revoke the licence.
- 11.18 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

- 11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.
- 11.21 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.22 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would

also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.

- 11.23 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.
- 11.24 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.
- 11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected; for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for unlawful gaming and gambling; and
 - for the sale of smuggled tobacco and alcohol.

- 11.26 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. 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. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.
- 11.27 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

Appendix 5

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely. This would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Access for children to licensed premises – in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities.

The Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to:
 - heavy or binge or underage drinking;
 - drugs;
 - significant gambling; or
 - any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature,there should be a strong presumption against permitting any access at all for children under 18 years.

- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access under the above circumstances, should when preparing new operating schedules or club operating schedules or variations of those schedules:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case the Secretary of State recommends that, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act

Age Restrictions – specific

Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities will need to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity that are unlikely to require age restrictions, for example:
 - family entertainment; or
 - non-alcohol events for young age groups, such as under 18s dances,
- types of event or activity which give rise to a more acute need for age restrictions than normal, for example:
 - during “Happy Hours” or on drinks promotion nights;
 - during activities outlined in the first bullet point in the first paragraph above.

Age restrictions – cinemas

The British Board of Film Classification classifies films in accordance with its published Guidelines which are based on extensive research into public opinion and professional advice. The Secretary of State therefore recommends that licensing authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

Licensing authorities should be aware that the BBFC currently classifies films in the following way:

- U Universal – suitable for audiences aged four years and over
- PG – Parental Guidance. Some scenes may be unsuitable for young children.
- 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
- 15 – Passed only for viewing by persons aged 15 years and over.
- 18 – Passed only for viewing by persons aged 18 years and over.

Licensing authorities should note that these classifications may be subject to occasional change and consult the BBFC's website at www.bbfc.co.uk before applying relevant conditions.

The Secretary of State considers that, in addition to the mandatory condition imposed by section 20, conditions restricting the admission of children to film exhibitions should include that:

- where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

"Where a programme includes a film recommended by the licensing authority as falling into an age restrictive category no person appearing to be under the age specified shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring any persons under a specified age to be accompanied by an adult no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult, and the licence holder shall display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. For example:

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE]
CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained."

Theatres

The admission of children to theatres, as with other licensed premises, is not expected to be restricted normally unless it is necessary to promote the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play should normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached.

However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children during any emergency (See Part 3).

Performances especially for children

Where performances are presented especially for unaccompanied children in theatres and cinemas, licensing authorities will also wish to consider conditions to specify that:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities should also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.

- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

Proof of Age cards

Proof of age cards are discussed under Part 1 in connection with the prevention of crime and disorder. However, a requirement for the production of proof of age cards before any sale or supply of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the "Challenge 21" or other similar initiatives.

Under the "Challenge 21" initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older – would need to produce appropriate proof of age before making such a purchase.

Appendix 6

London Borough of Tower Hamlets Policy in relation to the Protection of Children from Harm

Licensing Policy

The Policy recognises the wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or Entertainment. The Act does not prohibit children from having access to any licensed premises, the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm. (**See Section 9 of the Licensing Policy**).

The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises (**See Section 9.4 of Licensing Policy**).

The Licensing Authority recommends applicants to consult with the Area Child Protection Committee or such other body, as they consider appropriate. (**See Section 9.3 of the Licensing Policy**).

The Licensing Authority will consider attaching conditions to protect children from harm and these may include Conditions drawn from the Model Poll of Conditions relating to the Protection of Children from Harm. (**See Appendix 2 Annex H of the Licensing Policy**). In particular Members may wish to consider a range of conditions that are to be tailored to the particular premises and their activities (this list is not exhaustive):

- Limiting access of children to premises
- Limitations on the hours when children maybe present
- Limitations or exclusions when certain activities are taking place
- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 23:00, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time
- Notices on premises displaying age restrictions
- Conditions requiring sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency
- Requirements of staff supervision in areas occupied by children
- Whether conditions appropriate for restricting use of special effects around children
- Adequate chaperones for children
- Requirement for production of proof of age cards

Police Powers

Part 8 of the Licensing Act 2003 enables a senior police officer to close down a premises for up to 24 hrs when there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety.

Section 169A(2) of the Licensing Act 2003 enables a senior police officer (or inspector of weights and measures) to close premises for maximum of 48 hours to prohibit the sale of alcohol for repeatedly selling alcohol to underage persons.

Guidance Issued under Section 182 of the Licensing Act 2003

The Licensing Policy has adopted the recommended Pool of Conditions as permitted (13.20 and Annex D).

The protection of children from harm includes the protection of children from moral, psychological and physical harm (2.41)

In the context of many licensed premises such as pubs, restaurants, café bars and hotels, it should be noted that the Secretary of State recommends that the development of family-friendly environments should not be frustrated by overly restrictive conditions in relation to children. (2.42)

Licence conditions should not duplicate other legislation (1.16).

Conditions, where they are necessary, should reflect the licensable activities taking place on the premises (2.47)

The Secretary of State considers that representations made by the child protection bodies and the police in respect of individual applications should be given considerable weight when they address necessary issues regarding the admission of children. (2.48)

Other Legislation

Violent Crime Reduction Act 2006

The Act introduces new measures to ensure that police and local communities have the powers they need to tackle guns, knives and alcohol-related violence.

Confiscation of Alcohol (Young Persons) Act 1997

Alcohol Confiscation – any person in a public place or trespassing **if any under 18** have drunk or likely to drink. Dispose on the spot unless local instructions direct otherwise.

Appendix 7

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

Crime and Disorder Act 1998

- 1.28 All local authorities must fulfil their obligations under section 17 of the Crime and Disorder Act 1998 when carrying out their functions as licensing authorities under the 2003 Act.
- 1.29 Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making. It places a duty on certain key authorities, including local authorities and police and fire and rescue authorities to do all they reasonably can to prevent crime and disorder in their area.
- 1.30 The Government believes that licensing authorities should, as a matter of good practice, involve Crime and Disorder Reduction Partnerships (CDRPs) in decision-making in order to ensure that statements of licensing policy include effective strategies that take full account of crime and disorder implications.

Pool Conditions

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

Annex D

Conditions relating to the prevention of crime and disorder

It should be noted in particular that it is unlawful under the 2003 Act:

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk
- knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

CORE PRINCIPLES

1 When applicants are preparing their operating schedules or club operating schedules, responsible authorities are considering applications and licensing authorities are considering applications following the receipt of relevant representations, they should consider whether the measures set out below are necessary to promote the licensing objectives.

2. Any risk assessment to identify necessary measures should consider the individual circumstances of the premises (including local knowledge) and take into account a range of factors including:

- the nature and style of the venue;
- the activities being conducted there;
- the location; and
- the anticipated clientele.

Under no circumstances should licensing authorities regard these conditions as standard conditions to be automatically imposed in all cases.

1 Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and any breach could give rise to prosecution.

2 Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.

5. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are unnecessary.

CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

Text/Radio pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These conditions may also be appropriate and necessary in other areas.

It is recommended that a condition requiring the text/radio pager links to the police should include the following requirements:

- the text/pager equipment is kept in working order at all times;
- the pager link is activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- any police instructions/directions are complied with whenever given; and
- all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

Door supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out individuals excluded by court bans or by the licence holder;
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside venues. Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:

- the number of supervisors;
- the displaying of name badges;
- the carrying of proof of registration;
- where, and at what times, they should be stationed on the premises; and
- whether at least one female supervisor should be available (for example, if female customers are to be given body searches).

Door supervisors also have a role to play in ensuring public safety (see Part 2) and the prevention of public nuisance (see Part 4).

Bottle bans

Glass bottles may be used as weapons to inflict serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises. This should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
 - no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Bottle bans may also be a relevant necessary measure to promote public safety (see Part 2).

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons and in untoughened form, can cause very serious injuries. Where necessary, consideration should therefore be given to conditions requiring the use of safer alternatives which inflict less severe injuries. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of plastic containers or toughened glass may be a necessary condition during the televising of live sporting events, such as international football matches, when there may be high states of excitement and emotion fuelled by alcohol.

The use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Part 2).

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licensed for the sale of alcohol for consumption off the premises. However, consideration should be given to a condition preventing customers from taking alcoholic and other drinks from the premises in open containers (eg glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on taking open containers from the premises may also be relevant necessary measures to prevent public nuisance (see Part 4).

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise sitting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing during particular sports events. Conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Restrictions on drinking areas may also be relevant necessary measures to prevent public nuisance (see Part 4).

Capacity limits

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled (see above).

Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent these crimes, it may be necessary for certain licensed premises to require the production of “proof of age” before sales are made. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security. While conditions may refer directly to PASS accredited proof of age cards, they should also allow for the production of other proof, such as photo-driving licences, student cards and passports.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the “Challenge 21” or other similar initiatives. Under the “Challenge 21” initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older – would need to produce appropriate proof of age before making a purchase.

Proof of age may also be relevant and necessary to protect children from harm (see Part 5).

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the display of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels.

However, conditions specifically designed to address irresponsible drinks promotions or discounting at individual premises may be permissible provided they are necessary for the promotion of the licensing objectives. Licensing authorities should be aware that there may often be a very fine line between responsible and irresponsible promotions. It is therefore vital that they consider these matters objectively in the context of the licensing objectives and before pursuing any form of restrictions at all, take their own legal advice.

Signage

It may be necessary for the normal hours at which licensable activities are permitted to take place under the terms of the premises licence or club premises certificate to be displayed on or immediately outside the premises so that it is clear if breaches of these terms are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises which have exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to licences for these premises which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption (see paragraphs 10.58-10.64) to control entry for the purpose of compliance with the capacity limit.

Appendix 8

Licensing Policy Adopted by the London Borough of Tower Hamlets

- 5.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

- 5.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonable can to prevent crime and disorder in the Borough.

Appendix 9

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE

It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which may result from arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public as such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

Noise and vibration

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:

- a simple requirement to keep doors and windows at the premises closed;
- limiting live music to a particular area of the building;
- moving the location and direction of speakers away from external walls or walls that abut private premises;
- installation of acoustic curtains;
- fitting of rubber seals to doorways;
- installation of rubber speaker mounts;
- requiring the licensee to take measure to ensure that music will not be audible above background level at the nearest noise sensitive location;
- require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
- noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).

Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted.

The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light pollution

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas (see Part 1 for further detail).

Appendix 10

London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance

Licensing Policy

The policy recognises that noise nuisance can be an issue, especially if a premises is open late at night. (**See Sections 8.1 of the Licensing Policy**).

While all applications will be considered on their merits, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents. (**See Section 12.11**).

The Licensing Authority expects the applicant to have addressed all nuisance issues relating to the premises in their operating schedule and to have sought appropriate advice from the Council's Environmental Health Officers. (**See Section 8.2 of the Licensing Policy**).

The Licensing Authority will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Poll of Conditions relating to Crime and Disorder. (**See Appendix 2 Annex D of the Licensing Policy**). In particular Members may wish to consider (this list is not exhaustive):

- hours of opening (this needs to be balanced against potential disorder caused by artificially early closing times)
- Whether certain parts should close earlier than the rest (for example a "beer garden", or restricted in their use)
- Whether or not certain activities should have to close at an early hour, for example live music
- Conditions controlling noise or vibration (for example, noise limiters, keeping doors and windows closed).
- Prominent clear and legible notices at all exits requesting the public to respect the needs of local residents and leave the premises and area quietly
- Conditions controlling the use of explosives, pyrotechnics and fireworks
- Conditions controlling the placing of refuse
- Conditions controlling noxious smells
- Conditions controlling lighting (this needs to be balanced against potential crime prevention benefits)

Police Powers

Part 8 of the Licensing Act 2003 enables a senior police officer to close down a premises for up to 24 hrs. A premises causing a nuisance resulting from noise emanating from the premises.

Guidance Issued under Section 182 of the Licensing Act 2003

The Licensing Policy has adopted the recommended Pool of Conditions as permitted (13.20 and Annex D).

The prevention of public nuisance could include low-level nuisance, perhaps affecting a few people living locally as well as major disturbance affecting the whole community (2.33).

Licence conditions should not duplicate other legislation (1.16).

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.36) and may address disturbance as customers enter or leave the premises but it is essential that conditions are focused on measures within the direct control of the licence holder (2.38).

Other Legislation

The Environmental Protection Act 1990, Part 111 gives Environmental Health Officers the power to deal with statutory nuisances.

The Anti-social Behaviour Act 2003, Sections 40 and 41 give Environmental Health Officers the power of closure up to 24 hours in certain circumstances.

Appendix 11

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning Planning and Building Control

PLANNING AND BUILDING CONTROL

- 13.64 The statement of licensing policy should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.
- 13.65 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 13.66 The granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 13.67 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 13.68 Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap. A planning authority may also make representations as a responsible authority as long as they relate to the licensing objectives.

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Agenda Item 5.3

Committee: Licensing Sub-Committee	Date: 17th November 2009	Classification: UNRESTRICTED	Report No. LSC 039/910	Agenda Item No.
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Report of: Colin Perrins Head of Trading Standards and Environmental Health (Commercial) Originating Officer: Acting Principal Licensing Officer	Title: Licensing Act 2003 Application to Review the Premises Licence for Commercial Confectionery, 141 Commercial Road, London E1 4PX Ward affected: Whitechapel
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1.0 Summary

Name and Address of premises: **Commercial Confectionery 24/7**
141 Commercial Road
London E1 1PX

Licence under review: **Licensing Act 2003**
▪ **Sale by retail of alcohol**

Representations: **Trading Standards**

2.0 Recommendations

2.1 That the Licensing Committee considers the application for review and then adjudicates accordingly.

LOCAL GOVERNMENT 2000 (Section 97) LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
<ul style="list-style-type: none">Guidance Issued under Section 182 of the Licensing Act 2003Tower Hamlets Licensing PolicyFile		020 7364 5171

3.0 **Review Application**

3.1 This is an application for a review of the premises licence for commercial Confectionery 24/7, 141 Commercial Road, London E1 1PX. The review was triggered by Trading Standards.

3.2 A copy of the review application is attached in **Appendix 1**.

4.0 **The Premises**

4.1 The premises licence was issued on 22nd November 2006. A copy of the current licence is contained in **Appendix 2**.

4.2 Maps showing the premises, surrounding area and vicinity of local residents are included in **Appendix 3**.

5.0 **Representations**

5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by Trading Standards, the local weights and measures Authority.

5.2 Only representations that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

5.3 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objective of prevention of crime & disorder.

6.0 **Review Explained**

6.1 The Licensing Act 2003 was described by the Government at the time as “light touch” but as Baroness Blackstone stated in the Lords at the time of the second reading (26 Nov 2002) “Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review could result in the modification of the licence, its suspension, or ultimately, revocation.”

- 6.2 The Department for Sport, Culture and Media Affairs has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 4**. It is available on the Government's website, www.culture.gov.uk. It was substantially revised on the 28 June 2007.
- 6.3 Members are particularly asked to note the comments in relation Crime and Disorder. In particular the DCMS advice is that "The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted."
- 6.4 In relation to its advice on representations in its revision of the 28 June 2007 the DCMS has also advised that "there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations." It has also issued revised guidance about Crime and Disorder, and the pool of conditions which might be considered in relation to any identified problems. **See Appendix 5**.
- 6.5 Members should also note the Council's Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 6**. The Pool Conditions in the Policy are the same as the Government's.
- 6.6 The DCMS has advised that in relation to reviews "It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between those groups in a way that would undermine the benefits of co-operation. It would be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review."
- 6.7 The licensing authority itself cannot trigger a review; that can only be done by a responsible authority or an interested party (local resident or business).

6.8 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The Licensing Services Manager Ms Jacqueline Randall is the delegated officer who deals with this on behalf of the licensing authority. All the matters stated in 6.9 were considered before any representations were accepted for inclusion in this report.

6.9 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should reject the grounds for a review because:

- The ground is not relevant to one or more of the licensing objectives
- In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

7.0 Review Advertisement

7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.

7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.

7.3 The procedure for a review can be summarised as follows:

- A review is triggered by a responsible authority or interested party
- Consultation is conducted for 28 full days
- Other responsible authorities or interested parties may join in the review
- Members conduct a hearing
- Members make a determination
- All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

8.0 Licensing Officer Comments

8.1 The Governments advice in relation to reviews is contained in **Appendix 4**. Members must consider all the evidence and then decide from the following alternatives:

- Take no further action as they do not consider it proportionate to do so
- Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
- Suspend the licence for a period
- Revoke the licence completely

8.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.

8.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.

8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”

8.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

9.0 Legal Comments

9.1 The Council’s legal officer will give advice at the hearing.

10.0 Finance Comments

10.1 There are no financial implications in this report.

11.0 Appendices

Appendix 1	Copy of the review application
Appendix 2	Current Premises Licence
Appendix 3	Maps of the premises and surrounding area
Appendix 4	Guidance issued under Section 182 by the Department for Sport, Culture and Media Affairs for reviews
Appendix 5	Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning Crime and Disorder
Appendix 6	London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder

Appendix 1

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 John McCrohan

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Commercial Confectionary 24/7, 141 Commercial Road, London , E1 4PX	
Post town	Post code (if known) E.1 4PX

Name of premises licence holder or club holding club premises certificate (if known) Mr Amir UDDIN
--

Number of premises licence or club premises certificate (if known) 11447
--

Part 2 - Applicant details

I am

Please tick yes

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

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

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

Please tick

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

n/a

First names

n/a

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

n/a

Post town

n/a

Post Code

n/a

Daytime contact telephone number

n/a

E-mail address (optional)

n/a

(B) DETAILS OF OTHER APPLICANT

Name and address

n/a

Telephone number (if any)

n/a

E-mail address (optional)

n/a

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address John McCrohan Trading Standards Service London Borough of Tower Hamlets Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY
Telephone number (if any) 020 7364 66674
E-mail address (optional) john.mccrohan@towerhamlets.gov.uk

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

Please tick one or more boxes

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

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

Please refer to attached document.

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

Please refer to attached document.

Please tick yes

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

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--	--	--	--	--

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

n/a

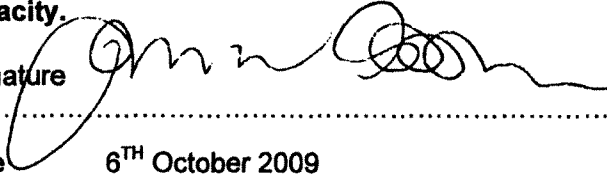
Please tick yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature 

Date 6TH October 2009

Capacity TRADING STANDARDS SERVICE MANAGER

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

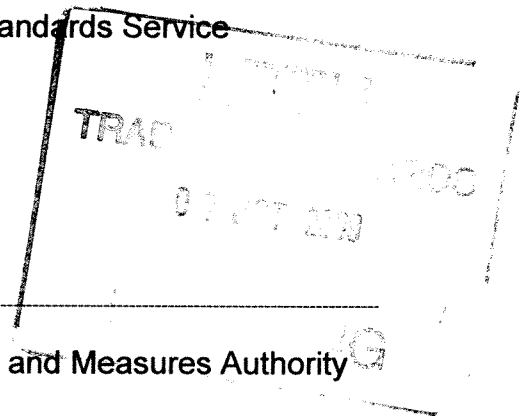
Commercial Confectionary 24/7, 141 Commercial Road, London , E1 4PX

Licence No 11447 (Licence Holder — Mr Amir UDDIN)

Application for the Review of the Premises Licence under Section 51 of the
Licensing Act 2003

London Borough of Tower Hamlets – Trading Standards Service

REPRESENTATIONS



-
1. The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to the prevention of Crime and Disorder , licensing objective 1
 2. Trading Standards staff on two separate occasions, seized tobacco products manufactured outside European Union without both the United Kingdom fiscal mark and mandatory health warnings.
 3. On four separate occasions, alcohol has been sold from the premises outside its licensed hours of from Monday to Sunday, from 09:00 hours to 02:00 hours.
 4. On 24th April 2009, 3680 Benson and Hedges cigarettes were seized under the Consumer Protection Act 1987. The cigarettes appear to have been manufactured in Bangladesh.

5. On 14 September 2009, 1400 Benson and Hedges cigarettes were seized under the Consumer Protection Act 1987. Once again, the cigarettes appeared to have been manufactured outside the European Union.
6. Tobacco products for sale in the UK are required to carry mandatory health warnings. Tobacco products without the mandatory health warnings are in breach of Tobacco Products (Manufacture, Presentation and Sale) (Safety) Regulations 2002 and it is an offence under section 12 of the Consumer Protection 1987 to supply, offer or agreeing to supply, expose or possess any such goods for supply.
7. Furthermore, tobacco products for sale in the United Kingdom must bear the "FISCAL MARK" indicating that tobacco duty had been paid to Her Majesty's Revenue and Customs (HMRC).
8. The tobacco products seized from the premises did not bear the mandatory health warnings, nor the Fiscal mark and are smuggled goods
9. The Premise licence sets out times the licence authorises the sale of alcohol (carrying out of licensable activities): Monday to Sunday, from 09:00 hours to 02:00 hours. To sell alcohol outside these hours is an offence under Section 136 of the Licensing Act 2003, the unlicensed sale of alcohol.
10. On 19th August 2008, at 8 20 a.m. a bottle of Rosé wine was sold to Licensing Officers.
11. Mr. Amir Uddin accepted a simple caution on 25th November 2008 admitting the offence on 19th August 2008 under Section 136(1) of the Licensing Act 2003, for the unlicensed sale of alcohol.

12. On 22nd November 2008 at 02:10 a.m. Licensing Officers bought a bottle of red wine.
13. On 20th December 2008, at 02.18 a.m, a bottle of Cobra beer was sold to Licensing Officers.
14. On 13th June 2009 at 03 16 a.m. 2 bottles of Smirnoff Ice alcohol was sold to Licensing Officers.
15. This Service respectfully refers the Licensing sub-committee to the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary for State for Culture, Media and Sport. In particular the Service requests that you consider paragraphs 11.22 to 11.27, Reviews arising in connection with crime, making reference to paragraph 11.25. Paragraph 11.25 states that there is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises for, amongst other things, the sale of smuggled tobacco. In paragraph 11.26 the guidance advises that revocation of the licence should seriously be considered, even at first instance.
16. In the opinion of this Service the sales of alcohol outside the time restrictions set out in the premises licence, show that the premises licence holder ignores his responsibilities under the Licensing Act 2003.
- 17. The Trading Standards Service therefore respectfully submits that the Licensing Sub-Committee exercises its power under Section 52 of the Licensing Act 2003 and revokes the premises licence.**

John Patrick McCrohan

Trading Standards Service Manager

London Borough of Tower Hamlets

Appendix 2



(Commercial Confectionery)
141 Commercial Road
London
E1 1PX

Licensable Activities authorised by the licence

The sale by retail of alcohol

See the attached licence for the licence conditions

Signed by

John Cruse

Team Leader Licensing

Date: 22nd November 2006

Part A - Format of premises licence

Premises licence number

11447

Part 1 - Premises details

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

(Commercial Confectionery)
141 Commercial Road

Post town

London

Post code

E1 1PX

Telephone number

020 7247 6468

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Alcohol

- Monday to Sunday, from 09:00 hours to 02:00 hours

The opening hours of the premises

- Monday to Sunday, from 00:00 hours to 24:00 hours

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

Off sales

Part 2

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

Mr Amir Uddin
141 Commercial Road
London E1 1PX

Tel: 020 7247 6468

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

N/A

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

Mr Amir Uddin
92 Belton Way
Bow
London E3 4BB

Tel: 07903 021242

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

Personal licence number: 11432

Issuing authority: London Borough Tower Hamlets

Annex 1 - Mandatory conditions

No supply of alcohol may be made under the premises licence-

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

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

Times **Alcohol**

- Monday to Sunday, from 09:00 hours to 02:00 hours

Annex 2 - Conditions consistent with the operating Schedule

None

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

N/A

Annex 4 - Plans

The plans are those submitted to the licensing authority on the following date:

12th September 2006

Part B - Premises licence summary

Premises licence number

11447

Premises details

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

(Commercial Confectionery)
141 Commercial Road

Post town
London

Post code
E1 1PX

Telephone number
020 7247 6468

Where the licence is time limited
the dates

N/a

Licensable activities authorised
by the licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Alcohol

- Monday to Sunday, from 09:00 hours to 02:00 hours

The opening hours of the premises

- Monday to Sunday, from 00:00 hours to 24:00 hours

Name, (registered) address of holder of premises licence

Mr Amir Uddin
141 Commercial Road
London E1 1PX

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

Off sales

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

N/A

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

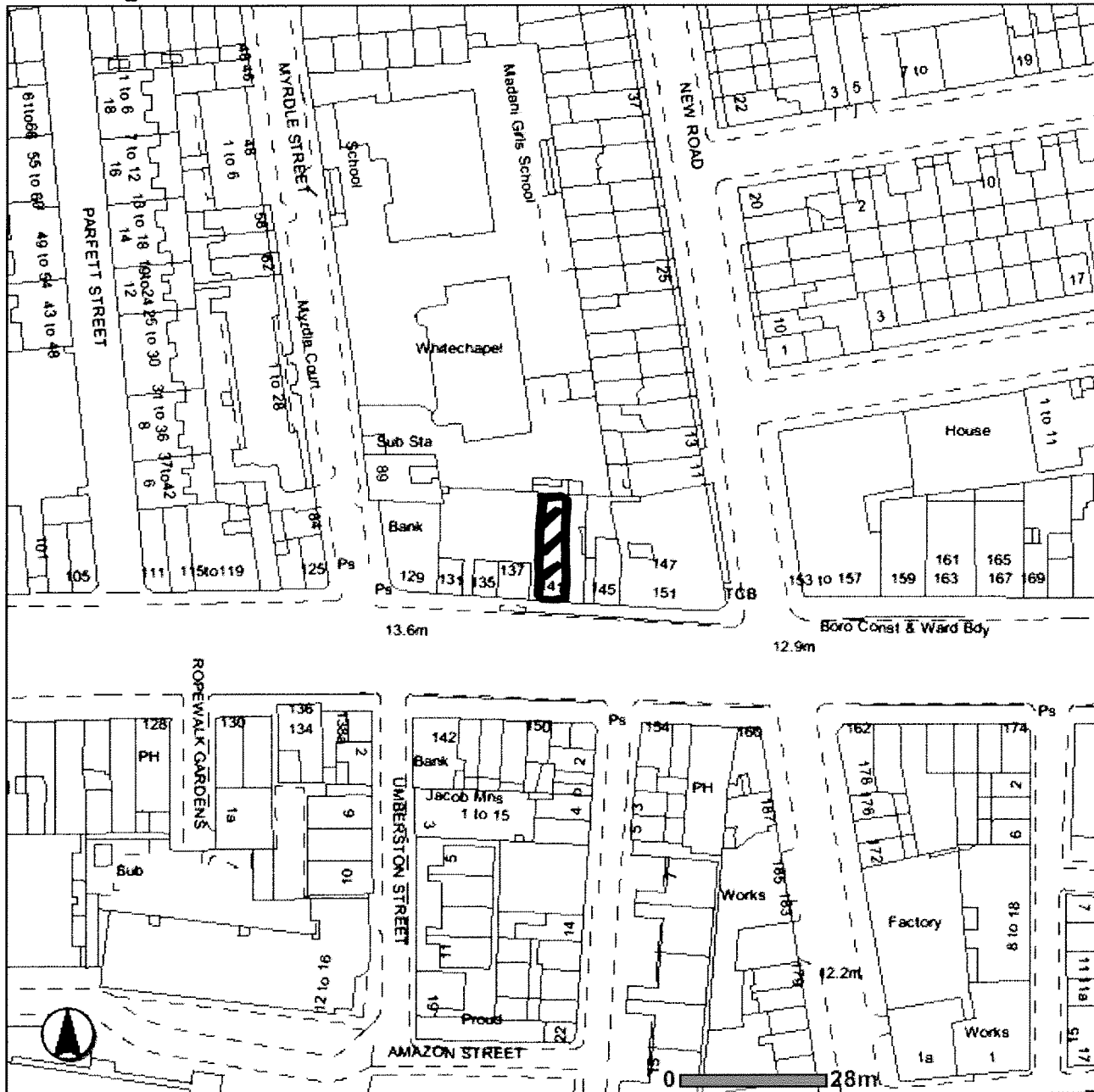
Mr Amir Uddin

State whether access to the premises by children is restricted or prohibited

No

Appendix 3

Map



Scale 1:1228

Map of:

Notes:

141 Commercial Road

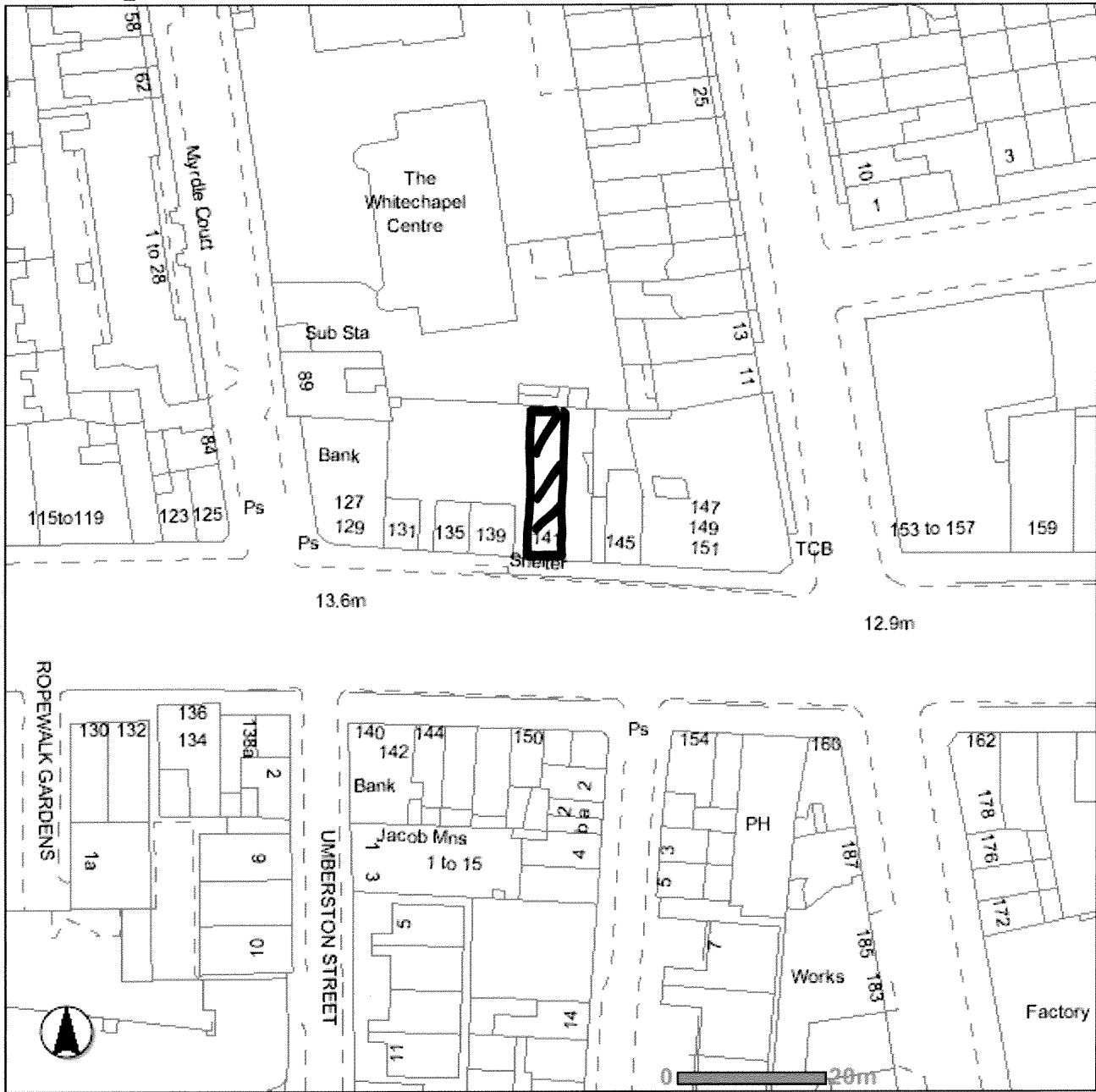
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Map



Scale 1:867

Map of:

Notes:

141 Commercial Road

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Appendix 4

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

- 11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.
- 11.17 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:
to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - to suspend the licence for a period not exceeding three months;
 - to revoke the licence.
- 11.18 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

- 11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.
- 11.21 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.22 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.

11.23 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.

11.24 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.

11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected; for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.26 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. 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. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

- 11.27 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

Appendix 5

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

Crime and Disorder Act 1998

- 1.28 All local authorities must fulfil their obligations under section 17 of the Crime and Disorder Act 1998 when carrying out their functions as licensing authorities under the 2003 Act.
- 1.29 Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making. It places a duty on certain key authorities, including local authorities and police and fire and rescue authorities to do all they reasonably can to prevent crime and disorder in their area.
- 1.30 The Government believes that licensing authorities should, as a matter of good practice, involve Crime and Disorder Reduction Partnerships (CDRPs) in decision-making in order to ensure that statements of licensing policy include effective strategies that take full account of crime and disorder implications.

Pool Conditions

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

Annex D

Conditions relating to the prevention of crime and disorder

It should be noted in particular that it is unlawful under the 2003 Act:

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk
- knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

CORE PRINCIPLES

1 When applicants are preparing their operating schedules or club operating schedules, responsible authorities are considering applications and licensing authorities are considering applications following the receipt of relevant representations, they should consider whether the measures set out below are necessary to promote the licensing objectives.

2. Any risk assessment to identify necessary measures should consider the individual circumstances of the premises (including local knowledge) and take into account a range of factors including:

- the nature and style of the venue;
- the activities being conducted there;
- the location; and
- the anticipated clientele.

Under no circumstances should licensing authorities regard these conditions as standard conditions to be automatically imposed in all cases.

1 Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and any breach could give rise to prosecution.

2 Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.

5. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are unnecessary.

CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

Text/Radio pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These conditions may also be appropriate and necessary in other areas.

It is recommended that a condition requiring the text/radio pager links to the police should include the following requirements:

- the text/pager equipment is kept in working order at all times;
 - the pager link is activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
 - any police instructions/directions are complied with whenever given;
- and
- all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

Door supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out individuals excluded by court bans or by the licence holder;
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside venues. Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:
 - the number of supervisors;
 - the displaying of name badges;

- the carrying of proof of registration;
 - where, and at what times, they should be stationed on the premises;
- and
- whether at least one female supervisor should be available (for example, if female customers are to be given body searches).

Door supervisors also have a role to play in ensuring public safety (see Part 2) and the prevention of public nuisance (see Part 4).

Bottle bans

Glass bottles may be used as weapons to inflict serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises. This should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
 - no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Bottle bans may also be a relevant necessary measure to promote public safety (see Part 2).

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons and in untoughened form, can cause very serious injuries. Where necessary, consideration should therefore be given to conditions requiring the use of safer alternatives which inflict less severe injuries. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of plastic containers or toughened glass may be a necessary condition during the televising of live sporting events, such as international football matches, when there may be high states of excitement and emotion fuelled by alcohol.

The use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Part 2).

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licensed for the sale of alcohol for consumption off the premises. However, consideration should be given to a condition preventing customers from taking alcoholic and other drinks from the premises in open containers (eg glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on taking open containers from the premises may also be relevant necessary measures to prevent public nuisance (see Part 4).

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing during particular sports events. Conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Restrictions on drinking areas may also be relevant necessary measures to prevent public nuisance (see Part 4).

Capacity limits

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled (see above).

Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent these crimes, it may be necessary for certain licensed premises to require the production of “proof of age” before sales are made. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security. While conditions may refer directly to PASS accredited proof of age cards, they should also allow for the production of other proof, such as photo-driving licences, student cards and passports.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the “Challenge 21” or other similar initiatives. Under the “Challenge 21” initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older – would need to produce appropriate proof of age before making a purchase.

Proof of age may also be relevant and necessary to protect children from harm (see Part 5).

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the display of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels.

However, conditions specifically designed to address irresponsible drinks promotions or discounting at individual premises may be permissible provided they are necessary for the promotion of the licensing objectives. Licensing authorities should be aware that there may often be a very fine line between responsible and irresponsible promotions. It is therefore vital that they consider these matters objectively in the context of the licensing objectives and before pursuing any form of restrictions at all, take their own legal advice.

Signage

It may be necessary for the normal hours at which licensable activities are permitted to take place under the terms of the premises licence or club premises certificate to be displayed on or immediately outside the premises so that it is clear if breaches of these terms are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises which have exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to licences for these premises which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption (see paragraphs 10.58-10.64) to control entry for the purpose of compliance with the capacity limit.

Appendix 6

Licensing Policy Adopted by the London Borough of Tower Hamlets

- 5.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

- 5.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonable can to prevent crime and disorder in the Borough.

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