



Meeting of the

LICENSING SUB COMMITTEE

Tuesday, 26 January 2010 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 Motin Uz-Zaman | Mile End East |
| Councillor M. Shahid Ali | Limehouse |
| Councillor Clair Hawkins | Mile End & Globe Town |

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, 26 January 2010

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 17 th December 2009. | | |
| 5. ITEMS FOR CONSIDERATION | | |
| 5 .1 Application to Review the Premises Licence for Elegant Food Market, 430 Hackney Road, London E2 6QL (LSC 044/910) | 23 - 86 | Bethnal Green North |
| 5 .2 Application to Review the Premises Licence for Guven Supermarket, 7 Calvert Avenue, London, E2 7JP (LSC 045/910) | 87 - 176 | Weavers |

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:-

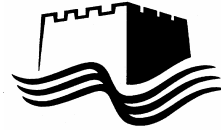
- (a) A member of the public, who knows the relevant facts, would reasonably think that your personal interests are so significant that it is likely to prejudice your judgment of the public interests; AND
- (b) The matter does not fall within one of the exempt categories of decision listed in paragraph 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 6.50 P.M. ON THURSDAY, 17 DECEMBER 2009

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

Members Present:

Councillor Carli Harper-Penman (Chair)

Councillor Rupert Eckhardt
Councillor Alexander Heslop

Other Councillors Present:

Councillor David Snowdon

Officers Present:

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

Applicants In Attendance:

| | |
|------------------|-------------|
| Elaine King | (Applicant) |
| Maureen Sullivan | (Applicant) |
| Paul Lewis | (Resident) |
| Nina Ezra | (Resident) |

Objectors In Attendance:

| | |
|---------------|---------------------------|
| Chris Hepher | (Licensing Consultant) |
| Deepak Sharma | (Premises License Holder) |
| Mr Sharma | (Director, Troxy) |
| Will Poole | (Director, Troxy) |

Members of the Public In Attendance:

There were a number of members of the public present who did not sign the attendance register.

At 6.45pm the Legal Advisor extended the meeting start time by a further 30 minutes for Members to view some evidence that had been provided by the applicants.

1. APOLOGIES FOR ABSENCE

There were no apologies for absence.

2. DECLARATIONS OF INTEREST

There were no declarations of interest made.

3. RULES OF PROCEDURE

The rules of procedures were noted.

4. UNRESTRICTED MINUTES

The minutes of the Licensing Sub Committee held on 17th November 2009 were agreed as a correct record of proceedings.

5. ITEMS FOR CONSIDERATION

5.1 Application to Review the Premises Licence for The Troxy, 490 Commercial Road, London E1 OHX (LSC 041/910)

The Chair welcomed everyone to the meeting, ensured that introductions were made and then briefly outlined the procedure of the meeting.

At the request of the Chair, Kathy Butler, Acting Principal Licensing Officer introduced the report which detailed the review application for The Troxy, 490 Commercial Road, London E1 OHX. It was noted that the review had been triggered by two local residents, and supported by a local Tenants Resident Association, and other local residents.

At this point Ms Elaine King, the review applicant raised concerns as to the details which had been blanked out of the supplemental agenda which was inconsistent with the main agenda pack and therefore believed this not to be an open and transparent process. Concerns were noted and the Chair explained that that this would not alter their decision and that the original papers were available to Members if required.

At the request of the Chair Ms Maureen Sullivan, the review applicant explained that she had lived in the area for the past 46 years during which time she had never known it to be so bad since the past 3 years. She explained the incidents which had led to the review, and expressed her

concerns in relation to parking issues, pedestrians unable to access walkways, crime and disorder, traffic congestions and public nuisance due to early morning dispersals. She also stated that attempts had been made to discuss these issues with the Premise License Holder but this was unsuccessful.

Mr Paul Lewis, a local resident spoke on behalf of Mile End Housing Association as well as his own personal experience as a resident and the impact it had on him and local residents. He raised concerns about the illegal parking, the health & safety risks, and of an incident which had occurred as a result of illegal parking and traffic congestion. He explained that the previous owners and the previous nature of the venue had caused no problems in the past.

Ms Nina Ezra, a local resident explained that she lived the closest to the Troxy and experienced the greatest disturbance. It was noted that this caused a negative impact on residents' livelihood, with regular late night events which caused disturbance during entry, intervals and dispersals. She also highlighted that when the venue is used for Cage Fights it attracted a clientele which made residents feel unsafe and in fear due to their disorderly behaviour. She continued to explain the types of anti-social behaviour that takes place i.e. patrons urinating on street corners, showing no respect for residents, littering on the streets, lack of car parking facilities, people often blocking pedestrian footways, and residents are often faced with verbal abuse.

Cllr David Snowdon spoke on behalf of local residents; he explained that the Troxy was an inappropriate late night venue as it's located in a densely populated local housing estate. He briefly explained the history of the venue and its previous purpose of use. He also explained that before its current use the venue did not cause a problem and believed that it could have been brought upon by current business practice. Cllr Snowdon then suggested that operating hours should be reduced to 11:00pm, with no deliveries or queuing on Pitsea Street, possibility of undertaking litter sweeps. He also pointed out that a pre existing condition on the current license was in breach as the Pitsea Tenants Resident Association were currently not being informed of major events taking place at the Troxy. He concluded that the Troxy was a respectable venue and wished it to be prosperous as long as it did not impact on local residents.

Ms Elaine King, the review applicant began by explaining that the review related to all four licensing objectives and briefly explained the incidents which had led to the review and having a negative impact on all residents. She explained that she had been subject to abuse by door men and customers of the Troxy. She also felt that the accusation made by the Premises License Holder in his submission that residents had thrown eggs and stones on customers cars parked were false. She explained that she had made attempts to work with the Premises License Holder however this was not reciprocated and therefore due to the increased disturbance there was a need for this review.

Ms King highlighted that she had lived in the area for the past 25 years and had never experienced any problems when the venue had been used previously as a Bingo Hall, English Opera House Rehearsals and Cinema Hall. She explained that residents on both sides of Commercial Road were affected, and faced issues such as no access on walkways, traffic breaches, health & safety breaches, verbal abuse from stewards and customers etc. She urged members to give customers the quality of life they deserved.

At the request of the Chair Mr Chris Hepher, Licensing Consultant on behalf of the Premises License Holder explained that he also had concerns over the anonymity of information being used as evidence and questioned the authenticity of the incidents which had been reported by residents. The Chair reiterated that fact that this would not reflect on their decision and that Members had access to all the original papers if required.

Mr Hepher, briefly explained the purpose of the premises, the prospective clientele and the style of operation it maintains. He then gave a brief history of the venue and its previous purpose of use and explained that currently the premises was fit for purpose and could not possibly go back to its previous use i.e. bingo hall, cinema. It was noted that it was a listed building and therefore unable to change things however the Premises License Holder has been looking to restore and refurbish the premises.

He referred to pages 9-10 of the supplemental agenda (supporting documents submitted by the Premises License Holder) which listed a chronology of all the events and incidents which had taken place since the venue had been opened. He explained that approximately 300,000 people would have attended the Troxy in the last 3 years and therefore not everyone would be likely to have behaved perfectly. It was acknowledged that there would likely be some disturbance to residents as it was a very big venue. Mr Hepher then explained the types of events which took place in the Troxy with a majority of weddings which were less of a risk.

He stated that the management of Troxy would be happy to impose a condition for Pitsea Residents to be informed of forthcoming events at the Troxy, he also mentioned that when a recent email was sent to Ms King in relation to fortnightly coming events, this was not welcomed.

He mentioned that the Troxy was always under huge scrutiny by the police and the Local Authority, and it was brought to attention that no representation had been received by any responsible authority and questioned why residents and the applicants had not contacted the police or council officers regarding the nuisance.

He then responded to the concerns raised by the applicants during their submissions he stated that a meeting with residents was arranged however was only attended by some residents but not the applicants or members of the tenants residents association, it was noted that all residents had been informed of the meeting.

Mr Hepher then stated that he was agreeable to the proposed conditions made by Cllr Snowdon however did not agree on the 11pm finish, and believed that the leisure industry with the building of its size and the overheads it was not a viable option to close at 11pm.

He continued to explain that substantial money had been spent to restore the venue, with on going expenditure plans, and if hours are to be cut back to 11pm the current operation would be unable to function and would have to close down in 6 months. Mr Hepher felt that Ms King was set on what she felt was right and that management of Troxy were wrong which was an unhelpful approach.

Mr Hepher concluded by making the following points, that customers of Troxy have been subject to assault and have had damage to their cars which have been reported to management, that approximately 300,000 people have benefited from using the venue, some have been local people and some haven't, however a venue its size cannot run on its own local clientele. As for the car parking issues, management have been in contact with the relevant Local Authority Officers to resolve issues of parking and are continuing to do so as it is acknowledged that car parking is a problem. He finally concluded that management would continue to engage with the Police, Local Authority and residents to alleviate problems.

Members asked questions on the alleged incidents on customers, it was noted that it was witnessed by the Troxy security team and photographic evidence had been sent to the Police. Members also asked questions about the number of incidents that have occurred during weddings, what measures have been put in place to prevent these incidents from occurring again, whether customers are told that there is no car parking available for the venue. Concerns were also raised as to the process in which events were managed. It was noted that full scale risk management measures were in place and management of Troxy have had continuous dialogue with John Stuart, Parking Services, LBTH in relation to parking issues.

The Chair advised that the Sub Committee would at 8.50pm adjourn to consider the evidence presented. The Members reconvened at 9.20pm, the Chair reported that the Sub Committee had decided that;

After hearing all of the representations, Members were concerned about the severe nuisance that residents were facing and also concerned at the regularity of incidents occurring in relation to the venue. Members did not believe that sufficient steps had been taken to alleviate the problems and did not think that simply adding conditions would resolve the issues. Members were particularly concerned at the impact that the nuisance would cause residents late at night but welcomed the Licensee's submissions that they were willing to work with residents to resolve issues.

Therefore, on balance, considered that the licensing objectives would best be met by the amendment of the license for the following hours and conditions:

RESOLVED

Sale of alcohol:

Sunday to Thursday from 10:00 hours to 23:00 hours

Fridays and Saturdays from 10:00 hours to 02:00 hours the following days

Regulated entertainment consisting of:

Films, Live Music, Recorded Music, Performance of Dance, provision of facilities for making music, facilities for dancing.

Indoor Sporting Events, Boxing or wrestling entertainments.

Sunday to Thursday from 10:00 hours to 23:00 hours

Fridays and Saturdays from 10:00 hours to 02:00 hours the following days

Plays:

Monday to Saturday from 10:00 hours to 23:00 hours

Sunday from 12:00 hours to 22:30 hours

Late Night Refreshment:

Fridays and Saturdays from 23:00 hours to 02:00 hours the following day

Hours open to the public:

Sunday to Thursday from 10:00 hours to 23:30 hours

Fridays and Saturdays from 10:00 hours until 02:30 hours the following days

Conditions:

1. No waste produced from the premises is to be placed outside the premises between the hours of 8pm and 8am the following day. The agreement that the premises has with its authorised waste collector will stipulate that waste is not be collected between the hours of hours of 8pm and 8am the following day.
2. Management to arrange for rubbish collection patrols to be undertaken after an event from the perimeters of Stepney Causeway (west of the premises) to Ratcliffe Cross Street (east of the premises) and up to Railway Viaduct (south of the premises) and up to Commercial Road (north of the premises).
3. Management to arrange for a Taxi Marshall to be present during Fridays and Saturdays when there is an event where the licence holder anticipates that more than 500 people maybe present at the premises.
4. Management to inform Pitsea Estate Tenants and Residents Association of any forthcoming events that go past 23:00 hours, 14 days before the event is due to take place.
5. The Troxy venue is to be advertised to patrons, businesses, and hirers that there is no car parking available. This information should be included in all of its literature and its website.

The meeting ended at 9.35 p.m.

Chair, Councillor Carli Harper-Penman
Licensing Sub Committee

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Agenda Item 5.1

| | | | | |
|--|--------------------------|---------------------------------|---------------------------|-----------------|
| Committee: Licensing Sub-Committee | Date: 26 January 2010 | Classification: UNRESTRICTED | Report No. LSC 044/910 | Agenda Item No. |
|--|--------------------------|---------------------------------|---------------------------|-----------------|

| | |
|---|--|
| Report of: Colin Perrins Head of Trading Standards and Environmental Health (Commercial) Originating Officer: Kathy Butler Acting Principal Licensing Officer | Title: Licensing Act 2003 Application to Review the Premises Licence for Elegant Food Market, 430 Hackney Road, London E2 6QL Ward affected: Bethnal Green North |
|---|--|

1.0 Summary

Name and Address of premises: **Elegant Food Market
430 Hackney Road
London
E2 6QL**

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

- Guidance Issued under Section 182 of the Licensing Act 2003
- Tower Hamlets Licensing Policy
- File

Kathy Butler
020 7364 5171

3.0 Review Application

3.1 This is an application for a review of the premises licence for Elegant Food Market, 430 Hackney Road, London E2 6QL. The review was triggered by Ian Moseley, on behalf of the local weights and measures authority.

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 26th October 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: Trading Standards

5.2 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.

5.3 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

5.4 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objectives of the prevention of crime & disorder and 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 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 issued guidance in relation to Protection of Children from Harm see **Appendix 7**.
- 6.7 The Councils Licensing Policy in relation to the Protection of Children from Harm is shown in **Appendix 8**.
- 6.8 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.”

- 6.9 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).
- 6.10 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.
- 6.11 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.

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 7 | Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning Protection of Children from Harm |
| Appendix 8 | Licensing Policy in relation to the Protection of Children from Harm |

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 Ian David Moseley

(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)

23 NOV 2009

LICENSING

Part 1 – Premises or club premises details

| | |
|--|------------------------------------|
| Postal address of premises or, if none, ordnance survey map reference or description Elegant Food Market, 430 Hackney Road | |
| Post town London | Post code (if known) E2 6QL |

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

| |
|--|
| Number of premises licence or club premises certificate (if known) 13000 |
|--|

Part 2 - Applicant details

I am

Please tick yes

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

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

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

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

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

| |
|---------------------------|
| Name and address |
| Telephone number (if any) |
| E-mail address (optional) |

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

| |
|--|
| Name and address Ian David Moseley Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY for Weights and Measures Authority |
| Telephone number (if any) 020 7364 6840 |
| E-mail address (optional) ian.moseley@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 | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

1] prevention of crime and disorder
Counterfeit and potentially unsafe goods found on premises on more than one occasion

4] Protection children from harm
Underage sales of alcohol

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

Please see 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

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

I Moseley

Date

23/11/09

Capacity

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

Post town

Post Code

Telephone number (if any) 020 7364 6840

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) ian.moseley@towerhamlets.gov.uk

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.

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 is raising this review in relation to Licensing Objective 1 - the prevention of crime and disorder and Licensing Objective 2 the protection of children from harm
2. Staff at these premises have twice sold alcohol to young people below the age of eighteen undertaking test purchasing exercises with the Trading Standards Service . .
3. Quantities of counterfeit DUREX trade marked condoms have been seized from the premises on three occasions.
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 the 25th of November 2007 Trading Standards staff visited the premises and found a quantity of counterfeit DUREX trade marked condoms. These were seized under the provisions of the Trade Marks Act 1994. The possession of fraudulently trade marked items is an offence under Section 92 of that Act.
6. A written warning was issued in respect of this seizure was sent to the owner, a Mr Kemal Kacmaz
7. On the 11th of March 2009 a supervised test purchase attempt in relation to tobacco products was correctly refused.

8. On the 29th of May 2009 Trading Standards staff visited the premises and found a quantity of counterfeit DUREX trade marked condoms. Action on this occurrence is pending
9. On the 21st of June 2009 Trading Standards staff visited the premises and found a further quantity of counterfeit DUREX trade marked condoms. Action on this occurrence is pending
10. On the 18th of August 2009 Mr Hussein Eren, the DPS of record for the premises sold a bottle of Kingfisher beer to a person under the age of 18 acting under the instruction of an Inspector of Weights and Measures.
11. Mr Eren was given, and has signed, a formal caution for an offence under the provisions of Section 146 of the Licensing Act 2003
12. On the 26th of October 2009 a similar test purchase was refused however, as there were concerns that the observing officer may have been identified, a further test purchase attempt was made on the 28th of October 2009 and a volunteer under 18 was sold a can of Foster's lager by a Mr Ali Celik.
13. Mr Celik was issued a Police fixed penalty notice for this offence.
14. In 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.
15. The apparent lack of day to day control in the premises has prompted this review.
16. As one of the underage sales by Mr Eren himself officers have no confidence that additional conditions would resolve the problem and the Trading Standards Service respectfully submits **that the Licensing Sub-Committee exercises its power under Section 52 of the Licensing Act 2003 and revokes the premises licence**

17. In the alternative the Trading Standards Service would ask the Licensing Sub Committee to remove Mr Huseyin Eren as a designated premises supervisor and impose the following conditions.

18. Conditions:-

(1) That a Designated Premises Supervisor must be present on the premises when any supply of alcohol is made.

(2) That the premises introduce a strict 'Challenge 21' policy and 'No ID, No sale' policy which is supported by signage at all entrances and in the serving area.

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 (BIAB) handbook.

Ian David Moseley

Senior Trading Standards Officer

LondonBorough of Tower Hamlets

Appendix 2



(Elegant Food Market)
430 Hackney Road
London
E2 6QL

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

RP

Date: 26/10/05

| FOR OFFICE USE | Receipt Number | Fee Paid | Fee Req. | Date | Initial |
|----------------|----------------|----------|----------|------|---------|
|----------------|----------------|----------|----------|------|---------|

M:\Licensing\Word97\2003 LicAct.certs & lics\Prem Lics\Hackney Road 430.doc
 030455 201897 £23 20/1/09 MA
 030456 £23

**Part A - Format of premises licence**

Premises licence number

13000

Part 1 - Premises details**Postal address of premises, or if none, ordnance survey map reference or description**

(Elegant Food Market)
430 Hackney Road

Post town

London

Post code

E2 6QL

Telephone number

0207 729 1526

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**The sale by retail of alcohol**

Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday from 07:00 hours to 02:00 hours the following day

Including Christmas Day from 12:00 hours to 15:00 hours and 19:00 hours to 22:30 hours and Good Friday from 08:00 hours to 22:30 hours

The opening hours of the premises

Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday from 07:00 hours to 02:00 hours the following day

Including Christmas Day from 12:00 hours to 15:00 hours and 19:00 hours to 22:30 hours and Good Friday from 08:00 hours to 22:30 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

Mr Huseyin Eren
8 Adlington Close
Edmonton
London
N18 1XL

Tel: 020 7729 1526 / 07867 531895

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 Huseyin Eren
8 Adlington Close
Edmonton
London
N18 1XL

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

Licence Number: LN/200500713
Issuing Authority: London Borough of Enfield

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

The sale by retail of alcohol

Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday from 07:00 hours to 02:00 hours the following day

Including Christmas Day from 12:00 hours to 15:00 hours and 19:00 hours to 22:30 hours and Good Friday from 08:00 hours to 22:30 hours

Annex 2 - Conditions consistent with the operating Schedule

1. CCTV system shall be maintained to cover both the entrance to the premise and inside. Thereafter the system shall be maintained and operated in accordance with the Data Protection Act. Recordings shall be retained for 30 days and produced upon request to the Police and Licensing Authority.
2. That a personal licence holder be present on the premises from 20:00 hours until closing.
3. Red care alarm system connected directly to the police.
4. Staff to request proof of age identification such as UK drivers licence or passport to anyone who may appear to be under age.

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

Not applicable

Annex 4 - Plans

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

02 Aug 2005

Part B - Premises licence summary

Premises licence number

13000

Premises details

Postal address of premises, or if none, ordnance survey map reference or description
(Elegant Food Market)
430 Hackney Road

Post town
London

Post code
E2 6QL

Telephone number
0207 729 1526

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

Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday from 07:00 hours to 02:00 hours the following day. Including Christmas Day from 12:00 hours to 15:00 hours and 19:00 hours to 22:30 hours and Good Friday from 08:00 hours to 22:30 hours

The opening hours of the premises

Monday, Tuesday, Wednesday, Thursday, Friday, Saturday and Sunday from 07:00 hours to 02:00 hours the following day including Christmas Day from 12:00 hours to 15:00 hours and 19:00 hours to 22:30 hours and Good Friday from 08:00 hours to 22:30 hours

Name, (registered) address of holder of premises licence

Mr Huseyin Eren
8 Adlington Close
Edmonton
London
N18 1XL

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

On and Off 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

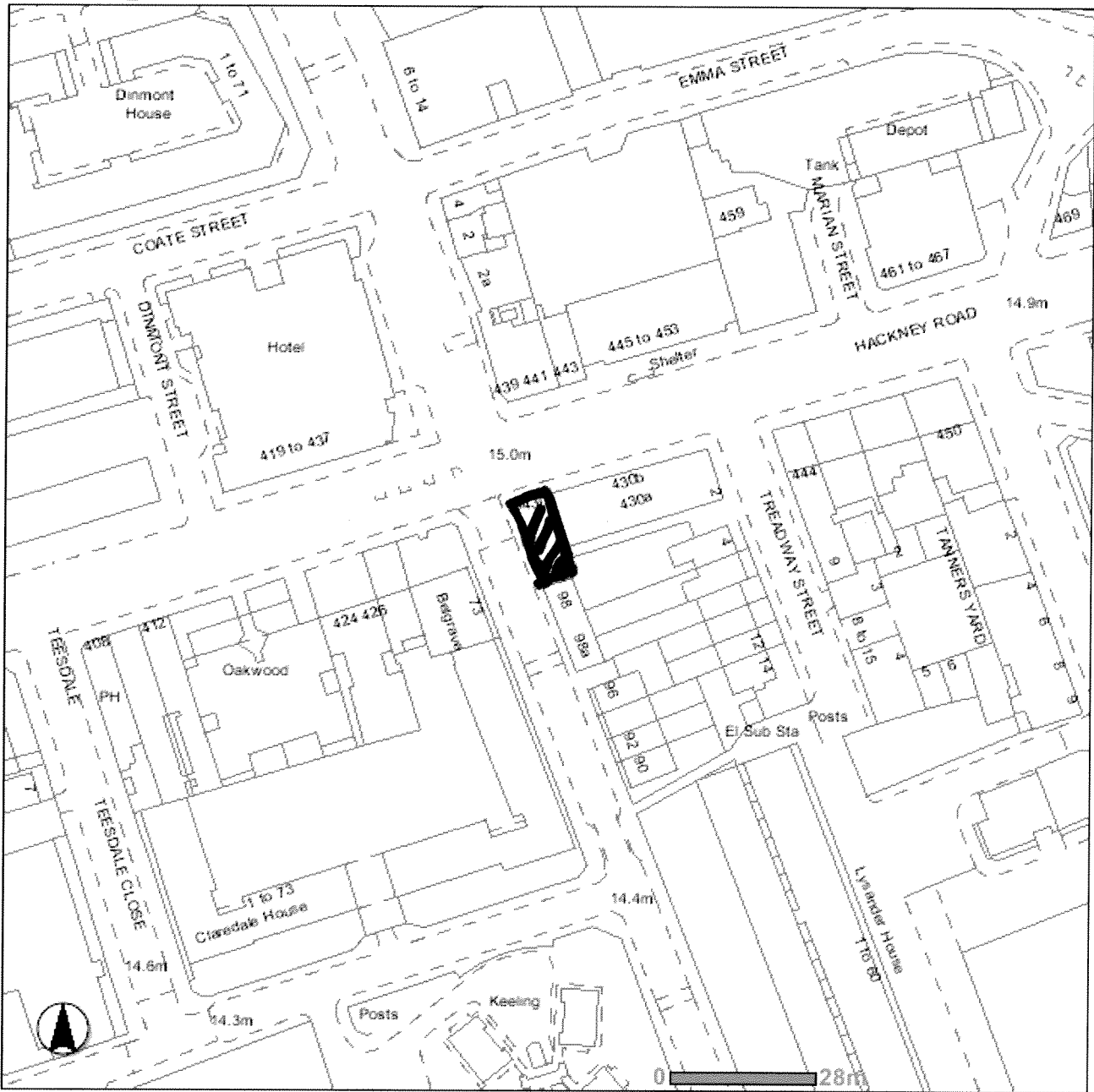
Mr Huseyin Eren

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

No restrictions

Appendix 3

Map



Scale 1:1228

Map of:

Notes:

430 Hackney Road

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Supplied by London Borough of Tower Hamlets

Licence Number: LA100019288

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.

Appendix 7

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 8

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.

Agenda Item 5.2

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|--|--|---------------------------------|---------------------------|-----------------|
| Committee: Licensing Sub-Committee | Date: 26 th January 2010 | Classification: UNRESTRICTED | Report No. LSC 045/910 | Agenda Item No. |
|--|--|---------------------------------|---------------------------|-----------------|

| | |
|---|---|
| Report of: Colin Perrins Head of Trading Standards and Environmental Health (Commercial) Originating Officer: Mohshin Ali Acting Senior Licensing Officer | Title: Licensing Act 2003 Application to Review the Premises Licence for Guven Supermarket, 7 Calvert Avenue, London, E2 7JP Ward affected: Weavers |
|---|---|

1.0 Summary

| | |
|---|--|
| Name and Address of premises: | Guven Supermarket 7 Calvert Avenue London E2 7JP |
| Licence under review: | Licensing Act 2003 <ul style="list-style-type: none">• Sale by retail of alcohol |
| Review triggered by: Representations by: | Trading Standard - Police |

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

- Guidance Issued under Section 182 of the Licensing Act 2003
- Tower Hamlets Licensing Policy
- File

Mohshin Ali
020 7364 5498

3.0 Review Application

This is an application for a review of the premises licence for **Guven Supermarket, 7 Calvert Avenue, London, E2 7JP**.

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. 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 Ian Moseley, Tower Hamlets Trading Standards. Details of his representations are contained in **Appendix 1**.

5.2 This review is also supported by Metropolitan Police and the representation is included in **Appendix 4**.

5.3 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

5.4 In the view of the responsible authorities the review is necessary to achieve the licensing objectives of:

- the prevention of crime and 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 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 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 | Copy of the current Premises Licence |
| Appendix 3 | Maps of the premises and surrounding area |
| Appendix 4 | Maps of the premises and surrounding area |
| 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 Ian David Moseley

(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 Güven Supermarket 7 Calvert Avenue | |
| Post town London | Post code (if known) E2 7JP |

| |
|---|
| Name of premises licence holder or club holding club premises certificate (if known) Mr Kamil Güven |
|---|

| |
|--|
| Number of premises licence or club premises certificate (if known) 09650 |
|--|

Part 2 - Applicant details

I am

Please tick yes

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

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

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

| |
|--|
| Name and address Ian David Moseley Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY for local Weights and Measures Authority |
| Telephone number (if any) 020 7364 6840 |
| E-mail address (optional) ian.moseley@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 | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

Prevention of crime and disorder (1)
Protection of children from harm (4)

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

Please see 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

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

[Handwritten Signature]

Date

28/11/09

Capacity

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.

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 is raising this review in relation to Licensing Objective 1 - the prevention of crime and disorder and Licensing Objective 2 the protection of children from harm
2. Staff at these premises have twice sold alcohol to young people below the age of eighteen undertaking test purchasing exercises with the Trading Standards Service . .
3. On two occasions counterfeit alcohol has been found on 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. In January 2003 a bottle of counterfeit and under strength vodka was found exposed for sale in the premises.
6. A prosecution was initiated but for procedural reasons was not heard until September 2004, when Mr Guven was fined £300 for offences under the Trade Marks Act 1994
7. In May 2006 3 bottles of counterfeit Smirnoff vodka were found on the premises at 7 Calvert Avenue
8. On this occasion as Mr Guven provided details of his supplier the matter was left on file and Mr Guven warned about his behaviour

9. On the 18th of August 2009 Mr Huseyin Guven, an employee, sold a bottle WKD Iron Bru (275ml 4.5% ABV to a person under the age of 18 acting under the instruction of an Inspector of Weights and Measures. It was also noted that the premises did not display the alcohol licence summary as required by the Licensing Act 2003. As a result of this the premises was given a high risk status pending a possible review.
10. On the 26th of October 2009 a similar test purchase was refused however, as there were concerns that the observing officer may have been identified, a further test purchase attempt was made on the 28th of October 2009 and a volunteer under 18 was sold a can of Foster's lager by Mr Huseyin Guven
11. Mr Guven was issued a Police fixed penalty notice for this offence.
12. In 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.
13. Officers are concerned that the controls and supervision at the premises are not sufficiently robust.
14. **The Trading Standards Service would ask the Licensing Sub Committee to impose the following additional conditions on the licence. It does NOT seek to have the licence revoked..**
15. Conditions:-

(1) That the premises introduce a strict 'Challenge 21' policy and 'No ID, No sale' policy which is supported by signage at all entrances and in the serving area.

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.

(2) 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.

(3) 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.

Ian David Moseley

Senior Trading Standards Officer

LondonBorough of Tower Hamlets

London Borough of Tower Hamlets

Licensing Act 2003 Section 51 responsible authority (Weights and Measures)

| | |
|----------------------------|-------------------------|
| Premises Name | Guven Supermarket |
| Address | 7 Calvert Avenue E2 7JP |
| Licence certificate number | 09650 |
| Licence holder name(s) | Mr Kamil Guven |
| Licence holder addresses | 28 Monrow Way E5 8NZ |

| | | |
|-------------------------------|--|------------------|
| Review agreed with TS manager | | Date 18/11/09 |
|-------------------------------|--|------------------|

| | | |
|---|--|------------------|
| Premise details checked with licencing file | | Date 24/11/09 |
|---|--|------------------|

| | | |
|------------------------------------|--|------------------|
| Review application forms completed | | Date 25/11/09 |
|------------------------------------|--|------------------|

| Responsible Authorities informed | Date |
|----------------------------------|------|
|----------------------------------|------|

| | |
|--|----------|
| Trading Standards - Weights and Measures | 25/11/09 |
| Licensing, Met Police: | 25/11/09 |
| London Fire and Civil Defence Authority: | 25/11/09 |
| Planning & Development: | 25/11/09 |
| Environmental Protection: | 25/11/09 |
| Child Protection | 25/11/09 |
| Health & Safety: | 25/11/09 |

Appendix 2



(Guven Supermarket)
7 Calvert Avenue
London
E2 7JP

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



Part A - Format of premises licence

Premises licence number

9650

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description
(Guven Supermarket)
7 Calvert Avenue
London

Post town
London

Post code
E2 7JP

Telephone number
0207 739 6505

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 shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

See Mandatory conditions for drinking up time

The opening hours of the premises

There are no restrictions on the hours during which this premises is open to the public

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

**Mr Kamil Guven
28 Monrow Way
London
Hackney
E5 8NZ
07732 882 731**

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 Kamil Guven
28 Monrow Way
Hackney
London
E5 8NZ**

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

Mr Kamil Guven(*personal licence details to be confirmed*)

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 shall not be sold in an open container or be consumed in the licensed premises
Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Private Entertainment

The premises may be used for the following purpose, that is to say, dancing, music, or other entertainment of the like kind which-

- a) is not a public entertainment but
- b) is promoted for private gain

Public Entertainment

Public Entertainment consisting of music and singing provided solely by the reproduction of recorded sound

Annex 2 - Conditions consistent with the operating Schedule

None

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:

27 JUL 2005



Part B - Premises licence summary

Premises licence number

9650

Premises details

**Postal address of premises, or if none, ordnance survey map reference or description
(Guven Supermarket)
7 Calvert Avenue
London**

Post town
London

Post code
E2 7JP

Telephone number
0207 739 6505

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 shall not be sold or supplied except during permitted hours.
In this condition, permitted hours means:
a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
d. On Good Friday, 8 a.m. to 10.30 p.m.
The above restrictions do not prohibit:
(a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
(b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
(c) the sale of alcohol to a trader or club for the purposes of the trade or club;
(d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces

The opening hours of the premises

These are not restricted

Name, (registered) address of holder of premises licence

Mr Kamil Guven
28 Monrow Way
London
Hackney
E5 8NZ
07732 882 731

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

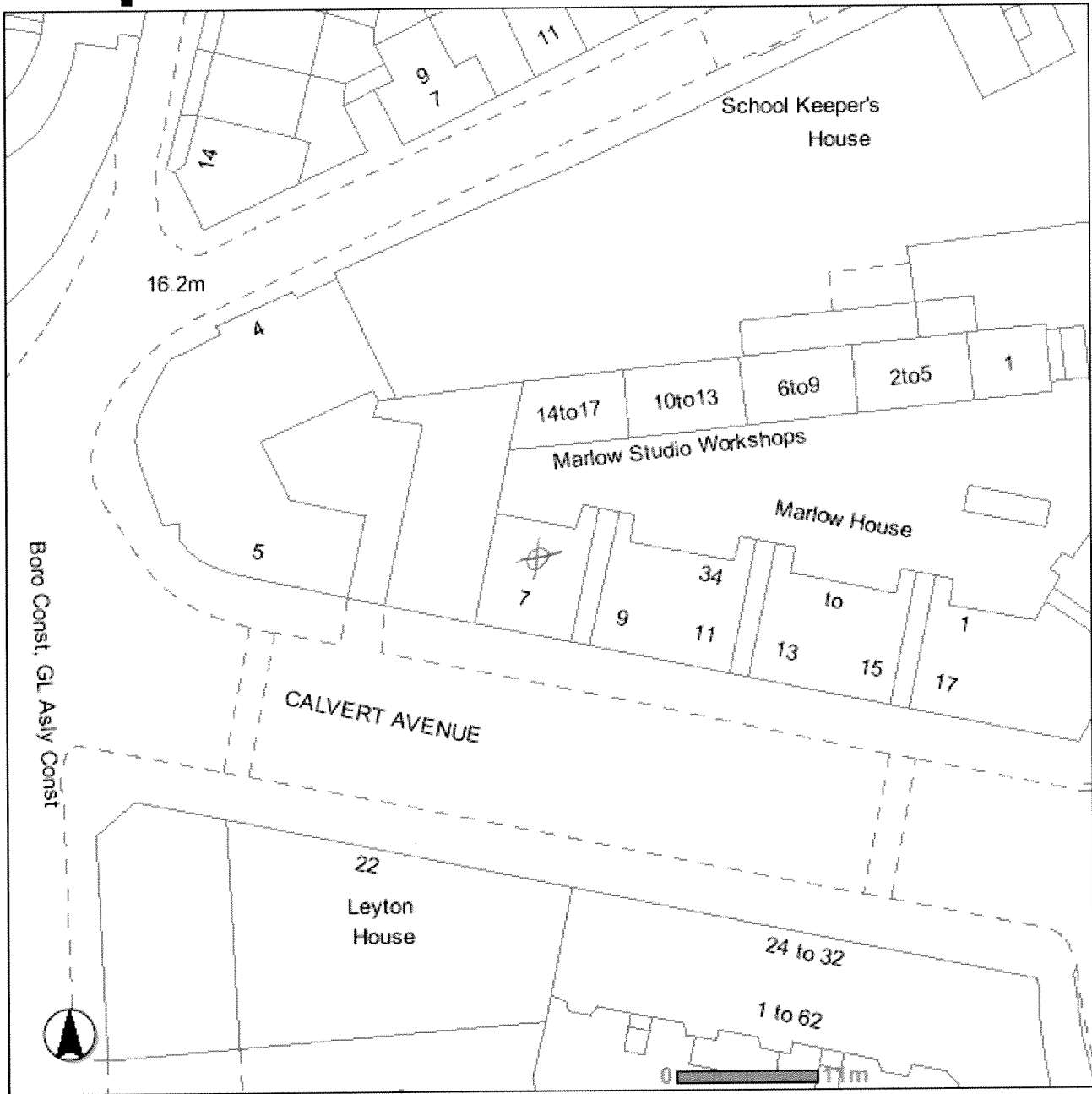
Mr Kamil Guven

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

No

Appendix 3

Map




Scale 1:500

Map of:

Guven Supermarket

Notes:

7 Calvert Avenue, London E2 = 

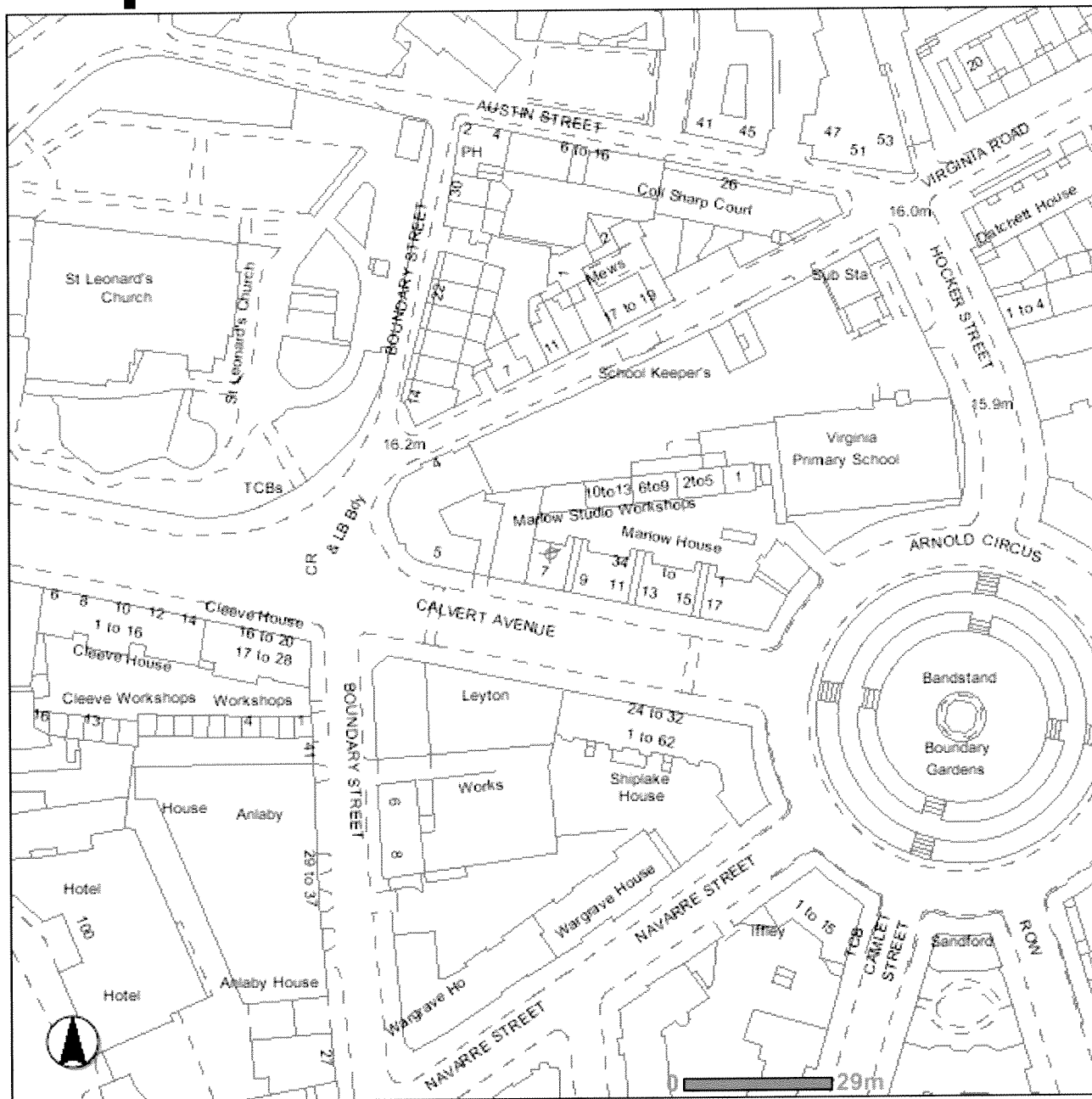
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Supplied by London Borough of Tower Hamlets

Licence Number: LA100019288

Map




Scale 1:1250

Map of:

Guven Supermarket

Notes:

7 Calvert Avenue, London E2 

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Supplied by London Borough of Tower Hamlets

Licence Number: LA100019288

Appendix 4

Tower Hamlets Borough

LBTH Section

Bethnal Green Police Station
12a Victoria Park Square,
Bethnal Green
E2 9NZ

Mulberry Place

Telephone: 020 8217 4118
Facsimile: 020 8217 6688
Email: Jane.Burke@met.police.uk
www.met.police.uk

PO Box 55739

5 Clove Crescent

London E14 1BY

14th December 2009

Re :- Review of Guven Supermarket, 7 Calvert Avenue, E2

Please find attached two statements from myself and PCSO 7234HT Rowlands which I provide in support of the Review application submitted by LBTH Trading Standards Officer, Ian Moseley.

I support the conditions proposed by Ian Moseley in relation to a challenge 21 policy and that a refusals book is maintained. I would also like to propose that the hours the venue is permitted to sell alcohol is reduced by two hours on each day. I base this on the evidence provided in the statements and the timings that the youths congregate outside the venue and cause anti social behaviour (i.e. 2200hours). A reduction in hours would be a deterrent for the youths congregating outside the venue and disturbing the local residents.

Respectfully submitted,



PS 26HT Jane Burke

Police Sergeant - Tower Hamlets Police

22 DEC 2009

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **Jane Burke PS 26HT** URN:

| | | | |
|--|--|--|--|
| | | | |
|--|--|--|--|

Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Officer PS 26HT
82/007648**

This statement (consisting of: **7**..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature:

E. Jane Burke PS 26 HT

Date:

15th Dec. 2009

Tick if witness evidence is visually recorded (supply witness details on rear)

I am a Police Sergeant in charge of the Tower Hamlets Police Licensing Unit based at Bethnal Green Police Station. I make this statement in support of a review submitted by LBTH Trading Standards in relation to The Guven Supermarket 7 Calvert Avenue E2 7JP.

I have checked the police intelligence databases and since 2008 we have received the following reports in relation to the Guven Supermarket.

On 10th March 2009 the Police Licensing Unit received information from Local Residents that the premises were attracting youths to congregate around the premises and engage in anti social behaviour, it was also alleged that the venue were selling to persons underage.

On 24th June 2009 a Safer Neighbourhood Police Office reported that following a "meet and greet" meeting with the residents of Arnold Circus they had received information that groups of up to thirty Asian youths were gathering outside the supermarket most nights of the week. The youths were drinking alcohol and abusing persons as they walked by. It was alleged that the groups were there until 0400hours and if police do attend they "starburst" and return once the police have left. The residents also stated that the youths are dealing in drugs and they indicated the staff from the supermarket may have knowledge of this.

On 3rd July 2009 at 2200hours Officers from Weavers SNT conducted disorder patrols around Calvert Avenue and at 2200hours six hostile Asian males (average age 20years) were stopped and searched outside the venue. The group were moved on by the police. Fifteen minutes later the officers stop a further group of eight Asian males (ages 17 years up to 20 years) loitering on the junction of Boundary Street and Calvert Avenue E2. The youths were noisy and intoxicated, and had left rubbish (vodka bottles) around the area where they had been

Signature:

E. Jane Burke PS 26 HT

Signature witnessed by:

stopped. When question where they purchased the alcohol they stated the Guven Supermarket, the youths cleared up their rubbish and moved on.

In July 2009 a local resident approached PC 494HT Leydon, who was in the area relating to a different incident, and made complaints regarding the Guven Supermarket and the youths who congregate on a regular basis outside the venue creating a disturbance, fighting, playing football in the road and playing loud music from their cars, the resident stated that she has already informed the Council. At 1930hours the office witnessed approximately fifteen males outside the shop in cars. They were asked to turn the music down which they did.

On 5th July 2009 at about 2200hours officers from Weavers SNT patrolling the area witnessed a motor vehicle outside the venue with its doors open. There were two occupants in the vehicle and it was playing loud music. One of the officers identified the occupant as Kamil Guven, the premise licence holder for the shop. The shop was open however there were no staff or customers inside.

On Monday 9th July 2009 at 2059hours Officers from Weavers SNT conducted mobile patrols around Calvert Avenue and they stopped a group of five Asian youths (average age 20 years) loitering outside the supermarket. They were spoken to advised and moved on.

On 29th September 2009 PCSO Rowlands from the Weavers SNT was patrolling the area and a number of residents approached her to complaint about the problems of Anti Social Behaviour around the area. The residents stated that they found the youths intimidating and they have been known to call them names (fat bitches) and they block access to the residential blocks of flats.

I have also checked the Police Crime reporting systems and found two reports relating to the venue:-

On 9th November 2009 the staff from Guven activated the alarm and police attended and arrested a male for a public order offence after he had been fighting in the shop.

On 31st August 2009 a robbery occurred at the venue where a member of staff was assaulted, unfortunately the suspect has not been identified.

I produce this statement in support of the review submitted by LBTH Environmental Services.

Signature: E. Jane Burke PS 26HT Signature witnessed by:

Witness contact details

Home address:
..... Postcode:
Home telephone number Work telephone number
Mobile/pager number Email address:
Preferred means of contact:
Male / Female (delete as applicable) Date and place of birth:
Former name: Ethnicity Code (16+1): Religion/belief:

Dates of witness non-availability

Witness care

- a) Is the witness willing and likely to attend court? Yes / No. If 'No', include reason(s) on **MG6**.
What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness?
Yes / No. If 'Yes' submit **MG2** with file.
- d) Does the witness have any specific care needs? Yes / No. If 'Yes' what are they? (Disability, healthcare, childcare, transport, language difficulties, visually impaired, restricted mobility or other concerns?)

Witness Consent (for witness completion)

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes No
- b) I have been given the Victim Personal Statement leaflet Yes No
- c) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes No
- d) I consent to police having access to my medical record(s) in relation to this matter: (obtained in accordance with local practice) Yes No N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence: Yes No N/A
- f) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings, CICA Yes No
- g) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness: Print name:
Signature of parent/guardian/appropriate adult: Print name:
Address and telephone number if different from above:

Statement taken by (print name): **PS 26HT Jane Burke**..... Station: **Bethnal Green**.....

Time and place statement taken:

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **Kirsty Rowlands**..... URN:

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|--|--|--|--|
| | | | |
|--|--|--|--|

Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Staff**

This statement (consisting of: **2**..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: *Kirsty Rowlands PCO 7234HT* Date: *11th Dec 2009*

Tick if witness evidence is visually recorded (supply witness details on rear)

My name is Kirsty Rowlands and I am a Police Community Support Officer based in Brick Lane. I am attached to Weavers Safer Neighbourhood Team. I have been a PCSO since February 2008 and attached to Weavers Safer Neighbourhood Team since January 2009.

I am writing this statement in regards to GUVENS off-licence which is on Calvert Avenue E2.

Over the past year we have received numerous calls regarding anti-social behaviour around Calvert Avenue, Boundary Street and Arnold Circus.

The main area of concern is with Asian males drinking alcohol and acting in an anti-social manner. These males are congregating around Boundary Street outside St Leonard's Church. They are known to become very aggressive when they are drinking they become very loud, screaming and shouting at each other, and Weavers SNT often receives complaints from local residents about their behaviour.

When stopped by police the males often have three bottles of Vodka between them.

The males who normally congregate are all aged around 18-23, so are legally able to purchase and consume alcohol, but they have been seen on occasion with under-age Asian youths, aged around 16-17 who are also drinking alcohol. We are unaware whether or not they have purchased the alcohol themselves, or if the elder males have bought it for them.

These males are often seen loitering and drinking outside GUVENS off-licence. They appear to be buying alcohol from GUVENS when they are already clearly intoxicated, as they are often seen leaving the premises with newly bought alcohol when they are already drunk.

Here are a few of the MALES that are frequently stopped on a weekly basis

[REDACTED], dob **[REDACTED]**, IC4 MALE, **[REDACTED]**

[REDACTED], dob **[REDACTED]**, IC4 MALE, **[REDACTED]**

[REDACTED], dob **[REDACTED]** IC4 MALE, **[REDACTED]**

[REDACTED], dob **[REDACTED]** IC4 MALE 45 **[REDACTED]**

Signature: *Kirsty Rowlands PCO 7234HT* Signature witnessed by: *[Signature] PC 449 HT*

There are another 8-12 other males that are known to hang around with the above males. _____

Kirsty Rowlands PC 42341

KR
KR

11

Signature: *Kirsty Rowlands PC 42341*

Signature witnessed by: *DPG PC 419 HT*

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.

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 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 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 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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