

# LICENSING SUB COMMITTEE

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Tuesday, 2 September 2014 at 6.30 p.m.

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

This meeting is open to the public to attend.

**Contact for further enquiries:**

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**APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

**1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST (Pages 1 - 4)**

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 Monitoring Officer.

**2. RULES OF PROCEDURE (Pages 5 - 20)**

To note the rules of procedure which are attached for information.

	<b>PAGE NUMBER(S)</b>	<b>WARD(S) AFFECTED</b>
<b>3. ITEMS FOR CONSIDERATION</b>		
<b>3 .1 Application for a New Premises Licence for Bundu Khan - 43 Commercial Street, London, E1 6BD</b>	<b>21 - 62</b>	<b>Spitalfields &amp; Banglatown</b>
<b>3 .2 Application for a Variation of the Premises Licence for Best Kebab - 275 Commercial Road, London, E1 2PS</b>	<b>63 - 120</b>	<b>Whitechapel</b>
<b>4. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT</b>		





# Agenda Item 1

## **DECLARATIONS OF INTERESTS - NOTE FROM THE MONITORING OFFICER**

This note is for guidance only. For further details please consult the Members' Code of Conduct at Part 5.1 of the Council's Constitution.

Please note that the question of whether a Member has an interest in any matter, and whether or not that interest is a Disclosable Pecuniary Interest, is for that Member to decide. Advice is available from officers as listed below but they cannot make the decision for the Member. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending a meeting.

### **Interests and Disclosable Pecuniary Interests (DPIs)**

You have an interest in any business of the authority where that business relates to or is likely to affect any of the persons, bodies or matters listed in section 4.1 (a) of the Code of Conduct; and might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or a person with whom you have a close association, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected.

You must notify the Monitoring Officer in writing of any such interest, for inclusion in the Register of Members' Interests which is available for public inspection and on the Council's Website.

Once you have recorded an interest in the Register, you are not then required to declare that interest at each meeting where the business is discussed, unless the interest is a Disclosable Pecuniary Interest (DPI).

A DPI is defined in Regulations as a pecuniary interest of any of the descriptions listed at **Appendix A** overleaf. Please note that a Member's DPIs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

### **Effect of a Disclosable Pecuniary Interest on participation at meetings**

Where you have a DPI in any business of the Council you must, unless you have obtained a dispensation from the authority's Monitoring Officer following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee:-

- not seek to improperly influence a decision about that business; and
- not exercise executive functions in relation to that business.

If you are present at a meeting where that business is discussed, you must:-

- Disclose to the meeting the existence and nature of the interest at the start of the meeting or when the interest becomes apparent, if later; and
- Leave the room (including any public viewing area) for the duration of consideration and decision on the item and not seek to influence the debate or decision

When declaring a DPI, Members should specify the nature of the interest and the agenda item to which the interest relates. This procedure is designed to assist the public's understanding of the meeting and to enable a full record to be made in the minutes of the meeting.

Where you have a DPI in any business of the authority which is not included in the Member's register of interests and you attend a meeting of the authority at which the business is considered, in addition to disclosing the interest to that meeting, you must also within 28 days notify the Monitoring Officer of the interest for inclusion in the Register.

**Further advice**

For further advice please contact:-

Meic Sullivan-Gould, Monitoring Officer, Telephone Number: 020 7364 4801

## APPENDIX A: Definition of a Disclosable Pecuniary Interest

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the Member's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

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**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).
  - 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.

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#### **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 grant of personal licence).	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days

<b>Application Type</b>	<b>Period of Time within which Hearing to be Held (after reps have closed)</b>	<b>Notice Period of Hearing</b>	<b>Notice Sent To</b>	<b>Attendee Reply Form Back In</b>
Section 31(3)(a) (determination of application for a provisional statement).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days	2 working days	The person who has given Notice; Chief Officer of Police who has given Notice	1 working day
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	Applicant (club); People who have made representations	5 working days
Section 88(2) (determination of application for review of 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 105(2)(a) (counter notice following police objection to temporary event notice)	7 working days	2 working days	The premises user; Chief Officer who has given Notice	1 working day
Section 167(5)(a) (review of premises licence following closure order).	10 working days	5 working days	The holder of the premises licence; People who have made representations	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; Chief Officer of Police who has given Notice	2 working days
Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	10 working days	5 working days	Applicant (club) Chief Officer who has given Notice	2 working days

## **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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## Guidance for Licensing Sub-Committee Meetings.

### (1) Attendance at Meetings.

All meetings of the Sub-Committee are open to the public and press to attend. On rare occasions, the Sub-Committee may retire to consider private business that will be clearly marked on the agenda as such. The press and public will be excluded for those confidential items only. We try to keep confidential reports to an absolute minimum. We request that you show courtesy to all present and please keep mobile phones on silent. Meetings can reach full capacity and seats are allocated on a first come first come served basis.

### (2) Licensing Sub-Committee Role and Membership.

In summary, the Sub-Committee will consider and determine applications to grant, vary or review a license submitted under the Licensing Act 2003 where representations have been made. The full terms of reference can be found on the Committee webpages (see below). The Licensing Sub-Committee will consist of 3 Members of the main Licensing Committee. Meetings are normally held in the Town Hall Council Chamber.

#### Licensing Sub-Committee Webpages

To view go to the Committee and Member Services web page:  
[www.towerhamlets.gov.uk/committee](http://www.towerhamlets.gov.uk/committee) - 'agenda, reports, decisions and minutes', then click on 'Licensing Sub-Committee'.

The pages include:

- Terms of Reference for the Licensing Sub-Committee.
- Meeting dates, agendas and minutes.
- Agenda timetable including agenda publication dates. (To view click 'browse meetings and agendas for this committee', then 'show agenda management timetable').

### (3) Access to Committee Papers.

The agenda for Sub-Committee meetings is published five clear (working) days before the Sub-Committee meeting on the Committee webpages (except for certain types of applications where special rules apply). All Committee papers (i.e. agendas, reports, minutes and decisions) are published on the website and also available on iPad and Android tablet apps downloadable for free from their respective app stores.

### (4) Who can speak at Licensing Sub-Committee meetings?

Only interested parties may address the Sub-Committee (those who have made a valid representation) and the applicant and their representatives. Although the Sub-Committee may allow other persons to present the interested parties evidence or to give supporting evidence. If you are planning to attend the hearing to address the committee, you are advised to contact the Committee officer - see the Committee

pages and agenda front page for contact details. Speakers are advised to arrive at the start of the meeting in case the order of business is changed. Speakers will be called to speak by the Chair at the appropriate time. If speakers are not present by the time their application is heard, the Committee may consider the item in their absence.

**(5) What can be circulated?**

Should you wish to submit any material, please contact the Committee/Licensing Officer as soon as possible. The Sub-Committee may accept information at the hearing, however this is only with the agreement of all parties present.

**(6) How will the applications be considered?**

The Sub-Committee will normally consider the items in agenda order subject to the Chair’s discretion. The hearing procedure is detailed at the end of this guidance.

**(7) How can I find out about a decision?**

You can contact Democratic Services the day after the meeting to find out the decisions.

**(8) Queries on reports.**

For any questions, please contact the Officer named on the front of the report.

Typical Seating Plan for Licensing Sub - Committee Meetings in the Town Hall Council Chamber.

Public Seating		Objectors Benches		Sub-Committee Members
Public Seating				Chair
Public Seating				Legal Officer
Public Seating		Applicants Benches		Committee Officer
Public Seating				Licensing Officer

## **LICENSING SUB COMMITTEE HEARING PROCEDURE**

All interested parties to the hearing must notify Democratic Services within prescribed timescales that they intend to attend and/or be represented at the hearing and whether any witnesses will be attending on their behalf. The meeting will be in the form of a discussion led by the Sub Committee, cross examination of either party will not be permitted.

The Chair will allocate an equal amount of speaking time to each party. Where there is more than one representation raising the same or similar grounds, those parties should consider nominating a single representative to address the Sub-Committee on their behalf at the hearing.

The hearing will proceed as follows (subject to the discretion of the Chair).

1. Chair will introduce him/herself and ask Members, officers, and all interested parties present at the meeting to introduce themselves.
2. Licensing Officer to present the report.
3. Committee Members to ask questions of officer (if any).
4. The Applicant to present their case in support of their application (including any witnesses they may have).
5. Committee Members to ask questions of applicants and their witnesses or ask for points of clarification.
6. The relevant Responsible Authorities in attendance will present their case and their reasons for representation (including any witnesses they may have).
7. The Objectors/Interested Parties in attendance will present their case and their reasons for objecting (including any witnesses they may have).
8. Committee Members to ask questions of Responsible Authorities, objectors and their witnesses or ask for points of clarification.
9. Applicant (with exception and with permission of the Chair) can ask questions of the other parties to the hearing and their witnesses.
10. Interested Parties to the hearing (with exception and with the permission of the Chair) can ask questions of the applicant/other parties to the hearing and their witnesses.
11. Chair's closing remarks
12. Sub-Committee retire from the meeting with the Committee Officer and Legal Officer and consider their decision.
13. The Sub-Committee will return to the meeting and Chair announces the decision together with the reasons for the decision and any right to appeal.
14. Decision letter will be sent to all interested parties confirming the decision made.

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# Agenda Item 3.1

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub Committee</b>	02 September 2014	<b>Unclassified</b>	LSC 18/145	

Report of: <b>David Tolley</b> <b>Head of Consumer and Business Relations</b>	Title: <b>Licensing Act 2003 Application for a premises licence for Bundu Khan – 43 Commercial Street, London, E1 6BD</b>
Originating Officer: <b>Andrew Heron</b> <b>Licensing Officer</b>	Ward affected: <b>Spitalfields and Banglatown</b>

## 1.0 Summary

Applicant: **Adnan Foods Limited (8963008)**  
Name and Address of Premises: **Bundu Khan**  
**43 Commercial Street**  
**London**  
**E1 6BD**

Licence sought: **Licensing Act 2003**  
 **The sale of alcohol**  
 **Provide regulated entertainment**

Objectors: **Local Residents (Petition)**

## 2.0 Recommendations

2.1 That the Licensing Committee considers the application and objections then adjudicate 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

File Only

Andrew heron  
020 7364 2665

### 3.0 **Background**

3.1 This is an application for a premises licence for Bundu Khan – 43 Commercial Street, London, E1 6BD.

3.2 A copy of the application is enclosed as **Appendix 1**.

3.3 The applicant has described the nature of the variation as:

- the sale of alcohol
- regulated entertainment

3.4 The hours that have been applied for are as follows:-

#### **Sale of Alcohol (on sales only)**

- Monday to Sunday from 12:00hrs to 23:00hrs

#### **The Provision of Regulated Entertainment in the form recorded music (indoors):**

- Monday to Friday from 12:00hrs to 15:00hrs and from 18:00hrs to 23:00hrs
- Saturday and Sunday from 12:00hrs to 23:00hrs

#### **Hours premises is open to the public:**

- Monday to Friday from 12:00hrs to 15:00hrs and from 18:00hrs to 23:00hrs
- Saturday and Sunday from 12:00hrs to 23:00hrs

3.5 Members may wish to note that in relation to the sale of alcohol this is the same as when the premises closes to the public. It is difficult to see how the licence holder will ensure that the licence conditions are met. The problem, of course, is that if sales continue until the last minute the premises cannot be emptied on time. Members are advised to consider a break between the end of the regulated activities and the time the premises closes to the public.

3.6 Maps showing the relevant premises is included as **Appendix 2**.

### 4.0 **Licensing Policy and Government Advice**

4.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on 1<sup>st</sup> November 2013.

4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.

- 4.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in June 2013.
- 4.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

## 5.0 Representations

- 5.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing.
- 5.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 5.3 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives." Likely means something that will probably happen, i.e. on balance more likely than not.
- 5.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 5.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 5.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 3**.
- 5.7 All the representations in this report have been considered by the relevant officer (Trading Standards and Licensing Manager) and determined to have met the requirements of the Licensing Act 2003.
- 5.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:
- Local Residents in the form of a petition **See Appendix 4**
- 5.9 All of the responsible authorities have been consulted about this application. They are as follows:
- The Licensing Authority
  - The Metropolitan Police

- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Primary Care Trust

5.10 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections 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

5.11 The objections cover allegations of

- Anti-social behaviour from patrons leaving the premises
- Disturbance from patrons leaving the premises on foot
- Close proximity to residential properties

5.12 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

5.13 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

## **6.0 Licensing Officer Comments**

6.1 The following is intended to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

6.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is "provided for licensing authorities carrying out their functions." It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).



- ❖ Also “so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so.” When doing so licensing authorities will need to give full reasons for their actions (1.9).
  - ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
  - ❖ Conditions may not be imposed for the purpose other than the licensing objectives.
  - ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.7).
  - ❖ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.
  - ❖ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment. (S. 10.24).
  - ❖ The Government has stated “there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.20)
  - ❖ Mandatory conditions must be imposed (10.43) and censorship avoided (10.31).
  - ❖ Routine conditions about drink promotions are not permitted but can be imposed in appropriate circumstances (10.38). The Office of Fair Trading’s Advice also needs to be considered, namely that minimum prices setting is not permitted.
- 6.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 6.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 6.5 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.

- 6.6 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)
- 6.7 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 6.8 In **Appendices 5 and 6** Members are given general advice, and also have explanations of the Council's Licensing Policy, Government advice and other legislation relating to the matters previously identified.

## 7.0 Exemptions

- 7.1 There are a number of statutory exemptions from the operation of the Licensing Act 2003, and Members need to bear these in mind.
- 7.2 Schedule 1 Part 2 of the Act states that entertainment in churches, Morris dancing (and accompanying music if live and unamplified) and incidental music are not licensable activities-that is no conditions can be set for them.
- 7.3 Acts of religious worship, wherever performed are not licensable.
- 7.4 Section 177, (1) and (2) of the Act provides that where a premises (or club) is licensed for alcohol consumption on the premises and is primarily thus used, and the permitted capacity does not exceed 200, additional conditions relating to the music should only relate to public safety or the prevention of crime (or both). That is they should not relate to any "noise nuisance."
- 7.5 Section 177 (4) provides that where a premises licence (or club) has a capacity of not more than 200 and the only music is unamplified live music between 08:00hrs and midnight, no additional conditions should be set relating to the music.
- 7.6 Section 177 can be disapplied on a licence review if it is proportionate to do so.

## 8.0 Legal Comments

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

## 9.0 Finance Comments

9.1 There are no financial implications in this report.

## 10.0 Appendices

- |                   |  |
|-------------------|--|
| <b>Appendix 1</b> | A copy of the application  |
| <b>Appendix 2</b> | Maps of the area   |
| <b>Appendix 3</b> | Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations  |
| <b>Appendix 4</b> | Representations of Local residents – in the form of a petition headed by Ruksana Khanum (signed also by Kristian Bogdanov, Khaleda Begum, Sajis Begum, Holy Khanom, Tahin Hussain, Forzan Latif, Anwar Hussain, A Rahman, Nazrul Isla, Husnaya Khatun and Elvira Ukaj) |
| <b>Appendix 5</b> | Licensing Officer comments on Anti-Social Behaviour from Patrons Leaving the Premises  |
| <b>Appendix 6</b> | Licensing Officer comments on Access and Egress Problems   |

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# Appendix 1



\* required information

**Section 1 of 19**

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference  This is the unique reference for this application generated by the system.

Your reference  You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes  No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

**Applicant Details**

\* First name

\* Family name

\* E-mail

Main telephone number

Other telephone number

Include country code.



Indicate here if you would prefer not to be contacted by telephone

Are you:

Applying as a business or organisation, including as a sole trader

Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

**Applicant Business**

\* Is your business registered in the UK with Companies House?  Yes  No

\* Registration number

\* Business name

\* VAT number

\* Legal status

If your business is registered, use its registered name.

Put "none" if you are not registered for VAT.

Continued from previous page...

\* Your position in the business

Home country

The country where the headquarters of your business is located.

**Registered Address**

Address registered with Companies House.

\* Building number or name

\* Street

District

\* City or town

County or administrative area

\* Postcode

\* Country

**Section 2 of 19**

**PREMISES DETAILS**

I/we, as named in section 1, apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in section 2 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

**Premises Address**

Are you able to provide a postal address, OS map reference or description of the premises?

Address     OS map reference     Description

**Postal Address Of Premises**

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

**Further Details**

Telephone number

Non-domestic rateable value of premises (£)

**Section 3 of 19****APPLICATION DETAILS**

In what capacity are you applying for the premises licence?

- An individual or individuals
- A limited company
- A partnership
- An unincorporated association
- A recognised club
- A charity
- The proprietor of an educational establishment
- A health service body
- A person who is registered under part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales
- A person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying on of a regulated activity (within the meaning of that Part) in an independent hospital in England
- The chief officer of police of a police force in England and Wales
- Other (for example a statutory corporation)

**Confirm The Following**

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities
- I am making the application pursuant to a statutory function
- I am making the application pursuant to a function discharged by virtue of Her Majesty's prerogative

**Section 4 of 19****NON INDIVIDUAL APPLICANTS**

Provide name and registered address of applicant in full. Where appropriate give any registered number. In the case of a partnership or other joint venture (other than a body corporate), give the name and address of each party concerned.

**Non Individual Applicant's Name**

Name

Adnan Foods Ltd.

**Details**

Registered number (where applicable)

8963008

Description of applicant (for example partnership, company, unincorporated association etc)



Continued from previous page...

Limited Company

**Address**

Building number or name	<input type="text" value="43"/>
Street	<input type="text" value="Commercial Street"/>
District	<input type="text"/>
City or town	<input type="text" value="London"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="E1 6BD"/>
Country	<input type="text" value="United Kingdom"/>

**Contact Details**

E-mail	<input type="text" value="REDACTED"/>
Telephone number	<input type="text" value="REDACTED"/>
Other telephone number	<input type="text"/>

**Section 5 of 19**

**OPERATING SCHEDULE**

When do you want the premises licence to start?  /  /   
dd mm yyyy

If you wish the licence to be valid only for a limited period, when do you want it to end  /  /   
dd mm yyyy

Provide a general description of the premises

For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.

Restaurant : two floors split level with seating capacity of 140-150 guests. Open 7 days a week.

If 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

Continued from previous page...

**Section 6 of 19**

**PROVISION OF PLAYS**

Will you be providing plays?

Yes  No

**Section 7 of 19**

**PROVISION OF FILMS**

Will you be providing films?

Yes  No

**Section 8 of 19**

**PROVISION OF INDOOR SPORTING EVENTS**

Will you be providing indoor sporting events?

Yes  No

**Section 9 of 19**

**PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS**

Will you be providing boxing or wrestling entertainments?

Yes  No

**Section 10 of 19**

**PROVISION OF LIVE MUSIC**

Will you be providing live music?

Yes  No

**Section 11 of 19**

**PROVISION OF RECORDED MUSIC**

Will you be providing recorded music?

Yes  No

**Standard Days And Timings**

**MONDAY**

Start

End

Start

End

Give timings in 24 hour clock.  
(e.g., 16:00) and only give details for the days  
of the week when you intend the premises  
to be used for the activity.

**TUESDAY**

Start

End

Start

End

**WEDNESDAY**

Start

End

Start

End

Continued from previous page...

THURSDAY

Start 12:00

End 15:00

Start 18:00

End 23:00

FRIDAY

Start 12:00

End 15:00

Start 18:00

End 23:00

SATURDAY

Start 12:00

End 23:00

Start

End

SUNDAY

Start 12:00

End 23:00

Start

End

Will the playing of recorded music take place indoors or outdoors or both?

- Indoors       Outdoors       Both

Where taking place in a building or other structure tick as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

Recorded soft background music only

State any seasonal variations for playing recorded music

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Recorded soft background music only

Non-standard timings. Where the premises will be used for the playing of recorded music at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

None

Section 12 of 19

PROVISION OF PERFORMANCES OF DANCE

Will you be providing performances of dance?

Continued from previous page...

Yes

No

**Section 13 of 19**

**PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE**

Will you be providing anything similar to live music, recorded music or performances of dance?

Yes

No

**Section 14 of 19**

**LATE NIGHT REFRESHMENT**

Will you be providing late night refreshment?

Yes

No

**Section 15 of 19**

**SUPPLY OF ALCOHOL**

Will you be selling or supplying alcohol?

Yes

No

**Standard Days And Timings**

**MONDAY**

Start

End

Start

End

Give timings in 24 hour clock.  
(e.g., 16:00) and only give details for the days  
of the week when you intend the premises  
to be used for the activity.

**TUESDAY**

Start

End

Start

End

**WEDNESDAY**

Start

End

Start

End

**THURSDAY**

Start

End

Start

End

**FRIDAY**

Start

End

Start

End

**SATURDAY**

Start

End

Start

End

Continued from previous page...

SUNDAY

Start 12:00

End 23:00

Start

End

Will the sale of alcohol be for consumption:

- On the premises     Off the premises     Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

None

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

None

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

**Name**

First name Subodh

Family name Darnal

**Enter the contact's address**

Building number or name 43

Street Commercial Street

District

City or town London

County or administrative area

Postcode E1 6BD

Country United Kingdom

Continued from previous page...

Personal Licence number (if known)

Issuing licensing authority (if known)

### PROPOSED DESIGNATED PREMISES SUPERVISOR CONSENT

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor  
 As an attachment to this application

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'.

### Section 16 of 19

#### ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children

Give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

None

### Section 17 of 19

#### HOURS PREMISES ARE OPEN TO THE PUBLIC

##### Standard Days And Timings

###### MONDAY

Start

End

Start

End

Give timings in 24 hour clock. (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

###### TUESDAY

Start

End

Start

End

###### WEDNESDAY

Start

End

Start

End

Continued from previous page...

THURSDAY

Start	<input type="text" value="12:00"/>	End	<input type="text" value="15:00"/>
Start	<input type="text" value="18:00"/>	End	<input type="text" value="23:00"/>

FRIDAY

Start	<input type="text" value="12:00"/>	End	<input type="text" value="15:00"/>
Start	<input type="text" value="18:00"/>	End	<input type="text" value="23:00"/>

SATURDAY

Start	<input type="text" value="12:00"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

SUNDAY

Start	<input type="text" value="12:00"/>	End	<input type="text" value="23:00"/>
Start	<input type="text"/>	End	<input type="text"/>

State any seasonal variations

For example (but not exclusively) where the activity will occur on additional days during the summer months.

None

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed in the column on the left, list below

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

None

**Section 18 of 19**

**LICENSING OBJECTIVES**

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

b) The prevention of crime and disorder

controlled consumption of Alcohol in the premises

Continued from previous page...

c) Public safety

controlled consumption of Alcohol in the premises

d) The prevention of public nuisance

Serve alcohol within specified timings and quantity only

e) The protection of children from harm

The staff will be vigilant, trained accordingly to take appropriate action against any such conduct.  
Also, we have a separate glass partitioned dining area for families.

**Section 19 of 19**

**PAYMENT DETAILS**

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Premises Licence Fees are determined by the non-domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at [http://www.voa.gov.uk/business\\_rates/index.htm](http://www.voa.gov.uk/business_rates/index.htm)

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £8700 £315.00

Band D - £87001 to £12500 £450.00\*

Band E - £125001 and over £635.00\*

\*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £12500 £900.00

Band E - £125001 and over £1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.

Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment only where the entertainment is provided by and at the school or college and for the purposes of the school or college.

If you operate a large event you are subject to ADDITIONAL fees based upon the number in attendance at any one time

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00



Continued from previous page...

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

\* Fee amount (£)

315.00

## DECLARATION

\* I/we understand 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.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

\* Full name

Adnan Ayub

\* Capacity

Director

\* Date

06

/

05

/

2014

dd

mm

yyyy

Add another signatory

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...

2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/tower-hamlets/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

**IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING 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**

## OFFICE USE ONLY

Applicant reference number

Bundu Khan 2014

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

Date and time submitted

Approval deadline

Error message

Is Digitally signed

**BASEMENT PLAN**  
**BUNDU KHAN RESTAURANT**  
**43 COMMERCIAL STREET, E1 6BD**

**LBTH**  
**TRADING STANDARD**  
**- 4 JUN 2014**  
ISSUANCE BASED ON DRAWING NUMBER 13/0077  
**LICENSING**

**MAIN STAIRS:** To be made in site dimensions) 1000mm clear width with 18 treads of 220mm and 153 risers. 1000mm clear width with 18 treads of 220mm and 153 risers. To be made in site dimensions) 1000mm clear width with 18 treads of 220mm and 153 risers. To be made in site dimensions) 1000mm clear width with 18 treads of 220mm and 153 risers.

**BASEMENT FLOOR:** 1000mm clear width with 18 treads of 220mm and 153 risers. To be made in site dimensions) 1000mm clear width with 18 treads of 220mm and 153 risers.

**GROUND FLOOR:** 1000mm clear width with 18 treads of 220mm and 153 risers. To be made in site dimensions) 1000mm clear width with 18 treads of 220mm and 153 risers.

**CELANOX:** Basement and Ground floor: 1000mm clear width with 18 treads of 220mm and 153 risers. To be made in site dimensions) 1000mm clear width with 18 treads of 220mm and 153 risers.

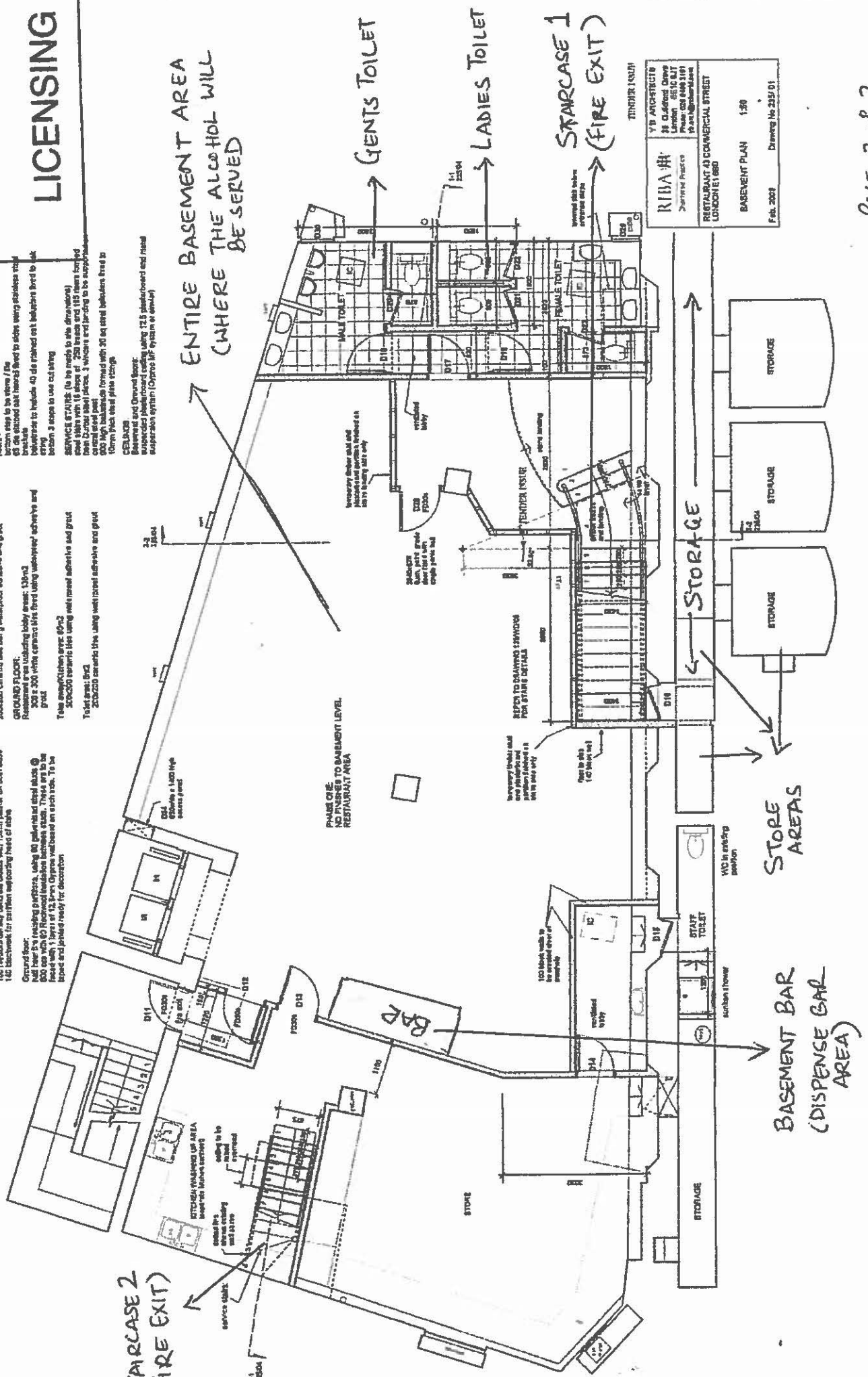
**ENTIRE BASEMENT AREA  
 (WHERE THE ALCOHOL WILL  
 BE SERVED)**

**INTERNAL PARTITIONS:** 1000mm clear width with 18 treads of 220mm and 153 risers. To be made in site dimensions) 1000mm clear width with 18 treads of 220mm and 153 risers.

**GROUND FLOOR:** 1000mm clear width with 18 treads of 220mm and 153 risers. To be made in site dimensions) 1000mm clear width with 18 treads of 220mm and 153 risers.

**CELANOX:** Basement and Ground floor: 1000mm clear width with 18 treads of 220mm and 153 risers. To be made in site dimensions) 1000mm clear width with 18 treads of 220mm and 153 risers.

**STAIRCASE 2  
 (FIRE EXIT)**



<b>Y.P. ARCHITECTS</b> 18 Oldfield Court 255-257 E1 6AT Phone: 020 8448 3100 Fax: 020 8448 3101	<b>RUBIA KHAN</b> Director of Practice RESTAURANT 43 COMMERCIAL STREET LONDON E1 6BD	<b>BASEMENT PLAN</b> 1/30 Feb. 2008 Drawing No 255/01
---	---	--



# Appendix 2

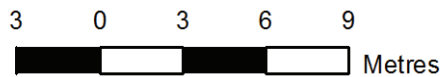


# 43 Commercial Street

## Map 1



Scale 1:334



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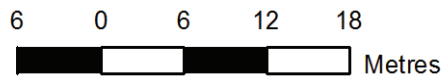


# 43 Commercial Street

## Map 2



Scale 1:668



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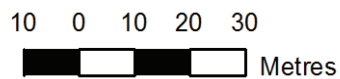


# 43 Commercial Street

Map 3



Scale 1:1669



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# Appendix 3



### Section 182 Advice by the Home Office

Updated October 2012

#### Relevant, vexatious and frivolous representations

- 9.4 A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.
- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority’s corporate complaints procedure. A person may also challenge the authority’s decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult

for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub- committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

# Appendix 4

Ruksana Khanum

London Borough of Tower Hamlets  
Licensing Section  
Mulberry Place  
5 Clove Crescent  
London E14 2BG



28<sup>th</sup> June 2014

Your ref: TSS/LIC/076385

Dear Sir/Madam,

**Re: Licensing Act 2003 and Bundu Khan 43 Commercial Street E1, New premise**

We are writing this letter on behalf of all residences in [REDACTED]. We are opposing the application to sell alcohol, late night refreshments or regulated entertainment license, which recently has been submitted by Bandu Khan.

We reside opposite the restaurant, which currently operates between the hours of 12.00pm- 11.00pm. We have serious concerns if the council were to grant Bundu Khan the permission to sell alcohol, late night refreshments or regulated entertainment license, as this will have a direct impact in our daily lives of many residents living in Ladbrook Court and its vicinity.

Please find more detailed analysis about the objection below.

**1) The prevention of crime and disorder:**

Over the years, Brick Lane and its surrounding area has developed into one of London's major nighttime economies. Brick Lane attracts not only Londoners to the area but many tourists, especially the young who have read about the vibrant nightlife in and around Brick lane.

As you are already aware that Commercial St, Brick Lane and its vicinity have the highest concentration of licensed premises in Tower Hamlets. This

continued development and increased number of restaurants, late night takeaways, off licenses and bars, have now placed a considerable strain on police resources and also that of other responsible authorities.

This leads to alcohol related violence, public disorder and anti-social behavior. Some of which may be considered "low level" ASB but actions such as urinating in the street or groups of people playing drums, screaming, drunken behavior into the early hours of the morning has a debilitating effect on us and our livelihoods.

According to a recent study conducted by Tower Hamlets Council, which looked at the particular types of crime within the area for the calendar years 2007, 2008, 2009, 2010 and 2011 found that six types of crimes had increased in the area during this five-year period. The crime types looked at were:

1. Total Notifiable Offences (all offences)
2. Criminal Damage
3. Drug Offences
4. Robbery
5. Sexual Offences
6. Violence Against the Person

A new refurbished pub/bar called Clupeper with late night openings that has alcohol-selling licensee has recently opened opposite our flats. This has already caused some unrecorded disturbance within the vicinity and we are facing these issues on a regular basis if not every night. It continuously leads to people sitting in surrounding streets disturbing the residents whether by continuing their partying, screaming or committing disorder. If the permission is granted to Bundu Khan, this will have a direct impact within many families, not just in Ladbrook Court but also blocks of flats in and around Commercial Street and Wentworth Street.

There are already over 207 Licensed Premises within this small area. This small vicinity alone is responsible for around 8% of all crime within Tower Hamlets. According to the official figures there has been a steady increase in Notifiable offences, criminal damage and drug offences within the area. More importantly this area is responsible for the highest level of complaints about street drinking in Tower Hamlets. Brick Lane has the highest rates of ASB in the Borough and there is a steady increase in ambulance callouts in the Brick Lane Area.

## **2) The prevention of public nuisance:**

Permitting license to Bundu Khan will instigate more noise nuisance, pollution, noxious smells and litter that come with any alcohol related premises. As the council is aware of the fact that there are only few parking facilities available, some residence permit in its surrounding area and few in red route after restricted hours. It would certainly be even more congested and we will face a grater parking problem.

**3) The protection of children from harm:**

As a result of alcohol and late night entertainments premises in our vicinity, we continue to face some unprecedented problems as a community in Tower Hamlets, especially in Commercial Street and Brick Lane area.

There are many families with young children and teenagers living in the block, who will have to face reality of late night entertainments and drunken abuses on their door step. In addition it is likely that they will suffer from psychological, moral and may-be physical harm. Children will have an early exposure to strong language, sexual expletives, adult entertainment, drinking alcohol, drug-taking, gambling and violence.

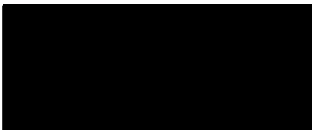
The increasing levels of crime, disorder, and alcohol related harm will mean the need to deploy increasing levels of resources by the Police, Local Authority and other partners. We would be grateful if you could consider the above points when making your decision, and take into account the impact it will have on local people's lives.

Please find the petition attached, should you need any further details please do not hesitate to contact us on the above address.

Thank you

Yours faithfully

Ruksana Khanum

A black rectangular redaction box covering the signature of Ruksana Khanum.

Tenants' of 

Flat No	Print Name		Date
	Kristian Bogdanov		29.06.2014
	Khaleda Begeem		29.06.2014
	<del>S. Begum</del> SAJIA BEGUM		29-6-14
	HOLY KHANOM		29/6/14
	Tahmin Hussain		29/6/14
	MR FORZAN LATIF		29/6/2014
	Amwars Hussain		29/6/14
	A. Rahman		29-6-14

	RUKSANA KHANUM	29/6/14
	NAZRUL ISLAM	29/6/14.
	HUSNAYA KHATUN	29/6/14
	ELVIRA UKAJ	29/06/14



# Appendix 5

### Anti-Social Behaviour from Patrons Leaving the Premises

#### General Advice

Members need to bear in mind that once patrons have left a premises they are no longer under direct control. Members will need to be satisfied that there is a link between the way the premises is operating and the behaviour that is complained of. An example of this would be that irresponsible drinking is being encouraged. Before deciding that any particular licensing conditions are proportionate, Members will also need to be satisfied that other legislation is not a more effective route. For example, if the problem is drinking in the street it may be that the Council should designate the area as a place where alcohol cannot be consumed in public.

Members may also wish to consider whether the hours of opening relate to any problems of anti-social behaviour.

If Members believe that there is a substantial problem of anti-social behaviour and it cannot be proportionately addressed by licensing conditions they should refuse the application.

#### Licensing Policy

The policy recognises that other legislation or measures may be more appropriate but also states that licensing laws are “a key aspect of such control and will always be part of an overall approach to the management of the evening and night time economy.” (**See Section 4.10 and 4.11 of the Licensing Policy**).

The Licensing Authority expects the applicant to have addressed all crime and disorder issues relating to the premises in their operating schedule and to have sought appropriate advice. (**See Sections 5.2 of the Licensing Policy**)

The Licensing Authority will consider attaching conditions to deter crime and disorder 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):

- Bottle Bans
- Plastic containers
- CCTV (outside the premises)
- Restrictions on open containers for “off sales”
- Proof of Age scheme
- Crime prevention notices
- Drinks promotions-aimed at stopping irresponsible promotions
- Signage

## Cumulative Impact

There is a process by which the Licensing Authority can determine that an area is saturated following representations. However, the process for this involves wide consultation and cannot come from representations about a particular application. (**See Section 6 of the Licensing Policy**).

## Police Powers

The Licensing Act 2003, Part 8 gives a senior police officer the power to close a premises for up to 24 hours where the officer believes there is, or is likely to be disorder on or in the vicinity and closure is necessary in the interests of public.

## Guidance Issued under Section 182 of the Licensing Act 2003.

The pool of conditions, adopted by the council is recommended (13.20).

The key role of the police is acknowledged (2.2).

Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, but can relate to the immediate vicinity of the premises as they seek entry or leave (2.4).

Conditions are best targeted on deterrence and preventing crime and disorder (S.2.6) communication, police liaison, no glasses are all relevant (s.2.7-2.11).

*There is also guidance issued around the heading of “public nuisance as follows*

The pool of conditions, adopted by the council is recommended (Annexe D).

Licence conditions should not duplicate other legislation (1.16).

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

## Other Legislation

### Crime and Disorder Act 1998

The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder.

The Act also introduced a wide range of measures designed to address anti-social behaviour committed by adults and young people. These include:

- Anti-Social Behaviour Orders
- Child Curfew Schemes
- Truancy
- Parenting Orders
- Reparation Orders
- Tackling Racism

# Appendix 6

### Access and Egress Problems

Such as:

Disturbance from patrons arriving/leaving the premises on foot

Disturbance from patrons arriving/leaving the premises by car

Lack of adequate car parking facilities

Close proximity to residential properties

#### Comment

The above have been grouped together as egress problems. Of course the particular facts will be different for each alleged problem.

Egress only is referred to-if necessary access can be added or substituted in.

#### General Advice

In considering concerns relating to disturbance from egress, Members need to be satisfied that the premises under consideration has been identified as the source of the actual or potential disturbance. If they are satisfied that this is a problem, then proportionate conditions should be considered.

The hours of operation also need to be considered.

If Members believe that there is a substantial problem concerning egress and it cannot be proportionately addressed by licensing conditions, they should refuse the application.

#### Licensing Policy

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

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 policy also recognises that staggered closing can help prevent problems at closure time (**See Section 12.10**).

However, 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 12.10**)

The Council has adopted a set of framework hours (**See 12.8 of the licensing policy**). This relates to potential disturbance caused by late night trading.

The Licensing Authority will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Pool of Conditions relating to the prevention of Public Nuisance. (**See Appendix 2 Annex G 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

#### Guidance Issued under Section 182 of the Licensing Act 2003

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 (1.19).

Any conditions should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter 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. (2.20)

Measures can include ensuring the safe departure of customers, these can include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.22) 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.

# Agenda Item 3.2

Committee :	Date	Classification	Report No.	Agenda Item No.
<b>Licensing Sub Committee</b>	02 September 2014	<b>Unclassified</b>	LSC 19/145	

Report of: <b>David Tolley</b> <b>Head of Consumer and Business Relations</b>  Originating Officer: <b>Andrew Heron</b> <b>Licensing Officer</b>	Title: <b>Licensing Act 2003 Application for a Variation of the Premises Licence for Best Kebab – 275 Commercial Road, London, E1 2PS</b>  Ward affected: <b>Whitechapel</b>
--	--

## 1.0 Summary

Applicant: **Ibrahim Kocager**  
Name and **Best Kebab**  
Address of Premises: **275 Commercial Road**  
**London**  
**E1 2PS**

Licence sought: **Licensing Act 2003 variation**  
**Extending the hours for the sale of**  
**Late Night Refreshment**

Objectors: **Metropolitan Police**  
**LBTH Licensing Authority**  
**Local Resident**

## 2.0 Recommendations

- 2.1 That the Licensing Committee considers the application and objections then adjudicate 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

File Only

Andrew Heron  
020 7364 2665

### 3.0 **Background**

3.1 This is an application for a variation in a premises licence for Best Kebab, 275 Commercial Road, London, E1 2PS.

3.2 A copy of the existing licence is enclosed as **Appendix 1**.

The current hours are as follows:

#### **Sale of Alcohol (off sales only)**

- Monday to Thursday from 12:00hrs (midday) to 02:00hrs (the following day)
- Friday and Saturday from 12:00hrs (midday) to 03:00hrs (the following day)
- Sunday from 12:00hrs (midday) to 01:00hrs (the following day)

#### **Late Night Refreshment**

- Monday to Thursday from 23:00hrs to 02:00hrs (the following day)
- Friday and Saturday from 23:00hrs to 03:00hrs (the following day)
- Sunday from 23:00hrs to 02:00hrs (the following day)

#### **Hours premises are open to the public**

- Monday to Thursday from 12:00hrs (midday) to 02:00hrs (the following day)
- Friday and Saturday from 12:00hrs (midday) to 03:00hrs (the following day)
- Sunday from 12:00hrs (midday) to 02:00hrs (the following day)

3.3 A copy of the variation application is enclosed as **Appendix 2**.

3.4 The applicant has described the nature of the variation as:  
Extending the hours for the sale of late night refreshment

3.5 The hours that have been applied for are as follows:-

#### **The Provision of Late Night Refreshment:**

- Sunday to Thursday from 23:00hrs to 04:00hrs (the following day)
- Friday to Saturday from 23:00hrs to 05:00hrs (the following day)

#### **Hours premises is open to the public:**

- Sunday to Thursday from 10:00hrs to 04:00hrs (the following day)
- Friday to Saturday from 10:00hrs to 05:00hrs (the following day)

3.6 Members should note that the hours applied for in relation to late night refreshment would effectively permit the premises to be open 24hours per day at weekends.

3.7 A map showing the relevant premises is included as **Appendix 3**.



#### 4.0 Licensing Policy and Government Advice

- 4.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on 1<sup>st</sup> November 2013.
- 4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 4.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in June 2013.
- 4.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

#### 5.0 Representations

- 5.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing
- 5.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 5.3 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives." Likely means something that will probably happen, i.e. on balance more likely than not.
- 5.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 5.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 5.6 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 4**.
- 5.7 All the representations in this report have been considered by the relevant officer (Trading Standards and Licensing Manager) and determined to have met the requirements of the Licensing Act 2003.

5.8 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:

- The Metropolitan Police
- LBTH Licensing Authority
- Local Resident

**(See Appendices 5-7)**

5.9 Please note that a further local resident representation was received, but it made no reference to the 4 licensing objectives. The objector was written to twice to offer the opportunity to amend their objection, but none was received and therefore the representation was discounted.

5.10 All of the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Primary Care Trust

5.11 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections 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

5.12 The objections cover allegations of

- Anti-social behaviour on the premises
- Anti-social behaviour from patrons leaving the premises
- Noise while the premise is in use
- Disturbance from patrons leaving the premises on foot
- Disturbance from patrons leaving the premises by car
- Close proximity to residential properties
- Unreasonable operational hours

5.13 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

5.14 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which

are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

## 6.0 Licensing Officer Comments

6.1 The following is intended to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

6.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided for licensing authorities carrying out their functions.” It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ❖ Also “so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so.” When doing so licensing authorities will need to give full reasons for their actions (1.9).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
- ❖ Conditions may not be imposed for the purpose other than the licensing objectives.
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.7).
- ❖ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.
- ❖ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment. (S. 10.24).
- ❖ The Government has stated “there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with

appropriate conditions and/or different hours from those requested.” (10.20)

- ❖ Mandatory conditions must be imposed (10.43) and censorship avoided (10.31).
  - ❖ Routine conditions about drink promotions are not permitted but can be imposed in appropriate circumstances (10.38). The Office of Fair Trading’s Advice also needs to be considered, namely that minimum prices setting is not permitted.
- 6.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 6.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 6.5 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.
- 6.6 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)
- 6.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 6.8 In **Appendices 8-12** Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters previously identified.
- 7.0 Exemptions**
- 7.1 There are a number of statutory exemptions from the operation of the Licensing Act 2003, and Members need to bear these in mind.
- 7.2 Schedule 1 Part 2 of the Act states that entertainment in churches, Morris dancing (and accompanying music if live and unamplified) and incidental music are not licensable activities-that is no conditions can be set for them.
- 7.3 Acts of religious worship, wherever performed are not licensable.

- 7.4 Section 177, (1) and (2) of the Act provides that where a premises (or club) is licensed for alcohol consumption on the premises and is primarily thus used, and the permitted capacity does not exceed 200, additional conditions relating to the music should only relate to public safety or the prevention of crime (or both). That is they should not relate to any “noise nuisance.”
- 7.5 Section 177 (4) provides that where a premises licence (or club) has a capacity of not more than 200 and the only music is unamplified live music between 08:00hrs and midnight, no additional conditions should be set relating to the music.
- 7.6 Section 177 can be disapplied on a licence review if it is proportionate to do so.

## 8.0 **Legal Comments**

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

## 9.0 **Finance Comments**

- 9.1 There are no financial implications in this report.

## 10.0 Appendices

- Appendix 1** A copy the existing licence
- Appendix 2** A copy of the application for variation
- Appendix 3** Maps of the area
- Appendix 4** Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
- Appendix 5** Representation of PC O'Rourke – Metropolitan Police
- Appendix 6** Representation Mohshin Ali – LBTH Licensing Officer
- Appendix 7** Representation local resident Nicoletta Cristallo
- Appendix 8** Licensing Officer comments Anti-Social Behaviour on the Premises
- Appendix 9** Licensing Officer comments Anti-Social Behaviour from Patrons Leaving the Premises
- Appendix 10** Licensing Officer comments Noise while the Premise is in Use
- Appendix 11** Licensing Officer comments Access and Egress Problems
- Appendix 12** Licensing Officer comments Licensing Policy Relating to Hours of Trading

# Appendix 1

**(Best Kebab)  
275 Commercial Road  
London  
E1 2PS**

**Licensable Activities authorised by the licence**

Provision of Late Night Refreshment  
The sale by retail of alcohol

**See the attached licence for the licence conditions**

**Signed by**

**John Cruse \_\_\_\_\_  
Team Leader Licensing**

**Date: 28/10/05**

**As amended 24<sup>th</sup> October 2007**





**Part A - Format of premises licence**

Premises licence number

12473

**Part 1 - Premises details**

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

(Best Kebab)

275 Commercial Road

**Post town**

London

**Post code**

E1 2PS

**Telephone number**

[REDACTED]

**Where the licence is time limited the dates**

Not applicable

**Licensable activities authorised by the licence**

The provision of late night refreshment

The sale by retail of alcohol

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

**Late Night Refreshment**

Monday to Thursday until 02 00 hrs

Friday and Saturday until 03 00 hrs

Sunday until 02 00 hrs

**Sale by retail of alcohol:**

Monday to Thursday from 12:00 hrs to 02:00 hrs

Friday and Saturday from 12:00 hrs to 03:00 hrs

Sunday from 12:00 hrs to 01:00 hrs

**The opening hours of the premises**

Monday to Thursday from 12:00 hrs to 02:00 hrs

Friday and Saturday from 12:00 hrs to 03:00 hrs

Sunday from 12:00 hrs to 02:00 hrs

**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**

Ibrahim Kocager  
(Best Kebab)  
275 Commercial Road  
London  
E1 2PS  
[REDACTED]

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

Not applicable

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

Mr. Ibrahim Kocager

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

[REDACTED]

## **Annex 1 - Mandatory conditions**

4.

- (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

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

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

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

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

1. At least one personal licence holder shall be present whilst the premise is open for business and alcohol is being sold.
2. Alcohol is only to be sold when purchased with substantial takeaway food.
3. Any alcohol purchased will not be opened or consumed on the premises
4. Signage will be placed inside the premises informing customers that alcohol will only be sold when purchased with takeaway food and that it is not to be opened on the premises.
5. The door closure will be used so that the premises door self closes.
6. That the extract system is annually inspected and serviced.
7. Notices shall be displayed asking customers to respect the neighbours and leave the area quietly.
8. Digital CCTV shall be installed and maintained. Recordings shall be kept securely for 31 days and made available to the Police on request.
9. No less than two members of staff will be present between the hours of 23:00 hrs and the terminal hour.

## **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:  
18 July 2005

**Part B - Premises licence summary**

**Premises licence number**

12473

**Premises details**

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

(Best Kebab)  
275 Commercial Road

**Post town**

London

**Post code**

E1 2PS

**Telephone number**

[REDACTED]

Where the licence is time limited the dates

N/a

Licensable activities authorised by the licence

The provision of late night refreshment  
The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

**Late Night Refreshment**

Monday to Thursday until 02 00 hrs

Friday and Saturday until 03 00 hrs

Sunday until 02 00 hrs

**Sale by retail of alcohol:**

Monday to Thursday from 12:00 hrs to 02:00 hrs

Friday and Saturday from 12:00 hrs to 03:00 hrs

Sunday from 12:00 hrs to 01:00 hrs

The opening hours of the premises

Monday to Thursday from 12:00 hrs to 02:00 hrs

Friday and Saturday from 12:00 hrs to 03:00 hrs

Sunday from 12:00 hrs to 02:00 hrs

Name, (registered) address of holder of premises licence

Ibrahim Kocager  
(Best Kebab)  
275 Commercial Road  
London  
E1 2PS

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

Off supplies only

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

Not applicable

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

Mr. Ibrahim Kocager

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

No restrictions

# Appendix 2



This form should be completed and forwarded to: Licensing Section, Mulberry Place (AH), PO Box 55739, 5 Clove Crescent, London E14 1BY with a cheque for the correct fee, made payable to the London Borough of Tower Hamlets. [http://www.towerhamlets.gov.uk/content\\_pages/pay\\_it.aspx](http://www.towerhamlets.gov.uk/content_pages/pay_it.aspx)

Or alternatively from <http://www.towerhamlets.gov.uk/> under 'Online Services'

**Application to vary a premises licence 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/We Mrs IBRAHIM KOCAGER (Insert name(s) of applicant)

Being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises Licence number 12473

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description  
BEST KEBAB  
275 Commercial Rd.

Post town LONDON Post code E1 9PS

Telephone number at premises (if any) [ ]  
Non-domestic rateable value of premises £ 13,500



<b>Please give a brief description of the premises</b>	
Takeaway	
<b>Name of current premises licence holder</b>	MR IBRAHIM KOCAGER

## Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

Please tick  yes

- |    |   |                                     |                             |
|----|---|-------------------------------------|-----------------------------|
| a) | an individual or individuals*   | <input checked="" type="checkbox"/> | please complete section (A) |
| b) | a person other than an individual *   |                                     |                             |
|    | i. as a limited company   | <input type="checkbox"/>            | please complete section (B) |
|    | ii. as a partnership  | <input type="checkbox"/>            | please complete section (B) |
|    | iii. as an unincorporated association or  | <input type="checkbox"/>            | please complete section (B) |
|    | iv. other (for example a statutory corporation)   | <input type="checkbox"/>            | please complete section (B) |
| c) | a recognised club   | <input type="checkbox"/>            | please complete section (B) |
| d) | a charity   | <input type="checkbox"/>            | please complete section (B) |
| e) | the proprietor of an educational establishment  | <input type="checkbox"/>            | please complete section (B) |
| f) | a health service body   | <input type="checkbox"/>            | please complete section (B) |
| g) | an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital | <input type="checkbox"/>            | please complete section (B) |
| h) | the chief officer of police of a police force in England and Wales  | <input type="checkbox"/>            | please complete section (B) |

\*If you are applying as a person described in (a) or (b) please confirm:

Please tick  yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
  - o statutory function or
  - o a function discharged by virtue of Her Majesty's prerogative

## Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

### Provision of regulated entertainment

- Please tick  yes
- a) plays (if ticking yes, fill in box A)
  - b) films (if ticking yes, fill in box B)
  - c) indoor sporting events (if ticking yes, fill in box C)
  - d) boxing or wrestling entertainment (if ticking yes, fill in box D)
  - e) live music (if ticking yes, fill in box E)
  - f) recorded music (if ticking yes, fill in box F)
  - g) performances of dance (if ticking yes, fill in box G)
  - h) anything of a similar description to that falling within (e), (f) or (g)  
(if ticking yes, fill in box H)

Provision of late night refreshment (if ticking yes, fill in box I)



Supply of alcohol (if ticking yes, fill in box J)



In all cases complete boxes K, L and M

**I**

<b>Late night refreshment</b> Standard days and timings (please read guidance note 6)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick [Y] (please read guidance note 2)</b>	Indoors	<input checked="" type="checkbox"/>	
Day	Start	Finish		Outdoors		
Mon	23:00	04:00	<b>Please give further details here (please read guidance note 4)</b> Extension of hours.	Both		
Tue	23:00	04:00				
Wed	23:00	04:00		<b>State any seasonal variations for the provision of late night refreshment (please read guidance note 4)</b> None		
Thur	23:00	04:00				
Fri	23:00	05:00		<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list (please read guidance note 5)</b> None.		
Sat	23:00	05:00				
Sun	23:00	04:00				

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption – please tick [Y] (please read guidance note 7)</b>	On the premises		
Day	Start	Finish		Off the premises		
Mon			<b>Please give further details here (please read guidance note 4)</b> N/A	Both		
Tue						
Wed				<b>State any seasonal variations for the supply of alcohol (please read guidance note 4)</b>		
Thur						
Fri				<b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)</b>		
Sat						
Sun						

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

N/A

L

Hours premises are open to the public Standard timings (please read guidance note 6)			State any seasonal variation (please read guidance note 4)
Day	Start	Finish	
Mon	10:00	04:00	None ↗
Tue	10:00	04:00	
Wed	10:00	04:00	
Thur	10:00	04:00	
Fri	10:00	05:00	
Sat	10:00	05:00	
Sun	10:00	04:00	

**Non standard timings. Where you intend to the premises to be open at different times to those listed in the column on the left, please list (please read guidance note 5)**

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

None

Please tick yes

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

If you have not ticked on of those boxes please fill in reasons for not including the licence, or part it below

Reasons why I have failed to enclose the premises licence or relevant part of premises licence

Premises licence is lost. However summary on display. Please see enclosed copy of summary.

No plans supplied with this application as it is only to extend late night refreshment hours. (Confirmed with Sophie from Licensing Team on 9<sup>th</sup> July '14)

**M**

Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation.

**a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)**

All current conditions will continued to be complied for the hours we are seeking to extend.

**b) The prevention of crime and disorder**

As above.

**c) Public safety**

As above.

**d) The prevention of public nuisance**

As Above.

**e) The protection of children from harm**

As Above


**CHECKLIST:**

- |  |                                     |                                     |
|--|-------------------------------------|-------------------------------------|
|  | Please tick                         | yes                                 |
| ▪ I have made or enclosed payment of the fee   | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ I have sent copies of this application and the plan (showing the area to be licensed) to responsible authorities and others where applicable | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ I understand that I must now advertise my application  | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ I have enclosed the premises licence or relevant part of it or <u>explanation</u>  | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ I understand that if I do not comply with the above requirements my application will be rejected   | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

**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 5 – Signatures** (please read guidance note 10)


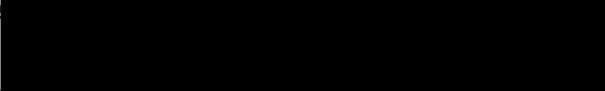
Signature of applicant or applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	9th July '14
Capacity	Agent -

Where the premises licence is jointly held signature of 2<sup>nd</sup> applicant (the current premises licence holder) or 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

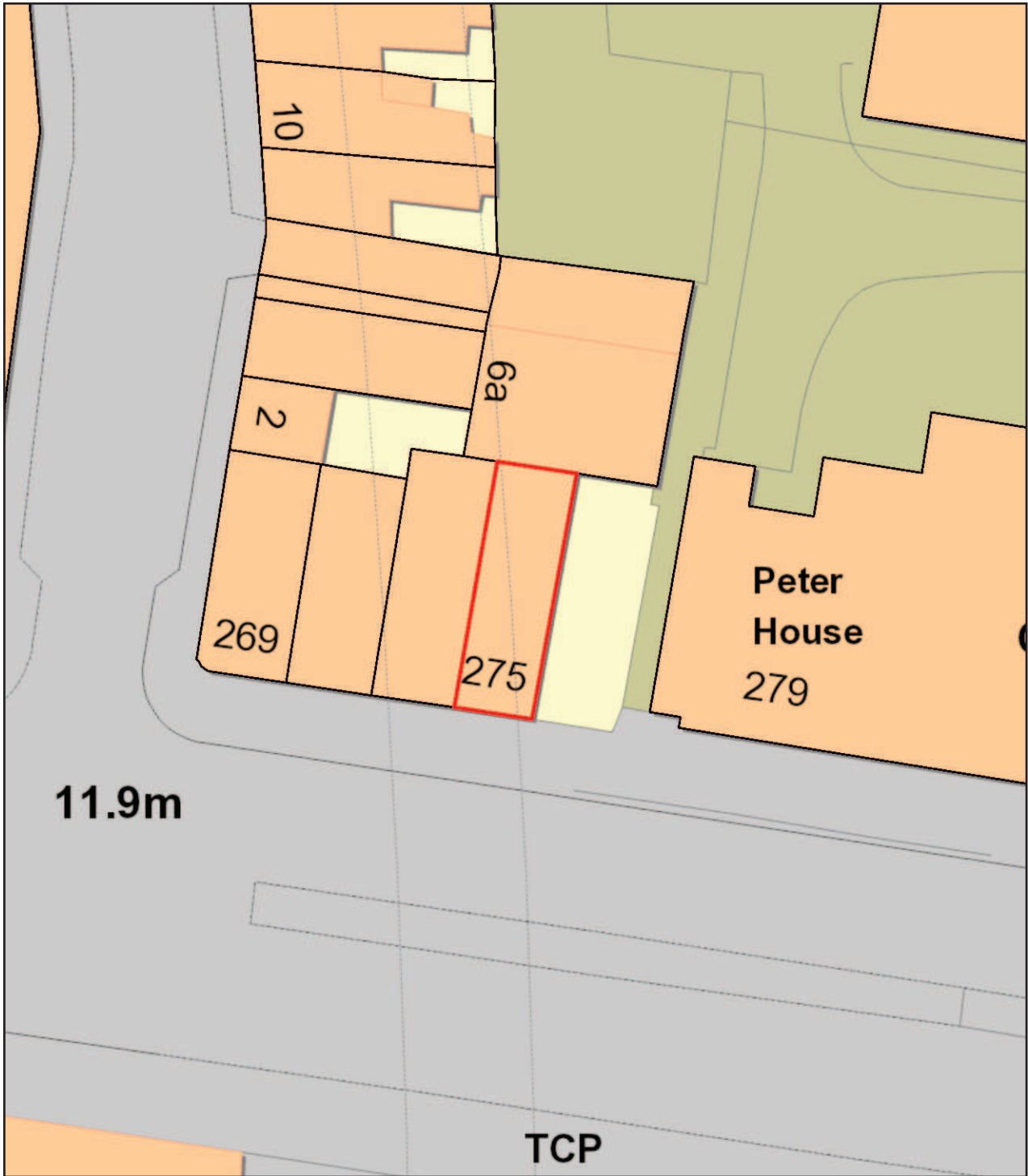
Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

NAME 53 Stoke Newington High St.	
Post town	London
Post code	N16 8EL
Telephone number (if any)	
If you would prefer us to correspond (by email)	



# Appendix 3

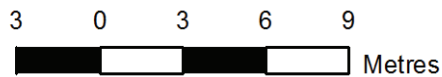


## 275 Commercial Road

Map 1



Scale 1:334



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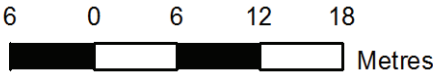


# 275 Commercial Road

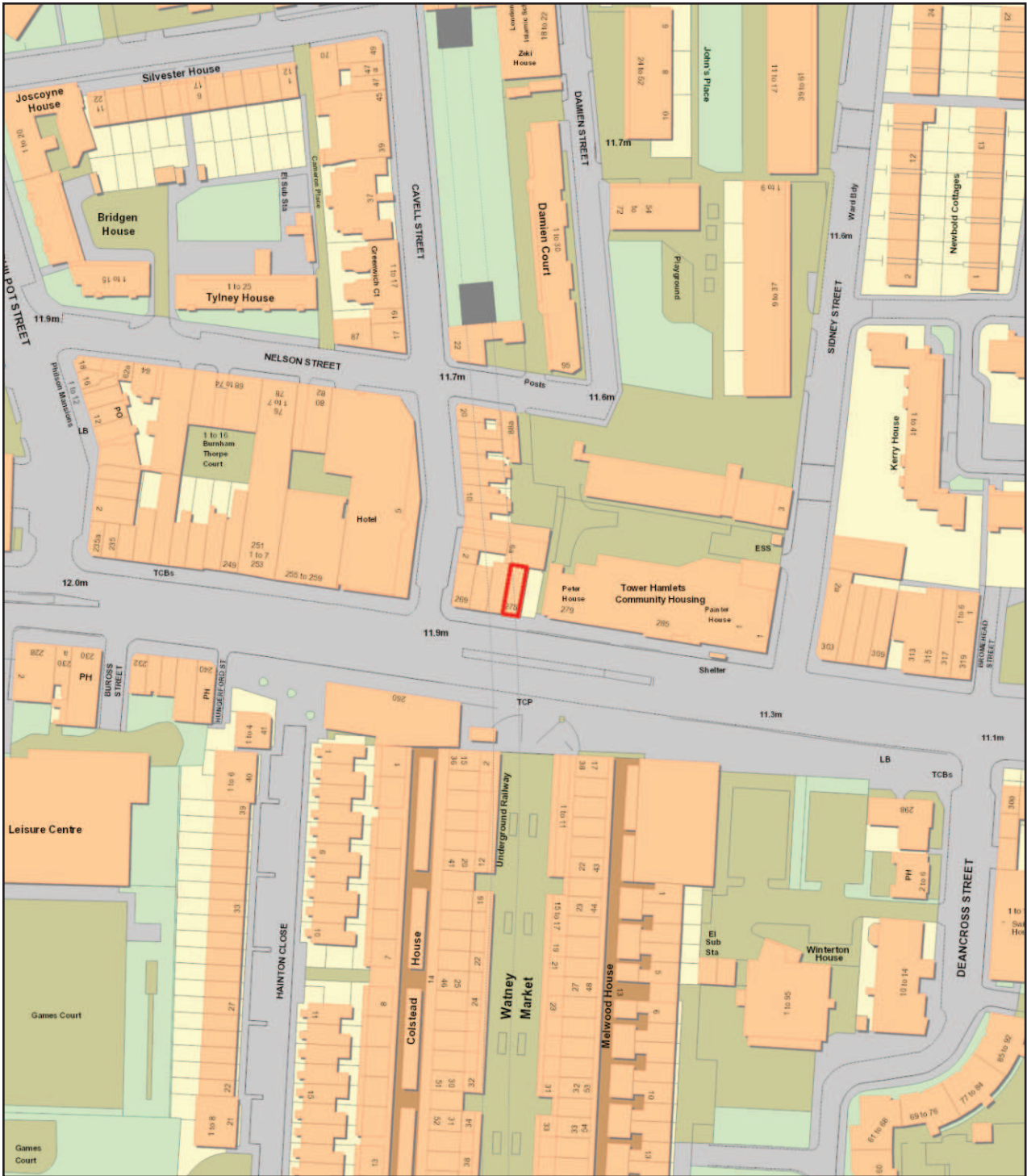
## Map 2



Scale 1:668



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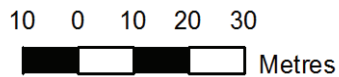


# 275 Commercial Road

## Map 3



Scale 1:1669



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# Appendix 4

### Section 182 Advice by the Home Office

Updated October 2012

#### Relevant, vexatious and frivolous representations

- 9.4 A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.
- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority’s corporate complaints procedure. A person may also challenge the authority’s decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub- committee before

any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

# Appendix 5





**METROPOLITAN  
POLICE**

**TOTAL POLICING**

Tower Hamlets Borough

Licensing Team

Ms Kathy Driver  
Principal Licensing Officer  
London Borough of Tower Hamlets  
Licensing Section  
Mulberry Place  
5 Clove Crescent  
London  
E14 2BG

**Limehouse Police Station,  
27, West India Dock Road,  
London,  
E14 8EZ**

Cc: Ibrahim KOCAGER  
Best Kebabs  
275, Commercial Road  
LONDON  
E1 2PS

[REDACTED]

Your ref:  
Our ref: LIC/0069/14

6th August 2014

Dear Ms Driver,

**Re: Application to vary premises licence - Best Kebabs, 275 Commercial Road, LONDON E1 2PS**

I write with reference to the above application to vary, which was received by police on 10/07/14.

The Metropolitan Police object to the application for a premises licence for the above premises on the grounds of **The Prevention of Crime and Disorder** as defined in **The Licensing Act 2003<sup>1</sup>**.

Police have also given due regard to **The London Borough of Tower Hamlets own statement of Licensing Policy<sup>2</sup> (Licensing Policy)**.

**In short, the police consider an extension of the hours to be inappropriate for this venue due to the circumstances outlined below (with supporting documents to follow):**

---

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/17/contents>

<sup>2</sup> [http://www.towerhamlets.gov.uk/lgsi/851-900/860\\_alcohol\\_and\\_entertainment.aspx](http://www.towerhamlets.gov.uk/lgsi/851-900/860_alcohol_and_entertainment.aspx)

## 1) The Prevention of Crime and Disorder

### General:

The background to this matter is that there has been 'anecdotal evidence' from CCTV operators which indicated that these premises regularly remained open after hours. There are two highly visible CCTV cameras nearby, one outside the premises and one in Watney Market.

In particular on Saturday, 27/01/14 CCTV operators saw that the premises were seen to close at 04:10 hrs.

The premises licence hours are as follows:

- Late Night Refreshment Monday - Thursday & Sunday until 02:00 hrs; Friday & Saturday until 03:00 hrs.
- The sale of alcohol is the same hours, save Sunday which is 01:00 hrs.

### Other matters:

- Tuesday, 01/07/14 @ 02:25 hrs - Test purchase by PC 291HT O'ROURKE - some 25 minutes after closing time - Hot food and a can of Stella lager sold. The Premises Licence Holder is 'Reported for Process' for three breaches of The Licensing Act 2003 - namely Sections 57(4) (failure to display part B of premises licence); 57(7) (failure to produce a full copy of premises licence) and 136(1) (selling hot food and alcohol after hours) and will be summonsed to Thames Magistrates, once information has been laid by the Borough Prosecutor.
- Saturday, 07/06/14 @ 02:01:39 hrs - CAD 1069/07Jun14 (CRIS 4213759/14) - CCTV operators advise police that there is a major fight originating in the premises, additionally police operator can hear a witness who is separately calling '999' "COME OUTSIDE AND I'LL F████ YOU UP" - Necessitates four

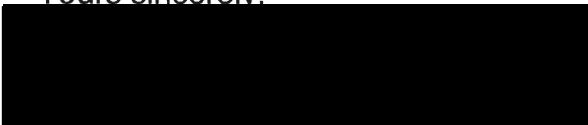
police vehicles attending - Four males arrested and all suspects described as being 'under the influence'.

- Sunday, 02/03/14 @ 03:12:43 hrs - CAD1464/02MAR14 - Call to police of ten people fighting, calling mentions a 'weapon', (but not defined). Police operator hears the informant being shouted at by people in the background for calling the police. 03:16:14 - Ambulance requested due apparent 'mass casualties' at the scene. Police attend it appears those present are anti-police and 'not speaking' about what actually happened...
- Sunday, 02/03/14 @ 03:23:50 hrs - CAD 1602/02MAR14 - Complaint against police, regarding last matter.
- 06/08/13 - Commander Mak Chishty from Scotland Yard writes to every licensed premise in London asking that each premises undertakes a 'self assessment' of their licence and in particular remind the premises licence holder of the four Licensing Objectives.

**My final submission to the Licensing Sub-Committee is that I ask the Committee to reject this application to vary in full.**

If you have any questions, please don't hesitate to contact me.

Yours sincerely,



Brendan O'Rourke

PC 291 HT

# Appendix 6

## Communities, Localities & Culture Safer Communities

Licensing Authority  
6<sup>th</sup> Floor  
Mulberry Place  
5 Clove Crescent  
London  
E14 2BG

6<sup>th</sup> August 2014

Your reference: L1U - 76982  
My reference CLC/LIC/76982/MA

Dear Sir/Madam,

Head of Consumer and Business Regulations  
Service **David Tolley**

Licensing Section  
Mulberry Place  
5 Clove Crescent  
London  
E14 2BG

Tel [REDACTED]  
Fax [REDACTED]  
Enquiries to **Mohshin Ali**

Email [REDACTED]

### **Licensing Act 2003**

Premises: (Best Kebab), 275 Commercial Road, London E1 2PS

The Licensing Authority as a Responsible Authority wishes to make a representation to the above application received on the 9<sup>th</sup> July 2014. The Licensing Authority believes that granting this particular application for a variation of premises licence will have an adverse effect on the following licensing objectives:

- The prevention of crime and disorder
- The prevention of public nuisance

The **Home Office Guidance** (June 2013) Issued under Section 182 of the Licensing Act 2003 States, "the legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken" (1.2).

#### **Current licence**

The current premises licence already authorises the following late timings:

##### "Sale by retail of alcohol:

- *Monday to Thursday from 12:00 hrs to 02:00 hrs following day*
- *Friday and Saturday from 12:00 hrs to 03:00 hrs following day*
- *Sunday from 12:00 hrs to 01:00 hrs following day*

##### Late Night Refreshment

- *Monday to Thursday until 02:00 hrs following day*
- *Friday and Saturday until 03:00 hrs following day*
- *Sunday until 02:00 hrs following day"*

## **Variation**

The application is seeking the following extension of hours:

### Late Night Refreshment - Indoors

- *Monday to Thursday until 04:00 hrs the following day*
- *Friday and Saturday until 05:00 hrs following day*
- *Sunday until 04:00 hrs following day*

For late night refreshment, a licence is only required between the hours of 23:00 hours to 05:00 hours the following day. So this means the premises can remain open for 24 hours a day for Friday and Saturday. The Licensing Authority feels these timings are very excessive.

If the variation is granted, there is likely to be disturbances to residents through access and egress later into the night. The disturbances include:

Disturbance from patrons arriving/leaving the premises on foot  
Disturbance from patrons arriving/leaving the premises by car  
Lack of adequate car parking facilities  
Close proximity to residential properties

The **Licensing Policy** states *“(15.6) The Licensing Authority is concerned to ensure that extended licensing hours do not result in alcohol-related antisocial behaviour persisting into the night and early hours of the morning. For these reasons, applications to carry on licensable activities at any time outside the framework hours will be considered on their own merits with particular regard to the matters set out in the Policy section below”*.

The existing timings and the times for the variation are beyond the Council's framework hours that are highlighted below:

*“(15.8) Sunday - 06 00 hrs to 22 30 hrs  
Monday to Thursday - 06 00 hrs to 23 30 hrs  
Friday and Saturday - 06 00hrs and midnight*

*Applications in respect of premises licences and club premises certificates to authorise licensable activities outside the framework hours, and in respect of which relevant representations are made, will be decided on their own merits and with particular regard to the following.*

*a) The location of the premises and the general character of the area in which the premises are situated. (i.e. does the area include residential or business premises likely to be adversely affected).*

*b) The proposed hours during which licensable activities will be take place and the proposed hours during which customers will be permitted to remain on the premises.*

*c) The adequacy of the applicant's proposals to address the issues of the prevention of crime and disorder **and** the prevention of public nuisance.*

*d) Where the premises have been previously licensed, the past operation of the premises (this will be looked at in detail below).*

*e) Whether customers have access to public transport when arriving at or leaving the premises at night time and in the early hours of the morning.*

*f) The proximity of the premises to other licensed premises in the vicinity and the hours of those other premises”.*

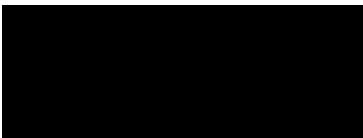
### **The past operation of the premises**

This Licensing Authority has received a complaint (CMU-75407) that the premises is opening beyond its permitted hours, sometimes beyond 04:00hrs. Tower Hamlets CCTV has shown the premises closing at 04:10hrs on 27<sup>th</sup> January 2014. A warning letter was sent the licence holder on the 11<sup>th</sup> February 2014. The variation application was then received on the 9<sup>th</sup> July 2014.

### **Conclusion**

The applicant has not offered any measures in the operating schedule on how they will promote the licensing objections for the additional hours. The Licensing Authority feels that granting this variation for the late hours will have a negative impact on the prevention of crime and disorder and the prevention of public nuisance.

Yours faithfully,



Mohshin Ali  
**Senior Licensing Officer**  
**Licensing Authority Acting As a Responsible Authority**

**CC:** NARTS, 55 Stoke Newington High Street, London N16 8EL  
Email: [info@leibermanlaw.com](mailto:info@leibermanlaw.com)

# Appendix 7



**Mohshin Ali**

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**From:** Nicoletta C [REDACTED]  
**Sent:** 18 July 2014 15:45  
**To:** Licensing  
**Subject:** RE: Best Kebab Application - 275 Commercial Rd, E1

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

Hello,

Many thanks for your reply. I live above the Kebab Restaurant.

[REDACTED]  
[REDACTED]  
[REDACTED]

Kind regards,

Nicoletta Cristallo

---

[REDACTED]  
[REDACTED]  
[REDACTED]

Subject: RE: Best Kebab Application - 275 Commercial Rd, E1  
Date: Fri, 18 Jul 2014 11:20:37 +0000

Dear Sir/Madam,

Thank you for your email. Please note that we require your full address in order to consider your representation and it will become a public document. All representation must reach us by **6<sup>th</sup> August 2014**.

We look forward to hearing from you.

Regards

***Mohshin Ali - Senior Licensing Officer***

✉ London Borough of Tower Hamlets . Licensing . Mulberry Place . 5 Clove Crescent . London E14 2BG

[REDACTED]

---

**From:** Nicoletta C [<mailto:ncristallo@hotmail.com>]  
**Sent:** 17 July 2014 17:02  
**To:** Licensing  
**Subject:** Best Kebab Application - 275 Commercial Rd, E1

Hello,

I am writing about the application on the variation of licence which Best Kebab put forward to you. This restaurant is already open very late now and there are frequent problems with noise and crowd management, people who fight and play loud music at night in front of the restaurant and many times the police was called. The restaurant does not seem to have some control over these issues and we are in a residential area, although we are located on a busy road.

I am concerned that allowing them to sell alcohol late at night until 4 a.m. from Monday to Friday and until 5 a.m. on Saturdays might exacerbate the current situation and invite more chaos and undue noise in the area caused by the additional crowds coming to buy alcohol.

Please confirm receipt of this e-mail.

Regards,

Nicoletta Cristallo

# Appendix 8

### Anti-Social Behaviour on the Premises

#### Licensing Policy

The Licensing Authority expects the applicant to have addressed all crime and disorder issues relating to the premises in their operating schedule and to have sought appropriate advice. (**See Sections 5.2 of the Licensing Policy**)

The Licensing Authority will consider attaching conditions to deter crime and disorder 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):

- Methods of management communication
- Use of registered Door Supervisors
- Bottle Bans
- Plastic containers
- CCTV
- Restrictions on open containers for “off sales”
- Restrictions on drinking areas
- Capacity
- Proof of Age scheme
- Crime prevention notices
- Drinks promotions-aimed at stopping irresponsible promotions
- Signage
- Seating plans
- Capacity

If Members believe that there is a substantial problem of anti-social behaviour and it cannot be proportionately addressed by licensing conditions they should refuse the application.

#### Police Powers

The Licensing Act 2003, Part 8 gives a senior police officer the power to close a premises for up to 24 hours where the officer believes there is, or is likely to be disorder on or in the vicinity and closure is necessary in the interests of public safety.

#### Guidance Issued under Section 182 of the Licensing Act 2003.

The pool of conditions, adopted by the council is recommended (Annexe D).

The key role of the police and SIA is acknowledged (2.1-2.2).

Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff or agents, but can directly impact on the behaviour of customers in the immediate vicinity of the premises as they seek entry or leave (1.6).

Conditions are best targeted on deterrence and preventing crime and disorder (2.3) communication, CCTV, police liaison, no glasses, capacity limits are all relevant (2.3-2.7).

#### Guidance Issued under Section 182 of the Licensing Act 2003

Conditions can be imposed for large capacity “vertical consumption” premises (10.23).

#### Guidance Issued by the Office of Fair Trading

This relates to attempts to control minimum prices

#### Other Legislation

The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder.

# Appendix 9

### Anti-Social Behaviour from Patrons Leaving the Premises

#### General Advice

Members need to bear in mind that once patrons have left a premises they are no longer under direct control. Members will need to be satisfied that there is a link between the way the premises is operating and the behaviour that is complained of. An example of this would be that irresponsible drinking is being encouraged. Before deciding that any particular licensing conditions are proportionate, Members will also need to be satisfied that other legislation is not a more effective route. For example, if the problem is drinking in the street it may be that the Council should designate the area as a place where alcohol cannot be consumed in public.

Members may also wish to consider whether the hours of opening relate to any problems of anti-social behaviour.

If Members believe that there is a substantial problem of anti-social behaviour and it cannot be proportionately addressed by licensing conditions they should refuse the application.

#### Licensing Policy

The policy recognises that other legislation or measures may be more appropriate but also states that licensing laws are “a key aspect of such control and will always be part of an overall approach to the management of the evening and night time economy.” **(See Section 4.10 and 4.11 of the Licensing Policy)**.

The Licensing Authority expects the applicant to have addressed all crime and disorder issues relating to the premises in their operating schedule and to have sought appropriate advice. **(See Sections 5.2 of the Licensing Policy)**

The Licensing Authority will consider attaching conditions to deter crime and disorder 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):

- Bottle Bans
- Plastic containers
- CCTV (outside the premises)
- Restrictions on open containers for “off sales”
- Proof of Age scheme
- Crime prevention notices
- Drinks promotions-aimed at stopping irresponsible promotions
- Signage

#### Cumulative Impact

There is a process by which the Licensing Authority can determine that an area is saturated following representations. However, the process for this involves wide consultation and cannot come from representations about a particular application. **(See Section 6 of the Licensing Policy).**

### Police Powers

The Licensing Act 2003, Part 8 gives a senior police officer the power to close a premises for up to 24 hours where the officer believes there is, or is likely to be disorder on or in the vicinity and closure is necessary in the interests of public.

### Guidance Issued under Section 182 of the Licensing Act 2003.

The pool of conditions, adopted by the council is recommended (13.20).

The key role of the police is acknowledged (2.2).

Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder, but can relate to the immediate vicinity of the premises as they seek entry or leave (2.4).

Conditions are best targeted on deterrence and preventing crime and disorder (S.2.6) communication, police liaison, no glasses are all relevant (s.2.7-2.11).

*There is also guidance issued around the heading of "public nuisance as follows*

The pool of conditions, adopted by the council is recommended (Annexe D).

Licence conditions should not duplicate other legislation (1.16).

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

### Other Legislation

#### Crime and Disorder Act 1998

The Council has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder.

The Act also introduced a wide range of measures designed to address anti-social behaviour committed by adults and young people. These include:

- Anti-Social Behaviour Orders
- Child Curfew Schemes
- Truancy
- Parenting Orders
- Reparation Orders
- Tackling Racism



# Appendix 10

### Noise while the Premise is in Use

#### General Advice

If they conclude this is a problem Members should consider whether it is possible to carry out suitable and proportionate noise control measures so that noise leakage is prevented. In addition Members may consider that only certain activities are suitable.

The hours of operation also need to be considered (see below).

If Members believe that there is a substantial problem of noise while the premises are in use and it cannot be proportionately address by licensing conditions they should refuse the application.

#### 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)**.

The policy also recognises that staggered closing can help prevent problems at closure time **(See Section 12.1)**.

However, 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 12.4)**.

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 Sections 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 24hrs a premises causing a nuisance resulting from noise emanating from the premises.

### Guidance Issued under Section 182 of the Licensing Act 2003

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 (1.19)

Any conditions should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter 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. (2.20)

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.22) 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.

### Other Legislation

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

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

# Appendix 11

## Access and Egress Problems

Such as:

Disturbance from patrons arriving/leaving the premises on foot

Disturbance from patrons arriving/leaving the premises by car

Lack of adequate car parking facilities

Close proximity to residential properties

### Comment

The above have been grouped together as egress problems. Of course the particular facts will be different for each alleged problem.

Egress only is referred to-if necessary access can be added or substituted in.

### General Advice

In considering concerns relating to disturbance from egress, Members need to be satisfied that the premises under consideration has been identified as the source of the actual or potential disturbance. If they are satisfied that this is a problem, then proportionate conditions should be considered.

The hours of operation also need to be considered.

If Members believe that there is a substantial problem concerning egress and it cannot be proportionately addressed by licensing conditions, they should refuse the application.

### Licensing Policy

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

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 policy also recognises that staggered closing can help prevent problems at closure time (**See Section 12.10**).

However, 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 12.10**)

The Council has adopted a set of framework hours (**See 12.8 of the licensing policy**). This relates to potential disturbance caused by late night trading.

The Licensing Authority will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Pool of Conditions relating to the prevention of Public Nuisance. (**See Appendix 2 Annex G 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

#### Guidance Issued under Section 182 of the Licensing Act 2003

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 (1.19).

Any conditions should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter 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. (2.20)

Measures can include ensuring the safe departure of customers, these can include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.22) 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.

# Appendix 12

### Licensing Policy Relating to Hours of Trading

All applications have to be considered on their own merits.

The Council has however adopted a set of framework hours as follows:

Monday to Thursday	06:00hrs to 23:30hrs
Friday and Saturday	06:00hrs to 00:00hrs (midnight)
Sunday	06:00hrs to 22:30hrs

(see 12.8 Of the licensing policy)

In considering the applicability of frame work hours to any particular application regard should be had to the following

- Location
- Proposed hours of regulated activities, and the proposed hours the premises are open to the public
- The adequacy of the applicants proposals to deal with issues of crime and disorder and public nuisance
- Previous history
- Access to public transport
- Proximity to other licensed premises, and their hours

(See 12.8 of the licensing policy)

Subject to any representations to the contrary in individual cases the following premises are not generally considered to contribute to late night anti-social behaviour and will therefore generally have greater freedom

- Theatres
- Cinemas
- Premises with club premises certificates
- Premises licensed for off sales only