

LICENSING SUB COMMITTEE

Tuesday, 30 June 2015 at 5.30 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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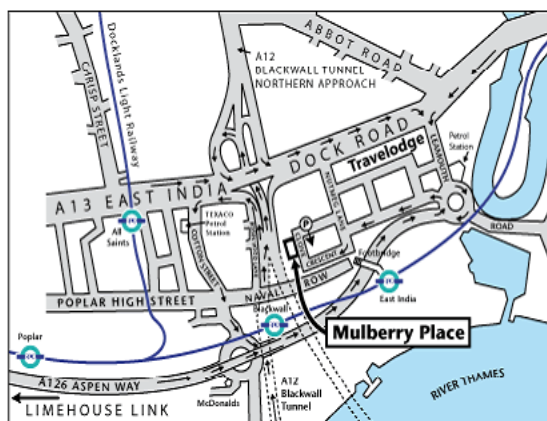
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APOLOGIES FOR ABSENCE

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.

	PAGE NUMBER(S)	WARD(S) AFFECTED
3. ITEMS FOR CONSIDERATION		
3 .1 Application to Review the Premises Licence for Best Kebab, 275 Commercial Road, London E1 2PS	21 - 94	Whitechapel
3 .2 Application for a New Premises Licence for Tomorrow Bar & Restaurant, 132 Bethnal Green Road, London, E2 6DG	95 - 158	Weavers
4. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT		

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

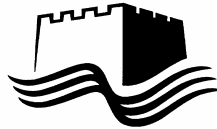
APPENDIX A: Definition of a Disclosable Pecuniary Interest

(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 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 license)	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

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 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 - '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: Licensing Sub-Committee	Date: 30 June 2015	Classification: UNRESTRICTED	Report No. LSC 84/145	Agenda Item No.
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Report of: David Tolley Head of Consumer and Business Relations Originating Officer: Mohshin Ali Senior Licensing Officer	Title: Licensing Act 2003 Application to review the premises licence for Best Kebab, 275 Commercial Road, London E1 2PS Ward affected: Whitechapel
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1.0 Summary

Name and Address of premises:	Best Kebab 275 Commercial Road London E1 2PS
Licence under review:	Licensing Act 2003 - Premises licence <ul style="list-style-type: none">▪ Sale by retail of alcohol▪ Provision of late night refreshment
Review triggered by: Representations by:	Trading Standards Met Police

2.0 Recommendations

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

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

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

3.0 Review Application

3.1 This is an application for a review of the premises licence for Best Kebab, 275 Commercial Road, London E1 2PS. The review was triggered by Trading Standards on the 23rd April 2015.

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

4.0 The Premises

4.1 The premises licence was issued on 28th October 2005. A copy of the current licence is contained in **Appendix 2**. Mr Ibrahim Kocager has been the licence holder and Designated Premises Supervisor since then.

4.2 Maps showing the premises are included in **Appendix 3**.

5.0 Representations

5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by the Trading Standards. The review is further supported by Met Police.

5.2 Please see **Appendix 4** for the representation of Met Police.

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

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

5.4 In the view of the responsible authorities it is necessary to achieve the licensing objectives of the prevention of public nuisance, prevention of crime & disorder and the protection of children from harm..

6.0 Review Explained

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

6.2 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 5**. It is available on the Government’s website, www.homeoffice.gov.uk. It was last revised March 2015.

- 6.3 Members are particularly asked to note the comments in relation Crime and Disorder. In particular the home office advice is that “The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”
- 6.4 In relation to its advice on representations the home office has also advised that “there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.”It has also issued revised guidance about Crime and Disorder, and the pool of conditions which might be considered in relation to any identified problems. **See Appendix 6.**
- 6.5 Thehome office hasissued guidance about the prevention of public nuisance and the pool of conditions which might be considered in relation to any identified problems is contained in **Appendix 7.**
- 6.6 Thehome office has issued guidance about the protection of children from harm contained in **Appendix 8.**
- 6.7 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 9.**
- 6.8 The Council’s Police on Public Nuisance is contained in **Appendix 10.**
- 6.9 The Council’s Police on Public Nuisance is contained in **Appendix 11.**
- 6.10 TheHome Office has advised that in relation to reviews “It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between those groups in a way that would undermine the benefits of co-operation. It would be good practice for authorised persons and responsible authorities to give licenceholders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.”
- 6.11 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003.

- 6.12 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should reject the grounds for a review because:
- The ground is not relevant to one or more of the licensing objectives
 - In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

7.0 Review Advertisement

- 7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.
- 7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the relevant parties.
- 7.3 The procedure for a review can be summarised as follows:
- A review is triggered by a responsible authority or interested party
 - Consultation is conducted for 28 full days
 - Other responsible authorities or interested parties may join in the review
 - Members conduct a hearing
 - Members make a determination
 - All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

8.0 Licensing Officer Comments

- 8.1 The Governments advice in relation to reviews is contained in **Appendix 5**. Members must consider all the evidence and then decide from the following alternatives:
- Take no further action as they do not consider it proportionate to do so
 - Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
 - Suspend the licence for a period
 - Revoke the licence completely

- 8.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.
- 8.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.
- 8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”
- 8.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

9.0 Legal Comments

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

10.0 Finance Comments

- 10.1 There are no financial implications in this report.

11.0 Appendices

Appendix 1	Copy of the review application
Appendix 2	Current Premises Licence
Appendix 3	Maps of the premises and surrounding area
Appendix 4	Representation of Met Police
Appendix 5	Guidance issued under Section 182 by the Home Office for reviews
Appendix 6	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime and Disorder
Appendix 7	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Public Nuisance
Appendix 8	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning the Protection of Children from Harm.
Appendix 9	London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder
Appendix 10	London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance
Appendix 11	London Borough of Tower Hamlets Policy in relation to the Protection of Children from Harm.

Appendix 1

**Communities, Localities and Culture
Safer Communities
Head of Consumer and Business Regulations
Service: David Tolley
6th floor
Mulberry Place
5 Clove Crescent
London E14 2BG
Tel **020 7364 6840**
Fax **020 7364 6901**
Enquiries to Ian Moseley
Email: ian.moseley@towerhamlets.gov.uk
www.towerhamlets.gov.uk
www.towerhamlets.gov.uk**

Licensing Authority

Date 23/1/2015

Your reference
My reference M84349

**Licensing Act 2003 Section 51 – application for review of licence
Best Kebab, 275 Commercial Road, London E1 2PS - Licence 12473**

The London Borough of Tower Hamlets Weights and Measures Authority (Trading Standards) as a responsible authority within the meaning of the Licensing Act 2003 is applying for a review of the licence for the above premises

Please find herewith a copy of the application for the review of the premises licence.

Copies have been sent to the Responsible Authorities and to the License Holder

Ian Moseley
Trading Standards



Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Ian David Moseley

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Best Kebab 275 Commercial Road	
Post town London	Post code (if known) E1 2PS

Name of premises licence holder or club holding club premises certificate (if known) Mr Ibrahim Kocager

Number of premises licence or club premises certificate (if known) 12473
--

Part 2 - Applicant details

I am

Please tick yes

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

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

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

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

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Ian David Moseley Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY
Telephone number (if any) 020 7364 6840
E-mail address (optional) ian.moseley@towerhamlets.gov.uk

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

Please tick one or more boxes

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

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

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

Prevention of Crime and Disorder
Prevention of Public Nuisance

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

Please see attached documents

Please tick yes

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

If yes please state the date of that application

Day Month Year

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

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

Please tick yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature

[Redacted Signature]

Date

23/4/2015

Capacity

ON BEHALF OF LOCAL TRADING STANDARDS AUTHORITY

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

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

London Borough of Tower Hamlets

Best Kebab
275 Commercial Road, E1 2PS

Licence No. 12473
Licensee Mr Ibrahim Kocager

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

London Borough of Tower Hamlets – Trading Standards Service

REPRESENTATIONS

1. The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this review in relation to the prevention of Crime and Disorder - licensing objective 1 and prevention of public nuisance - Licensing Objective 3.
2. Best Kebab, 275 Commercial Road, E1 2PS is licensed for the sale of alcohol and for the sale of late night refreshment after 11 pm up to 0200 Monday to Thursday, up to 0300 on Fridays and Saturdays and up to 0200 Sundays for food (0100 for alcohol).
3. On Tuesday the 1st of July 2014 PC O'Rourke of Tower Hamlets Licensing Police observed that the premises were open and apparently serving customers after 2.00 a.m. The officer was in plain clothes and was able to enter the premises and purchase a burger and a can of Stella lager, paying at 2.25 a.m. He then identified himself to the staff and noted that the premises were not displaying the licence summary and the persons on the premises were unable to supply a copy of this and could not produce a

copy of the full licence; a breach of regulatory requirements. A copy of PC O'Rourke's statement is attached as IDM/BK/01

4. On the 19th of January 2015, Officers Temple and Hickey of the Trading Standards Service visited the premises following receipt of a complaint alleging the sale of cigarettes to underage children from there. While on the premises they found a total of 1540 cigarettes which had been duty evaded and did not carry the required English language health warnings. At interview Mr Kocager admitted buying the cigarettes from a man who called at the shop. A copy of Ms Temple's statement is attached as IDM/BK/2.
5. On Saturday the 21st of February 2015 PC O'Rourke observed that the premises were still open after the 3.00 a.m. Saturday closing hour. He was able to enter the premises and purchase hot food at 4.24 a.m. although alcohol was not available. A copy of his statement is attached as IDM/BK/3
6. Information provided by Mr Kocager, the licensee and DPS, at interview is that he is only on the premises from 12 noon to 4 p.m. each day. The existing licence carries a condition stating that "At least one personal licence holder shall be present whilst the premise is open for business and alcohol is being sold". Although the other staff operating the late shift have stated to have been working there for approximately 2 years, there is no indication that any of them are personal licence holders or that any specific person has been authorised to sell alcohol by Mr Kocager.
7. Officers are concerned that Mr. Kocager has displayed a lack of regard for the legal requirements relating to a licenced premises in having contraband cigarettes on the premises, failing to ensure proper control of the premises with regard to the late hours and failing to adhere to licence conditions.
8. Officers therefore respectfully request that Members consider
 - 1] reducing the permitted hours for the sale of alcohol and late night refreshments
 - 2] removing Mr Kocager as Designated Premises Supervisor

3] suspending the licence for a period sufficient for the licence holder to find and appoint a new designated premises supervisor and sufficient personal licence holders to meet the licencing conditions throughout the permitted hours for the sale of alcohol

4] add conditions to the licence as follows :-

The premises licence holder and any other persons responsible for the purchase of stock should not purchase any goods from door-to-door sellers unless a valid receipt is supplied at the time of the purchase.

If stock is purchased from a door-to-door seller the premises licence holder shall ensure that a record is kept of the seller's vehicle registration number.

The premises licence holder must ensure that all receipts for goods bought include the following details:

Seller's name and address

Seller's company details, if applicable

Seller's VAT details, if applicable

Copies of the documents referred to above should be made available to officers on request.

Ian David Moseley,

Senior Trading Standards Officer

London Borough of Tower Hamlets

RESTRICTED (when complete)

MG 11(T)

WITNESS STATEMENT

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

Statement of **Brendan Paul O'ROURKE** URN:

01	HT		14
----	----	--	----

Age if under 18 Over 18..... (if over 18 insert 'over 18') Occupation: **Police Officer 230222**

This statement (consisting of: ... 4..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature:  Date: **01/07/2014**

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

This statement is in relation to a breach of Premises Licence Conditions at Best Kebabs,
275, COMMERCIAL ROAD, LONDON E1 2PS

Officers' original notes made at Bethnal Green Police Station at 18:30 hours in my own company.

I am a police officer attached to the Licensing Unit of Tower Hamlets Borough Police.

On Tuesday, 1st July 2014, I was on duty in plain clothes conducting licensing compliance and enforcement visits around the borough.

I had previously received information that this kebab shop was regularly open long often is terminal hour for licensed activities. I reviewed the Premises Licence which allows for Licensable Activities authorised by the licence as being the 'Provision of Late Night Refreshment' and 'The sale by retail of alcohol'. It further states the hours permissible are:

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 and Sunday from 12:00 hrs to 01:00 hrs

Also the opening hours of the premises are Monday to Thursday from 12:00 hrs to 02:00 hrs; Friday and Saturday from 12:00 hrs to 03:00 hrs and Sunday from 12:00 hrs to 02:00 hrs.

At approximately 01:55 hours I made my way to the venue and identified myself to LBTH CCTV and asked if they would monitor me as I was alone. I walked past the front of the venue at approximately

Signature:  Signature witnessed by: **N/A**

2006/07(1); MG 11(T)

RESTRICTED (when complete)

Continuation of Statement of **Brendan Paul O'ROURKE**.....

02:00 hours and the venue was still open with five customers inside and three staff. I could see that the burners on the doner kebab grill machine were fully lit and the meat was still being cooked. No effort had been made to close the venue on time.

I then carried on observing the premises from across the road, when at 02:15 hours, four customers left in two cars that were parked outside. At 02:19 hours, two new customers entered and placed orders. At approximately 02:20 hours I entered the premises, as I saw one staff member pull down one shutter. I ordered a small burger and chips with a drink which the menu display board advertised at £2.50.

It was ready at approximately 02:25 hours and whilst there was no alcohol advertised, I understood that the venue did sell alcohol and it was licensed to do so. The staff member said to me "WHAT DRINK WOULD YOU LIKE"?

I said "DO YOU HAVE ANY BEER"?

He replied "YES, ONE POUND FIFTY MORE".

I said "CAN I HAVE A HEINEKEN PLEASE"?

He replied "NO ONLY STELLA".

I said "THAT'S FINE, I'LL HAVE ONE PLEASE".

He then produced a can of Stella lager from a fridge under the counter and said "ONE POUND MORE". At approximately 02:25 hours I then paid a total of £3.50 (not £4.00) and left with my burger and beer, holding up the purchase to the CCTV camera as I stood outside. I seized the Stella in evidence and produce it as exhibit BOR/1, later sealed in evidence bag D43843363.

There was one customer still in the shop and I waited for him to leave and a few minutes later I re-entered the shop and I identified myself as a police officer by producing my warrant card saying "HELLO I'M PC O'ROURKE, FROM POLICE LICENSING, LET'S HAVE A WORD PLEASE"?

I then said to the male who served me "WHO IS IN CHARGE PLEASE"?

He replied "TOMORROW".

I said "WHO IS IN CHARGE NOW PLEASE"?

It appeared that English was not his Mother tongue and he had some difficulty understanding me.

I said "ARE YOU THE PREMISES LICENCE HOLDER OR THE DPS"?

Again, he did not appear to understand what I was asking.

I then said "CAN I SEE YOUR PREMISES LICENCE AND WHERE IS YOUR PART B ON DISPLAY IN THE SHOP"?

He searched behind the counter and produced a letter dated 11/02/14 from Mr Andrew Heron,

Signature:  Signature witnessed by: N/A.....

2003(1)

PC O'ROURKE

Continuation of Statement of **Brendan Paul O'ROURKE**.....

Licensing Officer at LBTH, ironically it was a warning letter sent to the venue reminding them to close on time and in particular to adhere to the opening times on their Premises Licence.

I said "THIS IS NOT YOUR LICENCE IT IS A LETTER FROM THE COUNCIL REMINDING YOU TO CLOSE ON TIME AND I CAN'T SEE YOU HAVE A COPY OF PART B ON THE WALL"?

I had a copy of the Premises Licence with me and showed it him asking "THIS IS A COPY OF IT, DO YOU HAVE YOURS HERE NOW PLEASE".

He replied "NO".

I said, "OK LET ME TAKE SOME DETAILS, CAN YOU TELL ME YOUR NAME PLEASE"?

He replied "IBRAHIM".

I saw on the Premises Licence that the PLH and DPS was a Mr Ibrahim KOCAGER. I showed it him pointing at the name Ibrahim KOCAGER and said "IS THIS YOU, IS THIS YOUR NAME"?

He replied "YES".

I asked him again and then said "SO YOU ARE THE PREMISES LICENCE HOLDER"?

He said "NO, TOMMORROW".

It appeared he had misunderstood me and I asked him to write down his name which he did as 'CUMA SENLOY'.

I then said "AND WHAT IS YOUR DATE OF BIRTH PLEASE"?

He replied "[REDACTED]".

I then said "AND DO YOU LIVE UPSTAIRS"?

He replied "NO".

I said "CAN YOU WRITE DOWN YOUR ADDRESS FOR ME PLEASE"?

He then produced a small notebook with an address of [REDACTED] LONDON, [REDACTED]. I have since checked the voters register and indeed Mr SENLOY is registered to vote at that address.

I then said to him "DO YOU HAVE A PERSONAL LICENCE"?

He replied "YES"

I said "TO SELL ALCOHOL"?

He replied "NO".

I then said "AND DID YOU HAVE ANY EXTENSION TO OPEN TONIGHT, A 'TEN'"?

He looked at me blank. But I knew the venue had not submitted any 'TENS'.

Signature: [REDACTED]

Signature witnessed by:

N/A.....

2003(1)

Continuation of Statement of **Brendan Paul O'ROURKE**.....

I then completed Met Police Form Book 694

At 02:30 hours, I said to him "I SHOULD POINT OUT THAT IT IS AN OFFENCE UNDER THE LICENSING ACT 2003 TO COMMIT THE FOLLOWING OFFENCES

'UNDER SECTION 136 (1) CARRYING ON OR ATTEMPTING TO CARRY ON A LICENSABLE ACTIVITY ON OR FROM ANY PREMISES OTHERWISE AND IN ACCORDANCE WITH AN AUTHORISATION OR KNOWINGLY ALLOWING A LICENSABLE ACITIVITY TO BE CARRIED ON',

IN PLAIN ENGLISH THAT MEANS YOU HAVE ALLOWED BREACHES OF THE PREMISES LICENCE BY BEING OPEN AFTER 2:00 AM AND SELLING HOT FOOD AND A CAN OF STELLA TO ME AT 02:25 AM. IT IS ALSO AN OFFENCE UNDER

- SECTION 57 (4) - FAIL TO PROMINENTLY DISPLAY A SUMMARY OF THE LICENCE AND
- UNDER SECTION 57 (7) - FAILE TO PRODUCE A PREMISES LICENCE OR CERTIFIED COPY

I SAID YOU MUST HAVE A COPY OF THIS ON THE PREMISES AND HAVE THESE TWO PAGES ON DISPLAY. BUT MR KOCAGER WILL BE RESPONSIBLE FOR THE LAST TWO OFFENCES".

I then gave the 'now' caution and said "THE FACTS OF THE MATTER WILL BE REPORTED AND YOU MAY BE PROSECUTED", he made no reply.

I completed Form Book 694 and showed it to him asking him to sign it, which he did and I gave me the top copy. I produce a copy in evidence as exhibit BOR/2 (copy attached).

At one point he said to me "WE SHOULD CLOSE AT 2AM BUT THE CUSTOMERS WERE IN THE SHOP".

I said "NO, I CAME IN AT 2:20 AM AND TWO MORE JUST BEFORE ME, YOU DID NOT TELL ME YOU WAS CLOSED AND YOU WAS HAPPY TO SERVE ME, YOU KNOW YOU SHOULD CLOSE AT 2AM AND I THINK YOU HAVE BEEN DOING THIS FOR A LONG TIME".

I then left the premises and as I did I asked Mr SENLOY "DO YOU HAVE ANYMORE QUESTIONS FOR ME"?

He replied "NO".

I then said "PLEASE MAKE SURE THAT YOU CLOSE ON TIME".

Notes completed 19:25 hrs.

Signature:

[Redacted Signature]

Signature witnessed by:

N/A.....

2003(1)

Notification of alleged offences under the Licensing Act 2003

Venue Name: Best Kebab

REF: (CAD/CRIS etc.)

Address: 275 Commercial Road London E1 2PS

Date: 11/7/14 Time: 02:25

Details of person in charge at the relevant time: Gemma SETHU/Alan (Linda SENLO)

DPS Personal Licence Holder

Summary of alleged offences identified

- Section 57(4) Failure to secure premises licence or a certified copy at the premises or to prominently display a summary of the Licence.
- Section 57 (7) Failure to produce a premises licence or a certified copy.
- Section 109 (4) Failure to secure that a copy of the Temporary Event Notice (TEN) is prominently displayed at the premises or secure that a copy of the TEN is in the custody of an appropriate person.
- Section 109 (8) Failure to produce a TEN to a police officer.
- Section 135 (4) Failure to produce a personal licence to a police officer.
- Section 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise and in accordance with an authorisation or knowingly allowing a licensable activity to be carried on. (Sec19 Issued Y No)
- Section 137 (1) Exposing alcohol for retail without an authorisation. (Sec19 Issued Y No)
- Section 138 (1) Keeping alcohol on a premises for an unauthorised sale. (Sec19 Issued Y No)
- Section 140 (1) Knowingly allowing disorderly conduct on a licensed premises.
- Section 141 (1) Knowingly selling or attempting or allowing alcohol to be sold to a person who is drunk.
- Section 144 (1) Knowingly keeping or allowing non duty paid goods or unlawfully imported goods to be kept on premises.
- Section 145 (1) Allowing an unaccompanied child on a premises (used primarily or exclusively for the sale of alcohol).
- Section 146 (1) Selling alcohol to an individual aged under 18.
- Section 147 (1) Knowingly allowing the sale of alcohol to an individual under 18.
- Section 153 (1) knowingly allowing an individual under 18 to make a an unsupervised sale of alcohol.
- Section 179 (4) Intentionally obstructing any authorised person exercising a power of entry under section 179.

Details of alleged offence(s) including relevant Cad and Crime report details:

Premises commercial open beyond licensing hours of 02:00 hours
Sec 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise and in accordance with an authorisation or knowingly allowing a licensable activity to be carried on. (Sec19 Issued Y No)
11/7/14 02:25 hours. Served by Gemma SETHU/ Alan SENLO on premises

Issuing officer: [Redacted] Print: [Redacted]

I acknowledge receipt of this form: (venue) [Signature]

The purpose of this notice is to inform you that the failure to comply with the Licensing Act 2003 may result in the police initiating criminal proceedings against the DPS, premises licence holder, or both. This notice may also be used in evidence to support a review of the premises licence pursuant to section 51 Licensing Act 2003 and/or an application for a closure order under section 20 Criminal Justice and Police Act 2001

Witness Statement

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

URN:

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Statement of: Geraldine Temple

Age if under 18 (if over insert "over 18"):

Occupation: Consumer Services Officer

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

Name / Signature:

Date:

Tick if witness evidence is visually recorded:

(Supply witness details on last page)

Statement

I am a Consumer Services Officer employed by the London Borough of Tower Hamlets and am an Authorised officer under the Trade Marks Act 1994, Consumer Protection Act 1987 and associated legislation.

On 20th November 2014, Tower Hamlets Trading Standards received a complaint alleging that Best Kebab, 275 Commercial Road E1 2PS were selling illicit tobacco to minors from under the till area.

On 19th January 2015 at around 14:40 along with Martin Hickey; Trading Standards Officer, I entered Best Kebab, 275 Commercial Road, London E1 2PS. We showed our warrant identification cards to the man behind the counter. Officer Hickey explained that we were from Trading Standards and that we had received a complaint alleging they were selling illicit tobacco. The man invited us to come and look behind the counter. The member of staff identified himself as Ibrahim Kocager and said that he was the owner. Officer Hickey explained our powers under the

Name / Signature:

Signature Witnessed by:

Witness Statement

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

Consumer Protection Act 1987 and asked Mr Kocager if there was any illicit tobacco on the premises. Mr Kocager pointed at the till area and said there was some there. Officer Hickey found a small bucket containing 7 x packets of 20 Marlboro Gold cigarettes with Polish markings. They were not compliant with The Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002. I bagged and sealed them with seal number P00408868.

Officer Hickey checked the store room which you access at the back of the shop opposite the counter and returned with a cardboard box that contained 1400 x Marlboro Gold cigarettes that were non-compliant. I bagged and sealed them with seal number R00450357.

Officer Hickey cautioned Ibrahim Kocager at 14:49. He was unable to confirm whether he did or did not understand the caution and that he'd need a Turkish interpreter. A man in the shop who claimed to be a friend phoned a person named 'Iskender' who he claimed could interpret for Mr Kocager. Officer Hickey spoke to him followed by Mr Kocager.

Following this exchange, a receipt was issued by Officer Hickey on which Mr Kocager agreed to voluntarily sign over the seized goods. We then left the premises and returned to the office where the evidence was placed into secure storage.

At around 4pm on 11th February 2015, I accompanied Officer Hickey and Kevin Maple, Consumer Services Officer to Best Kebab. Officer Hickey wished to establish whether Mr Kocager could attend a PACE interview on 23rd February 2015. He introduced us and we showed our warrant cards. Mr Kocager started to say that we had not contacted him and that we had taken his cigarettes. He stated that he wanted to call the police. Officer Hickey said that was fine and reiterated that we were from Trading Standards and that we had given him a receipt for the goods that had been seized. Mr Kocager started to take photographs of us. Officer Hickey explained that

Name / Signature:

Signature Witnessed by:

Witness Statement

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

we wished to invite him to a formal interview and that a Turkish interpreter had been booked for him. A confirmation letter was to follow. Mr Kocager accepted this and we left the premises.

On 23rd February 2015, I interviewed Ibrahim Kocager along with Kevin Martin, Principal Consumer Services Officer. Also present was Marcus Afentakis, Turkish Interpreter from Language Shop. The interview commenced at 11:00. Mr Kocager was cautioned at 11:03. He has run Best Kebab for 12 years. In the last 2 years he has a shareholder called Ekrem but he is not in the country due to his visa expiring and will not be involved in the business much longer. He stated that he had purchased 10 cartons of 200 Marlboro Gold cigarettes from a man in his 40's, tall and slim with short, dark hair on either 11th or 12th January 2015. The man drives a white truck about 10-15m long. He approached his shop saying he needed money and food. He did not speak very good English. Mr Kocager paid £40 per carton. He claims that he works there 7 days per week between 12-4pm. He has two other full time staff members who have been there for 2 years. They are Ali Altunatmaz and Cuma Senkoy. The cigarettes were to be split between the 3 of them to use personally. He said he did not know that it was an offence to have those cigarettes on the premises.

He claimed that the ones in the till area were for them to smoke. He was asked about the complaint that we had received in November 2014 alleging that he was supplying cigarettes to children. He claimed that he did not sell cigarettes to children and implied that the complaint may be vexatious. He confirmed that kids visit his shop and can be troublesome. He then went on to say that customers sometimes ask him for a cigarette and he gives them one but does not charge. He said that he smokes with the customers outside but does not sell the cigarettes. Interview was terminated at 11:41.

Name / Signature:

Signature Witnessed by:

RESTRICTED (when complete)

MG 11(T)

WITNESS STATEMENT

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

Statement of **Brendan Paul O'ROURKE**..... URN:

01	HT		15
----	----	--	----

Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Officer 230222**

This statement (consisting of: ... 4..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature:  Date: **21/02/2015**.....

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

This statement is in relation to a breach of Premises Licence Conditions at Best Kebabs,
275, COMMERCIAL ROAD, LONDON E1 2PS on 21/05/15

Officers' original notes made at Brick Lane Police Station at 05:40 hours in my own company.

I am a police officer attached to the Licensing Unit of Tower Hamlets Borough Police.

On Saturday, 21st February 2015, I was on duty in plain clothes conducting licensing compliance and enforcement visits around the borough.

I had driven past Best Kebabs at 03:30 hrs and saw that they were still open, but had to go to Brick Lane Police Station to obtain a copy of the Premises Licence, to double check their hours. I returned having read they should have closed at 03:00 hrs.

I was also aware that on 19/01/15 Trading Standards seized 1,440 illegal Marlboro Gold cigarettes from the premises, so it would clearly appear that the Premises Licence Holder has no regard whatsoever for any of the legislative process.

I entered the premises at approximately 04:10 hours and there was five customers ahead of me, all waiting or paying for kebabs or kebabs and chips. There was also 4 people sat on a small table towards the rear of the premises. All 4 of them ate their food and then came to pay behind me, again it was all for kebabs.

Signature:  Signature witnessed by: **N/A**.....

2006/07(1) MG 11(T)

RESTRICTED (when complete)

Continuation of Statement of **Brendan Paul O'ROURKE**.....

It was clear to me the shop was in full swing, all the gas burners for the doner kebab grill were fully lit and meat was still being cooked and sliced. No effort had been made to close the venue on time.

I then decided to undertake an impromptu 'test purchase' and I waited my turn and then I ordered a small kebab and paid £3.50 for it at 04:24 hrs. I had asked the man who served me "FOR A STELLA" (lager), but he told me they had none. I left the premises and returned a few minutes later, with the police paperwork.

There was still three customers in the shop and I identified myself as a police officer by producing my warrant card saying "HELLO I'M PC O'ROURKE, FROM POLICE LICENSING, YOU NEED TO CLOSE NOW, YOU SHOULD HAVE CLOSED AT 3.00 AM". One male pleaded with me for his food, which he said he had paid for and as it was ready I agreed he may as well take it, but a second male who had not paid, but placed his order I politely asked to leave.

I recognised two of the males from my earlier visit and in fact had that file with me with their details in it, I said to one male are you 'CUMA SENKOY'?"

He replied "YES"

I said "AND IS YOUR DATE OF BIRTH [REDACTED]"?

He replied "YES".

I then said "AND DO YOU STILL LIVE AT FLAT [REDACTED]"

[REDACTED] LONDON [REDACTED]"?

He replied "YES".

I then said to the other male, "YOU MUST BE ALI ALTINATMAZ"?

He replied "YES".

I asked him to write down his surname to be sure I had the correct spelling and it was as above.

I said "AND IS YOUR DATE OF BIRTH [REDACTED]"?

He replied "YES".

I said "AND DO YOU STILL LIVE AT [REDACTED] LONDON [REDACTED]"?

He replied "YES".

I then said to the third male "CAN YOU TELL ME YOUR NAME AND DATE OF BIRTH PLEASE"?

Signature: [REDACTED].....

Signature witnessed by: N/A.....

2003(1)

Continuation of Statement of **Brendan Paul O'ROURKE**.....

He replied "MEMIK UGEZ, [REDACTED]".

I then said "AND WHAT IS YOUR ADDRESS PLEASE"?

He replied "[REDACTED] LONDON, [REDACTED]".

I then said, "WHO IS THE SUPERVISOR NOW"? Mr SENKOY said he was.

I then said "CAN I SEE YOUR PREMISES LICENCE PLEASE"? Mr SENKOY pointed to Part B on the wall which I retrieved and showed him the hours, pointing out that they should close at 02:00 hrs every day, apart from Friday and Saturday night when they can stay open one hour longer until 03:00 hrs. he just looked bemused. I said to him "AND WHERE IS MR KOCAGER"?

He replied "TOMMORROW, DAYTIME".

I said "IT'S HIM WHO HAS MADE YOU STAY OPEN AFTER HOURS ISN'T IT"?

He looked uncomfortable and I did not wish to make his life difficult by compromising his job. It appeared to me they were just three shop workers just being told what to do by their boss.

I then completed Met Police Form Book 694 - 'Notification of Alleged Offences under the Licensing Act 2003'.

At 04:30 hours, I said to him "I AM GOING TO GIVE YOU THESE FORMS, YOU ARE NOT IN TROUBLE YOURSELF, BUT MR KOCAGER IS. BUT I AM GIVING THEM YOU AS YOU ARE IN CHARGE RIGHT NOW. I SHOULD POINT OUT THAT IT IS AN OFFENCE UNDER SECTION 136 (1) OF THE LICENSING ACT 2003 TO CARRY ON OR ATTEMPT TO CARRY ON A LICENSABLE ACTIVITY ON OR FROM ANY PREMISES OTHERWISE AND IN ACCORDANCE WITH AN AUTHORISATION OR KNOWINGLY ALLOWING A LICENSABLE ACITIVITY TO BE CARRIED ON, WHICH MEANS, YOU HAVE SERVED HOT FOOD AFTER 03:00 AM".

I then gave the 'now' caution and said "THE FACTS OF THE MATTER WILL BE REPORTED AND YOU MAY BE PROSECUTED", he made no reply.

I completed Form Book 694 and showed it to him asking him to sign it, which he did and I gave him the top and Premises Licence Holder copies. I produce the Licensing Authority copy in evidence as exhibit BOR/2 (copy attached).

I then explained in great detail to all three staff, that they cannot allow Mr KOCAGER to make them

Signature: [REDACTED]

Signature witnessed by: N/A.....

2003(1)

Continuation of Statement of **Brendan Paul O'ROURKE**.....

work after 03:00 hrs on a Friday or Saturday night and to keep doing so, will jeopardize the premises licence. I showed them very carefully the times on Part B of the Premises Licence, so that they cannot be in any doubt.

As I left at approximately 04:45 hrs, there were still customers trying to get inside, it seemed clear to me that it is regularly open late at weekends beyond their licensed hours...

Notes completed 06:20 hrs.

[Redacted signature area]

[Handwritten signature]

Signature:

2003(1)

[Redacted signature]

Signature witnessed by:

N/A.....

DOR/2

Notification of alleged offences under the Licensing Act 2003

Venue Name: Residence REF: (CAD/CRIS etc.) _____

Address: 275 Commercial Road

London E1 2AS Date: 21/02/15 Time: 0430

Details of person in charge at the relevant time: [Signature]

DPS Personal Licence Holder

Summary of alleged offences identified

- Section 57(4) Failure to secure premises licence or a certified copy at the premises or to prominently display a summary of the Licence.
- Section 57 (7) Failure to produce a premises licence or a certified copy.
- Section 109 (4) Failure to secure that a copy of the Temporary Event Notice (TEN) is prominently displayed at the premises or secure that a copy of the TEN is in the custody of an appropriate person.
- Section 109 (8) Failure to produce a TEN to a police officer.
- Section 135 (4) Failure to produce a personal licence to a police officer.
- Section 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise and in accordance with an authorisation or knowingly allowing a licensable activity to be carried on. (Sec19 issued Y No)
- Section 137 (1) Exposing alcohol for retail without an authorisation. (Sec19 issued Y No)
- Section 138 (1) Keeping alcohol on a premises for an unauthorised sale. (Sec19 issued Y No)
- Section 140 (1) Knowingly allowing disorderly conduct on a licensed premises.
- Section 141 (1) Knowingly selling or attempting or allowing alcohol to be sold to a person who is drunk.
- Section 144 (1) Knowingly keeping or allowing non duty paid goods or unlawfully imported goods to be kept on premises.
- Section 145 (1) Allowing an unaccompanied child on a premises (used primarily or exclusively for the sale of alcohol).
- Section 146 (1) Selling alcohol to an individual aged under 18.
- Section 147 (1) Knowingly allowing the sale of alcohol to an individual under 18.
- Section 153 (1) knowingly allowing an individual under 18 to make a an unsupervised sale of alcohol.
- Section 179 (4) Intentionally obstructing any authorised person exercising a power of entry under section 179.

Details of alleged offence(s) including relevant Cad and Crime report details:
LNR until 0300 however site full until 0430 including
be used to be a licence at 0434 hrs.

Issuing officer: [Redacted] Print: [Redacted]

I acknowledge receipt of this form: (venue) X

The purpose of this notice is to inform you that the failure to comply with the Licensing Act 2003 may result in the police initiating criminal proceedings against the DPS, premises licence holder, or both. This notice may also be used in evidence to support a review of the premises licence pursuant to section 51 Licensing Act 2003 and/or an application for a closure order under section 20 Criminal Justice and Police Act 2001

Appendix 2

**(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 24th 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

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 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

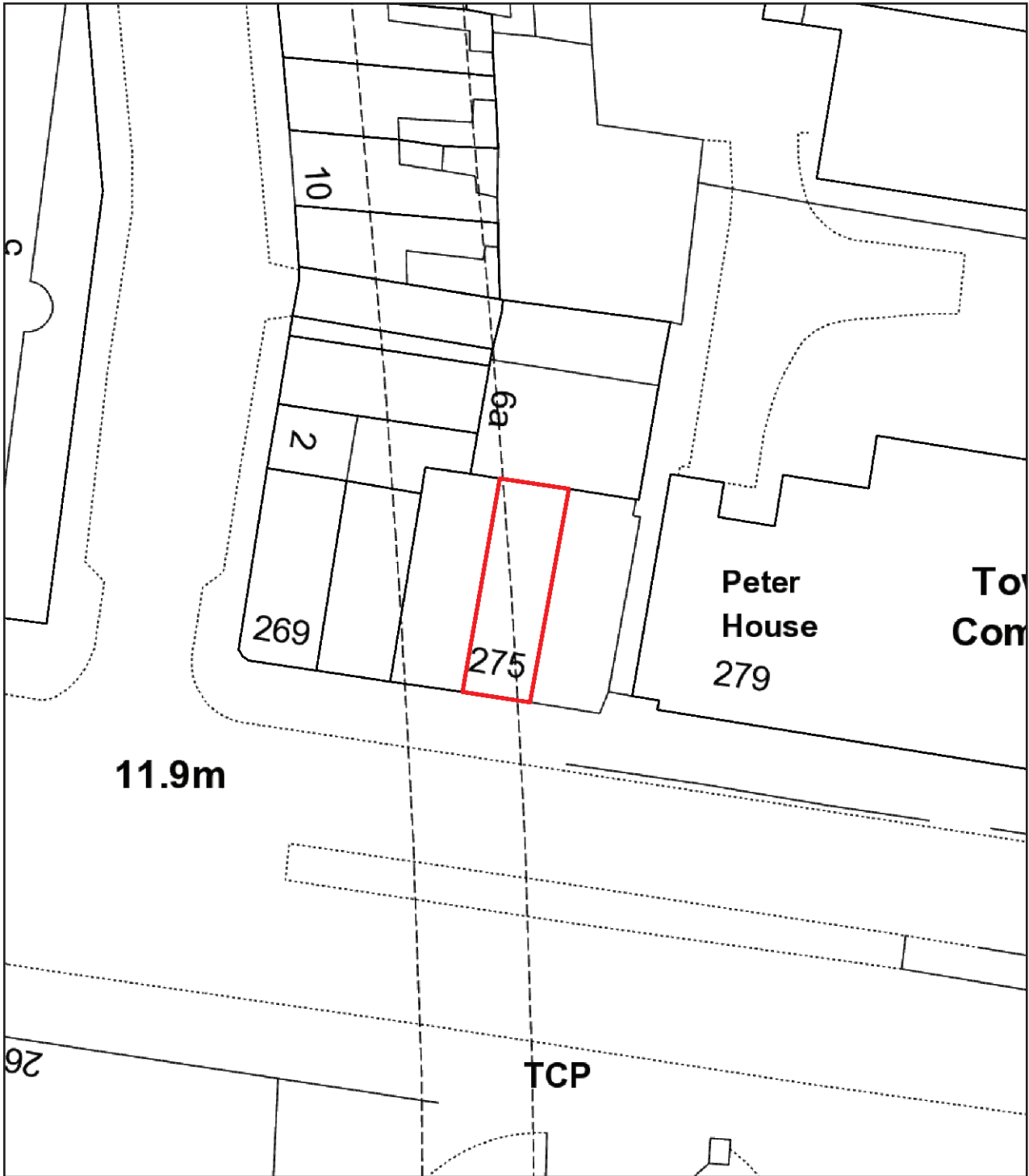
Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr. Ibrahim Kocager

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

No restrictions

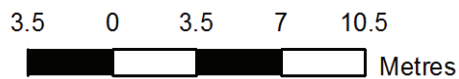
Appendix 3



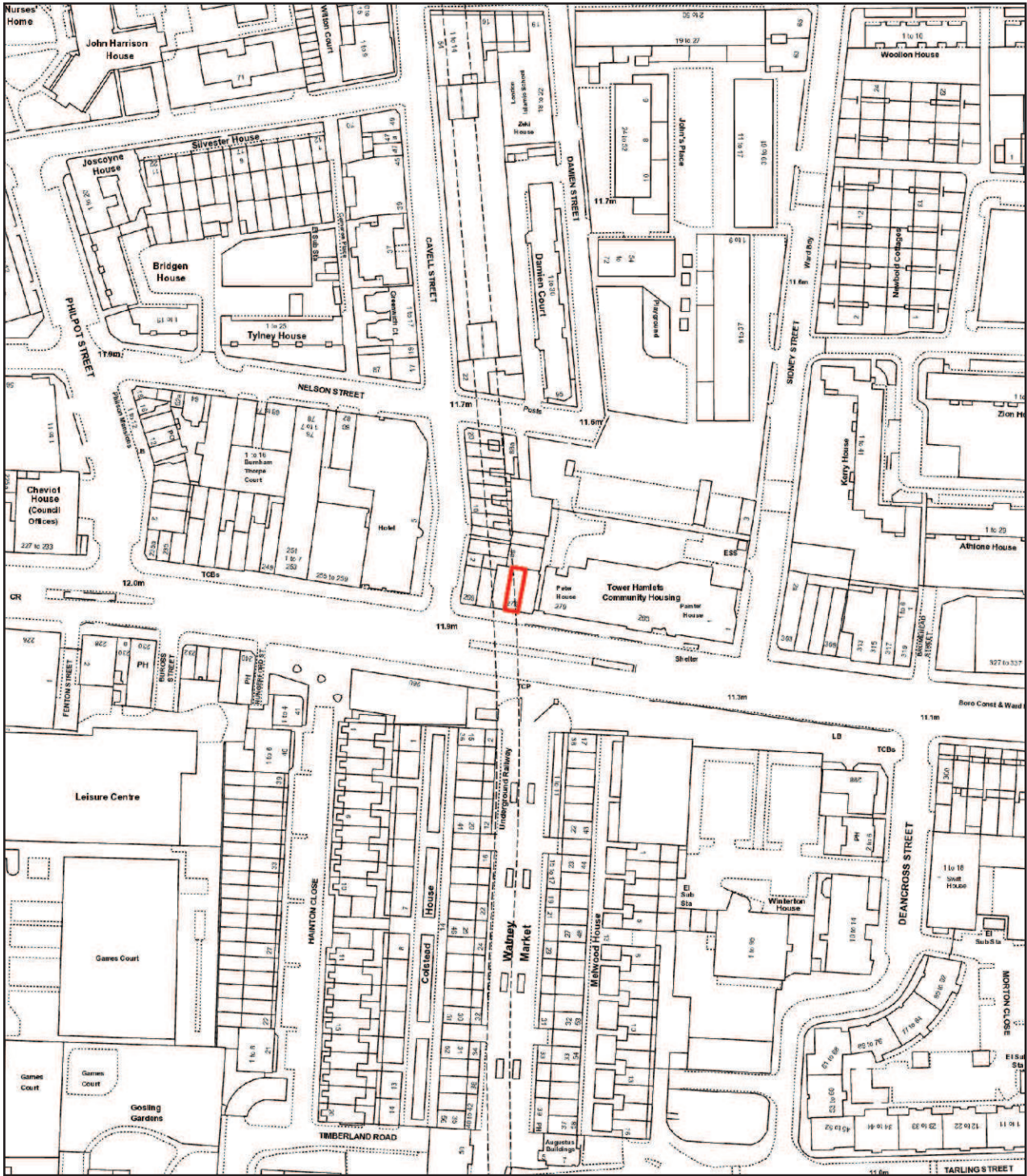
275 Commercial Road



Scale 1:384



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275 Commercial Road



Scale 1:1922

10 0 10 20 30

 Metres



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Appendix 4

Mohshin Ali

From: Andrew Heron on behalf of Licensing
Sent: 29 April 2015 12:26
To: Mohshin Ali
Subject: FW: Best Kebab, 275 Commercial Rd, E1
Attachments: Best Kebab (review April 15).doc

From: Alan.D.Cruickshank@met.pnn.police.uk [<mailto:Alan.D.Cruickshank@met.pnn.police.uk>]
Sent: 29 April 2015 10:52
To: Licensing
Cc: Ian Moseley
Subject: Best Kebab, 275 Commercial Rd, E1

Dear Licensing

Please accept my letter of support for the review of Best Kebab

Regards

Alan Cruickshank PC 189HT

Total Policing is the Met's commitment to be on the streets and in your communities to catch offenders, prevent crime and support victims. We are here for London, working with you to make our capital safer.

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John McCrohan
LBTH Licensing
Toby Club
Vawdrey Close
E1 4UA

HT - Tower Hamlets Borough
Licensing Unit

Licensing Office
Limehouse Police Station
27 West India Dock Road &
5 Birchfield Street
E14 8EZ

Telephone: 0207 161 8792

Facsimile:

Email:

Alan.D.Cruickshank@met.pnn.police
.uk

www.met.police.uk

Your ref:

Our ref:

24 April 2015

Dear Mr McCrohan

Review of a premises licence

Best Kebab, 275 Commercial Road,E1 2PS

I write with reference regarding the above application. Please accept this letter as notification that the police as a responsible authority wish to support this application on the following two licensing objectives.

The prevention of crime and disorder

The prevention of public nuisance

Trading Standards have already highlighted that on the 1st July 2014, my colleague, PC O'Rourke purchased a burger and a can of Stella lager after Best Kebab's licensable hours had finished.

The PLH and also the DPS, Mr Ibrahim KOCAGER was also reported for failing to produce the premises licence and failure to display a summary of the Licence (Part B)

Once more on the 21st February 2015 PC O'Rourke observed that the premises was still open after the 0300 licensing hours. He was able to purchase hot food at 0424.

A member of staff was then reported for unauthorised licensable activities.

Further to the above, the following incidents involve Best Kebab.

On Thursday 25th December 2014 at 0120 a very drunk victim entered the kebab shop and he thought someone had jumped the queue in front of him. He became angry and staff said he began spitting at people. At this point an unknown suspect hit him over the head, cutting a small part of his head. Once again CCTV was not working, the staff stating that the police had removed it for another incident.

The victim was so drunk, he couldn't sign the officer's pocket book and refused to make any allegations.

On Tuesday 30th December 2014 at about 0252 an argument began between two parties. The victim and her friends had been drinking and whilst in the kebab shop an argument occurred with a group of Asian males. At some point the victim ran out of the shop, straight into the path of a LFB tender. The wing mirror struck the victim, causing sever facial injuries and although she eventually recovered, she may have lost the vision in her left eye.

The CCTV inside the shop was not working and this fact obviously hindered the investigation.

More importantly, the kebab shop should have closed at 0200. The incident should never had taken place as the altercation took place around 0252

Due to the late hours it is often difficult to check to see whether the venues are abiding by their licensing hours and more importantly their licensing objectives, especially those of crime and disorder and public nuisance. It is an issue of trust between the Premises Licence Holder and the responsible authorities.

It is clear that the PLH / DPS does not abide by the Licensing Act. PC O'Rourke has reported the venue for twice selling past their hours.

It is anyone's guess how many times the staff of Best Kebab have flouted the Licensing Act.

Further to this, the incident on the 30th December highlights that Best Kebab continually breaches its licensable hours. Such late hours often have to be taken on trust. It would appear that Mr KOCAGER has no intention of maintaining his hours or promoting the licensing objectives.

Whilst supporting Trading Standard, I would ask the committee to consider not only reducing the hours but to remove the sale of alcohol.

Alan Cruickshank PC 189HT

Appendix 5

Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

Updated March 2015

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 repetitious ground is one that is identical or substantially similar to: a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or representations considered by the licensing authority when the premises licence or certificate was granted; or representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises

licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises: for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;

for the sale and distribution of illegal firearms;

for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;

for prostitution or the sale of unlawful pornography;

by organised groups of paedophiles to groom children;

as the base for the organisation of criminal activity, particularly by gangs;

for the organisation of racist activity or the promotion of racist attacks;

for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;

for unlawful gambling; and

for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;

notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.30 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

Appendix 6

Crime and disorder - S182 Updated March 2015

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

Appendix 7

Public nuisance - S182 Updated March 2015

- 2.14 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.15 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

- 2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.19 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Appendix 8

Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

Updated March 2015

Protection of children from harm

- 2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.23 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

- 2.24 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.25 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.26 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
 - restrictions on the parts of the premises to which children may have access;
 - age restrictions (below 18);
 - restrictions or exclusions when certain activities are taking place;
 - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.27 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

- 2.28 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.29 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.
- 2.30 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

Offences relating to the sale and supply of alcohol to children

2.31 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

Table of relevant offences under the 2003 Act	Section	Offence	Prosecuting Authority
	Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
	Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
	Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
	Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
	Section 148	Sale of liqueur confectionery to children under 16. (This offence will be repealed by the Deregulation Act 2015 on 26 May 2015).	Police and/or Licensing Authority
	Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
	Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
	Section 151	Delivering alcohol to children	Police and/or Licensing Authority
	Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
	Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

Appendix 9

Crime and Disorder – Licensing Policy, updated March 2015

- 6.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 6.2 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and / or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applications operating schedule. Where a Crime Prevention Officer from the Metropolitan Police makes recommendations for premises that relate to the licensing objectives, the operating schedule should normally incorporate the suggestions.
- 6.3 Applicants are recommended to seek advice from Council Officers and the Police as well as taking into account, as appropriate, local planning and transport policies, with tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 6.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.
- 6.5 The Licensing Authority, if its discretion is engaged, will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder given in Section 182 of the Licensing Act 2000. (See **Appendix 2.**)
- 6.6 **CCTV** - The Licensing Authority, if its discretion is engaged, will attach conditions to licences, as appropriate where the conditions reflect local crime prevention strategies, for example the provision of closed circuit television cameras.
- 6.7 Touting - The Council has had a significant number of complaints relating to premises which are substantially or mainly restaurants where "touting" is a problem. Touting is soliciting for custom. Consequently, in relation to such premises the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits 'touting' as follows:-
 - 1) No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 meters radius of the premises as shown edged red on the attached plan.(marked as Appendix -)
 - 2) Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.

- 6.8 **Street Furniture** - This would include Advertising Boards, they are sometimes placed in such a way as to be a nuisance to the public on the highway, or they encourage the consumption of alcohol in areas that are not licensed. The Licensing Authority expects applicants to have ensured that they fully comply with the Councils rules relating to authorisation of obstructions on the highway and a licence permission to place advertising boards or street furniture on the highway should normally have been obtained from Tower Hamlets Markets Service before an application for a licence is made. Where proportionate and appropriate, and its discretion is engaged, the Licensing Authority will impose conditions in relation to street seats and tables or boards, including on private land.
- 6.9 **Fly Posting** - The Council has experienced significant problems with "fly posting" in relation to venues that offer entertainment. Fly posting is the unauthorised posting of posters / advertisements etc. Where it considers it appropriate and its discretion is engaged, the Licensing Authority will attach conditions relating to the control of fly posting to ensure that venues clearly prohibit all fly posting in their contract terms with others and they effectively enforce this control.
- 6.10 **Responsible Drinking** - The Licensing Authority expects alcohol to be promoted in a responsible way in the Borough. This should incorporate relevant industry standards, such as the Portman Group. Where appropriate and proportionate, if its discretion is engaged, the Licensing Authority will apply conditions to ensure responsible drinking. The Licensing Authority also recognises the positive contribution to best practice that "Pubwatch" and other similar schemes can make to achieving the licensing objectives and is committed to working with them Model Pool Conditions from the Licensing Act 2003, Section 182 Guidance are in Appendix 2.
- 6.11 **Illicit Goods: Alcohol and Tobacco** - The Licensing Authority will consider licence review applications where there is evidence that illicit alcohol has been offered for sale on the premises. Where other illicit goods, such as tobacco, have been found this may be considered by the Licensing Authority as evidence of poor management and have the potential to undermine the licensing objectives.
- 6.12 Illicit alcohol means alcohol that is, counterfeit, bears counterfeit duty stamps and or smuggled.
- 6.13 Illicit tobacco means, counterfeit, and/or non UK duty paid tobacco products.
- 6.14 Illicit goods mean articles that are counterfeit, that do not comply with the classification and labelling requirements of the Video Recordings Acts and/or that breach other Trading Standards legislation such as consumer safety and unfair commercial practices

6.15 In particular the Licensing Authority is mindful of the advice provided in the guidance issued by the Home Office under section 182 of the Act "Reviews arising in connection with crime".

6.16 The Licensing Authority will exercise its discretion to add a standard condition as follows:-

Smuggled goods

1) The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery.

2) The premises licence holder shall ensure that all receipts for goods bought include the following details:

- I. Seller's name and address
- II. Seller's company details, if applicable
- III. Seller's VAT details, if applicable
- IV. Vehicle registration detail, if applicable

3) Legible copies of the documents referred to in 2) shall be retained on the premises and made available to officers on request.

4) The trader shall obtain and use a UV detection device to verify that duty stamps are valid.

5) Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Police of this immediately.

Appendix 10

Prevention of Nuisance – Licensing Policy, updated March 2015

- 10.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 10.2 The concerns mainly relate to noise nuisance both from the premises and customer egress, light pollution, noxious smells and disruption from parked vehicles and due regard will be taken of the impact these may have in considering a licence. The Licensing Authority will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Health Officers before preparing their plans and Schedules.
- 10.3 The Licensing Authority, where its discretion is engaged, will consider, where appropriate, attaching conditions to licences and permissions to prevent the problems identified in 8.2, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.

Appendix 11

Protection of children from harm – Licensing Policy Updated March 2015

11 Prevention of Harm to Children

- 11.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 11.2 The Act does not prohibit children from having access to any licensed premises; the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm.
- 11.3 Applicants are recommended to consult with the Area Child Protection Committee or such other body, as the Licensing Authority considers appropriate.
- 11.4 The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:-
- Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking
 - With a known association with drug taking or dealing
 - Where there is a strong element of gambling on the premises
 - Where entertainment of an adult or sexual nature is provided
 - Where irresponsible drinking is encouraged or permitted.
- 11.5 Where its discretion is engaged, the Licensing Authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:
- Limitations on the hours when children may be present
 - Limitations on ages below 18
 - Limitations or exclusion when certain activities are taking place
 - Requirements for an accompanying adult
 - Full exclusion of people under 18 from
- 11.6 No conditions will be imposed requiring that children must be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.
- 11.7 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 11.8 All licence holders will be expected to comply the Portman Group Code of Practice, and in particular the Retailer Alert Bulletin.

- 11.9 The Licensing Authority expects all licensed suppliers of alcohol to have robust measures, effectively managed and monitored, in place to ensure that minors are fully protected from harm.

12 Access to Cinemas

- 12.1 Films cover a vast range of subjects, some of which deal with adult themes and / or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 12.2 In order to prevent children from seeing such films, the Licensing Authority will impose conditions requiring licensees to restrict children from viewing age restricted films classified according to the recommendations of the BBFC, or the Council itself. The Licensing Authority will not consider reclassifying any films already classified by the BBFC. The Council will charge for classifying films, on a full cost recovery basis.
- 12.3 The Licensing Authority will classify films itself where it is satisfied that no BBFC classification exists. It will inform relevant licensee and require such classifications to be clearly contained in any advertising or informative material relating to such films.

13 Children and Public Entertainment

- 13.1 Many children go to see and / or take part in an entertainment arranged substantially for them. Consequently additional arrangements are required to safeguard them at such times.
- 13.2 Where 11.1 applies, and its discretion is engaged, the Licensing Authority will require the following arrangements in order to control their access and egress and to assure their safety:-
- An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof
 - No child unless accompanied by an adult to be permitted in the front row of any balcony
 - No standing to be permitted in any part of the auditorium during the Performance
- 13.3 Where children are taking part in any regulated entertainment, and its discretion is engaged, the Licensing Authority will require the operating schedule to clearly state the steps taken to assure their safety.
- 13.4 Where its authority is engaged, the Licensing Authority will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.

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Agenda Item 3.2

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub Committee	30 June 2015	Unrestricted	LSC 85/145	

Report of David Tolley Head of Consumer and Business Regulation Services	Title Licensing Act 2003 Application for a New Premises Licence for Tomorrow Bar & Restaurant, 132 Bethnal Green Road, London, E2 6DG.
Originating Officer: Alexander Lisowski Licensing Officer	Ward affected: Weavers

1.0 **Summary**

Applicant:	Easy Bar Limited
Name and	Tomorrow Bar & Restaurant
Address of Premises:	132 Bethnal Green Road London E2 6DG
Licence sought:	Licensing Act 2003 Application for a new premises licence to allow: <ul style="list-style-type: none">• The On Sale of Alcohol• The Performance of Live Music• The Playing of Recorded Music• Anything Similar to Live Music,• Recorded Music, and Performance of Dance
Objectors:	The Metropolitan Police Licensing Department as Responsible Authority

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		Alexander Lisowski 020 7364 7446

3.0 Background

- 3.1 This is an application for a new premises licence at Tomorrow Bar & Restaurant, 132 Bethnal Green Road, London, E2 6DG, for:

The on sale of alcohol.
The performance of live music.
The playing of recorded music.
Anything similar to live music, recorded music, and performance of dance.

The venue is within the Brick Lane Cumulative Impact Zone.

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

The hours applied for are:

The On of Alcohol

Monday to Sunday, 11.00am to 01.00am the following day.

The Performance of Live Music

Monday to Sunday, 11.00am to 01.00am the following day.

The Playing of Recorded Music

Monday to Sunday, 11.00am to 01.00am the following day.

Anything Similar to Live Music Recorded Music and Performance of Dance

Monday to Sunday, 11.00am to 01.00am the following day.

The Opening Hours of The Premises

Monday to Sunday, 11.00am to 01.00am the following day.

- 3.3 The applicant has agreed with Environmental Protection to add the following condition:

Regulated entertainment shall not be audible at the façade or within any affected business or residential property (as relevant) so as to cause a nuisance. Appendix 2.

- 3.4 Maps showing the relevant premises are included as **Appendix 3.**

4.0 **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 the 1st 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. It was last revised in October 2014.

- 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 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.

- 5.5 Section 182 Advice by the Home Office concerning relevant, vexatious and frivolous representations is attached as **Appendix 4**.
- 5.6 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.
- 5.7 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:
- Licensing Department as a Responsible Authority.
 - Metropolitan Police

See Appendices 5 & 6

- 5.8 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

- 5.9 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
- 5.10 The objections cover allegations of
- Crime and public disorder
 - Public nuisance

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

- 5.12 The venue is within The Brick Lane Cumulative Impact Zone. A copy of the Brick Lane Saturation Policy is included as **Appendix 7**.

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 an 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 sells 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 "In the context of preventing public nuisance it is again essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder or premises management cannot be justified and will not serve the licensing objectives." (2.38)
- 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 18-12** 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 00 hrs 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 of the application.
- Appendix 2** Condition agreed with Environmental Protection.
- Appendix 3** Plans of the area around the venue.
- Appendix 4** Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations.
- Appendix 5** Representations of the Police.
- Appendix 6** Representations of the Licensing Department as Responsible Authority.
- Appendix 7** Information on the Brick Lane Cumulative Impact Policy.
- Appendix 8** Licensing officer comments on anti-social behaviour on the premises.
- Appendix 9** Licensing officer comments on anti-social behaviour patrons leaving the premises.
- Appendix 10** Access and egress problems.
- Appendix 11** Planning.
- Appendix 12** Licensing Policy relating to hours of trading.

Appendix 1



FOR OFFICE USE			
Receipt No:	FEE REQUIRED:	Date:	Initials:
On-Line Payment Ref:			

This form should be completed and forwarded to: Licensing Section, Mulberry Place, 5 Clove Crescent, London E14 2BG with a cheque for the correct fee, made payable to the London Borough of Tower Hamlets.

On-Line payments can be made at:

http://www.towerhamlets.gov.uk/content/pages/pay_it.aspx

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

Application for a premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

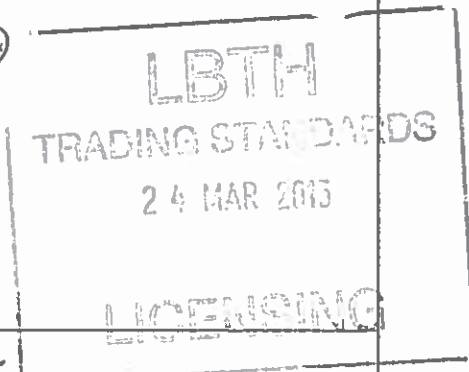
Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/We (Insert name(s) of applicant) EASY BAR LTD T/A TOMORROW BAR & RESTAURANT

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 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.

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description	
132 BETHNAL GREEN ROAD	
Post town	Post code
LONDON	E2 6DG



Telephone number at premises (if any) [REDACTED]

Non-domestic rateable value of premises £ 21,000

Part 2 - Applicant details

Please state whether you are applying for a premises licence as

Please tick as appropriate

- a) an individual or individuals* Please complete section (A)

- b) a person other than an individual *
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body 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 please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

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

Please tick as appropriate

- 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
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post Town

Postcode

Daytime contact telephone number

E-mail address (optional)

SECOND INDIVIDUAL APPLICANT (if applicable)

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post Town

Postcode

Daytime contact telephone number

E-mail address (optional)

B) OTHER APPLICANTS

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

Name	EASY BAR LTD
Address	29 GRANBY STREET, E2 6DR.
Registered number (where applicable)	9409634
Description of applicant (for example partnership, company, unincorporated association etc)	LIMITED COMPANY
Telephone number, if any	
E-mail (optional)	

Part 3 Operating Schedule

When do you want the premises licence to start?

Day	Month	Year
11	03	2015

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day	Month	Year

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

--

Please give a general description of the premises (please read guidance note1)

--

What licensable activities do you intend to carry on from the premises?
(Please see sections 1 and 14 of the Licensing Act 2003 and Schedule 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick all that apply

- 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 L)

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

In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both - please tick (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish			
Mon			Please give further details here (please red guidance note 3)		
Tue					
Wed			State any seasonal variations for performing plays (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of a film take place indoors or outdoors or both - please tick (please read guidance note 2)	Indoors	
				Outdoors	
				Both	
Day	Start	Finish			
Mon			Please give further details here (please red guidance note 3)		
Tue					
Wed			State any seasonal variations for exhibition of films (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			Please give further details here (please read guidance note 3) State any seasonal variations for indoor sporting events (please read guidance note 4) Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			
Wed			
Thur			
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainment Standard days and timings (please read guidance note 6)			Will the Boxing or wrestling entertainment take place indoors or outdoors or both - please tick (please read guidance note 2)		Indoors	
					Outdoors	
					Both	
Day	Start	Finish	Please give further details here (please read guidance note 3) State any seasonal variations for boxing or wrestling entertainment (please read guidance note 4) Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)			
Mon						
Tue						
Wed						
Thur						
Fri						
Sat						
Sun						

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place indoors or outdoors or both – please tick [Y] (please read guidance note 2)	Indoors	Y
				Outdoors	
				Both	
Day	Start	Finish			
Mon	11:00	01:00	Please give further details here (please read guidance note 3)		
Tue	11:00	01:00			
Wed	11:00	01:00			
Thur	11:00	01:00			
Fri	11:00	01:00			
Sat	11:00	01:00			
Sun	11:00	01:00			
			State any seasonal variations for the performance of live music (please read guidance note 4)		
			Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5)		

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick [Y] (please read guidance note 2)	Indoors	Y
				Outdoors	
				Both	
Day	Start	Finish			
Mon	11:00	01:00	Please give further details here (please read guidance note 3)		
Tue	11:00	01:00			
Wed	11:00	01:00			
Thur	11:00	01:00			
Fri	11:00	01:00			
Sat	11:00	01:00			
Sun	11:00	01:00			
			State any seasonal variations for playing recorded music (please read guidance note 4)		
			Non standard timings. Where you intend to use the premises for the playing of recorded music entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		

G

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick [Y] (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance note 3)	Both		
Tue						
Wed				State any seasonal variations for the performance of dance (please read guidance note 4)		
Thur						
Fri						
Sat				Non standard timings. Where you intend to use the premises for the performance of dance entertainment at different times to those listed in the column on the left, please list (please read guidance note 5) 5)		
Sun						

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing
Day	Start	Finish	
Mon	11:00	01:00	KARAOKE
Tue	11:00	01:00	
Wed	11:00	01:00	Please give further details here (please read guidance note 3)
Thur	11:00	01:00	
Fri	11:00	01:00	
Sat	11:00	01:00	State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)
Sun	11:00	01:00	
			Non standard timings. Where you intend to use the premises for the entertainment of similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)

I

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick [Y] (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
				Both		
Mon			Please give further details here (please read guidance			
Tue						
Wed				State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Thur						
Fri				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)		
Sat						
Sun						

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick [Y] (please read guidance note 7)	On the premises	Y	
Day	Start	Finish		Off the premises		
				Both		
Mon	11:00	01:00	Please give further details here (please read guidance			
Tue	11:00	01:00				
Wed	11:00	01:00		State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Thur	11:00	01:00				
Fri	11:00	01:00		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)		
Sat	11:00	01:00				
Sun	11:00	01:00				

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

Name

Address

Personal Licence number (if

Issuing licensing authority (



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	11:00	01:00	
Tue	11:00	01:00	
Wed	11:00	01:00	
Thur	11:00	01:00	
Fri	11:00	01:00	
Sat	11:00	01:00	
Sun	11:00	01:00	

M

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

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

No binge drink promotions will take place.
Anyone who appears to be drunk or aggressive will not be permitted on the premises.
Notice to be placed in prominent positions to ask patrons to leave quietly.
We provide ~~suitable~~ quality food.
A suitable evacuation plan in case of emergency.
Free drinking water will be available at all time.

b) The prevention of crime and disorder

No binge drink promotions will take place.
Anyone who appears to be drunk / aggressive will not to be permitted on the premises.
No bottle or glasses shall be taken off the premises.
Registration with crime prevention initiatives run by police.

c) Public safety

Staff will be fully aware of licensing laws.
I will fully support any directive received from the authorities.
Prompt clearing of empty glass throughout operating times.
Maintenance of full risk assessment appropriate for proposed premise operation.
Regular electrical & gas ~~safety~~ safety checks by a competent person.

d) The prevention of public nuisance

All customers will be reminded of consideration to the public and noise levels when entering and leaving the premises.
No bottles or glasses shall be taken off the premises.
Doors and windows shall be kept closed.
Notice to be placed in prominent positions to ask patrons to leave the premises quietly.

e) The protection of children from harm

Training to staff to ensure compliance with the law in relation to consumption by persons under 18 years of age, including prevention ~~adult~~ adults buying alcohol for children.
Under 18's with a responsible adult.
~~Proof~~ Proof of age will be asked if someone appears under age.
No bottle shall be taken off the premises.

You have completed part 3 of this form. Below is a checklist for your assistance.

CHECKLIST:

Please tick to indicate agreement

- I have made or enclosed payment of the fee
Insert On-Line Payment reference here if applicable :
- I have enclosed the plan of the premises
- I have sent copies of this application and the plan (showing the area to be licensed) to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be Premises Supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

Part 4 – Signatures (please read guidance note 10)

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


 (See guidance
or other authorised
please state in what

Date

Capacity

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

132 Bethnal Green Road.

Post town	London	Post code	E2 6DG
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			
			

Notes for Guidance

1. Describe 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.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example the 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 un-amplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day, e.g. Christmas Eve.
6. Please 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.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please 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, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

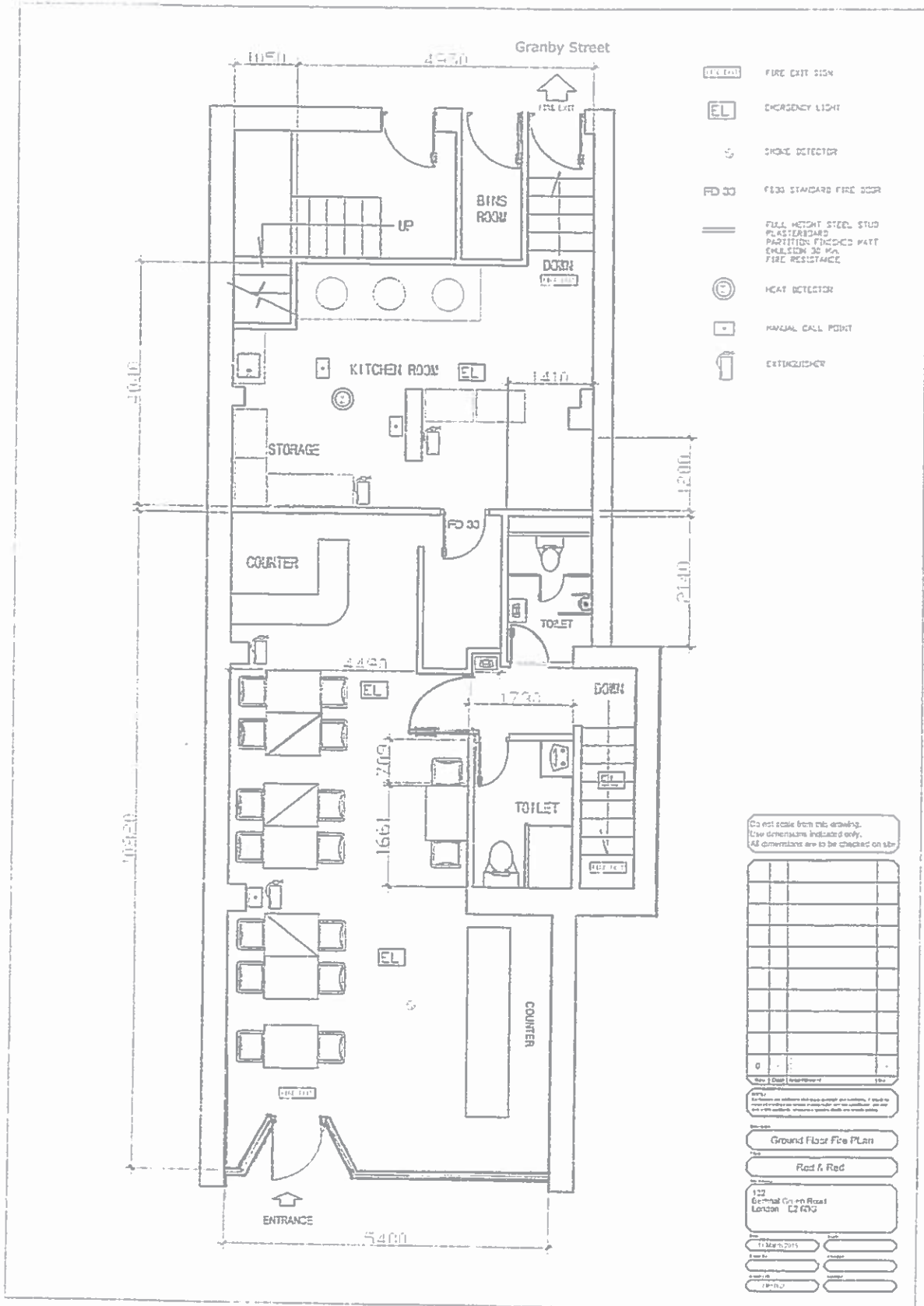
I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out

Personal licence
.....
[insert personal licence details]

Personal licence
[insert name]

.....
.....
.....





LBTH
 TRADING STANDARDS
 24 MAR 2015
 LICENSING

Appendix 2

Alex Lisowski

From: Alkesh Solanki
Sent: 20 April 2015 11:31
To: Licensing
Cc: [REDACTED]; MARK.J.Perry@met.police.uk
Subject: Amendment to the application for 132 Bethnal Green Road. ref. MAU 083731

Dear Licensing,

Please note the amendment to this application as clarified in the E-mail thread below.

Regards
Alkesh.

From: HuangTian [REDACTED]
Sent: 20 April 2015 11:28
To: Alkesh Solanki
Subject: RE: 132 Bethnal Green Road. ref. MAU 083731

Dear Alkesh,

Here I confirm that I agree to put the following condition to the operating schedule.

“Regulated entertainment shall not be audible at the façade or within any affected business or residential property (as relevant) so as to cause a nuisance”

Regards,
Sky

From: Alkesh.Solanki@towerhamlets.gov.uk
To: [REDACTED]
Subject: 132 Bethnal Green Road. ref. MAU 083731
Date: Mon, 20 Apr 2015 10:18:51 +0000

Dear Sky,

I would like the following condition be added to your operating schedule. Please reply back confirming that you are agreeable to this.

“Regulated entertainment shall not be audible at the façade or within any affected business or residential property (as relevant) so as to cause a nuisance”

Regards,
Alkesh.

Mr Alkesh Solanki | Pollution Team | Environmental Protection | London Borough of Tower Hamlets | E14 1BY | 020 7364 5007 | alkesh.solanki@towerhamlets.gov.uk

Working Together for a Better Tower Hamlets
Web site : <http://www.towerhamlets.gov.uk>
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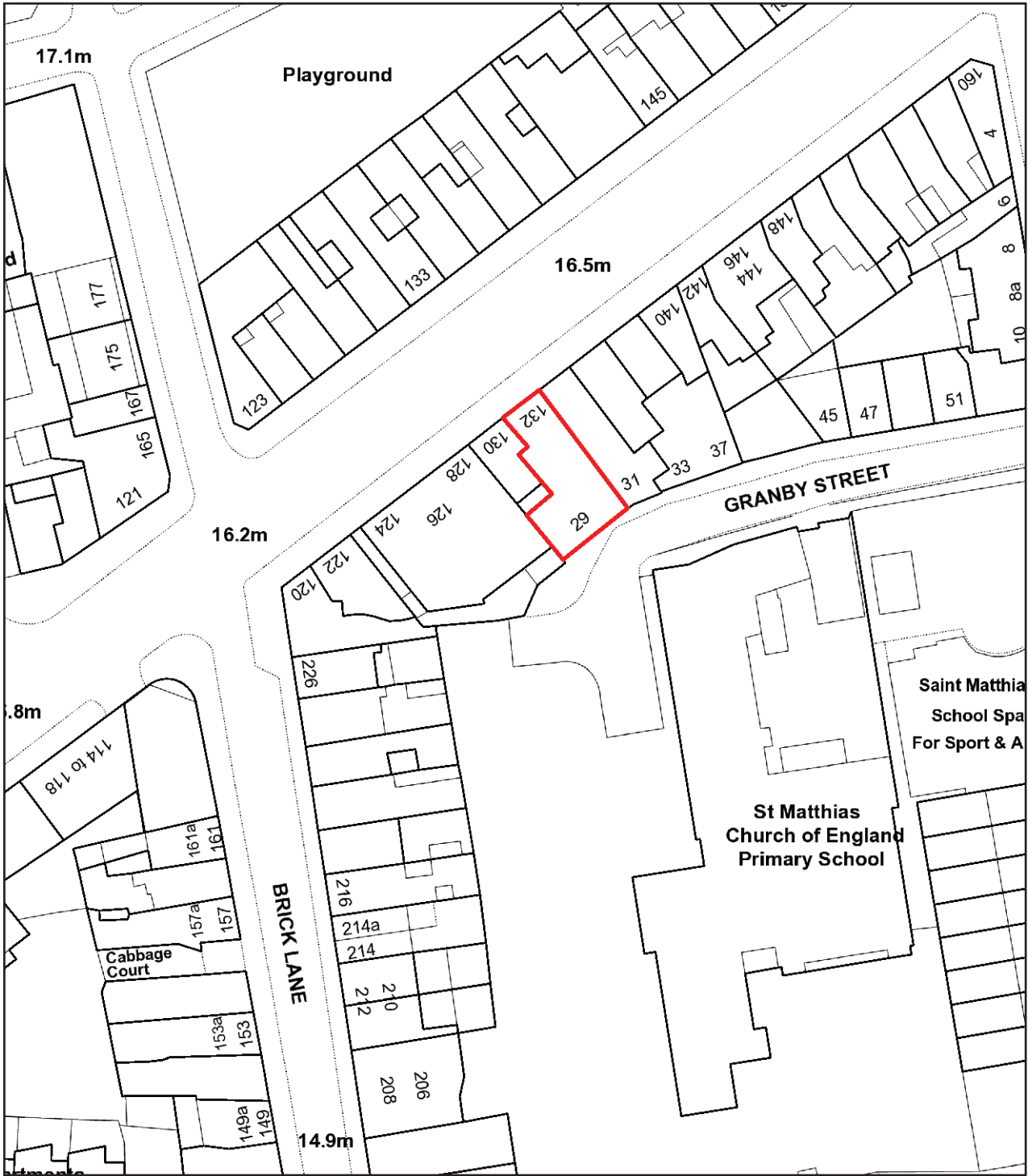
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Appendix 3

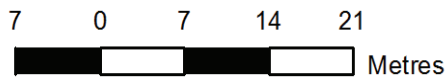


Tomorrow Bar

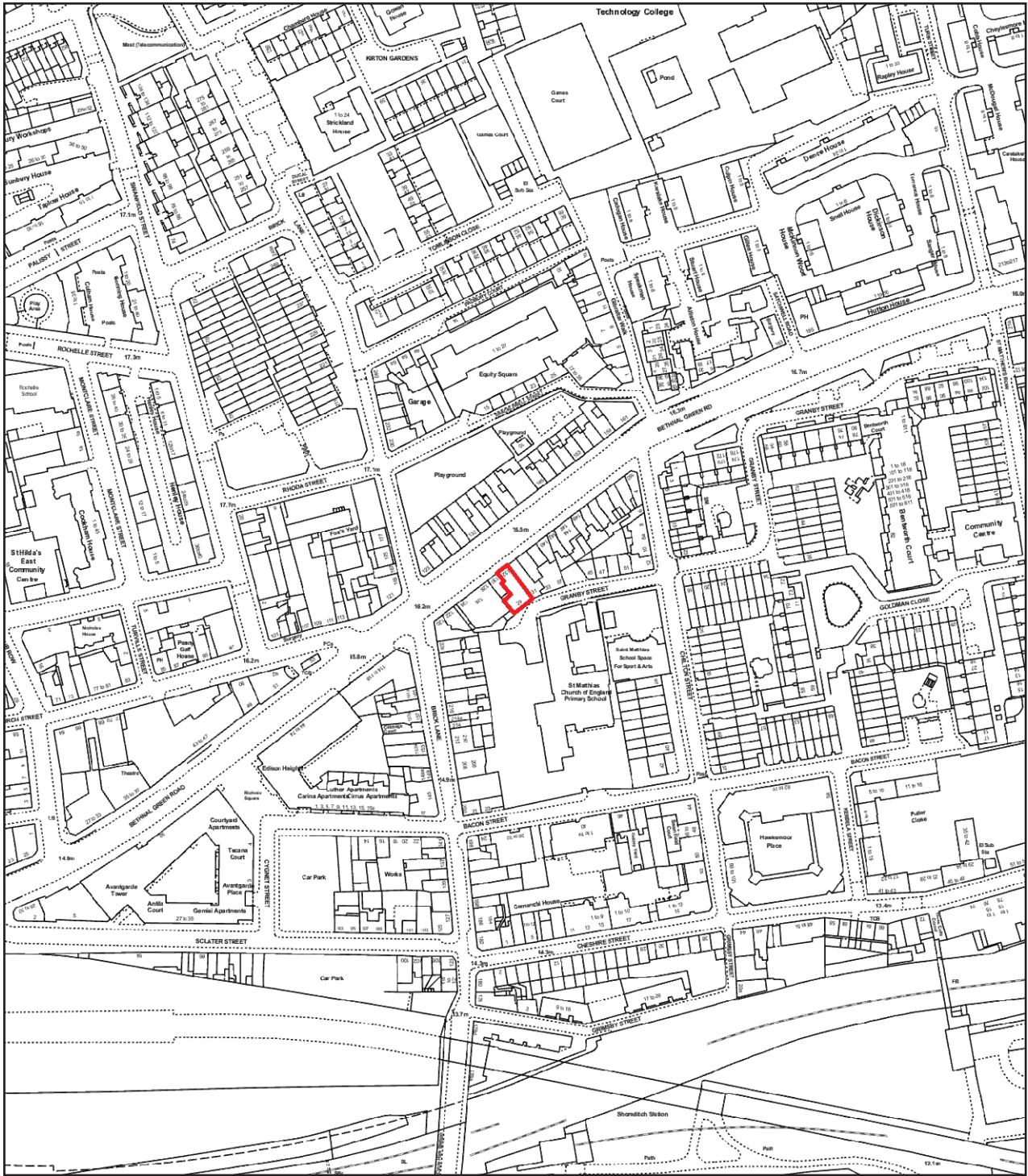
132 Bethnal Green Road



Scale 1:769



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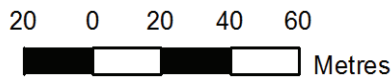


Tomorrow Bar

132 Bethnal Green Road



Scale 1:2690



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Appendix 4

Section 182 Advice by the Home Office

Updated October 2010

Relevant, vexatious and frivolous representations

- 9.8 A representation would only be “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 businessman which argued that his business would be commercially damaged by a new licensed premises would not be relevant. On the other hand, a representation that nuisance caused by the new premises would deter customers from entering the local area and the steps proposed by the applicant to control that nuisance were inadequate would be relevant. There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations, and in fact this would not be possible for new premises. Further information for interested parties about the process for making representations is available in “Guidance for interested parties: Making representations” which can be found on the Home Office website.
- 9.9 The “cumulative impact” on the licensing objectives of a concentration of multiple licensed premises may also give rise to a relevant representation when an application for the grant or variation of a premises licence is being considered, but not in relation to an application for review which must relate to an individual premises.
- 9.10 It is for the licensing authority to determine whether any representation by an interested party is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness. An interested party who is aggrieved by a rejection of their representations on these grounds may challenge the authority’s decision by way of judicial review.
- 9.11 Licensing authorities should not take decisions on whether representations are relevant on the basis of any political judgement. This may be difficult for ward councillors receiving 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 subcommittee before any decision is taken that necessitates a hearing. Any ward councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

- 9.12 The Home Secretary recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. If it then emerged, for example, that the representation should not be supported, the licensing authority could decide not to take any action in respect of the application.
- 9.13 Licensing authorities should consider providing advice on their websites about how any interested party can make representations to them.

Appendix 5

John McCrohan
LBTH Licensing
Toby Club
4 Vawdrey Close
E1 4UA

HT - Tower Hamlets Borough

Licensing Office
Limehouse Police Station
27 West India Dock Road &
5 Birchfield Street
E14 8EZ

Telephone: 0207 161 8792

Facsimile:

Email:

Alan.D.Cruickshank@met.pnn.police
.uk

www.met.police.uk

Your ref:

Our ref:

21 April 2015

Dear Mr McCrohan

Application for a premises licence

Tomorrow Bar, 132 Bethnal Green Road, E2

I write with reference regarding the above application. Please accept this letter as notification that the police as a responsible authority wish to object to this application on the following two licensing objectives.

The prevention of crime and disorder

The prevention of public nuisance

The applicant has applied for the following hours all week:

Live music / Recorded music / Supply of alcohol / karaoke: 1100 - 0100

LBTH has adopted a Saturation Policy / Cumulative Impact Policy for the Brick Lane

Area. This policy was adopted due to the concerns about the number of licensed

premises in such a small area and the resulting number of ASB calls and the potential for disorder.

With regards to this policy, the licensing authority will normally refuse any new applications or any variation of these in the cumulative impact zone, *unless the applicant can demonstrate there will be no negative cumulative impact on one or more of the licensing objectives.*

This part of Bethnal Green Road falls within the Cumulative Impact Zone (CIZ) There has been a steady increase in bars, restaurants and fast food premises.

One of the Police Licensing concerns is that this would become one more vertical drinking bar. The hours I believe are excessive. One more late night opening venue will only compound the problems at the top end of the CIZ. There will be a heavy concentration of people leaving from this new venue.

The availability of alcohol all week until 0100, will mean more people staying for longer within the CIZ, with the potential for ASB and violence.

The applicant must be aware that there is now a saturation policy and the late hours applied for do not reflect the concerns that have lead to the implementation of a CIZ.

There are residential properties nearby and it is difficult to ask people to be quiet after they have consumed alcohol until 1am. Whether it is just boisterous behaviour or shouting at top of their voices, it is likely to cause a public nuisance.

It is often the case that a small incident inside a bar, late at night, can spark a more serious incident. Are there any specific plans in place to deal with rowdy customers? The applicant has not included any offer of employing SIA staff.

How will they deal with any such an incident?

Can the applicant provide evidence that the operation of the premise will not add to the negative cumulative impact already being experienced in this area?

I am also concerned over the request for live music until 1am. Whilst not a noise expert, does the venue have any plans to prevent noise leakage.

As for karaoke, it is in my experience often a catalyst for noise issues and can attract a noisy drunken crowd.

What experience does the DPS have in running a bar in a very busy area of London?

I ask the committee to refuse this application.

If they are to grant a licence, I would ask them to consider the following hours and conditions.

Licensable activities

Alcohol

Sun- Thur: 1100 - 2230: Closing at 2300

Fri-Sat : 1100 -2300: Closing at 2330

Live music

All week: 1800 = 2100

Recorded music

All week: 1100 - 2230

Karaoke to be removed from the application.

2. 2x SIA staff to be employed on Thur- Sat from 1930 to closing

3. Install / maintain CCTV

CCTV

The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of 31 days. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.

There must also be someone on the premises, who can download the images and present them on request by a police officer or other responsible authority.

(Can one camera be placed o/s the entrance and on entry,)

4. Use of incident / refusal book

5. No drinks to be taken outside the venue

6. No more than 6 people to smoke outside the venue.

Alan Cruickshank PC 189HT

Appendix 6

Communities, Localities & Culture Safer Communities

Licensing Authority
6th Floor
Mulberry Place
5 Clove Crescent
London
E14 2BG

21st April 2015

Your reference
My reference: CLC/LIC/071326/MA

Dear Sir/Madam,

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

Licensing Section
Mulberry Place
5 Clove Crescent
London
E14 2BG

Tel **020 7364 5498**
Fax **020 7364 0863**
Enquiries to **Mohshin Ali**

Email mohshin.ali@towerhamlets.gov.uk

Licensing Act 2003

Premises licence application: Tomorrow Bar and Restaurant,
132 Bethnal Green Road, London E2 6DG

Further to the above application made by Easy Bar Ltd, I am writing to make a representation against that application on behalf of Licensing Authority.

On 1st November 2013, Tower Hamlets adopted a Cumulative Impact Policy (CIP) in the Brick Lane Area. The Council has recognised that because of the number and density of licensed premises selling alcohol, on and off the premises and the provision of late night refreshment (sale of hot food after 11pm) within the Brick Lane Area, there might be exceptional problems of nuisance, disturbance and/or disorder outside or away from those licensed premises as a result of their combined effect.

The Licensing Authority recognises that there is a wide diversity of premises requiring a licence and will have full regard to the differing impact these will have on the local community. It therefore also recognises that, within this Policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application. The Authority may therefore consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new licences because the area is saturated with licensed premises and the granting of any more would undermine one of the licensing objectives.

The Licensing Authority is now of the view that the number, type and density of premises selling alcohol for consumption on and off the premises and/or the provision of late night refreshment in the Brick Lane Area as having a

cumulative impact on the licensing objectives and has therefore declared a Cumulative Impact Zone (CIZ).

The effect of this CIP is to create a rebuttable presumption for applications in respect of the sale or supply of alcohol on or off the premises and/or late Night Refreshment for new Premises Licences, Club Premises Certificates or Provisional Statements and applications for variations of existing Premises Licences, Club Premises Certificates (where the modifications are relevant to the issue of cumulative impact for example increases in hours or capacity). Where the premises are situated in the CIZ and a representation is received, the licence will be objected to by the Authority. To rebut this presumption the applicant is expected to show through the operating schedule and where appropriate with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced. This policy does not act as an absolute prohibition on granting/varying new licences in the CIZ.

The Licensing Authority is therefore making representation against the above application on the grounds of the prevention of crime and disorder and the prevention of public nuisance as the premises lies within the CIZ.

Also, the Council has adopted a set of framework hours as follows:

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

The applicant has applied to go beyond the above timings. It is also noted that the premises did have a licence in the past with the following licensable activities timings:

Sale of alcohol by retail

Sunday to Thursday, from 11:30 hrs to 21:30 hrs

Friday and Saturday 11:30 – 22:00

Regulated Entertainment (consisting of live music, recorded music and karaoke)

Sunday to Thursday, from 11:00 hrs to 22:00 hrs

Friday and Saturday, from 11:00 hrs to 22:30 hrs

However, that premises licence lapsed as the previous company dissolved.

If the applicant is unable to prove to the Licensing Sub Committee, through the implementation of appropriate conditions within the Operating Schedule, that the granting of the application will not affect the cumulative impact of the area; then I ask the Committee to reject the application in full.

Yours faithfully,



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

CC: 132 Bethnal Green Road, London E2 6DG



Appendix 7

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

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 (S2.7-2.11).

Guidance Issued under Section 182 of the Licensing Act 2003
Conditions can be imposed for large capacity “vertical consumption” premises (10.40).

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 8

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

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.

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 Sections 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 Sections 8.2 of the Licensing Policy, and also Section 12.5**).

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 will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Poll 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 pool of conditions, adopted by the council is recommended (13.20 and Annex D).

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

Licence conditions should not duplicate other legislation (1.16).

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

In certain circumstances conditions relating to noise in the immediate vicinity of the premises may also prove necessary to address any disturbance anticipated as customers enter and leave (2.36).

However, it is essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to behaviour once they are beyond the control of the licence holder cannot be justified. (2.38)

Appendix 11

Planning

An application for a Premises Licence can be made in respect of a premises even where the premises does not have relevant Planning Permission. That application has to be considered and Members can only refuse the application where the application itself does not promote one of more of the Licensing Objectives. Members cannot refuse just because there is no planning permission. Where a Premises Licence is granted and which exceeds what is allowed by the Planning Permission and that Premises then operates in breach of planning then the operator would be liable to enforcement by Planning.

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:

Sunday to Thursday 06 00 hrs to 23 30 hrs

Friday and Saturday 06 00 hrs to midnight

(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