
Appendix 1



LICENSING ACT 2003

This form should be completed and forwarded to:

London Borough of Tower Hamlets,
Licensing Section, Mulberry Place (AH), PO BOX 55739, 5 Clove Crescent, London E14 1BY

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 PC 124HT Andy Jackson on behalf of the Commissioner of the Metropolitan Police (Insert name of applicant) apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 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 club premises, or if none, ordnance survey map reference or description Montana and Co 101 Burdett Road	
Post town London	Post code (if known) E3

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

Caner Akin

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

9462

LBTH
TRADING STANDARDS

07 JUL 2010

LICENSING

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

(A) DETAILS OF INDIVIDUAL APPLICANT (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)

(B) DETAILS OF OTHER APPLICANT

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)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

PC124HT Andy Jackson
Licensing Officer
Bethnal Green Police Station
12 Victoria Park Square
London E2 9NZ

Telephone number (if any)

E-mail (optional)

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

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

Please provide as much information as possible to support the application (please read guidance note 2)
This review is applied for under the crime and disorder
licensing objective.

The basis of this review relates to a series of operations run jointly between Police, Trading Standards and Customs (HMRC) which have been running since November 2009. The aim of these visits was to identify which premises were selling goods which were either counterfeit or smuggled and to investigate offences under the Licensing Act 2003.

Certain off licences were identified following a review of intelligence from all 3 agencies where they had come to notice for similar offences in the past. No random visits were made.

13 premises across the Borough were identified for visits on 2 days in April 2010.

Entry to each premise was made under the Licensing Act 2003 as well as customs and trading standards legislation.

The review you will hear today concerns Montana and Co at 101 Burdett Road, E3.

The premise was visited on 21st April 2010 at 1515hrs

On entry to the premise we found a total of 77 bottles (57.75litres) of mixed wines. The wines were for sale at a price where the duty for the goods couldn't have been paid. These were seized under Sec 139 of CEMA 1979.

No receipts were produced for the goods seized at the time and a notice of seizure and a warning letter were issued to the occupant Mr Musa Akin.

The owners were given 28 days to produce the receipts for the goods seized to prove that they were bought at a wholesaler and that the duty had been paid. That period has now expired and the receipts have not been produced.

The goods seized amounted to a total of £129.90 of duty evaded plus 17.5 % Vat a total of £152.63.

Trading Standards officers noticed that 4 bottles of Glen's Vodka were apparently counterfeit as the batch codes corresponded with counterfeit batch numbers and these were also seized.

Guidance from the DCMS states "certain criminal activity in connection with licensed premises, which the Sec of State considers should be treated particularly seriously". One of these is "for the sale of smuggled tobacco and alcohol".

The Guidance also states that police are expected to use the review procedures effectively to deter such activities and that even after a first instance revocation of the licence should be seriously considered.

We have taken a view that when a licensed premise has a smaller amount of smuggled goods, a suspension of the licence would be sought and that we would suggest that the licensing panel be invited to decide as to the length of any suspension involved. We also felt that a premise which has 57.75 litres of wine for sale should be treated differently to a premise where both the amount of spirits and wine are in the hundreds. We believe that this is a proportionate response.

Of course the panel can decide that they consider revocation to be necessary to promote the licensing objective of crime and disorder. However we feel that by suspending the licence in this incidence it would send a powerful message not only to this premise but, with the correct publicity, to all off licenses on this Borough. This is important because we have now completed 3 operations of this type on this Borough and have found the majority of off licences visited selling smuggled and/or counterfeit alcohol.

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

Please tick ? yes

If yes please state the date of that application

Day		Month		Year	


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

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 Please tick yes

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  or other duly authorised agent (please read guidance note 4). If signed by an agent, please state in what capacity.

Signature

Date 7th July 2010

Capacity Police Licensing Officer

Contact name (where not previously given) and 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)	

WITNESS STATEMENT

ENGLAND AND WALES ONLY

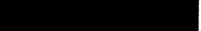
(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of: Benjamine Cooper

Age if under 18: OVER 18 (If over 18 insert 'over 18')

Occupation: OFFICER OF H.M. Revenue & Customs

This statement (consisting of ONE page) 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.

Signature:  -----

Date: 17th June 2010

I am an Officer of H.M. Revenue & Customs based at Jubilee House, Stratford, London, E15 1AT.

On 21st April 2010, Officer Clark from H.M. Revenue & Customs and I, with Officers from Tower Hamlets Police Licensing Unit (Bethnal Green) and Trading Standards (Tower Hamlets) conducted a joint operation targeting various Off Licences within the area.

At 15:15 hours, Officers from the above mentioned agencies and I entered the premise at Montana & Co, 101 Burdett Road, London, E3.

We all identified ourselves accordingly and explained the reasons for the visit (checks on UK Duty Paid stickers/stamps on both alcohol and cigarettes) to a man I now know to be Mr Musa Akin.

A search was conducted under Customs & Excise Management Act 1979, s.112.

Found on shelving behind the counter was a total of 77 bottles (57.75 litres) of mixed Italian wine. This was being sold as 2 bottles of wine for £5. When asked for documentary evidence, such as purchase invoices for the wine, none was forthcoming/available at the time.


At 15:25 hours, all the above mentioned goods were seized under CEMA 1979, s.139.

Forms C156 (Notice of Seizure) and C162 (Warning letter) were issued to and signed by Mr Musa Akin.

At approximately 15:30 hours, all officers exited the premises.

It has been calculated that the total amount of Duty evaded equates to £129.90 for the wine, plus 17.5% VAT.

Date: 17th June 2010

Signature:  -----

(signature of witness)

Signature: -----

(signature witnessed by)

STATEMENT OF WITNESS: ENGLAND AND WALES ONLY

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: John Patrick McCrohan

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

Occupation: Trading Standards Officer

This statement (consisting of 1 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:

18/6/10

Tick if witness ev

(initials on last page)

Statement

I am employed as the Trading Standards Service Manager and as such I am authorised to enforce a number of pieces of Trading Standards Legislation, including the Trade Marks Act 1994 and Consumer Protection from Unfair Trading Regulations 2008.

Visit to MONTANA, 101 BURDETT ROAD, E.3

On Wednesday 21st April 2010 at about 15.13 p.m. with Kevin Maple Trading Standards secondee, Police Officers from Tower Hamlets Borough Police Licensing and Her Majesty's Revenue and Customs(HMRC) officers I went to a small supermarket and off-licence trading as MONTANA, 101 Burdett Road, E.3.

An inspection was carried out of the premises and during that inspection, 4 of bottles of vodka bearing the GLEN's trade mark were seized under Section 93 of the TRADE MARKS ACT 1994 as I had reason to believe that the trade mark was fraudulent, in other words the goods were counterfeit. The batch codes marked on the bottles were checked against a list of counterfeit product batch numbers produced by GLEN's vodka. The bottles were placed in bag sealed with seizure seal LBTH 002376.

Receipt number 0452 issued to Mr Musa AKIN, a copy of which I produce as exhibit JMCC/MONTANA/1. Musa AKIN said he was the br [redacted] ed premises supervisor and premises licence holder and arrived during the inspecti [redacted]

Name / Si

Signature Witnessed by:

Montana & Co, 101 Burdett Road, London, E3 4JN
Representations consequent to review request from Metropolitan Police.

Ian Moseley, Senior Trading Standards Officer
for
Local Weights and Measures Authority

I have examined the records held by the Trading Standards Service and can state that, with regard to underage sales, two allegations were received in 2009 that underage sales of alcohol were taking place from the premises, but that in the period 8/4/2009 to 2/6/2010 5 test purchase attempts were made and were correctly refused each time.

On the 12th of August 2009 3 counterfeit packets of condoms were found during a routine visit for other purposes and a written warning was given to the business owner.

With regard to the later possession of non-duty paid wine and counterfeit vodka the authority would concur with the Police representation with regard to the suspension of the licence for a period to be decided by the panel.

In addition and separately from the issue of suspension we are aware that a number of counterfeit and non-duty paid items have been supplied to shops in the Borough and that the source of these items is often itinerant traders who do not provide sufficient details to allow products to be traced.

Not only does this represent a loss to the National Revenue from the failure to pay duty, it also introduces a health risk as the goods may be defective or contain contaminants..

Consequently the Trading Standards Service respectfully recommends **that the Licensing Sub-Committee exercises its power under Section 52 of the Licensing Act 2003 impose the following conditions.**

Restrictions on purchases of alcohol

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

Appendix 2



TOWER HAMLETS

Licence / Registration

Certificate Number


09647

(Montana & Co)
101 Burdett Road
Bow
London
E3 4JN

Licensable Activities authorised by the licence
Retail sale of alcohol

See the attached licence for the licence conditions

Signed by

John Cruse 
Team Leader Licensing

Date: 27/09/05

M:\LICENSING\Word97\2003 Licensing Act certs & lics\2003¹ Issued Premises Licences\101 Burdett Road.doc

FOR OFFICE USE

Receipt Number

159764

Fee Paid

190

Fee Req.

Date

4/1/05

Initial

UCD



Part A - Format of premises licence

Premises licence number

9647

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description
(Montana & Co)
101 Burdett Road
Bow
London

Post town
London

Post code
E3 4JN

Telephone number
[REDACTED]

Where the licence is time limited the dates
N/A

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

The times the licence authorises the carrying out of licensable activities

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

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

See Mandatory conditions for drinking up time

The opening hours of the premises

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

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

Off sales only

Part 2

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

Caner Akin



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

N/A

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

Caner Akin



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

Issuing Authority: London Borough Tower Hamlets

Licence No. [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

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

In this condition, permitted hours means:

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

The above restrictions do not prohibit:

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

Private Entertainment

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

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

Public Entertainment

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

Annex 2 - Conditions consistent with the operating Schedule

None

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

None

Annex 4 - Plans

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

31 MAY 2005



TOWER HAMLETS

Licensing Act 2003

Part B - Premises licence summary

Premises licence number

9647

Premises details

Postal address of premises, or if none, ordnance survey map reference or description
(Montana & Co)
101 Burdett Road
Bow
London

Post town
London

Post code
E3 4JN

Telephone number

Where the licence is
time limited the
dates

N/A

Licensable activities
authorised by the
licence

Retail sale of alcohol

The times the licence authorises the carrying out of licensable activities

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

The opening hours of the premises

These are not restricted

Name, (registered) address of holder of premises licence

Caner Akin



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

Off sales supplies

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

N/A

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

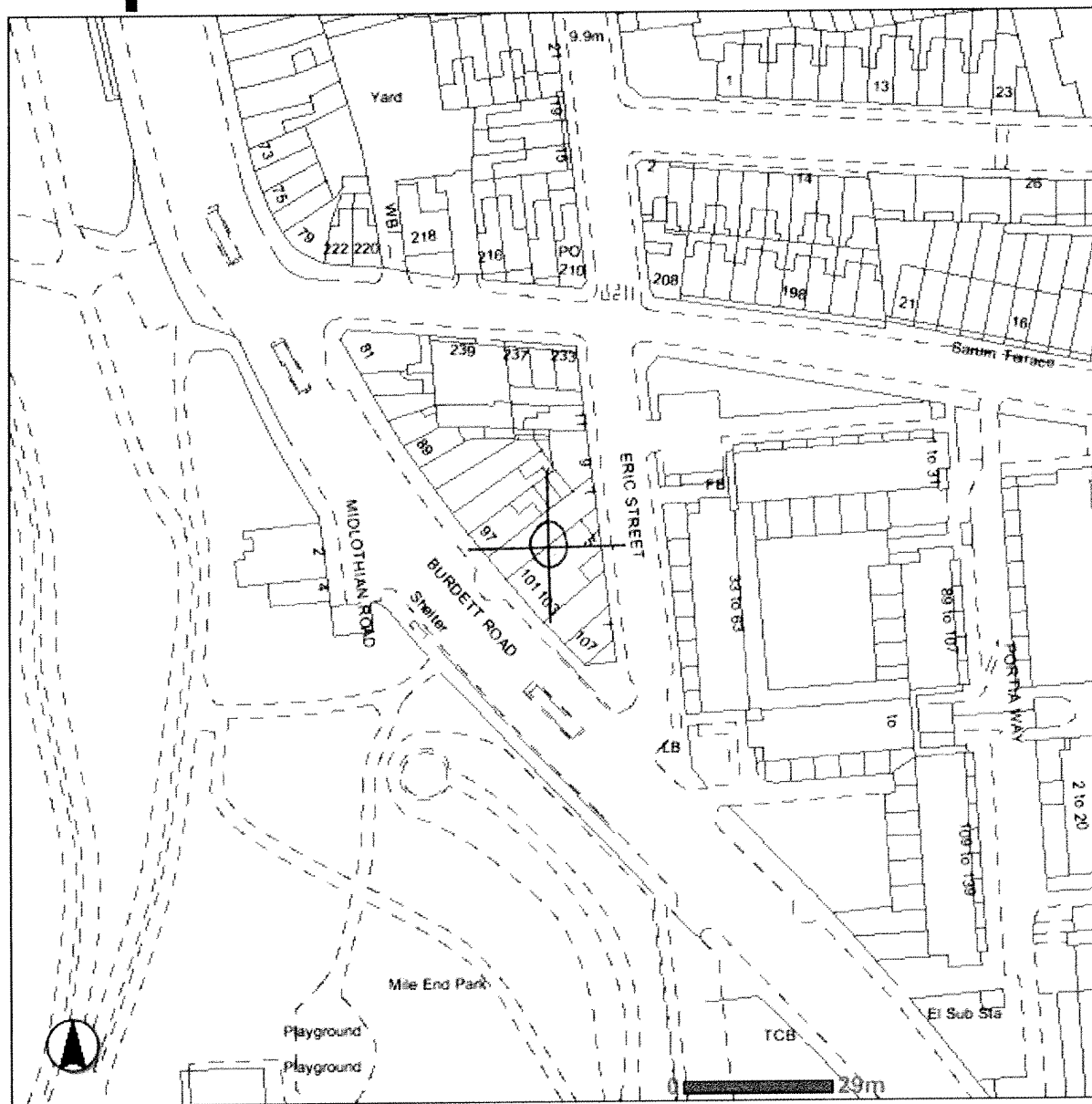
Caner Akin

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

No

Appendix 3

Map



Scale 1:1250

Map of:

Notes:

101 Burdett Road - large

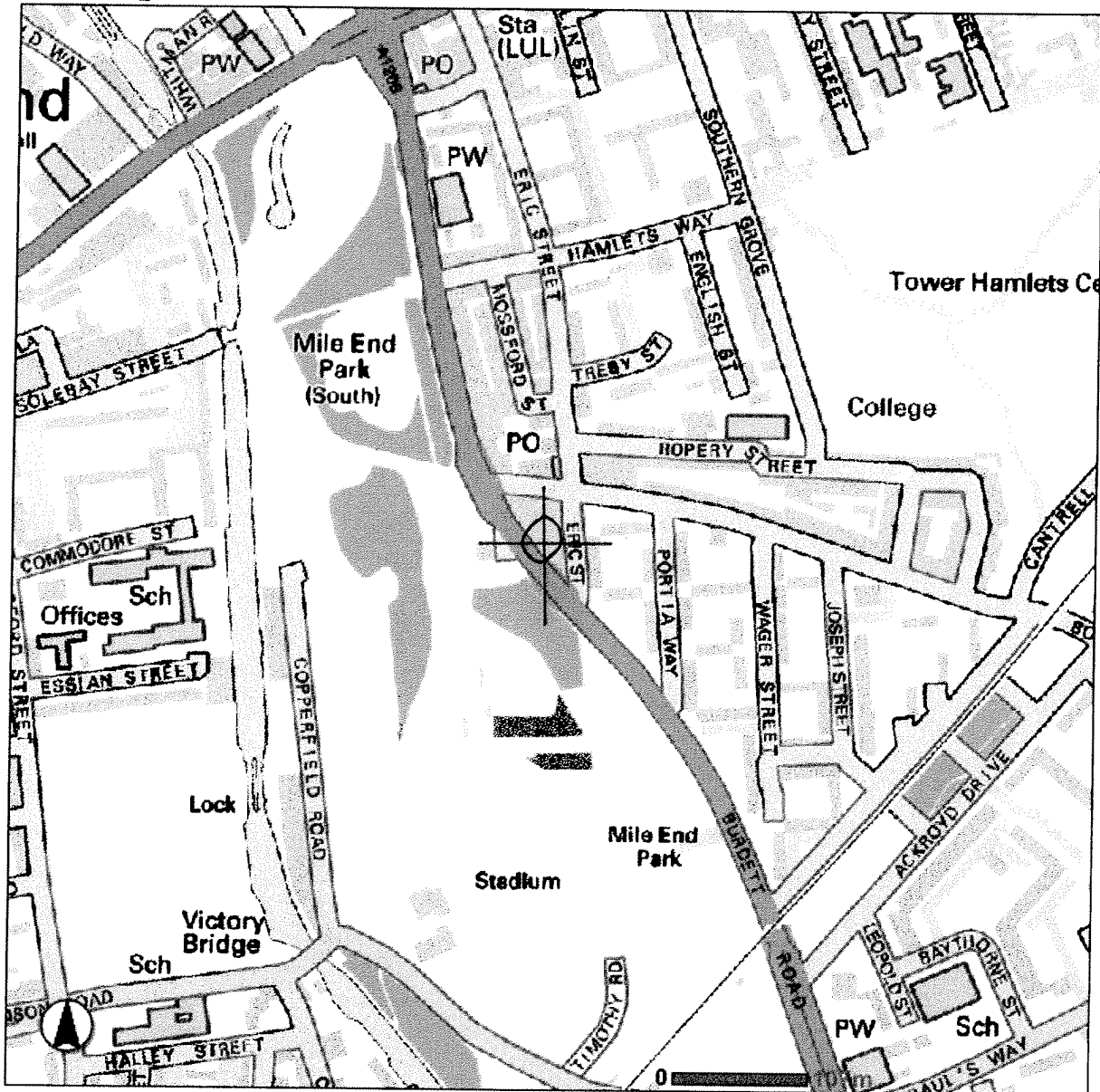
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Map



Scale 1:5000

Map of:

Notes:

101 Burdett Road - small

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Appendix 4

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

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

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

11.21 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

11.22 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

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

11.24 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises

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

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

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

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

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

also encourage liaison with the local Crime and Disorder Reduction Partnership.

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

Appendix 5

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

Crime and Disorder Act 1998

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

Pool Conditions

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

Annex D

Conditions relating to the prevention of crime and disorder

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

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

Conditions enforcing these arrangements are therefore unnecessary.

CORE PRINCIPLES

- 1 When applicants are preparing their operating schedules or club operating schedules, responsible authorities are considering applications and

licensing authorities are considering applications following the receipt of relevant representations, they should consider whether the measures set out below are necessary to promote the licensing objectives.

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

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

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

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

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

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

CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

Text/Radio pagers

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

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

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

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

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

Door supervisors

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

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out individuals excluded by court bans or by the licence holder;
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside venues. Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:
 - the number of supervisors;
 - the displaying of name badges;
 - the carrying of proof of registration;
 - where, and at what times, they should be stationed on the premises; and
 - whether at least one female supervisor should be available (for example, if female customers are to be given body searches).

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

Bottle bans

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

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

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

Plastic containers and toughened glass

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

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

Open containers not to be taken from the premises

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

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

CCTV

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

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

Restrictions on drinking areas

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

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

Capacity limits

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

Proof of age cards

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

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

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

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

Crime prevention notices

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

Drinks promotions

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

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

Signage

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

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

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

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

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

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

Appendix 6

Licensing Policy Adopted by the London Borough of Tower Hamlets

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

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