

Appendix 1

**Beach Blanket Babylon
Basement, Ground and First Floor
19 – 23 Bethnal Green Road
London
E1 6LA**

Licensable Activities authorised by the licence

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

See the attached licence for the licence conditions

Signed by

John McCrohan 
Trading Standards and Licensing Manager

Date: 18th May 2006

(as amended 3rd October 2007)
(as amended 6th October 2008)
(as amended 5th November 2009)
(as amended 2nd September 2011 via Consent Order)

Part A - Format of premises licence

Premises licence number

16978

Part 1 - Premises details

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

Beach Blanket Babylon
Basement, Ground and First Floor
19 - 23 Bethnal Green Road

Post town

London

Post code

E1 6LA

Telephone number

None

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

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

The times the licence authorises the carrying out of licensable activities

Alcohol and Regulated Entertainment - Indoors (live music, recorded music, provision of facilities for making music, provision of facilities for dancing)

- Sunday to Wednesday, from 10:00hrs to 01:00hrs (the following day)
- Thursday to Saturday, from 10:00hrs to 03:00hrs (the following day)

Alcohol non-standard timings

On no more than 12 occasions per calendar year, the terminal hours shall be one hour later than the standard timing shown above, following 10 working days notice to the Police and Licensing Authority and subject to the consent of the Police.

Late Night Refreshment - Indoors

- Sunday to Wednesday, from 23:00hrs to 01:00hrs (the following day)
- Thursday to Saturday, from 23:00hrs to 03:00hrs (the following day)

Further non-standard timings

Licensable activities from New Years Eve until the start time on New Years Day for all of the above.

The opening hours of the premises

- Monday to Sunday, from 10:00hrs to 30 minutes after the terminal hours for the sale of alcohol the following day

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

On sales only

Part 2

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

Townlink Ltd
41 Knowsley Street
Bury
BL9 0ST

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

0541076

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

Graham Aaron Rebak

[REDACTED]
[REDACTED]
[REDACTED]

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

Personal Licence Number: [REDACTED]

Issuing Authority: [REDACTED]

Annex 1 - Mandatory conditions

1.

- (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise

anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
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.
5. The responsible person shall ensure that;
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and

customers are made aware of the availability of these measures.

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. CCTV to be provided in accordance with the wishes of the Metropolitan Police;
2. Notices will be displayed reminding patrons to leave quietly and respect the local residential amenity;
3. A dedicated taxi firm will be available to take patrons away from the premises quickly and quietly;
4. No under 16 year olds will be allowed to remain on the premises after 21:00 hours;
5. The external terrace is vacated by clients no later than midnight on Thursdays, Fridays and Saturdays and no later than 23:00 hours on Sunday, Monday, Tuesday, Wednesday and Thursday;
6. The terrace is closely supervised at all times by management to ensure the avoidance of excessive noise likely to be audible to neighbouring residents;
7. Licensable activities taking place on the terrace are limited to supply of alcohol; additionally any noise from music should be controlled so as to be inaudible in neighbouring residences;
8. The design of any lighting system should ensure that no nuisance is caused by light intrusion into residential premises;
9. The art gallery space as shown on plan as submitted on 3rd August 2007 is excluded from this licence;

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

10. No bottling up or disposal of rubbish to be between 23:00 and 07:00 on all Days.
11. Signs to be displayed inside the premises warning customers that drug use on the premises will not be tolerated and that there may be random searching on entry;
12. To support the written search policy at the premises, a secure drugs box is to be installed at the premises. Any confiscated items that are, or are believed to be drugs, are to be placed into this box. Any such seizures are to be entered into a drug seizures log, which is to remain in close proximity to the drugs box. This log will record the following details;
 - A) Time/ date and location of the seizure;
 - b) Member of staff seizing the item;

- c) Name or description of the customer from whom the item was seized;
13. The management of the premises will contact Police at least once every calendar month, for an officer to attend the premises, empty the drugs box, and sign the drugs log accordingly;
 14. Any customer or member of staff found using, possessing or supplying illegal drugs (of whatever quantity) on the premises is to be permanently excluded from the premises. A record of such exclusions is to be entered into the incident book. All reasonable steps must be taken to ensure all staff (including door staff) are aware of the identity of excluded persons;
 15. No person shall be permitted to take glasses or bottles outside the premises;
 16. A Premises Daily Register shall be kept at the premise. This register will be maintained and kept for a minimum of 12 months. This register should record the following;
 - A) -Name of the person responsible for the premise on each given day;
 - B) All incidents in relation to the use of force by staff or Door Supervisors in the removal of persons from the premises. It shall record the time and date of the occurrence, name or brief description of the person removed, and details of the staff involved;
 17. Door Supervisors shall enter their full details at the commencement of work. (full name, home address and contact telephone number, SIA registration number and the time they commenced and concluded working) If the Door Supervisor was supplied by an agency, details of that agency will also be recorded including the name of the agency, the registered business address and a contact telephone number;
 18. The premises will employ a minimum of one SIA registered door supervisor on Friday and Saturday nights when regulated entertainment takes place at the premises;
 19. At least one nominated member of staff will be present at all times who will have been trained to deal with patrons who may be suffering from excessive intake of alcohol;
 20. An adequate and appropriate supply of first aid equipment and materials shall be available on the premises. Notices detailing the availability of first aid equipment shall be prominently displayed and shall be protected from damage or deterioration;

21. All members of staff at the premises shall seek “credible photographic proof of age evidence” from any person who appears to be under the age of 18 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence shall be in the form of a passport or photographic driving licence;
22. The Licence Holder shall implement a written dispersal policy, to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours. The policy shall be approved in writing by the Licensing Authority and Tower Hamlets Police;
23. A CCTV system shall be installed or the existing system maintained covering areas inside and outside of club. The system will incorporate a camera covering each of the entrance doors and be capable of providing an image that is regarded as ‘identification standard’;
24. The CCTV system shall be capable of obtaining a clear head and shoulders image of every person entering the premises;
25. CCTV is to comply with the Data Protection Act 1998 and is to be working and recording correctly when the club is open to the public;
26. 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 one calendar month. 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;
27. The positions of all CCTV cameras shall be clearly shown on a set of plans and any alteration to the system should only be carried out after consultation with and written approval of Tower Hamlets Police and the Licensing Authority;
28. A member of staff who is conversant with the operation of the CCTV system will be on the premises at all times that licensable activity is to be provided. Data or recorded footage from the system will be provided to the Police following a request by them within 24 hours of their request;
29. If external promoters are to be used for running events in the premises then Police risk assessment forms (Form 696) are to be fully completed before and after the event and emailed to the relevant police units, so that artists, DJ’s, MC’s and promoters

can be checked. The forms will be completed and returned to the required police addresses electronically at least 2 weeks prior to the event taking place. A post event form will also be completed (F696a) and returned to the required police addresses. The management should act on police advice.

Annex 4 - Plans

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

3rd August 2007

Part B - Premises licence summary

Premises licence number

16978

Premises details

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

(Beach Blanket Babylon)
Basement, Ground and First Floor
19 – 23 Bethnal Green Road

Post town

London

Post code

E1 6LA

Telephone number

None

Where the licence is time limited the dates

Not Applicable

Licensable activities authorised by the licence

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

The times the licence authorises the carrying out of licensable activities

Alcohol and Regulated Entertainment - Indoors (live music, recorded music, provision of facilities for making music, provision of facilities for dancing)

- Sunday to Wednesday, from 10:00hrs to 01:00hrs (the following day)
- Thursday to Saturday, from 10:00hrs to 03:00hrs (the following day)

Alcohol non-standard timings

On no more than 12 occasions per calendar year, the terminal hours shall be one hour later than the standard timing shown above, following 10 working days notice to the Police and Licensing Authority and subject to the consent of the Police.

Late Night Refreshment - Indoors

- Sunday to Wednesday, from 23:00hrs to 01:00hrs (the following day)
- Thursday to Saturday, from 23:00hrs to 03:00hrs (the following day)

Further non-standard timings

Licensable activities from New Year's Eve until the start time on New Year's Day for all of the above.

The opening hours of the premises

Monday to Sunday, from 10:00hrs to 30 minutes after the terminal hours for the sale of alcohol the following day

Name, (registered) address of holder of premises licence

Townlink Ltd
41 Knowsley Street
Bury
BL9 0ST

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

On supplies

Registered company number

0541076

Name of designated premises supervisor

Graham Aaron Rebak

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

No under 16 year olds will be allowed to remain on the premises after 21:00 hours.

Appendix 2

[Insert name and address of relevant licensing authority and its reference number (optional).]

**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 Lapsang Limited

(Insert name(s) of applicant)

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		LBTH TRADING STANDARDS 20 NOV 2013	
The Private Members' Club Upper Floors 19-23 Bethnal Green Road		LICENSING ET 6LA	
Post town	London	Postcode	

Telephone number at premises (if any)	
Non-domestic rateable value of premises	£68,500

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) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England 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 yes

I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or

I am making the application pursuant to a
 statutory function or
 a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev) <input type="checkbox"/>	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/> 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 <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
Surname			First names		
I am 18 years old or over				<input type="checkbox"/>	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 Lapsang Limited
Address 4-6 CANFIELD PLACE, LONDON, NW6 3BT
Registered number (where applicable) 8170216
Description of applicant (for example, partnership, company, unincorporated association etc.) Company
Telephone number (if any)
E-mail address (optional)

Part 3 Operating Schedule

When do you want the premises licence to start?

DD	MM	YYYY
01	02	2014

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

D	MM	YYYY

Please give a general description of the premises (please read guidance note 1)

Private Members Club providing restaurant and bar facilities

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

--

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick any 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 I)

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

In all cases complete boxes K, L and M

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 (please read guidance note 2)		Indoors	<input checked="" type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 3)			
Mon	23.00	01.00				
Tue	23.00	01.00				
			State any seasonal variations for the provision of late night refreshment (please read guidance note 4)			
Wed	23.00	01.00				
Thur	23.00	03.00				
			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)			
Fri	23.00	03.00				
Sat	23.00	03.00				
Sun	23.00	01.00				

J

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick (please read guidance note 7)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4) From the start time on New Year's Eve until the finish time on New Year's Day 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)		
Mon	10:00	01.00			
Tue	10:00	01.00			
Wed	10:00	01.00			
Thur	10:00	03:00			
Fri	10:00	03:00			
Sat	10:00	03:00			
Sun	10:00	01.00			

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

Name Graham Rebak	
Address [REDACTED]	
Postcode	W11
Personal licence number (if known) [REDACTED]	
Issuing licensing authority (if known) [REDACTED]	

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).
None

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			<u>State any seasonal variations</u> (please read guidance note 4)	
Day	Start	Finish		
Mon	10:00	01:00	From the start time on New Year's Eve until the finish time on New Year's Day	
Tue	10:00	01:00		
Wed	10:00	01:00		
Thur	10:00	03:00		<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5) The premises will operate as a Private Members Club and will not open to the public at large.
Fri	10:00	03:00		
Sat	10:00	03:00		
Sun	10:00	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 and e) (please read guidance note 9)

See attached schedule of conditions

b) The prevention of crime and disorder

See attached schedule of conditions

c) Public safety

See attached schedule of conditions

Health and safety risk assessments will be undertaken and all staff shall be trained therein

d) The prevention of public nuisance

See attached schedule of conditions

All appropriate steps will be taken to ensure that local residents and local businesses are not disturbed by any licensable activity at the premises.

e) The protection of children from harm

See attached schedule of conditions

All persons under the age of 16 will be accompanied by an adult on the premises at all times.

All staff will be trained in relation to their responsibilities towards children under the Licensing Act 2003

Checklist:

Please tick to indicate agreement

- I have made or enclosed payment of the fee. [✓]
- I have enclosed the plan of the premises. [✓]
- I have sent copies of this application and the plan to responsible authorities and others where applicable. [✓]
- I have enclosed the consent form completed by the individual I wish to be designated 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. [✓]

IT IS AN OFFENCE, LIABLE ON SUMMARY CONVICTION TO A FINE NOT EXCEEDING LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 4 – Signatures (please read guidance note 10)

**Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 11).
If signing on behalf of the applicant, please state in what capacity.**

Signature	[REDACTED]
Date	19/11/13
Capacity	SOLICITOR FOR APPLICANT

For joint applications, signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant, please state in what capacity.

Signature	
Date	
Capacity	

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

Craig Baylis
BLP
Adelaide House
London Bridge

Post town **London** Postcode **EC4R 9HA**

Telephone number (if any) [REDACTED]

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

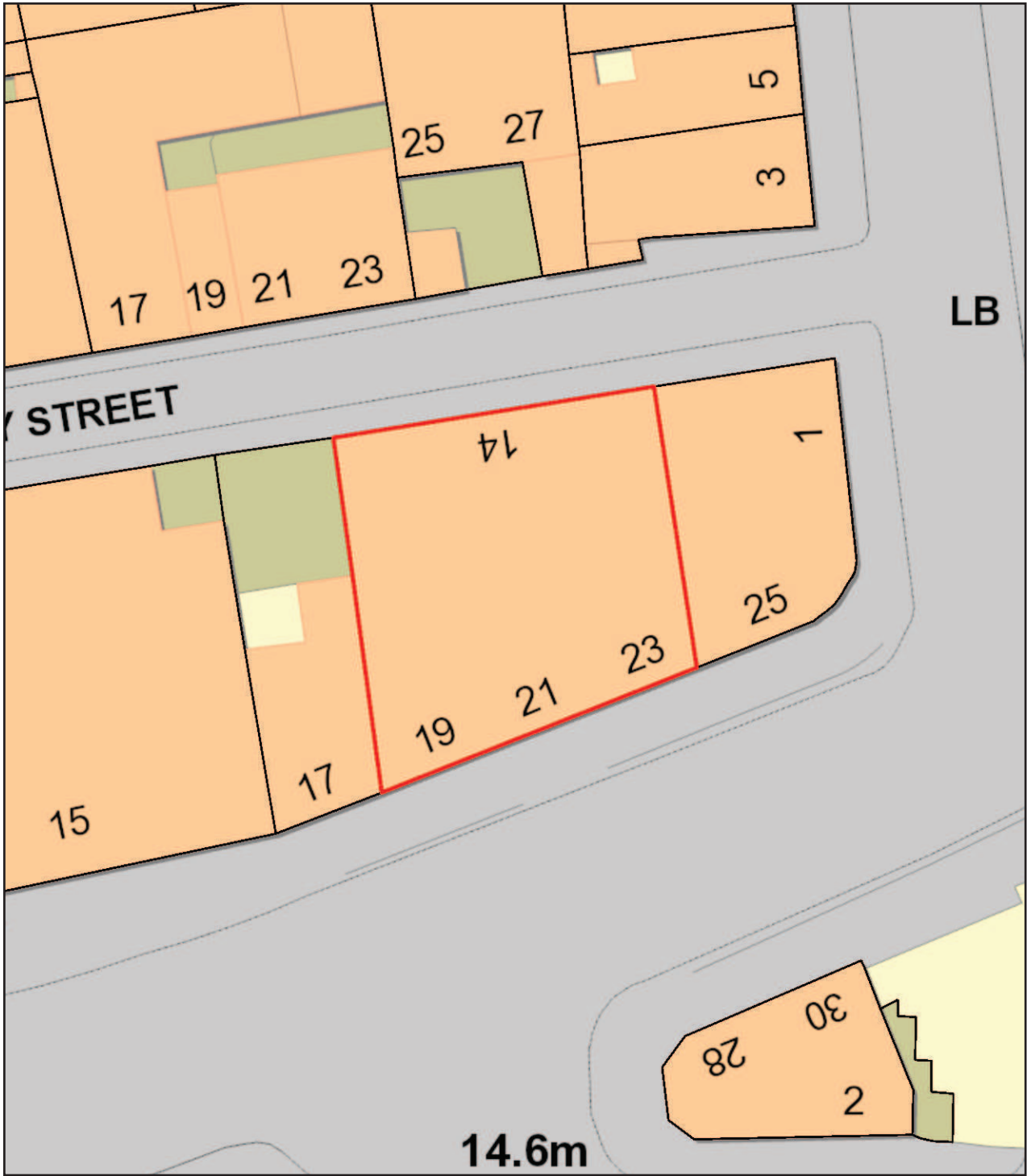
[REDACTED]

SCHEDULE OF CONDITIONS

1. The premises shall operate as a Private Members Club for use by members and their bona fide guests and for private pre-booked functions only.
2. There shall be rules of the Club for admission to membership. A list of all the names and addresses of members of the Club shall be kept on the premises together with a book showing the names of any guests introduced by members and shall be produced on demand for inspection by any authorised Officer or Police Officer.
3. The premises will install and maintain a comprehensive CCTV system to the satisfaction of the Metropolitan Police Crime Prevention Officer that ensures that all areas of the licensed premises are monitored including all entry and exit points and which enable frontal identification of every person entering in any light condition. All cameras shall continuously record while the premises are open to Members and their guests or those attending a private pre-booked function and the recordings shall be kept available for a minimum of 31 days with time and date stamping. Recordings shall be made available to an authorised Officer or Police Officer together with facilities for viewing immediately on request.
4. Substantial food and non-intoxicating beverages including drinking water shall be available during the whole of the permitted hours in all parts of the premises where intoxicants are provided.
5. Members or their guests or those attending a private pre-booked function temporarily leaving the premises for the purposes of smoking shall not take any drinks of any kind with them outside the premises.
6. An incident log shall be maintained to ensure that any incidents are properly recorded and information on the incident log will be provided to an authorised Officer or Police Officer on request.
7. A minimum of one SIA registered door supervisor shall be provided after 21.00 hours to monitor the behaviour of members and their guests or those attending a private pre-booked function entering and leaving the premises.
8. No striptease, no nudity and all persons to be decently attired at all times.
9. The Designated Premises Supervisor shall ensure that the highway and public spaces in the vicinity of the premises are kept free of litter from the premises at all times.
10. No rubbish (including bottles) will be moved, removed or placed in outside areas between 23.00 hours and 08.00 hours.
11. Means of escape provided for the premises shall be maintained unobstructed, free of trip hazards and be immediately available and clearly identified at all times.
12. Notices will be displayed reminding members and their guests to leave quietly and respect the local residential amenity.
13. A dedicated taxi firm will be available to take members and guests away from the premises quickly and quietly.

14. Any member of staff at the premises shall seek credible photographic proof of age evidence from any guest of a member who appears to be the age of under 18 years and who is seeking access to the premises in order to purchase or consume alcohol on the premises.

Appendix 3

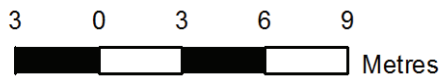


19-23 Bethnal Green Road

Map 1



Scale 1:334



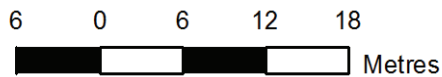


19-23 Bethnal Green Road

Map 2



Scale 1:668



Appendix 4

Section 182 Advice by the Home Office

Updated October 2012

Relevant, vexatious and frivolous representations

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

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

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

Appendix 5

Andrew Heron

From: Hassan Abdullah [REDACTED]
Sent: 16 December 2013 16:35
To: Licensing
Cc: Andrew Heron; John Pierce
Subject: Private members club, 1st floor, 19-23 Bethnal Green Road, London E1 6LA

Licensing Officer

Licensing Section

LBTH

6TH Floor Mulberry Place (TC)

5 Clove Crescent

London E14 2BE

Ref : TSS/LIC/073325

Re: Licensing Act 2003 and Private Members Club, 1st Floor, 19-23 Bethnal Green Road, London E1 6LA

Dear Sir/Madam,

I am writing to oppose the above application for the change of use to a private members club. The operators now called Lapsang Ltd trading as Beach Blanket Babylon (they buy numerous Limited companies of the shelf and when they incurred substantial debts on them they dissolve the companies and get away scott free without paying anyone as there are no assets in these companies, we were told this fact by someone in the council when they took BBB to court for non payment of rubbish collection)

The operators have continuously breached the restrictions of their license which has been set by the council in the last hearing against them. Some of the conditions of premises license were -

- a) Providing a minimum of 4 licensed security staff, 1 outside 2 by the door and the 4th patrolling the basement - this has not been adhered to, there is always a huge commotion outside 19 - 23 Bethnal Green Road and fights breakout constantly amongst the very drunk clientele. In many instances ambulances have been called and this where our public's resources are spent as the operators are only interested in selling as much as alcohol as possible even to obviously drunk patrons.
- b) Only 5 clients are allowed to smoke outside at one time and again this rule is not followed as now the operators have installed benches to encourage more clients to drink and smoke outside (which no planning application has been submitted for the placement of these benches on the public foot path)
- c) There should be a drugs box by the entrance as there has been a high incidence of drug taking within the premises - again no sign of a drugs box.

d) 1 am license on Friday and Saturday for the premises on both floors and no regulated entertainment is allowed until further notice- The operators continue to open way past 1 am usually till 3 am or later and dancing is allowed in the basement when they don't have a dancing license.

e) Sound proofing to be installed on both party walls - a requirement of their license from the very beginning and this still has not been done till today, as residents we hear everything from the running up and down on the staff to the loud banging music.

f) 1st floor not to be used for any uses other than light industrial, there has been numerous functions held there, funnily enough the Tower Hamlets website have promoted some of the events held there, not knowing that BBB is breaking the law by holding events I suppose. In the last past 4 to 5 days parties have been held on the 1st floor every night with very loud music and clients have been invited via text (one of the neighbours have proof of that) to enter by the back entrance on Whitby Street, again another disregard to restrictions as its only meant to be used as a staff entrance. When we complain to the noise pollution team they never seem to have enough people to check on it. The neighbour Mrs Gina Christou who recently lost her husband has been very disturbed by the music but is afraid of them to complain.

In fact, I don't know why they are applying for a change of use as they are already using the 1st floor as they wish. BBB or Lapsang Ltd, (how can anyone keep up with their numerous reincarnations) are probably applying under the pretext of a private members club so that they can be granted license to sell alcohol on the 1st floor but has no intention of having membership as we all know when you apply for a private members license its easier to be granted permission.

Tower Hamlets licensing are probably not concerned about the background of the operators but we as residents do care as we have to live next door to them and suffer the consequences. Already its unbearable with them operating on the ground floor and basement, imagine what the noise level would be like when they operate to 3 am and beyond on the first floor nearer to our bedrooms. When they first applied for license we provided evidence of both father and son being disqualified directors and the numerous cases against them brought by Westminster council where they broke numerous laws but we were told by the Head of Licensing that has no bearing in granting of a license, if these information was considered it would have saved the council and the residents all the trouble we had to encounter with this uncaring and selfish operator. The Tower Hamlets police and council have taken the operators to court.

We as residents plead with you not to grant the license for the first floor as it would damage our quality of life further as from experience even after all the above restrictions have been attached to their license they have not respected and adhered to the restrictions and no one from the Tower Hamlets has been back to see that its has been implemented. We have learnt that they can be taken to court etc but they still persist in opening late and making lots of noise and get away with it as there isn't anyone to police them. Tower Hamlets is already saturated with bars and alcohol led premises and as residents we don't think we can bear it anymore. Many thanks for your kind considerations.

Your sincerely,

Hassan Abdullah

Michel Lasserre

Stefan Karlsson

████████████████████

████████████████

Appendix 6

Mrs Georgina Christou
[REDACTED]
[REDACTED]

Licensing Authority
London Borough of Tower Hamlets
Mulberry Place (AH)
PO Box 55739
5 Clove Crescent
London E14 1BY

16 December 2013

Dear Sir/Madam

Re: Application by Lapsang Ltd for new Premises Licence for First Floor, 19/23 Bethnal Green Road, London E1 6LA

Please accept this letter as my representation objecting to the application for a new premises licence for the First Floor of 19/23 Bethnal Green Road, E1 6LA. The application states this is for a "New Private Members Club". This new premises is directly above Beach Blanket Babylon ("BBB").

I am 70 years old and have recently been widowed. I live in the first floor flat at [REDACTED] [REDACTED] E1 6LA. This is immediately next door to the applicant premises. I am therefore the person most likely to have my life further impacted if this licence is granted. I enclose as my exhibit **GC/1** a photograph showing the front of 15-23 Bethnal Green Road, London E1 and 1 Club Row. My bedroom is located as shown in the photograph.

My objection is based, primarily, on these points:

- 1) I am already suffering from frequent and serious public nuisance caused by customers of BB B and, to a lesser degree, customers of other nearby licensed premises. I have also witnessed incidents of crime and disorder outside connected to BBB. It is likely that if this additional late night licence is granted for these premises right next door to me then the nuisance I and other residents currently experience will be increased by the customers of this new premises.

- 2) On Policy Grounds. The licensing authority will of course know that the London Borough of Tower Hamlet's has recently introduced a Cumulative Impact Policy. This applicant premises is within the Brick Lane Saturation Zone. The applicant has produced no evidence upon which this licensing authority could properly conclude that the grant of this licence would not add to the existing cumulative impact. Therefore the applicant has failed to rebut the presumption that such applications ought normally to be refused. On this ground alone the Statement of Licensing Policy suggests that the application can and, I respectfully suggest should, be refused.

Historical issues and proceedings

BBB clearly has very close connections to this new application concerning the first floor of its building. The proposed Designated Premises Supervisor for the First Floor Premises is Mr Graham Rebak. Mr Rebak is also the current DPS of BBB. The applicant company is Lapsang Ltd. A quick company search suggests that Mr Robert Newmark is a shareholder of Lapsang Ltd. In 2001 Westminster Council refused Mr Robert Newmark a renewal of his entertainment licence on the grounds that "he is not a fit and proper person to hold the Licence". In addition to this the operators continue to use the upper floors of the premises for uses which do not have planning permission. I simply make these points to counter any suggestion by the applicant that these operators are good operators.

It is also a misnomer for the applicant to call this Premises a "Private Members Club". If it were truly a Club (where the members own the premises and stock) then they would have applied for a Club Premises Certificate. Instead the applicant has applied for a standard Premises Licence under the Licensing Act 2003. The description of itself as a "private member's club" is therefore one of style not substance.

BBB has caused me and others considerable nuisance issues since 2007. Indeed my late husband and I previously had to instigate a licence review of BBB on the grounds of prevention of public nuisance. Our concerns were supported by other responsible authorities. At a review hearing held on 6 October 2008 the licensing sub-committee of Tower Hamlets accepted our concerns were genuine and reduced the operating hours of BBB. I attach the Minutes of this meeting as GC/2. This decision was later upheld by the District Judge who rejected the operator's magistrates' court appeal. However the operator applied to the High Court for Judicial Review. For reasons that are unclear to me the Council did not appear at the High Court and so were not in a position to defend their, or the District Judge's decision. The High Court granted the application for judicial review on the basis of a legal

technicality (not the merits of the case) and remitted the case back to the magistrates' court. I am unaware what then happened. I attach the High Court decision as GC/3. It was obviously disappointing that the Council did not then take a more robust approach to those legal proceedings. Regrettably I, and other residents, have suffered a great deal as a result.

Current issues impacting on the licensing objectives

I have witnessed a great deal of recent noise and incidents involving customers of BBB. The operators have not been able to control the behaviour of their customers who congregate and talk loudly in and around the immediate vicinity of the premises (under my bedroom window). In addition to this I have cabs stopping outside in the early hours to pick up customers leaving BBB. I am therefore regularly kept awake at night, or awoken from my sleep, by the noise of these customers. I enclose photographs which are self-explanatory as GC/4. Customers drink outside the premises and this is allowed to continue unchecked. In the past the excuse was that these people were not from these premises when clearly they were.

The Police have been called to the premises in the past. On one occasion the Police were called because of the behaviour of Mr Robert Newmark himself.

I have been sworn at by customers of BBB when I have asked them to be considerate to the residential neighbours in the early hours of the morning. In addition to this I and other residents in the area have had to put up with men urinating in Whitby Street and having to clear up vomit after people have left the premises. Whitby Street itself is narrow and these issues are more evident.

If this new Premises Licence is granted the likelihood is that more people will be attending this new premises causing more noise and disturbance for me and my neighbours. No amount of conditions, policies, door supervisors or membership rules can stop a customer of the new venue shouting (whether good-natured or otherwise) late at night or mute the noise of a slamming car door associated with customers arriving at or leaving the new premises. Each of these incidents has the capacity to disturb me and my neighbours until the early hours of the morning if this licence is granted.

In regard to "public nuisance" I note from the Secretary of State's Guidance to the Licensing Act 2003, at paragraph 2.19 (June 2013 edition) that:

2.19 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 is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also 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.

This definition of public nuisance includes what I and others are presently experiencing and it can be expected to get worse if this application is granted.

Cumulative Impact

In September 2013, following a detailed consultation process the London Borough of Tower Hamlets adopted a Special Cumulative Impact Policy for the Brick Lane Area that includes this applicant's premises. The Council noted that:

- The area accounts for 8% of the crime in Tower Hamlets
- 22% of all police calls to licensed premises are in the Brick Lane Zone
- The highest levels of Anti-Social Behaviour are in the Brick Lane Zone.

In relation to the Brick Lane Zone, the Statement of Licensing Policy now states (emphasis added):

8.3 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 area highlighted in Figure One is having a cumulative impact on the licensing objectives and has therefore declared a cumulative impact zone.

*8.4 The effect of this Special Cumulative Impact Policy 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***

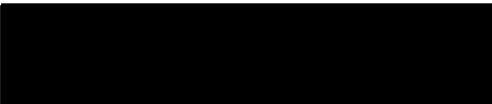
premises are situated in the cumulative impact zone and a representation is received, the licence will be refused. To rebut this presumption the applicant would be expected to show through the operating schedule and where appropriate with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced.
This policy does not act as an absolute prohibition on granting/varying new licences in the Cumulative Impact Zone.

The applicant has produced no evidence to suggest that they, unusually, will not add to the existing impact. Nor does their operating schedule provide any support for the applicant. The whole purpose of opening a new venue is to attract new customers. If this licence is granted it is likely that more people will be attracted into the Cumulative Impact Zone and/or more people will stay for longer. This will add to the cumulative impact in this already vulnerable location. In these circumstances it would be in breach of Tower Hamlet's Statement of Licensing Policy to grant this licence.

I would respectfully urge the licensing sub-committee not to make an exception to its policy by granting this licence. It is I and my fellow residents who will suffer the real human impact of further disturbances caused by customers of licensed premises near to my home. Please do not add to this by granting this licence.

Thank you for taking the time to consider this representation.

Yours faithfully



Georgina Christou

GCI

1 CLUBROW

19-23 BETHNAL GREEN ROAD

17 BETHNAL GREEN ROAD

15 BETHNAL GREEN ROAD

BEDROOM



CO/2993/2010

Neutral Citation Number: [2011] EWHC 898 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2A 2LL

FRIDAY, 18TH FEBRUARY 2011

B e f o r e:

MR JUSTICE LINDBLOM

Between:

THE QUEEN ON THE APPLICATION OF TOWNLINK LTD.

Claimant

v

THAMES MAGISTRATES COURT.

Defendant

Computer-Aided Transcript of the Stenograph Notes of
WordWave International Limited
A Merrill Communications Company
165 Fleet Street London EC4A 2DY
Tel No: 020 7404 1400 Fax No: 020 7404 1424
(Official Shorthand Writers to the Court)

MR G GOURIET QC appeared on behalf of the **Claimant**

J U D G M E N T
(as approved by the court)

Crown copyright©

1. MR JUSTICE LINDBLOM: This is an application for judicial review in which the claimant challenges the decision of District Judge Reed sitting at Thames Magistrates' Court on 5 November 2009, to dismiss its appeal against the decision of the licensing sub-committee of the London Borough of Tower Hamlets Council on 6 October 2008 to vary the premises licence for its restaurant and cocktail bar, Beach Blanket Babylon 19 to 23 Bethnal Road and to suspend regulated entertainment at the premises.
2. The Magistrates' Court has taken no part in the hearing before me. The Council has neither attended nor been represented at the hearing, but has indicated that if the court is minded to make an order for costs against it, it would wish to be heard on that matter.
3. The interested parties, Mr and Mrs Christou, refused service of the claim. They have neither been appeared nor been represented at the hearing.
4. Permission to apply for judicial review was granted on the papers by His Honour Judge Waksman QC, sitting as a Deputy Judge of the High Court on 28 May 2010. The Deputy Judge also granted an extension of time. In doing so he said that he bore in mind that the claimant had tried to obtain a copy of the District Judge's judgment, but through no fault of its own had not managed to do so.

Background

5. On 18 May 2006 the Council granted a licence for the premises under the relevant provisions of the Licensing Act. The licence permitted various activities, including the sale of alcohol, music and dancing, and the provision of refreshment late at night. It required those activities to end no later than 1a.m. on Sundays, Mondays, Tuesdays and Wednesdays, with half an hour allowed for drinking up, and by no later than 3a.m. on Thursdays, Fridays and Saturdays, again with half an hour for drinking up. The Council imposed a number of conditions upon the licence.
6. Planning permission granted for the use of the premises on 1 August 2007 had a tighter restriction on time than the licence. It required the activities to end by no later than midnight on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays and by no later than 1a.m. on Fridays and Saturdays. The premises is on two levels. On the ground floor there is a restaurant which is described by the claimant as being decorated in a "grand baroque style" and resembling a French chateau. The restaurant can accommodate a maximum of 150 diners at a time. The staff serve customers at their tables. The claimant says that the clientele is made up a "social mix that is now Shoreditch". They are, it is said, a "professional people who work in finance, the law, media and fashion." Downstairs is a cocktail bar. This is open only on Fridays and Saturdays. It is a lounge bar not a nightclub. There is no dance floor. Customers are served at their tables by waiters and waitresses.
7. On 1 October 2008 the Council served a noise abatement notice on the claimant. The claimant appealed. It carried out work in the premises to reduce the escape of noise. On 21 July 2009 the notice was quashed.

8. Under section 52 of the 2003 Act, the Council reviewed the licence at a hearing on 6 October 2008. That review had been initiated by Mr and Mrs Christou. They live next door to the claimant's premises at 17 Bethnal Green Road. They run a café and a bed and breakfast establishment there.
9. The police took part in the review. They supplied a list of conditions which they said would overcome their concerns. The claimant was content with some of those conditions, but not all of them. The Council's environmental health officer, a planning officer of the Council and several residents also took part. The complaints that had to be dealt with were of noise escaping from the claimant's premises into the Christous'; the noise of patrons leaving; patrons smoking underneath the canopy of 17 Bethnal Green Road; breaches of a time restriction in the planning permission and a general dislike of the presence of the claimant's restaurant and bar in this part of Bethnal Green Road.
10. The Council's licensing sub-committee found in favour of the Christous. It suspended the provision of regulated entertainment at the claimant's premises, in these terms:

"[the] operation of regulated entertainment under the licence [is] to be suspended with immediate effect and until such time as necessary works that are required to promote the licensing objective of the prevention of public nuisance is met to the satisfaction of environmental health. If no agreement can be reached, then the matter is to be remitted back to the committee with [sic] three months."
11. The Council's committee also decided that the hours of the licence should be cut back to match those imposed in the planning permission. The committee also introduced several restrictions, which the claimant says were unnecessary and unsuited to the operation of an upmarket restaurant. The reasons for the committee's decision are stated in an appendix to the decision letter, Appendix A:

"Members considered the evidence presented by the application. Local residents, LBTH planning service, LBTH environmental services, Metropolitan Police. The sub-committee did not believe that the current operation of the premises supported the licensing objective relating to the prevention of public nuisance."
12. On 31 October 2008 the claimant appealed against the Council's decision to the Magistrates' Court. The appeal served to suspend the decision of the licensing sub-committee. Thus the suspension of regulated entertainment and the conditions imposed by the committee did not come into effect.
13. On 24 November 2008 a new manager, Mr Sands, took over the running of the claimant's premises. Since then, I was told, as the Council's environmental health officer had accepted, the claimant's operation has not caused problems. The escape of noise from the premises has been reduced by sound proofing.

14. The appeal was heard over three days, the 3rd, 4th and 5th November 2009. The District Judge gave an ex tempore judgment on 5 November. In the course of the appeal both main parties, the claimant and the Council, called evidence. The claimant called its managing director, Mr Robert Newmark, a former superintendent of police, Mr Chubb, who had observed the use of the premises, the manager, Mr Sands, and a noise expert, Mr Bentley. The Council called two residents, including Mr Christou, and two officers of the Council, Mr Pendreigh and Mr Duncan. Mr Christou claimed in his evidence that he had several times made telephone calls to officers of the Council's Environmental Health department. That assertion was rejected by Mr Pendreigh. The police did not appear at the hearing. The claimant's counsel addressed the District Judge on the disputed conditions, arguing that some of them were disproportionate and unnecessary. He also argued that the suspension of regulated entertainment was unlawful because it was, in effect, open-ended.
15. The District Judge dismissed the appeal and awarded costs against the claimant. Immediately after the appeal hearing the claimant asked for a copy of the District Judge's judgment. This was not provided. It was sought again in telephone calls and emails. It seems that there was no written judgment. Initially the claimant had to rely on a note of the judgment taken by Mr Lavell of its former solicitors.
16. Eventually, on 12 March 2010 the Magistrates' Court produced notes taken by the court associate when judgment was given. It appears that those notes were provided to the claimant's former solicitors. The court associate's notes are more succinct than Mr Lavell's note. They briefly record the District Judge's summary of the evidence he had heard. Without rehearsing that part of the judgment in detail, I note that Mr Gouriet does not seek to criticise it as inaccurate or incomplete. Indeed, Mr Gouriet submits, and I accept, that the tenor of it is generally favourable to the claimant's case. In the course of it, the District Judge notes that one of the Council's officers who gave evidence, Mr Pendreigh, made plain that he no longer relied on recent complaints about the claimant's operation.
17. The court associate's notes of the judgment contained the following two paragraphs:

"My decision is that this is an appeal by BBB against LBTH Licensing Committee decision for application for review by Mr and Mrs Christou. Had benefit of both bundles and considered info carefully. Bear in mind the licensing objectives that committee had to consider. Must consider the Hope and Glory case at C of W MC. I start with having to consider if the decision of the committee was wrong. I don't apply my own standards, but it is a question of whether their decision was wrong...

I have to decide whether the decision from Oct '08 was wrong. I cannot say that the decision of the Licensing Committee was wrong. Even at that stage planning not satisfied. Members of public noted concerns. Police involved themselves in review, but not appeared at court to support respondent. Decision complied with licensing objectives to solve the problems. I was looking very carefully at Sus. Reg. Entertainment. They have left the doors open to go back to Committee to argue further. Work

carried out as a result of advice and instruction. Cannot say suspension of police requirement illegal. Committee would not go against info from police."

The corresponding passages in Mr Lavell's note are these:

"This is an appeal by BBB against a decision of LBTH LSC in October 2008 on an application for review of their licence that was spearheaded by the Christous. I have had the benefit of bundles from both the appellants and the respondent and considered all evidence within them and as adduced in court very carefully. I have borne in mind the licensing objectives that the LSC had to when making their decision. I have to at this stage bear in mind the recent case of Hope and Glory dealt with by a colleague of mine in Westminster that arose out of something very similar. I start with having to consider if the decision of the LSC was wrong. I do not apply my own standards and views, I base my decision on bundles provided by both parties and on the evidence I have received in the last three days. There was a fair bit of material not before the LSC...

I have considered both sides' representations and the decision of the LSC. I have taken new evidence into account and decided the decision was wrong. Having considered the evidence before the LSC and the new evidence including the site visit, I cannot say that the decision of the LSC was wrong. There had been a problem with ongoing complaints with planning and members of the public that continue up until this day. Police were involved at that review, but are not supporting their point at this appeal. The decision complied with the licensing objectives and dealt with issues leading up to this appeal. I was looking very carefully at the suspension of regulated entertainment. I note that three months is in the letter, which is a statutory requirement, but left the door well and truly open.

Clive Bentley has been able to advise and check work, and I cannot say that it is an illegal decision. I cannot say that the police requirements are illegal. I cannot say that the LSC should go against the recommendations of the police. I note that the LSC expected their EHOs to take the lead in moving things forward and I would expect this to be done just as the LSC would."

The law

18. Section 4 of the 2003 Act provides the general duties of licensing authorities:

"1. A licensing authority must carry out its functions under this act (licensing functions) with a view to promoting the licensing objectives.

2. The licensing objectives are -

(a) the prevention of crime and disorder.

- (b) public safety.
- (c) the prevention of the public nuisance; and
- (d) the prevention of children from harm.

3. In carrying out its licensing functions a licensing authority must also have regard to -

- (a) its licensing statement published under section 5 and.
- (b) any guidance issued by the Secretary of State under section 182."

19. Section 52 of the 2003 Act provides, so far as is relevant here:

1. This section applies where:
 - (a) the relevant licensing authority receives an application made in accordance with section 51;
 - (b) the applicant has complied with any requirement imposed on him on him under sub-section 3 (a) or (d) of that section; and
 - (c) the authority has complied with any requirement imposed upon it under sub-section 3 (b) or (d) of that section.
 2. Before determining the application, the authority must hold a hearing to consider it and any relevant preparations.
 3. The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in sub-section 4, if any, that it considers necessary for the promotion of the licensing objectives.
 4. The steps are -
 - (a) to modify the conditions of the licence;
 - (b) to exclude a licensable activity from the scope of the licence;
 - (c) to remove the designated premises supervisor;
 - (d) to suspend the licence for a period not exceeding three months;
 - (e) to revoke the licence...
11. A determination under this section does not have effect -

- (a) until the end of the period given for appealing against the decision; or
 - (b) if the decision is appealed against, until the appeal is disposed of."
- 20. Section 181 of the 2003 Act provides for the making of appeals against the decisions of licensing authorities. It states:
 - "1. Schedule 5, which makes provision for appeals against decisions of licensing authorities, has effect...
 - (ii) on an appeal in accordance with that schedule against a decision of a licensing authority, a Magistrates' Court may -
 - (a) dismiss the appeal;
 - (b) substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
 - (c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court and may make such order as to costs as it thinks fit."
- 21. Paragraph 8 of schedule 5 to the 2003 Act provides:
 - "1. This paragraph applies where an application for a review of a premises licence is applied for under section 72.
 - 2. An appeal may be made against that decision by...
 - (b) the holder of the premises licence..."
- 22. In Sagnata Investments Limited v Norwich Corporation [1971] 2 QB 614 an application had been made under the Betting, Gaming and Lotteries Act 1967 for a permit to open an amusement arcade in Norwich. The application was refused by the local authority. The applicant appealed. The recorder who heard the appeal was given reasons for the refusal by the town clerk. He heard evidence from witnesses on either side as to the merits of the application. He did not have any information about what had occurred before the licensing committee. He allowed the appeal. The authority appealed to the Divisional Court, and then to the Court of Appeal. The Court of Appeal dismissed the appeal by a majority. Lord Denning MR dissented, considering that the local authority was entitled to its opinion that to have such arcades in Norwich was socially undesirable and that the recorder had been wrong to substitute his own view for those of the elected body responsible for making such decisions. Edmund Davies LJ said (at page 636):

"The provision for an appeal for Court of Sessions seems to me largely, if

not entirely, "illusory" if the contention of the appellant's counsel is right. If it is, I am at a loss to follow how the recorder set about discharging his appellate functions. Lacking all information as to what had happened before the local authority, save the bare knowledge that they had refused the application and their written grounds for refusal, he would be powerless, as I think, to make any effective examination of the validity of those reasons."

Edmund Davies LJ concluded:

"... the proceedings before [the] recorder were by way of a complete rehearing. But, contrary to what has been contended, this conclusion does not involve that the views earlier formed by the local authority have to be entirely disregarded by Court of Sessions..."

23. Edmund Davies LJ approved what had been said by Lord Goddard, the Lord Chief Justice, in Stepney Borough Council v Joffe [1949] 1 KB 599 (at pages 602 and 603):

"That does not mean to say that the Court of Appeal, in this case the Metropolitan Magistrate, ought not to pay great attention to the fact that the duly constituted and elected local authority had come to an opinion on the matter and ought not likely, of course, to reverse their opinion. It is constantly said, although I am not sure that it is always sufficiently remembered, that the function of the Court of Appeal is to exercise its powers when it is satisfied that the judgment below is wrong, not merely because it is not satisfied that the judgment was right."

24. There is a further passage in the judgment of Lord Goddard in that case which Edmund Davies LJ endorsed and applied in Sagnata. Rejecting the submission that the magistrate had not been entitled to substitute his own opinion for that of the borough council and that all he could decide was whether there was evidence upon which he could arrive at his conclusion, Lord Goddard said this (at page 602):

"... if the reason need only be one that is sufficient in the opinion of the Borough Council it is difficult to see how any Court of Appeal could set aside their decision. It seems to me that section 25(1) gives an unrestricted right of appeal and that if there is an unrestricted right of appeal it is for the Court of Appeal to substitute its opinion for the opinion of the Borough Council."

25. In R(Hope and Glory Public House Limited) v the City of Westminster Magistrates' Court and Another [2011] EWCA Civ 31 the Court of Appeal considered how a magistrates' court hearing an appeal from the decision of a licencing authority under the 2003 Act should approach the making of its decision. The appeal to the Court of Appeal was from a decision of Burton J [2009] EWHC 1996 Admin. In paragraphs 43 to 45 of his judgment, Burton J said this:

"43. I conclude that the words of Lord Goddard, approved by Edmund Davies LJ [in Sagnata] are very carefully chosen. What appellate courts

have to do is to be satisfied that the judgment below "is wrong". That is to reach its conclusion on the basis of the evidence before it and then to conclude that the judgment below is wrong, even if it was not wrong at the time. That is what this District Judge was prepared to do by allowing fresh evidence in on both sides.

44. The onus still remains on the claimant, hence the correct decision that the claimant should start, one cannot be challenged, as I have indicated.

45. At the end of the day, the decision before the District Judge is whether the decision of the Licensing Committee is wrong. Mr Glen has submitted that the word "wrong" is difficult to understand or, at any rate, insufficiently clarified. What does it mean? It is plainly not 'Wednesbury unreasonable' because this is not a question of judicial review. It means that the task for the District Judge - having heard the evidence which is now before him, and specifically addressing the decision of the court below - is to give a decision whether, because he disagrees with the decision below in the light of the evidence before him, it is therefore wrong. What he is not doing is either, on the one hand, ignoring the decision below, or, on the other hand, simply paying regard to it. He is addressing whether it is wrong. I do not see any difficulty, nor did the District Judge, in following this course."

26. In the appeal, the Court of Appeal had to deal with three questions: first, how much weight was the District Judge entitled to give to the decision of the licensing authority; secondly, and more particularly, was the District Judge right to hold that he should only allow the appeal if satisfied that the decision of the licensing authority was wrong; and thirdly, was the District Judge's ruling compliant with Article 6 (see paragraph 39 of the judgment of the court). The court did not find it possible to give a formulaic answer to the first question, because that might depend on a variety of factors, the nature of the issue, the nature and quality of the reasons given by the licensing authority and the nature and quality of the evidence on the appeal (see paragraph 40 of the judgment of the court).

27. Toulson LJ, giving the judgment of the court, went on to say this:

"41. as Mr Mathias rightly submitted, the licensing function of the licensing authority is an administrative function. By contrast the function of the district judge is a judicial function. The licencing authority has a duty, in accordance with the rule of law, to behave fairly in decision making procedure, but the decision itself is not a judicial or quasi-judicial act it is the exercise of a power delegated by the people as a whole to decide what the public requires, see the judgment Lord Hoffmann in Alconbury at paragraph 74...

45. Given all the variables, the proper conclusion to the first question can only be stated in very general terms. It is right in all cases that the magistrates' court should pay careful attention to the reasons given by the

licensing authority for arriving at the decision under appeal, bearing in mind that Parliament has chosen to place responsibility for making such decisions on local authorities. The weight which the magistrates should ultimately attach to those reasons must be a matter for their judgment in all the circumstances, taking into account the fullness and clarity of the reason, the nature of the issues and the evidence given on the appeal."

28. On the second question, the Court of Appeal agreed with what Burton J said in paragraphs 43 to 45 of his judgment (see paragraph 46 of the judgment of the court). In paragraph 47 of its judgment, the Court of Appeal rejected the submission that the statement of Lord Goddard in Stepney Borough Council v Joffe, applied by Davies LJ in Sagnata, was applicable only in a case where the original decision was based on "policy considerations". The court noted that in Stepney Borough Council v Joffe the Divisional Court had held that the magistrates' power was not restricted to reviewing the decision on the ground of an error of law but that he was entitled also to review the merits. It was in that context that Lord Goddard had said that the magistrates should, however, pay great attention to the decision of the elected authority, only reversing it if he was satisfied that it was wrong. I take this to mean, as Burton J had clearly meant at first instance, that in such an appeal it is the magistrates' court's task, after a de novo hearing, to decide, on the substantive merits of the case as they stand before the court, whether to uphold the decision of the authority's committee. That is, in effect, what Burton J had said in a passage of his judgment which the Court of Appeal expressly approved.
29. The court also accepted that, where a licensing sub-committee had exercised what amounted to a statutory discretion to attach conditions to a licence, it made good sense that the licensee should have to persuade the magistrates' court that the sub-committee should not have exercised its discretion in the way that it did, rather than that the magistrates' court should be required to exercise the discretion afresh on the hearing of the appeal (see paragraph 49 of the judgment of the court).
30. On the third question the court accepted that the form of appeal provided by section 181 and Schedule 5 of the 2003 Act amply satisfied the requirements of Article 6 of the European Convention on Human Rights.
31. In R(Westminster City Council) v Metropolitan Stipendiary Council and Merran [2008] EWHC 1202 Admin Mitting J held that where a district judge or magistrates' court is considering imposing conditions on the grant or variation of a licence it will almost always be good practice for the conditions being considered to be discussed, at least in outline, by the parties (see paragraph 9 of the judgment).
32. In R(Daniel Thwaites PLC) v the Wirral Borough Magistrates' Court and others [2008] LLR 536, Black J, as she then was, endorsed the principle that guidance issued by the Secretary of State to licensing authorities on the discharge of their functions under the 2003 Act does not have to be followed. If it is not followed, however, the licensing authority must give "full reasons" for not doing so.

33. In Flannery & Another v the Halifax Estate Agencies Limited [2000] 1 WLR 337 the Court of Appeal considered the general duty of a judge to give reasons for his decision. Giving the judgment of the court, Henry LJ said (at page 381):

"that today's professional judge owes a general duty to give reasons is clear, see R v Knightsbridge Crown Court ex parte International Sporting Club London Limited [1982] QB 304, although there are some exceptions. It does not always or even usually apply in the magistrates' court nor in some areas where the court's decision is more often than not a summary exercise of discretion, in particular orders for costs, with a general duty, see for example R v Harrow Crown Court ex parte Dave [1994] 1 WLR 98... which... contains a useful review of earlier authority."

See also R(Mathialagan) v the London Borough of Southwark Council [2004] EWCA Civ 1689 and McKerry v Teesdale and Wear Valley Justices [2001] ENLR 5.

The issues in the claim

34. For the claimant, Mr Gerald Gouriet QC submits that the District Judge's judgment shows an approach that was wrong in law, contains reasons which are wholly inadequate, and in the result is perverse.

Unlawfulness

35. Mr Gouriet submits that the District Judge failed to follow the correct approach to be taken by a magistrates' court when hearing an appeal from a decision of a licensing authority under the 2003 Act as explained by the Court of Appeal in its judgment in Hope and Glory. He points out that in his judgment the District Judge had said:

"I start with having to consider if the decision of the committee was wrong."

Mr Gouriet submits that that was not the correct approach. What the District Judge ought to have done was to come to his own conclusion on the merits of the appeal, applying the relevant principles of the Act.

36. I agree. What the District Judge had to do was to consider the evidence before him with the relevant principles in mind. Those principles included the necessity that the licensing objectives be promoted, and proportionality. Bearing in mind the decision of the Council's licensing sub-committee and the significance of that decision as the result of the democratically elected members having applied their minds to the issue, the District Judge nevertheless had to adopt the approach approved by the court in Joffe, Sagnata and Hope and Glory. He had to do this by considering "whether, because he [disagreed] with the decision below in the light of the evidence before him, it [was] therefore wrong" (see per Burton J in paragraph 45 of his judgment at first instance in Hope and Glory).

37. Mr Gouriet also submits, and again I agree, that the District Judge went wrong in appearing to equate the idea of a "wrong" decision with that of an "illegal" decision. It seems clear that the judge considered legality rather than the rightness of the decision itself. Such an approach has been deprecated (see for example the judgment of Edmund Davies LJ in Sagnata at paragraphs 30 to 32). What the District Judge had do

was to consider on the merits whether the decision of the licensing sub-committee ought to be upheld.

38. It may be that the District Judge considered that he was considering only whether the suspension of regulated entertainment was lawful. The legality of that suspension had been called into question on the appeal. But that was not the only issue in the appeal. An important theme in the appeal was the challenge to the restrictions imposed on the licence by the licensing sub-committee on the licence. It was incumbent on the District Judge to come to grips with that challenge. In my judgment he did not.
39. In the appeal the claimant argued that the court should not interfere with the hours of operation originally imposed on the licence. It argued that the conditions ought not to be changed to reflect those imposed on the planning permission. That argument before the District Judge was based on three propositions.
40. The first proposition was that the planning and licensing are separate and distinct regimes. The claimant contended that in deciding whether to cut back the hours of the licence, the Council's licensing sub-committee had to have regard to the guidance issued by the Secretary of State, and the District Judge in his turn also had to have regard to that guidance.
41. The claimant accepts that the guidance does not carry the force of statute. The guidance itself says that the court may depart from it if the circumstances of the case so demand, but what neither a licensing authority nor a magistrates' court is entitled to do is simply to ignore the guidance, either because it does not agree with the Government's policy for regulating licensable activities, or for any other reason. Here, Mr Gouriet relies on the decision of the court in Daniel Thwaites PLC.
42. I understand that at the appeal hearing, counsel for the claimant took the District Judge to the relevant parts of the guidance, in particular those relating to the separation between the planning and licensing regimes. It appears, however, that the District Judge did not mention the guidance at all in his judgment. There is no indication in his judgment that he took the guidance into account.
43. Mr Gouriet submits that if the District Judge had followed the guidance, he would not have interfered with the hours originally allowed in the licence. If, however, the judge had thought it right to depart from the guidance, he ought to have given reasons for doing so.
44. The relevant part of the guidance is in paragraphs 13.64 to 13.68, which I need not set out. It is enough to say that both paragraphs of the guidance draw a clear distinction between the licensing and planning regimes.
45. The second proposition urged by the claimant in arguing that the limits on the operating hours of the premises ought to have been left alone was this: that the premises were already bound by the shorter hours imposed in the planning permission and that a breach of that restriction could be met by an enforcement or breach of condition notice. Thus there was no need for the restriction on the hours in the licence to be changed; an

effective control was already there. Again, so far as I can see, the District Judge did not address the submission made.

46. Thirdly, the claimant said to the District Judge that it wanted the hours originally allowed by the premises licence to be left in place, even though it could not use the premises to the full extent of those hours because it was appealing against the imposition of shorter hours in the planning permission. The claimant, as I understand it, frankly said that it did not want the decision of the Magistrates' Court to influence the outcome of the planning appeal.
47. Mr Gouriet submits that this three-fold argument called for a clear response in the District Judge's judgment, but there was none. That submission, it seems to me, is well-founded.
48. Although the police did not appear in the claimant's appeal in the Magistrates' Court, they made their position clear on the restrictions which they wish to have imposed. The restrictions which the police had suggested to the Council were included in the licensing sub-committee's decision. At the hearing before the District Judge, both in opening and in closing submissions, counsel for the claimant referred to the conditions which the claimant said ought to be removed or amended. He told the District Judge that the claimant did not oppose some of the conditions but did oppose others, because they were incompatible with the style of its operation.
49. Following good practice, the claimant had wanted to discuss the wording of the conditions. The Council's licensing sub-committee had not. In any event, although the District Judge had been addressed in detail on the merits and wording of the conditions, he gave no reasons for rejecting the claimant's submissions in this part of their case in their entirety.
50. The guidance issued under the 2003 Act sets out detailed advice on the imposition of conditions on licences. General advice is provided in paragraphs 10.4 to 10.6, which I need not set out, and specific advice is given in paragraphs 10.11 through to 10.17. That advice contains comments on proportionality. Conditions must be necessary to promote the licensing objectives. They must be precise, they must be enforceable and they must be proportionate.
51. Of the 14 conditions imposed by the Council's licensing sub-committee, eight, namely conditions 1, 3, 4, 5, 7, 10, 11 and 12 were agreed. Conditions 2, 6, 8, 9, 13 (a) and (e) were in dispute.
52. Condition 2 states:

"Signs are to be prominently displayed inside and outside the premises warning customers that drug use on the premises will not be tolerated. There will be random searching on entry and police may be called if drugs are found."

The claimant opposed this condition, requesting that signs ought only to be required inside the premises, because it had never been suggested that the claimant's operation had led

to problems associated with legal drugs. That submission was not addressed by the District Judge.

53. Condition 6 states:

"No person shall be allowed to leave the premises whilst in possession of any drinking vessel or open glass bottle, whether empty or containing beverage. Bottle bins shall be provided at the exit doors and staff shall prevent bottles and glasses being taken from the premises."

The claimant resisted this condition. It said that the condition was unnecessary and inappropriate, given the style of the operation. The claimant did not object to preventing drinks being taken out of the premises, but the condition needed to be made more precise. Again, the District Judge appears not to have dealt with the submission made.

54. Condition 8 states:

"The premises will have door supervisors of both sexes on duty at all times when regulated entertainment is taking place. All door supervisors working outside the premises or whilst engaging in the dispersal of patrons at the close of business shall wear high visibility clothing."

55. The claimant protested that it was not always possible to get female door supervisors. If there was no female door supervisor on duty, but only a male one, the condition would be breached. Such a breach might lead to a fine being imposed on the claimant. The requirement that there should be door supervisors on duty at all times when regulated entertainment was taking place in the premises was also too onerous. The claimant accepted that the condition might properly require door supervisors to be present at certain specified times on Fridays and Saturdays, but not otherwise. Again, the points made on behalf of the claimant were not tackled by the District Judge.

56. Condition 9 states:

"All staff should be trained in dealing with persons who are incapacitated through the use of drugs or the combined effects of drugs and alcohol."

The claimant objected to the breadth of this condition in its requirement that all of its staff should be trained to deal with people who became incapacitated by the use of drugs or drugs and alcohol. The claimant pointed out that in the restaurant trade many part-time staff, including students, are employed, and to have to train everybody who worked in the premises to deal with people who were incapacitated would be too burdensome. The claimant wanted the condition changed to stipulate that all front of house staff employed for more than three months would have to have the required training. Yet again, the District Judge seems not to have dealt with the argument put to him.

The relevant parts of condition 13 state:

"A CCTV system should be installed or the existing system maintained covering areas inside and outside of the club. The system will incorporate a camera covering each of the entrance doors and be capable of providing an image that is regarded as "identification standard":

- A. To obtain a clear head and shoulders image of every person entering the premises on the CCTV system. Persons entering the premises should be asked to remove headwear unless worn as part of religious observance...
 - E. A staff member from the club that is conversant with the operation of the CCTV system will be on the premises at all times the club is open to the public. That staff member will be able to show police recent data or footage with the absolute minimum of delay when requested. This data or footage reproduction should be almost instantaneous."
57. The claimant objected to part a. of the condition, arguing, as an example, and perhaps an extreme one, that it would apply to women who were dining at the premises after Ladies' Day at Ascot. This was a condition, said the claimant, which might be imposed on licences at night clubs which attracted customers who wore hoodies or baseball caps, but not the type of establishment the claimant had here. Once again, the substance of the argument appears not to have been dealt with by the District Judge. The claimant argued that part e. of condition 13 was so unclear as to be void. The expressions "the absolute minimum of delay" and "almost instantaneous" were obscure. The claimant contended for the words "or at any rate within an hour" to be added to make this part of the condition more precise. This point, too, went without comment or conclusion in the District Judge's judgment.
58. The District Judge is not recorded as having dealt explicitly with any of the disputed conditions. For him to say simply that he was unable to conclude that the decision of the Council's licensing sub-committee was wrong does not seem to me to have been enough. Certainly it is not sufficient for the purposes of disposing of the main issues before the District Judge in the appeal. It was not enough, in my view, for him simply to state that the decision of the Council's committee "complied with the licensing objectives to solve the problems."
59. For the District Judge to say that the requirements of the police were not "illegal" does not seem to me to be sufficient, either. The question here was not one of legality; it was whether specific conditions were necessary and enforceable. That basic issue went undetermined. The District Judge ought to have considered whether conditions were necessary in the light of the advice in the relevant guidance.

Reasons

60. Mr Gouriet submits, and I accept, that it is trite law that a litigant should know why he had won or lost his case. In a case such as this it was not enough, in my judgment, for the District Judge simply to say that the decision taken below was not wrong. He needed to explain why. That does not mean that he needed to provide extensive reasons, but his reasons needed at least to show that he had addressed the main issues before him.
61. The appeal before him had raised three main questions: first, whether regulated entertainment should be suspended for three months, or a shorter period, or at all;

secondly, whether the operating hours of the premises should be cut back; and thirdly, whether the disputed conditions ought to have been imposed either at all or in the form in which they were imposed.

62. In my view one reads the notes of the District Judge's judgment one does not see reasoning sufficient to grapple with those matters, certainly not to the extent that the claimant can understand why in each of those three respects its appeal has failed. The claimant is left without an explanation of why the suspension of regulated entertainment should be left in place. As I have already said, there is no explanation for the judge's rejection of the claimant's argument on conditions. And there is no explanation for the judge apparently having accepted that the operating hours should remain as the Council's sub-committee had left them.
63. In my judgment, therefore, the District Judge was at fault in failing to provide proper and adequate reasons for his decision.

Irrationality

64. Mr Gouriet submits that the District Judge's conclusion that the decision of the Council's licencing committee was not wrong in the decision it made was in the circumstances perverse. The District Judge seems to have fallen into the same errors as had the committee. He could not reasonably have held the committee's decision to be correct. Had he heeded the discipline of giving clear and adequate reasons on the issues in dispute, he would have had to come to grips with those issues. This he did not do. The result, says Mr Gouriet, was an irrational decision. The judgment did not show that the judge had asked himself the right questions or that he had approached them in a rational way.
65. In my judgment there is force in those submissions. The District Judge did not heed the discipline of providing reasons which were clear and adequate for his conclusions and it seems to me that in failing to do so, he did not grapple with the issues themselves.
66. In my judgment his decision was not one that in the circumstances he could reasonably have reached.

Conclusion

67. For all of those reasons, this application succeeds. I shall hear Mr Gouriet as to the appropriate form of relief.
68. MR GOURIET: My Lord, thank you very much. The relief requested is that the matter be remitted to be heard by a differently constituted Magistrates' Court.
69. MR JUSTICE LINDBLOM: That must be right, I think. That is the only form of relief which seems appropriate in the circumstances.
70. MR GOURIET: And there are no applications for costs.
71. MR JUSTICE LINDBLOM: No.

72. MR GOURIET: There is a further matter, arising however. As I indicated during argument, there is being promulgated currently a different interpretation of the Court of Appeal's judgment in the Hope and Glory case, but being promulgated quite widely by leading counsel and it is taking root. We would very much like to be in a position of showing your Lordship's brief explanation of that case, which, with the greatest of respect, is of course correct, as a way of countering the misinterpretation that is widespread now throughout the United Kingdom. The difficulty we have, of course, is the practice direction relating to the citation of authorities, of which I have a copy and will hand to your Lordship in a moment, at face value would prevent our showing the courts your Lordship's judgment, this being an ex parte hearing; there has been no arguing of the case on the other side. Shall I show you the practice direction?

73. MR JUSTICE LINDBLOM: Yes, go on.

74. MR GOURIET: It is possible for your Lordship to make a declaration that would save us from that fate, which I am going to ask for. This will not take long. This is a practice direction which was issued under Lord Chief Justice Woolf in 2001 and as you will see with the concurrence of Lord Phillips, Butler-Sloss LJ and the Vice Chancellor. Being so, the headnote is of more importance than a headnote provided as a summary by one of the writers of the Law Report. I start with the headnote. "Practice: civil proceedings: citation of authorities. Categories of judgment to be cited only if clearly purporting to develop law." That is the way it is put in the headnote. In the introduction, paragraph 1 deals with the problem:

"the substantial growth in the availability of reports, and the amount of paper we now produce".

Paragraph 2:

"The latter issue is a matter of a rapidly increasing importance. Recent and continuing efforts to increase the efficiency and thus reduce the costs of litigation, whilst maintaining the interests of justice, will be threatened if the courts are burdened with a weight of inappropriate and unnecessary authority. Paragraph 3: with a view to limiting the citation of previous authority to cases which are relevant and useful to the court. The practice direction lays down [I summarise] a series of rules."

75. Those preliminaries are important, because they allow one to give a wide interpretation to category 6(1): "A judgment falling into one of the categories referred to in paragraph 6(2) below...", can I take you immediately there?

76. MR JUSTICE LINDBLOM: Yes.

77. MR GOURIET: It is the next page. "Applications attended by one party only", so we are within 6(1).

78. MR JUSTICE LINDBLOM: Yes.

79. MR GOURIET: "...may not in future be cited before any court unless it clearly indicates this it purports to establish a new principle or extent the present law". On face

value we fall outside that, but if you give the words a wide meaning bearing in mind the headnote and the purpose of this practice direction, I suggest, is the correction of the interpretation given to a very recent Court of Appeal case, that is causing extensive problems throughout the Kingdom. It might possible to squeeze this matter in to that extent.

80. MR JUSTICE LINDBLOM: Well, on the face of paragraph 6(1) what I have done is very definitely not to purport to establish a new principle or to extend the present law, merely to explain my understanding of it and to apply it, which I believe I have done.
81. MR GOURIET: But if one goes back to the headnote, which is put in different words and as part of the practice direction it may be that your Lordship feels he has, in explaining a very recent Court of Appeal case, assisted in the development of the law.
82. MR JUSTICE LINDBLOM: I do not know whether that might not be presumptuous of me. I would wish to help you if I could, Mr Gouriet, but at the same time I do not want to transgress here.
83. MR GOURIET: 6(1) goes on in respect of judgments delivered after the date of this direction there must be an indication from your Lordship, an express statement, to the effect that as I say, you are, I would respectfully put it, assisting in the development of the law by its explanation in the knowledge that what is being said --
84. MR JUSTICE LINDBLOM: I would say this: that the decision of the Court of Appeal in Hope and Glory, to me, is perfectly clear. The passage to which you referred in paragraph 47, what Toulson LJ said at the end of that paragraph, seen in context is absolutely plain. As I have emphasised in the judgment I have just given, the court expressly endorsed what Burton J said in the passage of his judgment which I have set out. Now, if others take a view that is different from that and choose to put a different interpretation on what I think is the perfectly clear judgment of the Court of Appeal in Hope and Glory, the question here is whether I am prevented from adding the benefit of my judgment to that debate, if debate it is.

"A judgment falling into one of the categories referred to in paragraph 6(2) below may not in future be cited before any court unless it clearly indicates that it purports to establish a new principle or to extend the present law.

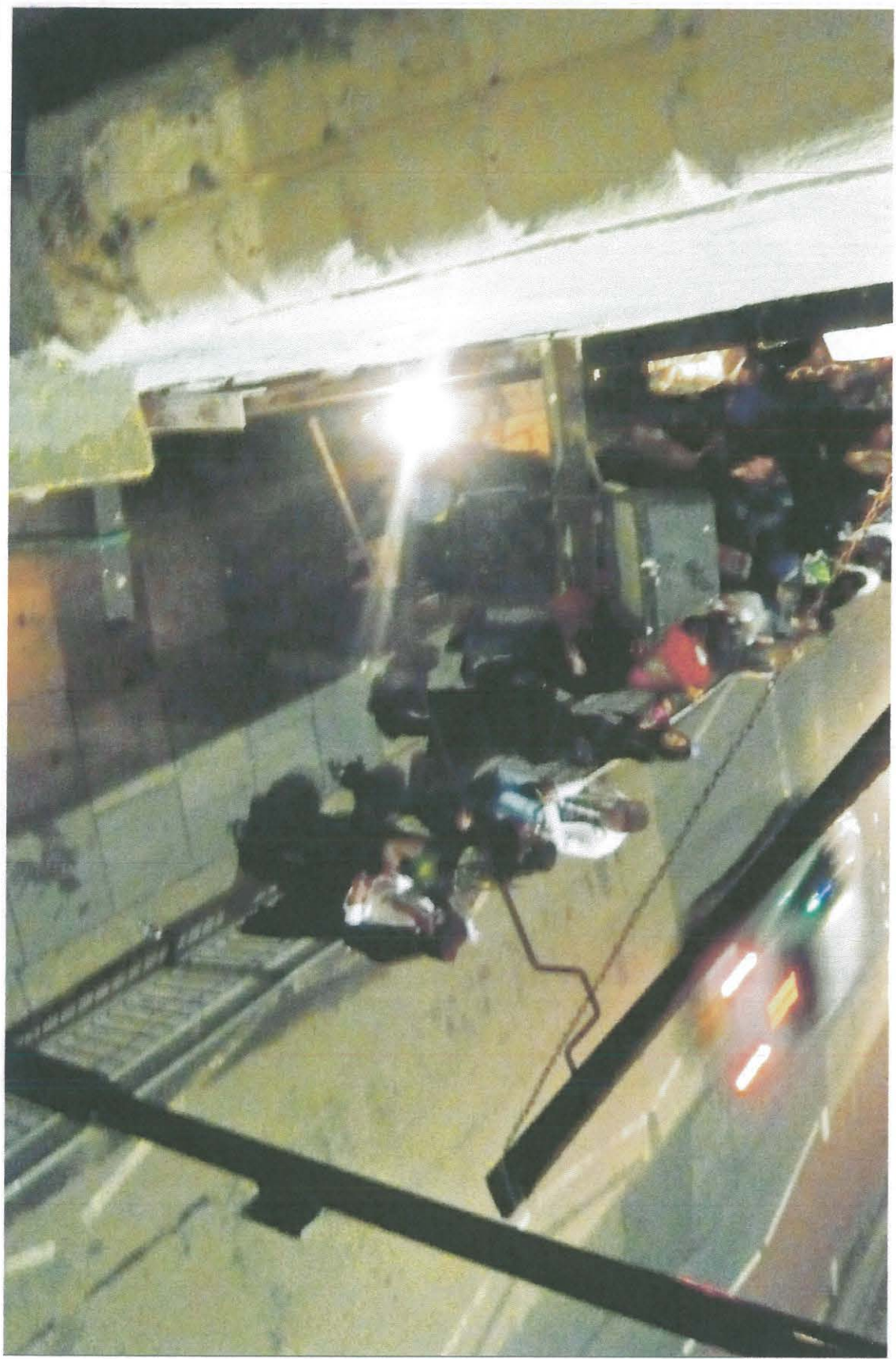
In respect of judgments delivered after the date of this direction that indication must take the form of an express statement to that effect."

In other words you are inviting me expressly to say that I have purported to establish a new principle or to extend the present law.

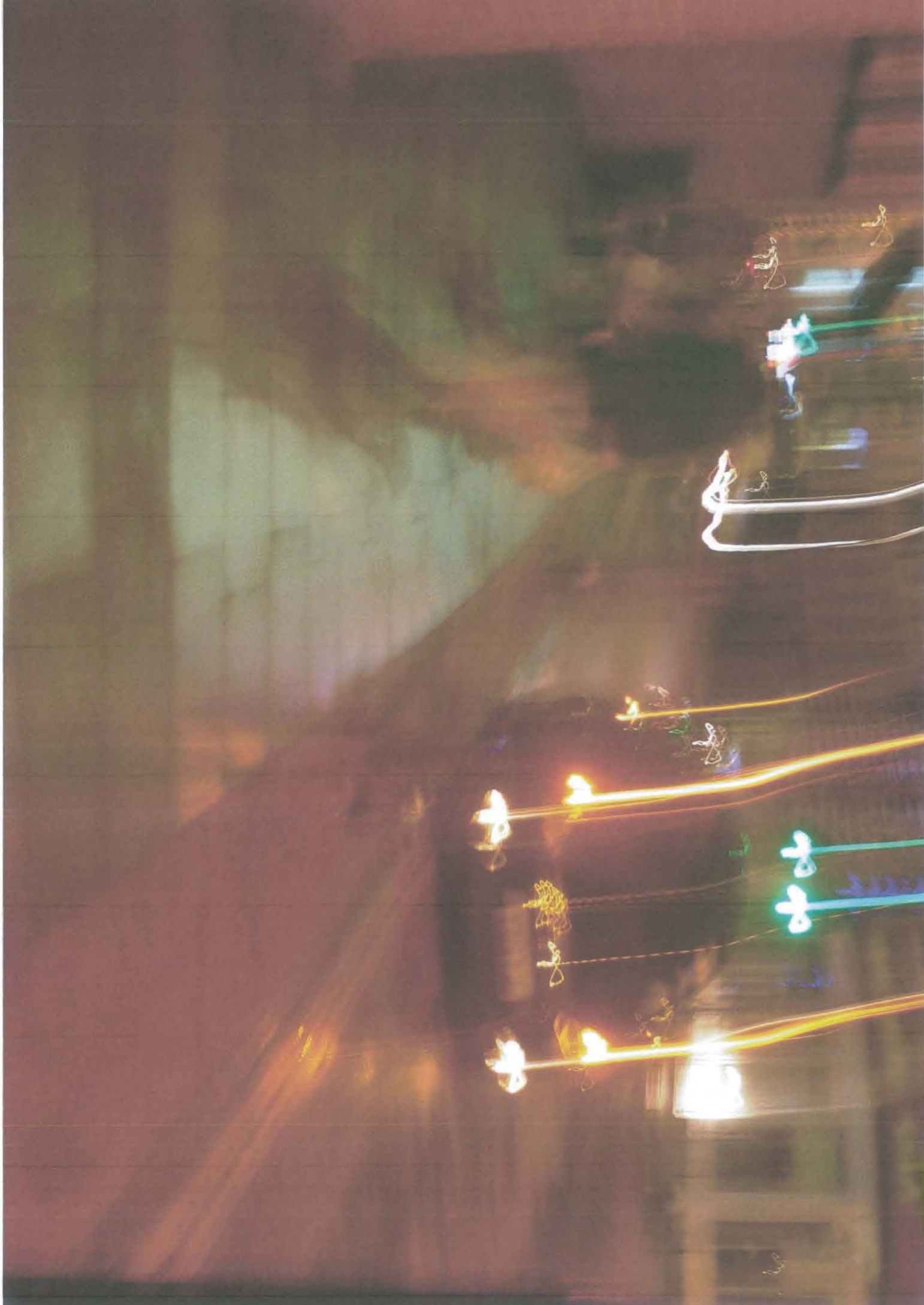
85. MR GOURIET: As I began by saying, only if one gives those words a very wide meaning, assisted by the purpose of this practice direction and the headnote. If I can just add, before your Lordship decides the matter, that there is this alternative argument, as it were, that there are two species of practice directions: those issued under the auspices of the Supreme Court and those which just arise, as this one did,

handed down by the Lord Chief Justice. Practice directions falling into the latter category are said to be of guidance and may be departed from in the interests of justice. Some support for that proposition --

86. MR JUSTICE LINDBLOM: Yes, the first point that occurs to me is this: you have Court of Appeal authority, recent Court of Appeal authority, in Hope and Glory. In my judgment that is perfectly authoritative on a central issue in the case before me. I am not seeking to put any gloss on what the court said in Hope and Glory, to expand the law beyond that. What I am prepared to say, which is effectively what I have already said to you, is that I have striven to understand and underline that recent authority in a way which effectively reinforces the present law. I can put it that way. For a first instance judge to say that he has extended the law when he believes that he has applied the law established by the Court of Appeal I think might be seen as disingenuous.
87. MR GOURIET: If your Lordship was prepared to ponder whether you had developed the law.
88. MR JUSTICE LINDBLOM: I do not know that I have developed the law. I have applied the law.
89. MR GOURIET: It is not what --
90. MR JUSTICE LINDBLOM: It is always tempting for a judge to think that he might have developed the law. I am prepared to resist that temptation, Mr Gouriet, on this occasion.
91. MR GOURIET: Can I take the devil's role and tempt you further just with this: the law now is not what it was this morning. It is developed.
92. MR JUSTICE LINDBLOM: Well, in so far as our jurisprudence is a wonderfully dynamic thing, that must always be the case.
93. MR GOURIET: That is all I need, thank you very much.
94. MR JUSTICE LINDBLOM: I think that is all I can give you. I am very grateful to you, Mr Gouriet. Thank you very much for your submissions. I have dealt with everything?
95. MR GOURIET: Yes, thank you.



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Appendix 7

Andrew Heron

From: Andrew Heron on behalf of Licensing
Sent: 02 December 2013 11:33
To: Andrew Heron
Subject: FW: Objection to new licence at 19-23 Bethnal Green Road

-----Original Message-----

From: Robin Fellgett [REDACTED]
Sent: 01 December 2013 13:36
To: Licensing
Cc: Jago Action Group; [REDACTED]
Subject: Objection to new licence at 19-23 Bethnal Green Road

Dear Sirs,

I write to object to the grant of a private members club licence in response to the application received by the authority on 20th November 2013 for the following address:

1st Floor
19-23
Bethnal Green Road
London
E1 6LA

The address is within the newly designated saturation zone. There is therefore a rebuttable presumption against granting this license, which involves the supply of alcohol. The applicants - who are listed as a 'non-trading' company at an address which appears to be that of an accountants - offer no reason why their plans are so exceptional that they should override the presumption against granting such a license. In fact, they propose to supply alcohol until 3am in the morning, which in my experience and that of many other local residents causes the most public nuisance and petty crime and disorder (public urinating, vomiting, noise, drug-dealing, damage to property etc).

My objections are therefore on grounds of the cumulative effect on all four licensing objectives, i.e. the rationale for the saturation zone recently adopted by the Council, and additionally on the grounds of an especially serious impact on the public nuisance and crime and disorder objectives due to the proposed hours.

I am copying this e-mail to my local residents association and neighbourhood policing team.

yours faithfully.

Robin Fellgett
[REDACTED]
[REDACTED]
[REDACTED]

Appendix 8

Andrew Heron

From: Jonathan Fitch [REDACTED]
Sent: 03 December 2013 15:25
To: Andrew Heron
Subject: Re: Objection to licence application: 1st Floor, 19-23 Bethnal Green Road

Dear Andrew -

My address is: [REDACTED]

Regards,
Jonathan Fitch.

Sent from my device

On 3 Dec 2013, at 15:07, Andrew Heron [REDACTED] wrote:

Dear Mr Fitch,

To validate your representation, please provide me with your home address.

I look forward to hearing from you,

Regards,

Andrew Heron
Licensing Officer

Licensing Section
London Borough of Tower Hamlets
Mulberry Place (TC)
6th Floor Mulberry Place
5 Clove Crescent
London, E14 2BG
Tel: 020 7364 2665
Fax: 020 7364 6935
www.towerhamlets.gov.uk

From: Jonathan Fitch [REDACTED]
Sent: 02 December 2013 23:29
To: Licensing
Subject: Objection to licence application: 1st Floor, 19-23 Bethnal Green Road

Dear Sirs -

I write to object to the grant of a private members club licence in response to the application received by the authority on 20th November 2013 for the following address:

1st Floor

19-23

[Bethnal Green Road](#)

[London](#)

[E1 6LA](#)

The address is within the newly designated saturation zone. There is therefore a rebuttable presumption against granting this license, which involves the supply of alcohol. The applicants - who are listed as a 'non-trading' company at an address which appears to be that of an accountants - offer no reason why their plans are so exceptional that they should override the presumption against granting such a license. In fact, they propose to supply alcohol until [3am](#) in the morning, which in my experience and that of many other local residents causes the most public nuisance and petty crime and disorder (public urinating, vomiting, noise, drug-dealing, damage to property etc).

My objections are therefore on grounds of the cumulative effect on all four licensing objectives, i.e. the rationale for the saturation zone recently adopted by the Council, and additionally on the grounds of an especially serious impact on the public nuisance and crime and disorder objectives due to the proposed hours.

I am copying this e-mail to my local residents association and neighbourhood policing team.

Yours faithfully,
Jonathan Fitch.

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

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Appendix 9

Andrew Heron

From: Matt Johnson [REDACTED]
Sent: 03 December 2013 14:45
To: Andrew Heron
Subject: Re: License Application - Lapsang Limited - 19/23 Bethnal Green Road London E1 6LA.

Dear Mr Heron

I should, of course, have included the information that I have lived and worked in Shoreditch for nearly 30 years. I have a young family, including a 19 month old baby. He is regularly kept awake by the shouting and screaming of drunken revellers as they pour out of the bars and stagger up the streets, from Bethnal Green Road and Shoreditch High Street. This, despite the fact we have double glazing installed.

At least three mornings per week when we open our front door we find pools of urine and vomit as well as broken glass directly in front of our hime. We are forced to wheel our baby buggy through this foul detritus, which is a completely a by-product of a 'night time economy' that has spiralled out of control. If this does not constitute the Licensing Conditions "Protection of Children From Harm' and 'Public Safety' then I'm not sure why these conditions was even attached if the local authorities refuse to use common sense in their application.

Crime rates, noise and anti-social behaviour have all increased dramatically since the Licensing Act in 2003 and we regularly witness drug dealing in the streets outside our home between dealers and drunken revellers. We do of course report this to the Police, who admit they have a hard time catching these drug dealers as they keep their drugs in condoms in their mouths and swallow it whenever the police get too near. If this does not come under another the Licensing Objectives 'Prevention of Crime and Disorder' and 'Prevention of Public Nuisance' then, again, I really don't know why they were even attached to the Licensing Act. If there were not thousands of drunken customers from this over abundance of bars then these drug dealers would not now be infesting the streets outside our homes.

A cousin of mine used to be a Licensing Officer for Tower Hamlets and she warned me about the consequences of the Act when it was brought in a decade ago. It seems that all the power now resides with the bar owners. But I do applaud the creation of a new Saturation Zone and would urge Tower Hamlets to join forces with Hackney to ensure there are no gaps between the latter's Special Policy Area.

To continue granting more and more licenses in an area that is already way past saturation point, as in the recent application from Lapsang Limited, is only going to draw more and more drunken revellers into an area that can no longer cope. Even the street cleaners are almost in tears. Therefore I urge the Tower Hamlets to show some backbone and start to stand up for the local community.

We did not move into an area that is over-saturated with bars. The bars moved into an area that already had lots of families living in it. But sadly the local authorities have been so enfeebled by the Licensing Act that they appear beholden to the 'night time economy' and therefore application after application appears to be merrily waved through whilst members of the local community are forced to jump through hoops to prove their lives have been made miserable by the excess of those who descend upon the streets outside our homes in their thousands several nights per week.

I hope the above helps you accept my objection as genuine.

Kind regards

Matt Johnson

Co-chairman Shoreditch Community Association

On 3 Dec 2013, at 15:16, Andrew Heron <Andrew.Heron@towerhamlets.gov.uk> wrote:

Dear Mr Johnson,

Thank you for your email, the contents of which are noted.

Unfortunately I cannot accept this as a valid representation as it does not contain enough information. In order for us to consider your representation, you must make it clear how granting this application will have a relevant impact to one or more of the licensing objectives:

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

It is not sufficient just to send the list of objectives. You should include personal examples of how you are currently affected and how the granting of the license will exacerbate that.

Feel free to add in your opinion in relation to the saturation zone again.

I look forward to hearing from you.

Regards,

Andrew Heron
Licensing Officer

Licensing Section
London Borough of Tower Hamlets
Mulberry Place (TC)
6th Floor Mulberry Place
5 Clove Crescent
London, E14 2BG
Tel: 020 7364 2665
Fax: 020 7364 6935
www.towerhamlets.gov.uk

From: Matt Johnson [REDACTED]
Sent: 02 December 2013 16:58
To: Andrew Heron
Subject: License Application - Lapsang Limited - 19/23 Bethnal Green Road London E1 6LA.

Dear Andrew Heron,

I would like to object in the strongest terms to the application by Lapsang Ltd. for a new premises license for the first floor of 19/23 Bethnal Green Road London E1 6LA.

Shoreditch is already way past saturation point with licensed premises and is suffering the effects of anti social behaviour from the many thousands of 'booze tourists' who now descend upon us several nights per week.

Although I understand that the Council's power to refuse such premises has been weakened by the 2003 Licensing Act I believe there are strong enough grounds to refuse this application on the criteria contained within the Act.

1. the prevention of crime and disorder,

2. public safety,
3. prevention of public nuisance, and
4. the protection of children from harm

These premises are situated in the Brick Lane Area cumulative impact zone and the applicant has not shown through the operating schedule with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced.

I request that the licensing authority reject this application.

Yours sincerely

Matt Johnson
Co-chairman Shoreditch Community Association



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

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Appendix 10

Licensing Officer
Licensing Section
LBTH
6TH Floor Mulberry Place (TC)
5 Clove Crescent
London E14 2BG

Dear Andrew Heron,

We, the Shoreditch Community Association would like to make an objection to the application by Lapsang Ltd. for a new premises license for the first floor of 19/23 Bethnal Green Road London E1 6LA.

The SCA, wishes to object on behalf of all its members on the following basis:

- 1.The premises are situated in the Brick Lane Area cumulative impact zone and the applicant has not shown through the operating schedule with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced.
2. The proposed licensed premises is directly above the Restaurant and late night bar known as Beach Blanket Babylon and the effect of granting this license will create an single huge premises for the supply of alcohol. This area has already reached saturation point for licensed premises. I believe that the granting of this license will be to the detriment of the amenity of the area for local residents.
3. It will have a cumulative impact on an area which is already at breaking point.
4. This license will increase the likelihood of serious problems of disorder and nuisance outside and some distance form the premises, over and above the impact of the premises.

Please confirm receipt of this and reply to [REDACTED]

We cannot emphasize enough that the Shoreditch and Bethnal Green area is at breaking point. We are now working closely with the Met Police and Hackney Council to prevent it breaking. We now need Tower Hamlets to also sit up and protect the residents, which include young families!

Yours sincerely

SCA
Shoreditch

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

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Appendix 11

Andrew Heron

From: Brendon Pinch [REDACTED]
Sent: 02 December 2013 13:44
To: Licensing
Cc: Andrew Heron
Subject: Objection

I write to object to the grant of a private members club licence in response to the application received by the authority on 20th November 2013 for the following address:

1st Floor
19-23
Bethnal Green Road
London
E1 6LA

The address is within the newly designated saturation zone. There is therefore a rebuttable presumption against granting this license, which involves the supply of alcohol. The applicants - who are listed as a 'non-trading' company at an address which appears to be that of an accountants - offer no reason why their plans are so exceptional that they should override the presumption against granting such a license. In fact, they propose to supply alcohol until 3am in the morning, which in my experience and that of many other local residents causes the most public nuisance and petty crime and disorder (public urinating, vomiting, noise, drug-dealing, damage to property etc).

The current licence holders at the above address have continually caused disturbance and disruption to the occupants of the neighbouring properties (noise from their waste disposal activities and patrons leaving/smoking outside the premises) and we have no reason to believe that the current applicant will conduct its business any better.

My objections are therefore on grounds of the cumulative effect on all four licensing objectives, i.e. the rationale for the saturation zone recently adopted by the Council, and additionally on the grounds of an especially serious impact on the public nuisance and crime and disorder objectives due to the proposed hours.

Kind regards

Brendon Pinch
[REDACTED]
[REDACTED]
[REDACTED]

Appendix 12

Marcus Taylor

Andrew Heron
Licensing Officer
Licensing Section
LBTH
6TH Floor Mulberry Place (TC)
5 Clove Crescent
London E14 2BG

Dear Andrew Heron,

I would like to make an objection to the application by Lapsang Ltd. for a new premises license for the first floor of 19/23 Bethnal Green Road London E1 6LA.

I wish to object for the following reasons

The premises are situated in the Brick Lane Area cumulative impact zone and the applicant has not shown through the operating schedule with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced.

The proposed licenced premises is directly above the Restaurant and late night bar known as Beach Blanket Babylon and the effect of granting this license will create an single huge premises for the supply of alcohol. This area has already reached saturation point for licensed premises. I believe that the granting of this license will be to the detriment of the amenity of the area for local residents.

The granting of this license will increase the likelihood of serious problems of disorder and nuisance outside and some distance form the premises, over and above the impact of the premises.

I request that the licensing authority reject this application.

Yours sincerely

Marcus Taylor

Appendix 13

RACHEL WHITEREAD

Andrew Heron
Licensing Officer
Licensing Section
LBTH
6TH Floor Mulberry Place (TC)
5 Clove Crescent
London E14 2BG

Dear Andrew Heron,

I would like to make an objection to the application by Lapsang Ltd. for a new premises license for the first floor of 19/23 Bethnal Green Road London E1 6LA.

I wish to object for the following reasons

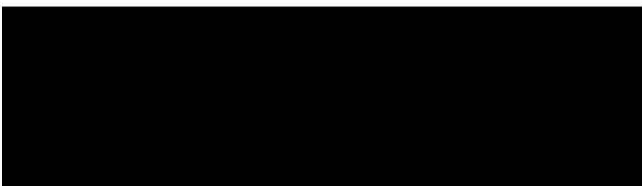
The premises are situated in the Brick Lane Area cumulative impact zone and the applicant has not shown through the operating schedule with supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced.

The proposed licenced premises is directly above the Restaurant and late night bar known as Beach Blanket Babylon and the effect of granting this license will create an single huge premises for the supply of alcohol. This area has already reached saturation point for licensed premises. I believe that the granting of this license will be to the detriment of the amenity of the area for local residents.

The granting of this license will increase the likelihood of serious problems of disorder and nuisance outside and some distance form the premises, over and above the impact of the premises.

I request that the licensing authority reject this application.

Yours sincerely



Appendix 14



**METROPOLITAN
POLICE**

TOTAL POLICING

Tower Hamlets Borough

Licensing Team

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

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

Office: [REDACTED]

Mobile: [REDACTED]

Email: [REDACTED]

Your ref:

6th December 2013

Dear Mr McCrohan,

Re: Application for a Premises Licence
The Private Members Club
19-23 Bethnal Green Road, E1 6LA

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 in relation to alcohol:

Sunday - Wednesday: 1000 - 0100

Thursday - Saturday: 1000 - 0300

The hours the premises are open reflect the above times.

LBTH has recently 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) and also the Shoreditch Triangle, featuring the busiest parts of Tower Hamlets, Hackney and Islington. There has been a steady increase in bars, restaurants and fast food premises. This Private Members Club sits above Beach Blanket Babylon, another licensed premises and has a business connection with BBB.

This part of Bethnal Green Road falls within the Cumulative Impact Zone (CIZ) and also the Shoreditch Triangle, featuring the busiest parts of Tower Hamlets, Hackney and Islington. There has been a steady increase in bars, restaurants and fast food premises.

This Private Members Club sits above Beach Blanket Babylon, another licensed premises and has a business connection with BBB.

The applicant states that the Private Members Club “will not open to the public at large” It may have rules etc of a club but it is not a club that is run for members and the profits return to the members, otherwise it would be applying for a Club Licence.

What are the rules of the club? How long does it take to become a member? Can you join on the night?

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 Private members Club and BBB.

The availability of alcohol until 0300 will mean more people staying for longer within the CIZ, with the potential for ASB and violence.

This area suffers from a high amount of anti-social behaviour, to the extent that police statistics show that between 22:00 hours on Friday and 02:00 hours on Monday the London Borough of Tower Hamlets is second only to Westminster (West End/Soho/Covent Garden) for Anti-Social Behaviour (ASB) calls to Police in London.

The premises also falls within the 'Shoreditch Triangle', which comprises of the tri-borough wards of Haggerston ward (Hackney), Weavers and Spitalfields & Banglatown wards (Tower Hamlets) and Bunhill Ward (Islington) are four wards which are high crime generators for their respective boroughs especially around Theft Person and the Night Time Economy. Tower Hamlets wards contribute 38% of all Theft Person Offences.

Peak times are between Friday 20:00 hours to Saturday 04:00 hours and Saturday 20:00 hours to Sunday 04:00 hours and these 16 hours are responsible for 21% of all the offences.

25% of all crime in Spitalfields and Banglatown ward is committed between 20:00 hours to 02:00 hours Friday to Sunday. 20% of all crime in Weavers ward is committed between 20:00 hours to 02:00 hours Friday to Sunday.

I am hoping to include a statement from Weavers NPT in regards to this area.

The hours applied for falls i. to the above peak hours.

Further to this, two negative effects of the “Night Time Economy” are demonstrated in the data provided by the Director of Public Health. This information was provided to the full Licensing Committee in October 2013.

The data in table 1 highlights both Spitalfields and Banglatown and Weavers wards They both have higher than average ambulance calls out to binge drinking.

Table 1: Lo. do. Ambula. ce Service call outs to bi. ge dri. ki. g

Ward	No of I. cide. ts 2011/12	No of I. cide. ts 2012/13	% Cha. ge over 2011/12 to 2012/13
Spitalfields & Banglatown	145	175	+ 21%
Weavers	82	89	+21%
Tower Hamlets ward average	57	71	+25%

Table 2 shows that both wards are considerably higher than the national average for alcohol related hospital admissions.

Table 2: Alcohol Attributable Admissio. Rates 2011/2012

Ward	Rate per 100,000
Spitalfields & Banglatown	3170
Weavers	2718
England Average	1974

Can they reassure the committee that they will not contribute to ASB when their patrons leave the venue?

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

More people in the CIZ will increase the likelihood for ASB and disorder. I therefore ask the committee to refuse this application as it falls within the CIZ. I understand however that each application is scrutinized by the committee on an individual basis.

If they are to consider granting a licence, I would ask that they consider removing the seasonal variations. Police resources are already stretched over this period and the possibility of a venue remaining open throughout the night is of concern.

Conditions.

1. A drugs policy to be agreed with the Tower Hamlets Police Licensing Unit.

2. Two SIA staff to be employed from 2100 until closing
3. F696 to be completed if there are outside promoters or DJs

Alan Cruickshank PC 189HT

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 **Colin REED**..... URN:

--	--	--	--

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

This statement (consisting of: ... **1**..... 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: 18/12/13.....

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


I am completing this statement in response to the application for a licence, for the premises of Private Members Club, 19-23 Bethnal Green Road, E1.

I am the above named person and have worked for the Metropolitan Police Service for twelve years. For the last five years I have been posted to Tower Hamlets Borough, and have worked on frontline response team, custody, and currently I am in charge of the Weavers Ward Neighbourhood Policing Team which encompasses the area in which this licence application has been made.

As part of my neighbourhood duties we are required to cooperate with local residents and housing organisations, and every three months we have a panel meeting with a cross section of representatives of both. A regular complaint from local residents are the effects caused by nearby licensed venues, namely shouting from people leaving premises, urination in the street, vehicles causing noise nuisance. As a community officer my team and I are committed to trying to improve the area, and are doing our very best to reduce begging, thefts, robberies and drug misuse, all crimes which are attracted to areas that have active night time economies. The area surrounding is also a highly populated area, with both local authority and private housing nearby.

As an officer that regular patrols this zone, my concerns are that the area is already full to bursting. The area where this venue is situated is extremely busy with mini cabs often causing traffic congestion. The venue is also opposite a block of residential flats. Vision is often very limited to see clearly what is going on, especially at night, and we rely heavily on CCTV to try and locate and track incidents as they occur. Venues that have late licenses are a magnet for people, and historically this is where fights and disturbances are located due to the high density of people being present, and persons being under the influence of drink and/or drugs.

In summary, any additional licensed premises will increase activity in an area that is already very saturated. In order to try and deal with the issues in Brick Lane Tower Hamlets Police already have to develop strategies, to try and reduce crime with resources that could be used elsewhere. The area now has the honour of being second only to Westminster for the highest ASB area in the whole of London, and I am confident any additional late opening licenses will simply add more fuel to this reputation.

Signature:  Signature witnessed by:

Appendix 15

Anti-Social Behaviour on the Premises

Licensing Policy

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

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

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

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

Police Powers

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

Guidance Issued under Section 182 of the Licensing Act 2003.

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

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

Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff or agents, but can directly impact on the behaviour of

customers in the immediate vicinity of the premises as they seek entry or leave (1.6).

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

Guidance Issued under Section 182 of the Licensing Act 2003

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

Guidance Issued by the Office of Fair Trading

This relates to attempts to control minimum prices

Other Legislation

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

Appendix 16

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 17

Appendix 17

Acting as a Magnet Attracting the Young who then Engage in Anti-Social Behaviour

General Advice

Members will need to consider whether any of the problems alleged to be associated with young people are the responsibility of the premises. Are they encouraging gangs in any way? If not, there may not be any proportionate conditions that can be applied? Are these patrons of the premises?

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. However, hours may be an important issue.

Licensing Policy

The policy recognises that other legislation or measures may be more appropriate (in relation to the behaviour of patrons who have left the premises) 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):

- 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

Conditions can be imposed for large capacity “vertical consumption” premises (10.40).

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.

Anti-Social Behaviour Act 2003

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 18

Drug Taking

General Advice

Members need to consider the evidence about the exact nature of the alleged problems. Is it being suggested that the premises are encouraging or turning a blind eye in relation to the problem? Are there proportionate measures that can be expected to address the matter, if Members determine there is a problem?

In particular, should CCTV be extended to cover all of the premises open to the public. Should a minimum number of registered door supervisors be maintained whenever the premises is open. How are drugs that are confiscated being disposed of? What checks are being made in less public areas such as toilets?

The applicant should be instituting measures advised by the Police

If Members believe this is a problem they should certainly insist that minors are not admitted to the premises.

If Members believe that there is a substantial problem of drug abuse and it cannot be proportionately address by licensing conditions they should refuse the application.

Members should also bear in mind other Police powers.

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 Pool 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
- CCTV
- Capacity
- Proof of Age scheme
- Crime prevention notices
- Signage
- Seating plans

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

Guidance Issued under Section 182 of the Licensing Act 2003

The government recommends the model pool of conditions adopted by the licensing policy in relation to club safety (Annex E), and the multi-agency approach to “safer clubbing.”

Other Legislation

Anti-Social Behaviour Order Act 2003

This gives the Police the power to close premises where there is the supply of class A drugs and serious nuisance or disorder.

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.

Appendix 19

Drinking Beyond the Permitted Hours

General Advice

Members need to consider the evidence carefully. Is what is being alleged more properly a criminal matter? The Licensing Act 2003 only makes it an offence to supply alcohol after the permitted time. Thus it may perfectly lawful to have patrons on the premise consuming alcohol several hours after it ceased to be legal to supply it (licence terms vary).

However, if this is causing a problem in relation to one of the licensing objectives, which are most likely to be:

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

then, if Members consider it proportionate to do so, they should set appropriate conditions, such as reducing the permitted opening hours.

If Members believe that there is a substantial problem of drinking beyond permitted hours and it cannot be proportionately address by licensing conditions they should refuse the application.

Other Legislation

Planning controls may lay down the hours of operation of the premises.

Appendix 20

Noise While the Premise is in Use

General Advice

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

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

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

Licensing Policy

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

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

However, while all applications will be considered on their merits, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents. (**See Section 12.4**).

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

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

- hours of opening (this needs to be balanced against potential disorder caused by artificially early closing times)
- Whether certain parts should close earlier than the rest (for example a "beer garden", or restricted in their use)
- Whether or not certain activities should have to close at an early hour, for example live music
- Conditions controlling noise or vibration (for example, noise limiters, keeping doors and windows closed).

- Prominent clear and legible notices at all exits requesting the public to respect the needs of local residents and leave the premises and area quietly
- Conditions controlling the use of explosives, pyrotechnics and fireworks
- Conditions controlling the placing of refuse
- Conditions controlling noxious smells
- Conditions controlling lighting (this needs to be balanced against potential crime prevention benefits)

Police Powers

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

Guidance Issued under Section 182 of the Licensing Act 2003

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

Licence conditions should not duplicate other legislation (1.19)

Any conditions should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. (2.20)

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.22) and may address disturbance as customers enter or leave the premises but it is essential that conditions are focused on measures within the direct control of the licence holder.

Other Legislation

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

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

Appendix 21

Access and Egress Problems

Such as:

Disturbance from patrons arriving/leaving the premises on foot

Disturbance from patrons arriving/leaving the premises by car

Lack of adequate car parking facilities

Close proximity to residential properties

Comment

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

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

General Advice

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

The hours of operation also need to be considered.

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

Licensing Policy

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

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

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

However, while all applications will be considered on their merits, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents. (**See Section 12.10**)

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

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

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

Guidance Issued under Section 182 of the Licensing Act 2003

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

Licence conditions should not duplicate other legislation (1.19).

Any conditions should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. (2.20)

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

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

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.22) and may address disturbance as customers enter or leave the premises but it is essential that conditions are focused on measures within the direct control of the licence holder.

Appendix 22

Noise Leakage from the Premises

General Advice

Extending hours may bring issues about noise leakage to the fore, as many premises are close to residential properties (or even sometimes commercial).

The obvious areas for Members to consider, if they believe there is a problem and it is proportionate to consider conditions are:

- Can internal works, actions or equipment reduce the noise leakage
- Does the problem justify curtailing the activities that are licensed. If Members are minded to do this they must ensure conditions are clear and readily enforceable. For example “Jazz Music Only” is not capable of legal definition and is unenforceable.
- Does the problem justify limiting the hours or place of particular activities. For example “no music in the beer garden at any time and no music past 22:30hrs” although the premises can stay open until 01:00hrs.

Members also need to bear in mind the statutory exemptions under the Act (see below).

Licensing Policy

The Licensing Authority expects applicants to have sought advice and to be able to explain how they will address problems. **(See Sections 8. 1-2)**, especially where a negative impact is likely on local residents or businesses **(See 12.1 for core licensing hours)**.

The Licensing Policy recognises that staggered hours can make a positive contribution to alcohol related issues but that consideration will be given to imposing stricter conditions in respect of noise control where premises are close to residents. **(See 12.4)**.

The Licensing Authority will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Pool of Conditions relating to public nuisance. **(See Appendix 2 Annex G of the Licensing Policy)**. In particular Members may wish to consider the following: (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 be restricted in their use
- Whether or not certain activities should have to close at an early hour, for example live music
- Conditions controlling noise or vibration (for example, noise limiters, keeping doors and windows closed).

- Prominent clear and legible notices at all exits requesting the public to respect the needs of local residents and leave the premises and area quietly
- Conditions controlling the use of explosives, pyrotechnics and fireworks

Police Powers

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

Licensing Act 2003

Schedule 1 Part 2 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.

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.”

Section 177 (4) provides that where a premises licence (or club) has a capacity of not more than 200 and the only music is unamplified live music between 08:00hrs and midnight, no additional conditions should be set relating to the music.

Section 177 can be disapplied on a licence review if it is proportionate to do so.

Public Nuisance Guidance issued under Section 182 of the Licensing Act 2003

The Licensing Policy has adopted the recommended Pool of Conditions (13.20).

The prevention of the public nuisance could include low level nuisance, perhaps affecting a few people living locally (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).

It may be appropriate to require take-aways to provide litter bins. (2.40).

Other Legislation

Environmental Health Officers have extensive powers under the Environmental Protection Act 1990 to control a noise nuisance, including a power of immediate closure.

Appendix 23

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 24

Appendix 24

Licensing Policy Relating to Hours of Trading

All applications have to be considered on their own merits.

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

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

(see 12.8 Of the licensing policy)

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

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

(see 12.8 of the licensing policy)

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

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