

Report to	Licensing sub committee 17 April 2014	Item
Report of	Head of citywide services Licensing Act 2003:	3
Subject	Application for the Grant of a Premises Licence – 31 Stephens Road Norwich NR1 3SP	

Purpose

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider the application for the grant of a Premises Licence in respect of 31 Stephens Road Norwich NR1 3SP following the receipt of relevant representations.

Recommendation

That members determine the application to grant a Premises Licence in respect of 31 Stephens Road Norwich NR1 3SP in accordance with the:

- Licensing Act 2003;
- Guidance issued under Section 182 of the Licensing Act 2003; and
- Norwich City Council Statement of Licensing Policy.

Corporate and service priorities

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

None.

Ward/s: All wards

Cabinet member: Councillor Stonard – Environment, development and transport

Contact officers

Ian Streeter, licensing manager

01603 213232

Background documents

None

Report

The application

1. The applicant is Mrs Gunay Sert of 79 Plantsman Close Norwich NR2 2NJ.
2. The application seeks to allow the licensable activity of the sale by retail of alcohol for consumption off the premises.
3. The proposed standard days and hours for the licensable activity is:

the sale by retail of alcohol (for consumption off the premises)

Monday	0800 – 2300
Tuesday	0800 – 2300
Wednesday	0800 – 2300
Thursday	0800 – 2300
Friday	0800 – 2300
Saturday	0800 – 2300
Sunday	0800 – 2300

4. The opening hours requested are:

Monday	0800 – 2300
Tuesday	0800 – 2300
Wednesday	0800 – 2300
Thursday	0800 – 2300
Friday	0800 – 2300
Saturday	0800 – 2300
Sunday	0800 – 2300

5. The steps proposed to promote the licensing objectives together with a plan of the premises are attached at appendix A to the report.

Background

6. These premises have previously held a Licensing Act 2003 premises licence which was the subject of a review application submitted by Trading Standards and was considered by the licensing authority's licensing sub-committee on 21 June 2013. The sub-committee resolved to remove the Designated Premises Licence Supervisor, suspend the licensable activity of the sale of alcohol at the premises for a period of three months and imposed a number of conditions. A copy of the decision notice is attached at appendix B to the report.
7. The sub-committee's decision was subsequently appealed to the Norwich Magistrates' Court who determined that the premises licence should be revoked. A copy of the Magistrates' Court judgement is attached at appendix C to the report.

Relevant representations

8. The responses from the Responsible Authorities are as follows:

Police – representations received (see appendix D).

Environmental Protection – no representations.

Fire Officer – no representations.

Planning Officer – no representations.

Area Child Protection Committee – no representations.

Trading Standards – representations received (see appendix E).

Primary Care Trust – no representations

9. One representation objecting to the application has been received in respect of the application with concerns which appear primarily to relate to the licensing objectives of the prevention of crime and disorder and the protection of children from harm and three representations have been received in support of the application. Copies of these representations are attached at appendices F and G to the report respectively.

Norwich City Council Statement of Licensing Policy

10. Attached at appendix H are the elements of the City Council's local Licensing Policy which are considered to have a bearing upon the application:

National Guidance (issued under section 182 of the Licensing Act 2003)

11. Attached at appendix I are the elements of the National Guidance issued by the Secretary of State that are considered to have a bearing upon the application.

Summary

12. In determining the application with a view to promoting the licensing objectives the Sub-Committee must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives (i.e. the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm);
- the representations (including supporting information) presented by all the parties;
- the guidance issued under Section 182 of the Licensing Act 2003 (National Guidance); and
- the Council's own statement of licensing policy.

13. The Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- Grant the application as asked;
- Modify the conditions of the licence by altering or omitting or adding to them;
- Reject the whole or part of the application

14. The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be appropriate in order to promote the licensing objectives.

15. The representations received appear to relate to issues that fall under the licensing objectives of the prevention of crime and disorder and the protection of children from harm. The Sub-Committee is directed to paragraphs 20 and 26 of the local licensing policy at appendix H which contain examples of factors that impact on the licensing objectives that the applicant could consider when addressing these issues. These paragraphs also contains examples of control measures that may be taken into account in operating schedules having regard to the type of premises and/or the licensable activities.

16. The Sub-Committee is also reminded of the contents of appendices 2, 3, 4 and 5 of the local licensing policy (not re-produced in this report) which contain pools of model conditions relating to the four licensing objectives.

St. Stephens Off Licence Proposed Conditions

1. There shall be no adult entertainment or services, activities or matters ancillary to the use of the premises that may give rise to concern in respect of children.
2. Prominent, clear and legible notices shall be displayed at all public exits from the premises requesting customers respect the needs of local residents and leave the premises and area quietly. These notices shall be positioned at eye level and in a location where those leaving the premises can read them.
3. A digital CCTV system must be installed in the premises complying with the following criteria: (1) Cameras must be sited to observe the entrance and exit doors both inside and outside, the alcohol displays, and floor areas; (2) Cameras on the entrances must capture full frame shots of the heads and shoulders of all people entering the premises i.e. capable of identification; (3) Cameras overlooking floor areas should be wide angled to give an overview of the premises; (4) Be capable of visually confirming the nature of the crime committed; (5) Provide a linked record of the date, time, and place of any image; (6) Provide good quality images - colour during opening times; (7) Operate under existing light levels within and outside the premises; (8) Have the recording device located in a secure area or locked cabinet; (9) Have a monitor to review images and recorded picture quality; (10) Be regularly maintained to ensure continuous quality of image capture and retention; (11) Have signage displayed in the customer area to advise that CCTV is in operation; (12) Digital images must be kept for 31 days; (13) Police will have access to images at any reasonable time; (14) The equipment must have a suitable export method, e.g. CD/DVD writer so that the police can make an evidential copy of the data they require. This data should be in the native file format, to ensure that no image quality is lost when making the copy. If this format is non-standard (i.e. manufacturer proprietary) then the manufacturer should supply the replay software to ensure that the video on the CD can be replayed by the police on a standard computer. Copies must be made available to Police or authorised local authority employees on request.
4. Signs shall be prominently displayed on the exit doors advising customers that the premises is in a 'Drinking Control Area' and that alcohol should not be taken off the premises and consumed in the street. These notices shall be positioned at eye level and in a location where those leaving the premises can read them.
5. All staff shall receive induction and refresher training (at least every three months) relating to the sale of alcohol and the times and conditions of the premises licence.
6. All training relating to the sale of alcohol and times and conditions of the licence shall be documented and records kept at the premises. These records

shall be made available to the Police and/or Local Authority upon request and shall be kept for at least one year.

7. Children under the age of 14 years shall not be admitted to the premises after 21:00 unless they are accompanied by an adult.
8. The Local Authority or similar proof of age scheme shall be operated and relevant material shall be displayed at the premises. Only passport, photographic driving licences or ID with the P.A.S.S. logo (Proof of Age Standards Scheme) may be accepted.
9. A written record of refused sales shall be kept on the premises and completed when necessary. This record shall be made available to Police and/or the Local Authority upon request and shall be kept for at least one year from the date of the last entry.
10. The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers.
11. The premises licence holder shall ensure that all receipts for goods bought are kept together in a file or folder as evidence that they have been brought into the UK through legal channels.

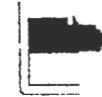
Receipts shall show the following details:

- (1) Seller's name and address;
- (2) Seller's company details, if applicable;
- (3) Seller's VAT details, if applicable. Copies of these documents shall be retained on the premises for no less than 12 months and shall be made available to police or authorised officers of the council on request within five working days of the request.

12. An ultra violet light will be used at the store to check the authenticity of all stock purchased which bears a customs stamp.
13. An incident book shall be used to record all instances of public disorder. This record shall be made available to Police and/or the Local Authority upon request. This book shall be kept for one year after the last entry.
14. A Personal Licence holder shall be present on the premises and supervise the sale of alcohol throughout the permitted hours for the sale of alcohol.

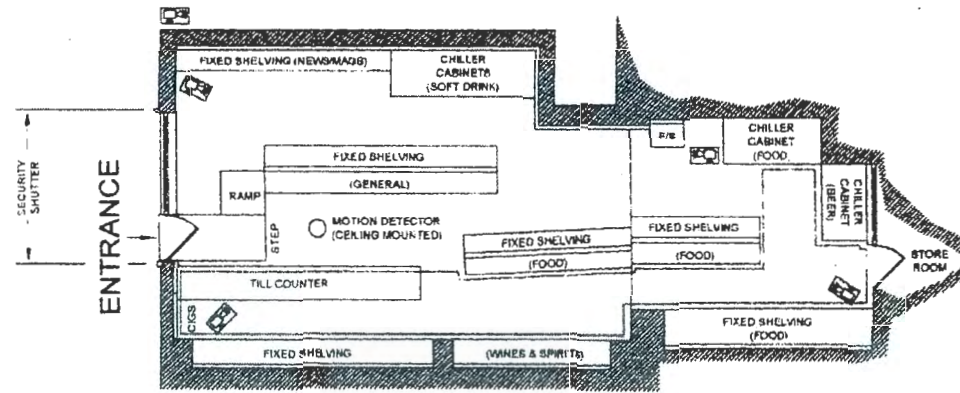
DO NOT SCALE FROM THIS DRAWING -

Newmarket Road



St. Stephen's Square

SITE PLAN 1:100



KEY

CCTV CAMERA

SALE/SUPPLY OF ALCOHOL

1) DO NOT SCALE EXCEPT FOR PLANNING PURPOSES. USE FIGURED DIMENSIONS ONLY. ALL DIMENSIONS TO BE CHECKED ON SITE BEFORE COMMENCEMENT OF WORK.

2) WHERE APPLICABLE THIS DRAWING SHOULD BE READ IN CONJUNCTION WITH OTHER CONSULTANT'S DRAWINGS.

3) PLEASE CHECK THAT THE DRAWING IS OF THE LATEST REVISION

REV	DATE	DETAILS	DRAWN
A	19/07/05	ISSUED FOR REVIEW	AK6

PROJECT TITLE
**ST. STEVEN'S OFF LICENCE
NORWICH**

DRAWING TITLE	SCALE
Existing Floor Plans	1:100
DATE	19 July 2005
DRAWN AKP	CHECKED
DWG NO.	REV A

Stylemark Designs Ltd.
65 Saracen Road, Haverdon, Norwich
Norfolk NR8 6PB, ENGLAND
00 44 1803 483148 PHONE



NORWICH City Council

NOTICE OF DETERMINATION

Date of Hearing: 21 June 2013

Licence Type: Review of a premises licence

Name of Applicant: Norfolk County Council (Trading Standards)

Name of Premises: Norwich Mini Market and Off Licence.

Postal address of Premises: 31 St Stephens Road, Norwich NR1 3SP

Licensing Sub-Committee: Councillors Button (Chair) Henderson and Maxwell

Other Persons Present: Mr Ali Capti, Mr Mehmet Sert; Mr Duncan Harris and Mr Matthew Lucking of Trading Standards, Norfolk County Council and Jeremy Brown and Michelle Bartrum of Norfolk Constabulary; Mr Tony Shearman of the Environmental Protection Section of Norwich City Council, Mr Ian Streeter (Licensing Manager); Mr D Lowens and Ms R Thompson of nplaw

DETERMINATION

1. The application to vary the premises licence to specify Mr Mehmet Sert as the designated premises supervisor and the application to transfer the premises licence to Mr Mehmet Sert, both opposed by the Norfolk Constabulary, were withdrawn by Mr Ali Capti prior to being considered.
2. The sub-committee then heard the application by Norfolk County Council, Trading Standards service to review the premises licence in respect of 31 St Stephens Road, Norwich.

Councillors heard from Mr Ian Streeter who presented the report regarding this application to review the premises licence. He referred the councillors to their range of powers and noted that the matter was previously listed for a review on 24 April but was unable to proceed on that day due to that sub-committee not being certain that the respondent to the review had been properly served.

Norfolk County Council, Trading Standards service (Duncan Harris) then addressed the committee regarding the reasons for this review being their concern regarding a number of criminal offences involving the sale of alcohol to under age children covering the last two

years and more and summarised the matters contained on pages 32 and 33 of the agenda, emphasising an incident which occurred on Thursday 25 June 2009 when a 15 year old male volunteer was able to purchase two cans of Fosters lager, an incident on 16 February 2011 when counterfeit bottles of Smirnoff Vodka were discovered behind kick boards for the shelving units, together with the discovery of cigarettes, hand rolling tobacco, spirits and wine where it was believed the duty had been evaded, an incident on 22 February 2011 when a 13 year old female volunteer was able to purchase a bottle of WKD Original Blue and an incident in December 2012 when a 17 year old girl was able to purchase a bottle of vodka from these premises and due to its consumption subsequently required medical intervention at hospital. Mr Harris spoke regarding the warnings given to the business, including warning letters issued in both English and Turkish and mentioned that during a visit on 9 March 2012 to deliver a warning letter to the premises (given to Mr Sert) officers noted the sale of alcohol to a person who appeared to be under age without any challenge being made by Mr Sert. Comments made by Mr Sert during his interview on 17 June 2011 were also noted. Mr Harris also mentioned the difficulties which had been found attempting to serve Mr Capti with papers due to difficulty in obtaining his correct location.

It was agreed that on 8 June 2012 one young volunteer was refused service of alcohol.

Mr Harris mentioned that it was the experience of Norfolk County Council trading standards that Mehmet Sert has held himself out to be the sole trader and the person responsible for these premises in discussions with trading standards.

The councillors then heard from the Norfolk Constabulary who confirmed that they supported the need for a review of these premises because the premises were not being run correctly. Information continued to be received, prompting test sales to take place. In the police's view the sale of vodka to the hospitalised child was not a one off mistake but part of a series of problems indicating that there needed to be changes to management and stated the information from the 17 year old who had purchased the vodka was that she had visited the shop on four separate occasions when she was 16 without being requested to provide identification. The police referred councillors to their proposed conditions.

Mr Ali Capti when asked if he wished to ask questions of Trading Standards or Norfolk Constabulary following their presentations said that he did not wish to do so in either case.

Mr Ali Capti then spoke to Committee and in response to a question from nplaw (D Lowens) confirmed (after speaking to Mr Sert in Turkish) that it was correct that on 25 June 2009 a fixed penalty notice had been issued to a member of staff regarding illegal sale of alcohol, it was agreed that on 16 February 2011 concealed bottles and cigarettes had been found, it was agreed that on 22 February 2011 a member of staff at the premises had sold alcohol to an under age person, it was agreed that Mr Sert had confirmed when questioned by Trading Standards that at that date no formal process to record refusals existed (though one has subsequently been prepared) and that no formal training to members of staff existed and Mr Sert confirmed via Mr Capti that these were the answers he had given. Mr Capti agreed that a 17 year old had been able to purchase vodka from the premises in December 2012 and this had led to a further fixed penalty notice being issued to a member of staff in respect of the illegal sale of alcohol to an under age person. Mr Capti was directed to the conditions presented by the Norfolk Constabulary on page 69 of the agenda and by the Trading Standards service of Norfolk County Council on page 33 of the agenda and disputed whether it was appropriate for all staff working at the premises involved in the sale of alcohol to undertake the national certificate for personal licence holders or similar before being allowed

to serve alcohol. Other than the insertion of words ensuring that the electronic till prompt mechanism proposed by Trading Standards under (c) related to alcohol sales Mr Capti was happy to accept these proposed conditions.

Mr Capti was questioned by councillors regarding the amount of time he spends at the premises and problems regarding his correct address were mentioned as had been detailed by the representative for Trading Standards. A councillor noted that one employee had been responsible for two under age sales and heard from Mr Capti regarding his reasons for not wishing to have staff undertaking the national certificate for personal licence holders or similar. Mr Capti mentioned that he had tried to give some training on this matter.

Mr Capti did not wish to speak further to members of the Sub-Committee and had no comments to make regarding the powers available to the Sub-Committee.

Members considered their decision in private.

The Sub-Committee's Decision

The Sub-Committee removed the current designated premises supervisor Mr Ali Capti from the premises licence, suspended the licensable activity of the sale of alcohol at the premises for a period of three months and imposed the following conditions:

1. All staff working at the premises involved in the sale of alcohol must undertake the national certificate for personal licence holders or similar before being allowed to serve alcohol.
2. An electronic till prompt mechanism for alcohol sales shall be installed at the premises within three months.
3. A CCTV system covering all areas of the shop where alcohol is displayed, the counter area and the store room shall be present and the footage shall be retained for 30 days.
4. There will always be a member of staff on duty who is conversant with the CCTV system and able to download CCTV footage for police or other authorised persons upon request.
5. The premises licence holder shall ensure that adequate training shall be carried out and documented in relation to dealing with an incident, prevention of crime and disorder, sale of alcohol to under age persons, persons over 18 purchasing for under age persons and to a person who is drunk. This training shall be given before a person is authorised to sell alcohol at the premises.
6. The training records shall be kept on the premises and produced to a police officer or licensing authority authorised person upon request.
7. Refresher training shall be completed every six months and documented in the training records.
8. A refusal/incident book will be kept to record all refusals and incidents. The log will include date, time, product, gender, approximate age and description of the customer and shall be completed as soon as practicable after the sale is refused.

9. The premises licence holder shall mark all alcohol products so that their point of origin of sale can be identified.
10. The shop shall operate a Challenge 25 policy in relation to alcoholic products, therefore any person appearing to be under 25 years of age must produce photographic ID before being allowed to purchase alcohol. Notices stating this policy will be displayed at the entrance to the premises and at the counter area.

The Sub-Committee's reasons

Councillors found that the management of the premises was unsatisfactory and that despite warnings being given a series of sales of alcohol to under age persons had taken place. Councillors were also concerned regarding the hidden counterfeit items found. Councillors noted Mr Capti had not raised any challenges to the responsible authorities following the representations made by Norfolk County Council Trading Standards and the Norfolk Constabulary other than in respect of one condition. Councillors thought the designated premises supervisor was not in sufficient control of the premises to enable compliance with all the licensing objectives and noted the agreed admissions made as to the lack of formal training to staff and the lack of a refusals book and the length of time problems have been shown to exist. The designated premises supervisor has been at fault, failing to ensure the licensing objectives of the protection of children from harm and the prevention of crime and disorder are sufficiently supported at these premises.

Due to the poor management the Sub-Committee felt it was necessary to order the DPS removed and felt it was necessary to add the conditions mentioned above in order to assist with compliance with the licensing objectives. Members had considered adding the requested condition from the Norfolk Constabulary regarding the sale of beers/ciders over 6.5% alcohol by volume but felt that this was not necessary to deal with the issues arising from this review.

These were very serious matters and the failure over a long period and despite warnings to ensure the protection of children from harm required the significant penalty of a three month suspension which would also allow the necessary changes to the premises and the training of staff to take place. This was an appropriate and proportionate response to the seriousness of the matters agreed, the detrimental effect on the community which took place regarding sales of alcohol to under age persons and the vulnerability of the persons affected by such sales.

Those present were given details of their right to appeal.

Right to appeal against the determination of the Authority:

Applicants, the premises licence holder and any person who has submitted a relevant representation who is aggrieved by the decision or the imposition of any term or condition

or restriction have a right of appeal to the Magistrates Court within 21 days of the date on which they are notified of the decision.

Dated this 12 July 2013

IN THE NORWICH MAGISTRATES COURT

IN THE MATTER OF THE LICENSING ACT 2003

BETWEEN

MR. ALI CAPTI

AND

NORWICH CITY COUNCIL

LICENSING APPEAL AGAINST SUSPENSION OF OFF-LICENCE

Norfolk County Council

David Lowens

Justices

Paul Allen

Nigel Stringer

Richard Howard

Legal Adviser

Esther Tan-Worthington-Chapman

Evidence heard from

Doreen Cochrane

Ian Streeter

Duncan Harris

Matthew Lucking

PC Spinks

Ali Capti

Mehmet Sert

Issues To Be Decided

1. Was the Decision made by the Licensing Committee wrong?
2. Was the Decision to suspend the off-licence wrong?
3. Was the business at the Norwich Mini Market ,St. Stephens Road managed in compliance with the licensing objectives set out in s. 182 of the Licensing Act 2003?
4. The Particular Objective in question being the persistent sale of alcohol to children and Whether there is a Fundamental breach of the Objective of Child Protection from underaged sales by the Apellant

Facts not in Dispute

It was acknowledged in evidence that a number of licensing offences were committed at the premises which included underaged alcohol sales and presence of counterfeit alcohol. It was accepted that fixed penalty tickets had been issued and accepted at the premises by those operating on the premises.

Facts in Dispute

Was Mr. Capti responsible for staff selling alcohol to underaged children ?

Was Mr. Capti responsible for mismanagement of the premises by allowing the sales to take place without adequate measures to counteract such offences taking place?

Has Mr. Capti as the designated Premise Supervisor with the attendant responsibility for day to day control of the premises taken reasonable and adequate steps to comply with the licensing objectives set out under s.182 of the Licensing Act 2003?

Was Mr. Capti, the licensee responsible for the acts or omissions by Mehmet Sert who owns and runs the off-licence?

Facts Found

We found on the evidence that:

Mr. Capti, as the designated premise licence holder had full management responsibility for the day to day running of the shop.

All his staff whether part-time or full-time including Mr. Sert should have been fully trained in the relevant area of licensing sales to the public or at the very least properly instructed to comply with licensing laws.

Mr. Capti in his evidence stated he found out about most of these offences at the Licensing Committee meeting on the 21.6.2013 and had no knowledge of these prior to the meeting.

Mr. Capti stated he was not responsible for the illicit alcohol found concealed on the premises stating it was Mr. Sert's responsibility and that most of the time he was not

present at the premises when the supply of alcohol to underaged customers occurred which gave rise to the offences under the Licensing Act 2003.

Mr. Sert in his evidence stated he did not tell Mr. Capti about the penalty notices and that he knew nothing about the sale of alcohol to the 13 year old girl.

He stated that Mr. Capti had nothing to do with these matters and both attach blame to the part-time employee who had worked there.

In response to the question as to why the illegal alcohol was hidden behind boards, he stated that most of it had been seized and that he had hidden the remainder behind the boards in case the officers return for them again.

He stated he does not understand whether it was counterfeit alcohol or not and that he had paid £3000 to £4000 to someone from London for the alcohol and believed the goods to be legal.

He stated this was a seller who is a stranger to him and that he had got £6000 from friends and relatives on that day to purchase the alcohol without knowing the identity of the person who sold the alcohol to him.

We find the evidence of Mr. Capti and Mr. Sert not credible and that as a fact the premises had been mismanaged persistently and there are fundamental breaches of the licensing objectives which caused us grave concern.

Decision

We find that the Licensing Committee Decision of the 21.6.2013 was not wrong.

We had regard to all the evidence given by those present and attach appropriate weight accordingly including the new evidence given by Doreen Cochrane.

We find that the evidence given today establishes a tolerance for criminal activity on the premises in addition to the underaged sales of alcohol and that the objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm under the Licensing Act 2003 can only be met by a revocation of the Premise Licence.

In coming to our decision, we had regard to the Local Authority's statement of Licensing Policy and the Guidance.

We had regard to the decision of the Licensing sub-committee on the 21.6.13.

We had full consideration of the promotion of the licensing objectives under s.182 of the Licensing Act 2003.

We had regard to our powers under s.181 of the Licensing Act 2003 Schedule 5 Par 8(1) for revocation of the Premise licence.

We had regard to Art. 6 of the Human Rights Act 1998 on the Appellant's Right to a Fair trial and Proportionality of the Decision made by this Bench.

We had regard to Caselaw in the Hope and Glory case , Merlot case and Bassetlaw DC case as submitted by the Council.

30.1.14

Paul Allen
Nigel Stringer
Richard Howard



APPENDIX D
NORFOLK
CONSTABULARY
Our Priority is You

Mr Ian Streeter
Licensing Manager
Norwich City Council
St Peters Street
Norwich

Date: 18th March 2014

The Licensing Team
Bethel Street Police Station
Norwich
Norfolk
NR2 1NN

Tel:

Fax:

Email:

www.norfolk.police.uk
Non-Emergency Tel:

Dear Mr Streeter

Application for a premises licence – Norwich Mini Market, 31 St Stephens Norwich

I can confirm that the Police have received a copy of the premises licence application for St Stephen's Mini Market, 31 St Stephens Road, Norwich.

This application has been submitted following the revocation of the previous premises licence linked to underage sales of alcohol. Trading Standards applied for a review of the premises licence due to continued sales to underage. This review was to request for a 3 month suspension of the licence and additional conditions to be added to the current premises licence.

Norwich City Council Licensing Committee heard evidence from both Norfolk Police Licensing and Trading Standards. The Committee were not satisfied that the premises management were able to uphold the licensing objectives and run the shop responsibly and in accordance with the Licensing Act 2003. The Committee found that there had been failures over a long period of time and despite warnings from responsible authorities to ensure the protection of children from harm, no improvement had occurred and therefore honoured the request for a 3 month suspension with additional conditions added.

Following this outcome, an appeal to the Magistrates Court was applied for by the management of the premises. This Court case was heard on the 30th January 2014 and heard the reasoning behind the Licensing Sub-Committee's decision and the evidence. As a result the Magistrates revoked the premises licence permanently due to establishing that there is a tolerance for criminal activity due to underage sales of alcohol.

The applicant of this new premises licence application is a Mrs Gunay Sert. This person is the wife of the previous manager and owner of the shop Mr Sert. The Police Licensing Team and Trading Standards have experienced a number of issues with Mr Sert who has a history with this premises in relation to underage and counterfeit alcohol.

Mr Sert was a significant link and heavily involved in the shop when the premises licence was reviewed and he admitted to being the manager at the time. This was also confirmed again at the magistrates appeal in January.

I am writing to you to formally object to this application for a new premises licence under this person. It is clear that Mr Sert is the controlling mind of the operation and that he will be in effect running the premises under his wife's name. The granting of this premises licence would undermine the Licensing Act and licensing objectives and potentially risk harm to children with allowing sales of alcohol to take place.

The Police have no confidence that Mr & Mrs Sert would run the shop in accordance with the law and that there has been or will be no improvement or changes despite previous interventions, a review and an appeal hearing.

I hope that the Licensing Committee will consider the points raised.

Yours faithfully,

Michelle Bartram
Licensing Officer

The Licensing Department
Norwich City Council
City Hall
Norwich
NR2 1NH

Organisational Development
03 MAR 2014
Post Room

Tel: 01603 212121
Business advice helpline

Tel: 01603 212121
All new consumer enquiries
Fax: 01603 212122
DX: 135926 Norwich 13

Email: licensing@norfolk.gov.uk

www.norfolk.gov.uk

Please ask for: **Katryn Harris**
Contact No:)

Your ref:

My ref:

KSH/MA21740
27 February 2014

RECEIVED
- 3 MAR 2014
LICENSING OFFICE

Dear Sir or Madam

Re: Licensing Act 2003

Norfolk County Council Trading Standards Service as a responsible authority has received notification of a licence application under the Licensing Act 2003 in relation to the following applicant:

Mrs Gunay Sert, St Stephens Road Off Licence, 31 St Stephens Road, Norwich, Norfolk, NR1 3SP

The Service would like to draw the attention of the Licensing Authority to a number of matters:

1. The applicant, Mrs Gurnay Sert was the Designated Premises Supervisor at the time the previous alcohol licence at this premises was revoked by Norwich Magistrates Court. The Licensing Magistrates on the 30th January 2014 stated the following after hearing evidence about the premises:

We find that the evidence given today establishes a tolerance for criminal activity on the premises in addition to the underaged sales of alcohol and that the objectives of the Prevention of Crime and Disorder and the Protection of Children from Harm under the Licensing Act 2003 can only be met by a revocation of the Premise Licence.

2. Despite numerous interventions by Trading Standards and the Police in the form of both education/advice visits and test purchasing, this premises, with Mr Mehmet Sert (the applicant's husband) as owner and manager, has a long history of criminal activity in relation to under age sales and counterfeit alcohol. A number of incidents are detailed below:

Contd...

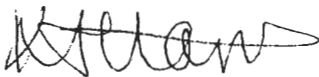
- Wednesday 16th February 2011 various boxes of wine and spirits were discovered concealed in the voids behind the kick boards under the shop displays. On this occasion Customs Officers found the following items which were all seized due to being duty evaded:
 1. A carrier bag containing 340 cigarettes and 250g of tobacco
 2. 61 litres of spirits and 82½ litres of wine
- Tuesday 22nd February 2011 the sale of alcohol, namely a bottle of WKD blue, to a 13 year old female young volunteer.
- During the criminal PACE interview with Mehmet Sert regarding the above two incidents, he states that his wife works for him in the shop.
- Friday 7th December 2012 sale of vodka to a 17 year old female. The female was served on her way to school. As a result of consumption of part of the bottle of vodka purchased on that day the young female ended up in the A&E department of the Norfolk and Norwich Hospital.
- Friday 21 June 2013 Licence Review application heard for the premises. Licence suspended for 3 months with removal of Designated Premises Supervisor. Decision was appealed and the matter was heard again in front of Licensing Magistrates on 30 January 2014. In between these dates, the DPS was changed to Mrs Gunay Sert, the current applicant.

As a result of these facts Norfolk County Council Trading Standards Service would like to formally object to a new alcohol licence being granted by the Licensing Authority. This is to prevent further harm to the young people of Norwich under both the protection of children from harm and crime and disorder licensing objectives. We have little reason to believe that the change of name on the premises licence will have a resulting positive impact on the promotion of the licensing objectives.

We would question whether Mrs Sert could evidence her consistent compliance with the law when she has been involved in the business during the investigations into illicit alcohol and underage sales.

We suspect that the change is being applied for to subvert the previous revocation through the review process and the controlling mind of the business will remain the same.

Yours faithfully



Katryn Harris
Principal Trading Standards Officer
Community Safety & Investigations Team

Norwich City Council Licensing Authority
Licensing Act 2003

APPENDIX F
Organisational Development
03 MAR 2014
Post Room

Statement of support or objection to
an application for a premises licence

Your name/organisation name/name of body you represent (see note 1)	MRS. Doreen Cochrane
Postal address	19A St Stephens Square Norwich
Email address	
Contact telephone number	

Name of the premises you wish to support or object to	St Stephens Rd off licence
Address of the premises you wish to support or object to.	31 St Stephens Rd

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

Licensing Objective	Please set out your support or objections below. Please use separate sheets if necessary
To prevent crime and disorder RECEIVED	Bottles being thrown & broken everywhere, abusive language, shouting, screaming 24/7
Public safety - 03 MAR 2014 LICENSING OFFICE	For the safety of myself & my neighbours, & their children from all the abusive language
To prevent public nuisance	From people purchasing alcohol & using St Stephens Square as a toilet
To protect children from harm	Underage persons being sold alcohol, making themselves ill & my health is suffering from all the distress

Please suggest any conditions which would alleviate your concerns.	Please don't let them have the licence.
--	---

Signed: /

Date: 27.2.2014

Please see notes on reverse

RECEIVED
MAR 2014

Ms Dorser Cochrane
13A St Stephens
Square
Norwich
NF1 3SS



Dear Sirs,

I am asking you please
don't give 31 St Stephens Rd
their off licence back I have
taken 10 yrs to get this sorted
out with disinfectant daily
cleaning wee & human poo
up, plus broken glass & rubbish
It's affecting my health, and
at the moment we are have
~~exp~~ peace & quiet at last
with no youngsters having
their lives put at risk by
purchasing alcohol please keep
it this way for us

Yours faithfully
MRS D Cochrane
(Homewatch Co-ordinator)

Norwich City Council Licensing Authority
Licensing Act 2003

Statement of support or objection to
an application for a premises licence

Your name/organisation name/name of body you represent (see note 1)	Jasmine Hoy
Postal address	33 St Stephens' Square, Norwich, NR1 3SS
Email address	
Contact telephone number	

Name of the premises you wish to support or object to	St Stephens' road off licence
Address of the premises you wish to support or object to	31 Stephens' Road, Norwich.

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

Licensing Objective	Please set out your support or objections below. Please use separate sheets if necessary
To prevent crime and disorder	I have lived in the property for 8 months now and have always IN Writing.
Public safety	
To prevent public nuisance	
To protect children from harm	

RECEIVED
5 MAR 2014
LICENSING OFFICE

Please suggest any conditions which would alleviate your concerns.	
--	--

Signed:

Date:

Please see notes on reverse

CORPORATE RESOURCES
- 3 MAR 2014
POSTROOM

33 St Stephens' Square
Norwich
NR13SS

27/2/14

Dear Sir/Madam,

I received a letter regarding St Stephens's road off license and am writing to you in support of the shop staying open. I moved to the above address on the 1st August 2013 with two of my friends to study at Norwich University of the Arts. We regularly use the shop in question and have not experienced any problems during our time living here. We often buy alcohol from the premises when we have friends round for social events and all get ID tested when upon purchase. We find the employees at the stop very friendly and pleasant to deal with, it would be a shame and inconvenience if we were to loose them.

Yours Sincerely

Jasmine Hoy.

RECEIVED
- 3 MAR 2014
LICENSING OFFICE

Norwich City Council Licensing Authority
Licensing Act 2003

Organisational Development
03 MAR 2014
Post Room

Statement of support or objection to
an application for a premises licence

Your name/organisation name/name of body you represent (see note 1)	REBECCA BOWER
Postal address	32, ST STEPHENS RD NR1 3RA
Email address	
Contact telephone number	

Name of the premises you wish to support or object to	31, ST STEPHENS RD OFF LICENCE NR1 3SP
Address of the premises you wish to support or object to.	31, ST STEPHENS RD NR1 3SP

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

Licensing Objective	Please set out your support or objections below. Please use separate sheets if necessary
To prevent crime and disorder	I DO NOT BELIEVE THAT GIVING A PREMISES LICENCE TO THIS ESTABLISHMENT COULD IN ANY
Public safety	WAY JEOPARDISE PUBLIC SAFETY, BE A CAUSE OF CRIME AND DISORDER, OR PUBLIC NUISANCE
To prevent public nuisance	OR CAUSE CHILDREN ANY HARM. I AM THEREFORE COMPLETELY SUPPORTING OF THIS APPLICATION
To protect children from harm	FOR A PREMISES LICENCE AND WOULD LIKE TO DO EVERYTHING I CAN TO SUPPORT THIS FAMILY'S BUSINESS.

Please suggest any conditions which would alleviate your concerns.	
--	--

Signed:

Date: 27 / 2 / 14

Please see notes on reverse

RECEIVED
- 3 MAR 2014
LICENSING OFFICE

Norwich City Council Licensing Authority
Licensing Act 2003

RECEIVED
- 7 MAR 2014
LICENSING OFFICE

Statement of support or objection to
an application for a premises licence

Your name/organisation name/name of body you represent (see note 1)	M. KESSELRING
Postal address	23 SAINT STEPHENS SQUARE NORWICH
Email address	
Contact telephone number	

Name of the premises you wish to support or object to	S SAINT STEPHENS ^{ROAD} OFF LICENCE
Address of the premises you wish to support or object to.	31 SAINT STEPHENS ^{RD.} ROAD, N11 3SP

Your support or objection must relate to one of the four Licensing Objectives (see note 2)

Licensing Objective	Please set out your support or objections below Please use separate sheets if necessary	Organisational Development Post Room
To prevent crime and disorder	<u>SUPPORT</u> NO PROBLEM WITH THESE	04 MAR 2014
Public safety	<u>SUPPORT</u> NO DANGER TO PUBLIC SAFETY	
To prevent public nuisance	<u>SUPPORT</u> NO PROBLEM - A VERY QUIET, SAFE AREA	
To protect children from harm	<u>SUPPORT.</u> NO DANGER TO ANYONE.	

Please suggest any conditions which would alleviate your concerns.	NO CONCERNS - THIS SHOP IS FRIENDLY, SAFE AND PART OF THE COMMUNITY
--	---

Signed:

Date:

27-02-2014.

Please see notes on reverse

APPENDIX H

Local Policy considerations

1.0 Introduction

1.4 The 2003 Act requires the council to carry out its various licensing functions so as to promote the four licensing objectives. These are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

1.5 The 2003 Act also requires that the Council publishes a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

2.0 Consultation and Links to other Policies and Strategies

2.7 So far as possible, the council will avoid duplication with other regulatory regimes, and will not to use its powers under the Licensing Act 2003 to achieve outcomes that can be achieved by other legislation and other enforcement agencies. As an example, the council will not seek to impose fire safety conditions that may duplicate any requirements or prohibitions that could be imposed under the Regulatory Reform (Fire Safety) Order 2005.

3.0 Applications for Licences

3.2 Applicants must address the four licensing objectives in their operational plan. The operating plan must have regard to the nature of the area where the premises are situated, the type of premises, the licensable activities to be provided, operational procedures and the needs of the local community. The operating schedule must demonstrate how the premises will be "good neighbours" both to residents and to other venues and businesses.

3.3 Applicants must provide evidence that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style, location and characteristics of their premises and activities. They must also indicate if additional measures will be taken on an occasional or specific basis, such as when a special event or promotion is planned, which is, for example, likely to attract larger audiences.

4.0 Representations

4.1 "Responsible Authorities" (see Appendix 7) will be asked to consider all applications and to make representations to the council, if they relate to the promotion of the four licensing objectives and particularly in respect of applications which, might be regarded as contentious. Representations must be

evidentially based and the organisation should attend any hearing when the application is being considered. Representations can be made in opposition to, or in support of, an application.

- 4.2 The council will consider all representations from any “Interested Party” (see Appendix 7), or their representative, which should preferably be evidentially based and supported by attendance at any hearing at which the application is being considered.
 - 4.3 A representation will only be accepted by the council if it is ‘relevant’, i.e. it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representations, that are regarded as being frivolous or vexatious, will not be considered, and in the case of a review of a licence, any representation which is regarded as repetitive, will also not be considered. A decision as to whether a representation is frivolous, vexatious or repetitive will be made by an officer of the council.
- 5.0 Conditions attaching to Licences
- 5.1 Where relevant representations are made, the council will make objective judgments as to whether conditions may need to be attached to the premises licence to secure achievement of the licensing objectives. Any conditions arising as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises, on those attending the premises, and members of the public living, working or engaged in normal activity in the area concerned, and will cover matters that are within the control of individual licensees.
 - 5.2 All applications will be considered on an individual basis and any condition attached to such a licence, will be tailored to each individual premises, in order to avoid the imposition of disproportionate or burdensome conditions on those premises. Therefore, mandatory conditions, will only be imposed where they are appropriate for the promotion of the licensing objectives.
- 8.0 The Impact of Licensed Premises
- 8.1 When considering whether any licensed activity should be permitted, and a relevant representation has been received, the likelihood of it causing unacceptable adverse impact will be assessed by taking into account relevant matters including:
 - the type of use, the number of customers likely to attend the premises and the type of customers at the time of the application;
 - the proposed hours of operation;
 - the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;
 - the means of access to the premises including the location of customer entrances and exits;
 - the provision of toilet facilities;
 - the frequency of the licensable activity.

With any adverse impact it may be possible to take steps to mitigate or prevent the impact and if such measures are reliable an activity may be licensed.

13.0 Management of Licensed Premises

- 13.1 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a premises supervisor must be designated (designated premises supervisor) and such person must be in possession of a current personal licence. The licensing authority will normally expect the designated premises supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the licensing authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.
- 13.2 The act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times and have a duty to comply with the terms of the licensing act and any conditions, including the matters set out in the premises' operating schedule, in order to promote the licensing objectives. To that end, the licensing authority will be mindful of the guidance issued by the secretary of state, which recommends that a personal licence holder/DPS gives specific written authorisations to those individuals they are authorising to retail alcohol. Although written authorisation is not a requirement of the act and the designated premises supervisor/personal licence holder remain ultimately responsible for ensuring compliance with the act and licensing conditions, this action could assist in demonstrating due diligence should any issues arise with regard to enforcement.

The licensing authority will therefore expect that where the personal licence holder/DPS does not have the premises under their immediate day to day control, written authorisations will be issued to staff acting on their behalf, such authorisations being made available for inspection by a responsible Officer of the licensing authority or the police upon request.

LICENSING OBJECTIVES

20.0 Objective - Prevention of Crime and Disorder

- 20.1 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the City Council, and others, to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.
- 20.2 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of

their premises, relevant to the individual style and characteristics of their premises and the licensable activities at those premises.

- 20.3 When addressing the issue of crime and disorder, the applicant should demonstrate that all those factors that impact on crime and disorder have been considered. These include:

Underage drinking

Drunkenness on premises

Public drunkenness

Keeping Illegal activity like drug taking and dealing, offensive weapons and sales of contraband or stolen goods away from the premises.

Preventing disorderly and potentially violent behaviour on and outside the premises.

Reducing Anti-social behaviour and Disorder inside and outside the premises

Litter

Unauthorised advertising

Protecting people and property from theft, vandalism and assault

Guard against glasses and bottles being used as weapons or causing accidents.

- 20.4 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or licensable activities:

Effective and responsible management of premises;

Training and supervision of staff;

Employ sufficient numbers of staff to keep numbers down of people awaiting service;

Provide sufficient seating for customers;

Patrols of staff around the premises;

Ensure sufficient lighting and visibility, removing obstructions if necessary, to discourage illegal activity;

Introduce an entry policy – making people aware of it – and apply it consistently and fairly;

Implement a search policy to prevent drugs, offensive weapons etc being brought onto the premises;

Implement effective management of entrance queues – incorporating barriers if necessary;

Adoption of best practice guidance e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, Minor Sales Major Consequences, Clubbing against Racism and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by the British Beer and Pub Association (BBPA), Security in Design published by BBPA and Drugs and Pubs, published by BBPA;

Acceptance of accredited 'proof of age' cards e.g. Portman proof of age cards, Citizencard, Connexions Card and/or 'new type' driving licences with photographs, or passports;

Provision of effective CCTV in and around premises;

Employment of Security Industry Authority licensed door staff to manage the door and minimize disorder;

Ensure glasses are collected on an on going basis, make regular inspections for broken glass and clear up;

Provision of toughened or plastic drinking vessels and bottles;

Provision of 'bottle bins' inside the premises and near exits;

Provision of secure, deposit boxes for confiscated items i.e. Operation Enterprise Drug and Weapon Amnesty Safe's;

Information displayed for staff and customers on Drug Awareness including the 'spiking' of drinks with drugs;

Provision of litterbins and other security measures, such as lighting, outside premises;

Membership of local 'Pubwatch' schemes or similar accreditation schemes or organizations ie Operation Enterprise;

Responsible advertising;

Distribution of promotional leaflets, posters etc;

Drug Seizure Kits (available from Norfolk Police Operation Enterprise);

Member of the 'NiteLink' radio scheme;

Working in partnership with the SOS Bus scheme;

Ban known offenders and share information with other licensed premises in the area;

Implement a dispersal policy;

Introduce a 'closed door' policy, with attendance prohibited for new customers 2-3 hours before licensable activities finish;

26. Objective – protection of children from harm

26.1 The council will consult with the appropriate area child protection committee for consideration of all applications for licences.

26.2 With a view to the promotion of the licensing objective relating to the protection of children from harm the council will work closely with the police and trading standards authority to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol products to children (for Minor Sales Major Consequences information please contact trading standards on 0844 800 8013 trading.standards@norfolk.gov.uk).

26.3 Applicants should be aware that the protection of children from harm includes the protection of children from moral, psychological and physical harm and this includes the protection of children from exposure to strong language, sexual expletives and gambling. In certain circumstances children are more vulnerable

and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and their lack of understanding of danger.

- 26.4 There should be no presumption of giving children access nor any presumption of preventing their access to licensed premises. Where no licensing restriction is necessary, the admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 26.5 Applicants must ensure that children will not be allowed access into premises when licensable activities involving eg topless female bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. The council has given particular consideration to the types of entertainment referred to above, and has included within this policy their expectations of applicants in section A, paragraph 17.
- 26.6 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and the licensable activities for which a licence is being sought.**
- 26.7 While children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. **When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that may particularly impact on harm to children have been considered.** These include:
- where entertainment or services of an adult or sexual nature are commonly or regularly provided
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
 - where there has been a known association with drug taking or dealing
 - where there is a strong element of gambling on the premises
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 26.8 The council commends the Portman Group code of practice on the naming, packaging and promotion of alcoholic drinks. The code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older. **The council will expect all licensees to agree not to replenish their stocks following notification of a retailer alert bulletin by the Portman Group in relation to any product that is in breach of that code. Commitment to that code should be included in operating schedules.**
- 26.9 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises.
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.
- Adoption of best practice guidance (eg Minor Sales Major Consequences).
- Ensure that all drinks containers carry a price tag or other sticker that identifies your premises. This will be a useful tool for working with authorities to tackle underage drinking if problems arise.
- Limitations on the hours when children may be present, in all or parts of the premises.
- Limitations or exclusions by age when certain activities are taking place.
- Imposition of requirements for children to be accompanied by an adult.
- Train staff to deal with – and be vigilant about – potentially harmful situations, eg children in the presence of adults who are excessively drunk.
- Acceptance of accredited proof of age cards and/or new type driving licences with photographs, or passports.
- Measures to ensure children do not purchase, acquire or consume alcohol.
- Measures to ensure children are not exposed to incidences of violence or disorder.

These examples can be adopted in any combination.

SECTION E - Hours of Trading

- 30.7 Consideration will always be given to an applicant's individual case and if the matter of trading hours has been raised in a representation, the council will take into account any proposals the applicant has to minimise the risk of nuisance or disorder being caused or exacerbated by customers departing from the premises. It is however, unlikely that statements such as the premises being well-managed, or that the applicant is of good character or that the style of the premises is intended and likely to attract a discerning clientele, will alone be sufficient to demonstrate that restrictions on hours of trading should not be applied.

APPENDIX I

National Guidance

(issued under section 182 of the Licensing Act 2003)

CRIME AND DISORDER

2.1 The steps any licence holder or club might take to prevent crime and disorder are as varied as the premises or clubs where licensable activities take place. Licensing authorities should therefore look to the police as the main source of advice on these matters. They should also seek to involve the local Community Safety Partnership (CSP).

2.4 The essential purpose of the licence or certificate in this context is to regulate behaviour on and access to premises where this relates to licensable activities and the licensing objectives. 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 on, or in the immediate vicinity of, the premises as they seek to enter or leave. Examples of measures which may encourage swift and effective dispersal from licensed premises include quietening down periods at the end of the night, security training in reminding patrons to leave quietly and signage on the premises reminding people of this.

2.5 Licence conditions should not replicate offences that are set out in the 2003 Act or other legislation. For example, a condition that states that a licence holder shall not permit drunkenness and disorderly behaviour on the premises would be superfluous because this is already a criminal offence. A condition that states that a licence holder shall not permit the sale of controlled drugs on the premises would be similarly superfluous.

2.6 Conditions are best targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.7 Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.8 Radio links and ring-round phone systems allow managers of premises and clubs to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises. The inclusion of

these systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises.

2.9 However, while this may be appropriate and effective in certain parts of a licensing authority's area, it may be less effective or even inappropriate in others. Licensing authorities must remember that only appropriate conditions, which are within the control of the licence holder or club, may be imposed.

2.10 A condition must also be capable of being met. For example, while beer glasses may be available in toughened glass, wine glasses may not. Licensing authorities should carefully consider conditions of this kind to ensure that they are not only appropriate but both practical and achievable. Further guidance on determining whether a condition is appropriate is given in Chapter 10 of this guidance.

2.16 Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will", is encouraged. Conditions on licences must:

- be precise and enforceable;
- be unambiguous;
- not duplicate other statutory provisions;
- be clear in what they intend to achieve; and,
- be appropriate, proportionate and justifiable.

PROTECTION OF CHILDREN FROM HARM

2.41 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated with alcohol but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).

2.42 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

2.43 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm.

2.44 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

2.45 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.

2.46 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;
- restrictions on the presence of children under certain ages when particular specified activities are taking place;
- restrictions on the parts of the premises to which children may have access;
- age restrictions (below 18);
- restrictions or exclusions when certain activities are taking place;
- requirements for accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

PROPOSED CONDITIONS

10.6 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.

10.7 In order to minimise problems and the necessity for hearings, it would be sensible for applicants and clubs to consult with responsible authorities when schedules are being prepared. Proper liaison may avoid the need for representations.

10.8 Conditions should be appropriate, proportionate and justifiable in meeting the licensing objectives. They should be written in a prescriptive format and be readily understood and enforceable.

10.9 It is also not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention. Conditions should be appropriate for the promotion of the licensing objectives and easily enforceable.

CONSISTENCY WITH STEPS DESCRIBED IN OPERATING SCHEDULE

10.10 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.

10.11 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

IMPOSED CONDITIONS

10.12 The licensing authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.

10.13 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives.

Proportionality

10.14 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.

10.15 Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives. Consideration should also be given to wider issues such as conditions already in place that address the potential negative impact on the promotion of the licensing objectives and the track record of the business. The physical safety of those attending such events should remain a primary objective.

THE NEED FOR LICENSED PREMISES

13.18 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.