

Report to Licensing sub committee
7 February 2014

Item

Report of Head of citywide services

Subject Section 53A(1)(b) Licensing Act 2003: consideration of interim steps following receipt of a certificate issued by Norfolk Constabulary. Section 53A Licensing Act 2003: application for expedited review by Norfolk Constabulary - Kartel 68 London Street Norwich NR2 1JT.

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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 whether it is necessary to take any interim steps following receipt of an application by the Chief Officer of Police, Norfolk Constabulary for a summary review of the premises licence in respect of Kartel 68 London Street Norwich NR2 1JT.

Recommendation

That m 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 whether it is necessary to take any interim steps following receipt of an application by the Chief Officer of Police, Norfolk Constabulary for a summary review of the premises licence in respect of Kartel 68 London Street Norwich NR2 1JT.embers determine whether it is necessary to take any interim steps following receipt of a certificate and summary review application in respect of Kartel 68 London Street Norwich NR2 1JT in accordance with the:

- Licensing Act 2003;
- The certificate issued by Norfolk Constabulary under section 53A(1)(b) of 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 212761

Background documents

None

Report

Summary Review Applications

1. A new procedure for the review of premises licences was introduced by Sections 21 and 22 of the Violent Crime Reduction Act 2006, which amended the Licensing Act 2003 to allow for a quick process for attaching interim conditions to a licence and a fast-track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both).
2. The powers only apply where a premises licence authorises the sale of alcohol. They do not, however, apply in respect of other premises licences or club premises certificates. The purpose of these powers is to complement existing procedures in the Licensing Act 2003 for tackling crime and disorder associated with licensed premises.
3. The procedure allows:
 - The police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with serious crime or serious disorder (or both); and
 - The Licensing Authority to respond by taking interim steps quickly, where it is appropriate to do so.

Summary of the New Procedures

4. The process that needs to be followed by the Police and Licensing Authority is summarised below.
5. The chief officer of police for the area in which the premises are situated may apply to the licensing authority for an expedited review of a premises licence where a senior police officer (defined as an Officer is who a Superintendent or above) has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both).
6. On receipt of the application and the certificate, the Licensing Authority must within 48 hours of the time of its receipt consider whether it is necessary to take interim steps pending determination of the review of the premises licence - the authority must in any event undertake a review within 28 days after the day of receipt of the application.
7. The options open to the licensing authority at the interim steps stage include:
 - Modification of the conditions of the premises licence;
 - The exclusion of the of alcohol by retail from the scope of the licence;
 - Removal of the designated premises supervisor from the licence; and
 - Suspension of the licence.

The Licensing Authority and the interim steps

8. Within 48 hours of receipt of the chief officer's application, the licensing authority must give the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate, and must also consider whether it is necessary to take interim steps.
9. The licensing authority may want to consult the police about the steps that it thinks are appropriate, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. This does not, of course, mean that the licensing authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances.
10. The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions are likely to be taken by a licensing sub-committee. It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.
11. The interim steps that the licensing authority must consider taking are:
 - the modification of the conditions of the premises licence;
 - the exclusion of the sale of alcohol by retail from the scope of the licence;
 - the removal of the designated premises supervisor from the licence; and
 - the suspension of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

12. If the licensing authority decides to take steps at the interim stage:
 - the decision takes effect immediately, or as soon after it as the licensing authority directs; but
 - the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application. The 2003 Act does not specify that the immediate notice has to be in writing. However, in an individual case the licensing authority may consider that the need for immediate communication at least initially requires a non-written approach, such as a telephone call. This may happen when, for example, the authority decides that the decision should have immediate effect. In such a case, the decision and the reasons for it should be explained clearly and in full to the licence-holder (or someone who may properly act for the licence-holder), and the call followed up as soon as possible with a written version of the decision

and the reasons (for example, by email or fax) which is identical to, or not significantly different from, the version given by telephone.

13. The licensing authority, in deciding when its decision on interim steps should take effect, should consider the practical implications of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.
14. In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives may be valid steps, but might be disproportionate if they are not likely to be deemed necessary following the full review (or any subsequent appeal). The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

Making representations against the interim steps

15. The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit for the premises licence holder to make representations on the interim steps, although in practice this would at some point be superseded by the full review which would have to be completed within 28 days of the application being received by the licensing authority. On receipt of such representations, the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt. When calculating the 48 hour period, any non-working day can be disregarded.
16. The licensing authority must give advance notice of the hearing to the premises licence holder and the chief officer of police. Given that these measures are designed to deal with serious crime and serious disorder on an interim basis only, the process is designed to avoid delay and, as such, significant portions of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44) (which set out the usual processes governing the conduct of licensing authority hearings) do not apply in order to streamline the hearing process. One result of this is that licensing authority cannot adjourn the hearing to a later date if the licence holder fails to attend at the scheduled time, as is the case under the normal review procedure. And as is the case with that procedure, the licence holder does not have to be present for the hearing to take place. In addition, there is no timescale for notifying the licence holder of the hearing under the modified process, providing the notification takes place before the hearing is held. However, it is imperative that the licence holder be given as much notice as is possible in the circumstances to afford the holder a maximum practicable opportunity to prepare for and attend the hearing. Licensing authorities should bear in mind that the usual principles of public law decision-making will apply to interim determinations, in a form that has regard to the statutory context of an expedited process.

17. At the hearing the licensing authority must:

- consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
- determine whether to withdraw or modify the steps taken.

18. When considering the case the licensing authority must take into account:

- the senior officer's certificate that accompanied the application;
- the chief officer's representations (if any); and
- any representations made by the premises licence holder.

19. There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

Consideration of Interim Steps

20. The purpose of the hearing is for members to consider whether it is necessary to take any interim steps following the receipt of a certificate from Superintendent 4169 Marshall of Norfolk Constabulary regarding Kartel 68 London Street Norwich NR2 1JT on the basis that the premises are associated with serious disorder. This certificate was submitted to the Licensing Authority on 5 February 2014 together with an application for the review of the premises licence.

21. A copy of the certificate and the review application are attached at appendix A to this report.

22. CCTV footage in respect of an incident of serious disorder at the premises on Wednesday 29 January 2014 will be available for members to view at their meeting. A statement from Temporary Sergeant 1451 Shepherd in respect of this incident is attached at Appendix B to the report.

23. The Interim Steps that the Licensing Authority must consider taking are:

- The modification of the conditions of the premises (which can include altering or modifying existing conditions or adding new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place);
- The exclusion of the sale of alcohol by retail from the scope of the licence;
- The removal of the designated premises supervisor from the licence; and
- The suspension of the licence.

24. A copy of the current premises licence detailing the permitted licensable activities and licence conditions is attached to the report at appendix C.

Summary review guidance

25. The Home Office has issued guidance in relation to section 53A of the Licensing Act 2003 in relation to attaching interim conditions to a premises licence and a fast track licence review process. Whilst this guidance has no statutory basis, it is intended to assist police forces and licensing authorities when considering using these procedures. A copy of the guidance is attached to the report at appendix D.

APPENDIX A

Norfolk Constabulary
Licensing Team
Floor 4 Vantage House
Fishers Lane
Norwich
NR2 1ET

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious disorder.

Kartel
68 London Street
Norwich
NR2 1JT

Premises Licence Number: 13/00032/PREM

Name of Premises Supervisor: Mike Baxter - DPS

I am a Superintendent in the Norfolk Constabulary.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because:

- 1) Mr Brad Baxter is in the capacity as manager of the premises.
- 2) There have been high numbers of incidents involving violence and intoxication at the premises within the last 2 months. Many of these incidents occur in the early hours of the morning particularly after 03:00 hrs.
- 3) In my opinion these incidents are as a result of a number of factors namely:
 - A lack of proper management of the premises. Failing to adhere to key licence conditions and failure to report incidents to Police when they occur.
 - The venue management continuing to sell alcohol to intoxicated persons and allowing intoxicated persons at the premises.
- 4) The venue has seen a high number of incidents of disorder within the last 2 months, the most serious of which are listed:-

-On the 30th January 2014 at 03.50hrs a female was assaulted at the premises and then ran off away down Prince of Wales Road. Female admitted she was intoxicated.

-On the 5th January 2014 at 03.40hrs a male was causing a nuisance and was asked to leave due to throwing drinks but attempted to fight with the doorman. He shortly returned to throw more punches at the doorman. During interview, he was unable to recall due to being intoxicated.

-On the 21st December 2013 at 04:00hrs a female tried to return inside the venue to retrieve her coat but was not allowed and made threats of violence to Police and Door staff. She then went on to assault a Police Officer.

-On the 21st December 2013 at 03.25hrs a male fell asleep inside the venue as a result of intoxication. He was then ejected and became verbally abusive and kicked a doorman.

- 5) -On the 1st December 2013 at 04:00hrs a male climbed over the smoking terrace fence onto the glass roof. Whilst walking across it a pane glass has fallen onto the dance floor injuring a number of people. The male admitted to be intoxicated that he cannot recall what happened.
- 6) The incident that has prompted a Summary review is a violent incident that occurs on the 29th January 2014 at 03:17 hrs. This incident is instigated by an IC3 male who becomes disorderly inside the premises and is then ejected. It takes two door supervisors to eject him and shows him being thrown out. The incident escalates with other males throwing punches and both doorman rolling around on the floor fighting. The security team have no control over the situation and as a result they lock the males out of by closing the venue doors. The males then continue to violently gain access to the venue due to one male still being inside. This incident continues for a period of ten minutes. Police were only notified of this incident due to an unknown male notifying us.
- 7) The first IC3 male who was initially ejected then is allowed to remain inside the premises without challenged and he then goes on to punch the wall and continue to be disorderly.

Following Police attendance all 4 males were arrested and currently on bail pending further investigations.

- 8) I am of the view that seriousness of the disorder connected to these premises would justify utilising the expedited review procedure as a proportionate response. An expedited review is considered an appropriate step given the serious disorder that occurred over the identified period which had the potential for serious injury and crime. I am of the view that the risk posed of further serious violence and disorder is such that interim steps are required to reduce the risk pending a full review of the licence at these premises.
- 8) There are no alternative powers that I feel could be used as a substitute in these circumstances. I believe that the disorder at the premises is so serious that we cannot wait 28 days for a standard review under section 51 Licensing Act 2003 which would potentially allow serious disorder to criminality to occur at and in the immediate vicinity of these premises.
- 9) I am of the view that the incidents referred to above constitute "serious disorder" given the number of persons involved and the nature of the violence used.
- 10) Norfolk Constabulary would therefore seek the following interim steps as an appropriate, necessary and proportionate method of addressing the problems at the premises.
 - Sale of alcohol to cease at 02.45hrs daily
 - Venue to close at 03:00hrs daily.
 - Removal of current DPS
 - CCTV system to be upgraded and improved so the issue of the footage skipping is fixed with clear visibility.
 - Management to ensure there is always a sufficient supply of CCTV recording media such as memory sticks/ dvd's in order to supply footage to Police and other authorities upon request.
 - For the current condition attached to the premises licence relating to number of door staff to be amended to – A minimum of 3 SIA door staff to be employed Monday-Thursday nights and a minimum of 5 SIA door staff to be employed Friday and Saturday nights from open until close.
 - To join the Alert Radio Scheme

Signed.....

.....Date: 4th February 2014

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

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

Licensing Authority
Norwich City Council
City Hall
St Peters Street
Norwich
Norfolk

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

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 the 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.**

I Andy Owens, Solicitor [on behalf of] the chief officer of police for the Norfolk Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Kartel,
68 London Street**

Post town: Norwich

Post code (if known): **NR2 1JT**

2. Premises licence details:

Name of premises licence holder (if known): Tea & Cakes Limited

Number of premises licence holder (if known): 13/00032/PREM

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

In the last 2 months, the venue has experienced a high number of incidents linked to violence and intoxication. These incidents evidence that the management of the venue have failed to promote the licensing objectives in particular to the prevention of crime and disorder. This includes allowing patrons to consume excessive amounts of alcohol and failing to report and log incidents of disorder to Police.

Kartel, previously called Havana has been operating since 2008 but under various direct supervisors. Prior to this, the venue was previously a restaurant which is why the location and building has not always appeared a suitable venue for a late night premises. It holds a capacity of approx. 160 patrons with the main room on the ground floor and an outside terrace upstairs. The current DPS of the premises is Mike Baxter but the day to day manager is Brad Baxter.

The venue primarily operates as a late night venue and benefits from a licence to sell alcohol until 04:00 hrs with its peak custom arriving after 1am. This makes the venue at a higher risk for incidents occurring due to patrons having the opportunity to consume high volumes of alcohol prior to attending.

The location of the premises is outside the immediate night time economy zone of Prince of Wales Road and away from the visible Public Order Officers which means that it is vulnerable when incidents occur. Feedback which has also been backed up by door staff raising concerns at their closing time. This should therefore encourage the venue to focus on being proactive in their communication to both Police and other venues by radio or phone. They have been offered the information to participate in the Alert Radio Scheme during numerous meetings but have failed to join. Arguably this is a breach of condition 22 on the premises licence which states: Whilst the premises is open to the public and when available, a radio communication system will be in use to communicate with other venues.

The premises capacity has been restricted to 160 customers by Fire Safety following a recent audit. The decision was based upon the premises only having one entrance and exit and the suitability of the building for its current use. The incident of serious disorder on 29th January is not the first to block the entrance / exit to customers preventing them from leaving safely whilst a violent ejection or struggle at the entrance occurs.

It is concerning that a venue with a relatively low capacity in comparison to

many in the night time economy area struggles to maintain control.

The most significant and recent incidents that have occurred at the premises are linked to intoxication and/or violence and these include:

-On the 30th January 2014 at 03:50 hrs a female was assaulted at the premises and then ran off away down Prince of Wales Road. Female admitted she was intoxicated.

-On the 5th January 2014 at 03:40 hrs a male was causing a nuisance and was asked to leave due to throwing drinks but attempted to fight with the doorman. He shortly returned to throw more punches at the doorman. During interview, he was unable to recall due to being intoxicated.

-On the 21st December 2013 at 04:00 hrs a female tried to return inside the venue to retrieve her coat but was not allowed and made threats of violence to Police and Door staff. She then went on to assault a Police Officer.

-On the 21st December 2013 at 03:25 hrs a male fell asleep inside the venue as a result of intoxication. He was then ejected and became verbally abusive and kicked a doorman.

-On the 1st December 2013 at 04:00 hrs a male climbed over the smoking terrace fence onto the glass roof. Whilst walking across it a pane glass has fallen onto the dance floor injuring a number of people. The male admitted to be intoxicated that he cannot recall what happened.

The incident on the 1st December created targeted attention from responsible authorities including NCC Health and Safety and the Fire Service. It was agreed by the authorities that improved management of the terrace area was needed to prevent the risk of patrons gaining access to the glass roof again. It was proposed by both Police Licensing and the fire service that an additional member of door staff is required to monitor the upstairs area. This proposal was included in an intervention letter sent to the management requesting that they submit a minor variation to change the current licence to increase the numbers. As yet no minor variation or agreement has been received.

This incident involving the glass roof also highlighted a breach in the Premises Licence due to an insufficient number of door staff being deployed and the venue received a warning due to this.

The incident that has prompted this Summary review is a violent incident that occurs on the 29th January 2014 at 03:17 hrs. This incident is instigated by a group of 4 males who, due to intoxication, become disorderly inside the premises and an ejection is subsequently attempted by staff. It takes the only two door supervisors on duty to eject them, however at no point do they have any control of the situation, risking their own safety and that of members of the public in the vicinity. The incident escalates with other males throwing punches and both doorman rolling around on the floor fighting. The security team have no control over the situation and as a result they lock the males out of by closing the venue doors. As this is the only entrance/exit for the premises it also locks all the remaining staff and customers inside.

The males however manage to violently regain access to the venue due to one male still being inside. This incident continues for close to ten minutes and it is

almost five minutes into the disorder before an unknown male calls Police for assistance. In his own words he described the incident as '20 persons fighting.' Not only is this considered dangerous by allowing the incident time to escalate it undermines the licensing objectives and breaches condition 6 on their premises licence which states: Any incidents of crime and disorder will be reported to the Police and will be kept in an incident log book.

The first IC3 male who was initially ejected manages to regain entry where he is allowed to remain inside the premises entrance. Without being challenged or safely detained he goes on to violently punch a wall in the immediate direction of a lone female which narrowly missed her head.

After closing the exit doors the door staff return outside and continue to throw punches themselves at the group. The situation is worsened when an unknown male picks up part of the metal door frame to use as a threatening weapon against the group. By this stage members of the public are involved with the fight and the manager of venue Brad Baxter was also hit outside and is seen to run away from the venue. This highlights a complete lack of responsible management and regard to the venue let alone upholding the licensing objectives.

Following Police attendance all 4 males were arrested with affray and are currently on bail pending further witness statements and confirmation of injuries sustained. It was with the assistance of Council CCTV that identified the group who had successfully left the area before Police arrived. Following attendance, Officers highlighted that the group were intoxicated but the manager Brad Baxter denied this as an issue stating his staff are suitably trained. However during his statement to Police one member of bar staff admitted to serving them 4 drinks and described them as being drunk.

This provided CCTV footage is damning as it shows serious disorder at the premises with a lack of control by the venue. The group involved are clearly heavily intoxicated, this being the probable cause for the incident and dangerous escalation of it. The internal CCTV of the premises however is of such poor quality which prevents the root of the incident being directly identified. The extent of injuries are still unknown however both door supervisors were required to attend hospital via ambulance suffering reported concussion.

This CCTV footage is not consistent as it skips due to an error on the system. This issue has been highlighted by the Norfolk Police Licensing team to the management previously but despite this no improvements have been made. In addition to the CCTV skipping, the cameras inside were not clear due to the smoke machine.

It should also be noted that the CCTV shows a number of new customers being allowed entry after 03:15 hrs being in a breach of condition 21 on their premises licence which relates to a last entry time. Norfolk Police Licensing have received a number of requests from the management over the last year to remove this last entry so it is sadly no surprise this is being stretched on occasions.

Following the incident on 1st December a condition was also agreed between Fire and Kartel Management to have a fifth door supervisor at weekends to ensure sufficient monitoring of the roof terrace area. It is worth noting however

that the rate of violence related incidents has not shown sufficient signs of improvement since having the fifth door supervisor at weekends. Demonstrated by the four crimes reported within the hour on 21st December 2013. Since the 21st five more violent incidents have been recorded where door staff involvement has been required. It is therefore of the Police opinion that additional measures are necessary to uphold the licensing objectives and to prevent crime and disorder at the premises.

Out of 18 recorded crimes linked to the premises in the last year 12 of those have occurred after 03:00 hrs and 14 of the 18 crimes are violence related. There are real concerns that the venue do not report incidents to Police where they can avoid doing so to subsequently avoid Police attention. The incident on 29th January evidences that there is poor control when incidents do occur and a reduction in hours would reduce the number of violent incidents and the risk of serious disorder occurring.

The current DPS is listed as Mike Baxter, however the everyday running and on site management has been left to Brad Baxter. Police have serious concerns that intoxication levels are not being controlled and managed to a satisfactory level, despite warnings and with an absent DPS we have no confidence that this will improve with the current management in place.

In summary, Norfolk Constabulary requests an expedited review of the premises licence in order to allow for significant improvements in the management of the premises. Additionally, to seek appropriate and proportionate conditions on the premises licence to alleviate the problems that occurred from this incident.

It is respectfully proposed that the following conditions are added to the Premises Licence:

- Sale of alcohol to cease at 02:45 hrs daily
- Venue to close at 03:00 hrs daily.
- Removal of current DPS.
- CCTV system to be upgraded and improved so the issue of the footage skipping is fixed with clear visibility.
- Management to ensure there is always a sufficient supply of CCTV recording media such as memory sticks/dvd's, in order to supply footage to Police and other authorities upon request.
- For the current condition attached to the premises licence relating to number of door staff to be amended to – A minimum of 3 SIA door staff to be employed Monday-Thursday nights and a minimum of 5 SIA door staff to be employed Friday and Saturday nights from open until close.
- To join the Alert Radio Scheme.

Signature of applicant:

Date:

4/2/14

Capacity:

SUBJECT

Contact details for matters concerning this application:

Address:

**Legal Services Department
Norfolk Constabulary
OCC
Falconers Chase
Wymondham
Norfolk
NR18 0WW**

Telephone number(s): 01953 423920

Email: owensa@norfolk.pnn.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

RESTRICTED (when complete)

MG11

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN: / /

Statement of: Mark SHEPHERD

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

Occupation: Police Officer

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature: [Signature] Date 3rd February 2014

I am Temporary Sergeant 1451 Mark Shepherd of the Norfolk Constabulary. I am currently based at Earlham Police Station, as part of the Norwich South Safer Neighbourhood Team.

On Wednesday 29th January 2014, at approximately 0325hrs, I was on duty in full uniform on mobile patrol in a marked police car.

Due to information received I attended KARTEL, LONDON STREET, Norwich, to a report of a large disorder.

Upon my arrival at the scene, I saw that other officers were already on scene, dealing with a number of members of public.

One male approached me and informed me that he had to assist doorstaff, as they were outnumbered. I recorded these details in my pocket note book, No. 1084026.

I was then informed that the two members of door staff were inside the premises, as they had received injuries to being assaulted.

Upon entering the licensed premises, it was obvious that there were no door supervisors on the doors to the premises, or any member of staff.

I note the premises license for Kartel, 13/00032/PREM, has the following conditions.

Annex 2- Conditions consistent with the Operating Schedule

Condition 10- At least one SIA door supervisor (and any additional door supervisors as agreed with the Police as being necessary from time to time), will operate from 22:00 until close on Friday and Saturday nights and any night when the premises is open after 01:00. The door supervisors will manage and monitor customers entering and leaving the premises and their behaviour whilst in the immediate vicinity of the premises.

Condition 12- all staff will be trained as to their responsibilities in respect of the four licensing objectives, the exclusion of disorderly or drunken persons and preventing sales of alcohol to young people under the age of 18.

Condition 16- A CCTV system covering the main public areas of the venue and entrances/ exits, and the rear of those premises abutting the venue will be installed in the interests of the prevention of crime and disorder and the protection of customers and staff. The system will be capable of recording images for a minimum of 28 days and copies of the images will be made

Signature: [Signature] 2013

...Signature witnessed by:.....

Continuation of Statement of witness as named on previous page.....
available to police and officers of the licensing authority on reasonable request.

Condition 18- All registered SIA door staff on duty will wear fluorescent jackets

Condition 21- there will be a last entry time of 03:15hrs

I entered the main area of the bar, and spoke to Pc Laura Gaffaney. It became apparent at this stage that details were very vague from staff.

I spoke to a male who I now know to be Brad Baxter. Baxter identified himself as the owner. I then asked Baxter what had happened, at which point he said that his door staff had been assaulted ejecting four males.

Baxter then started to play the CCTV from the venue, so I could identify the suspects along with Pc Gaffaney. This was due to other officers conducting an area search, for the suspects.

The four suspects were then identified and their descriptions passed to other officers.

Baxter appeared to have very little control over the premises, as he appeared to have not enough staff to assist, as he had to undertake various tasks to assist the police initial investigation.

I then heard Pc Gaffaney ask Baxter for the CCTV, at which point he said that he did not have any means to copy the footage required.

I informed Baxter that this was not appropriate as I had been informed that the four suspects had been arrested by officers.

Baxter said that he would not be able to get the footage to later that day. The issue with this is that the Police and Criminal Evidence Act 1984, says that the police have to deal with suspects expeditiously.

Having to await the CCTV footage would hinder the police investigation, in relation to this disorder.

I therefore believe that Baxter would be in breach of the premises license as Condition 16, states- A CCTV system covering the main public areas of the venue and entrances/ exits, and the rear of those premises abutting the venue will be installed in the interests of the prevention of crime and disorder and the protection of customers and staff. The system will be capable of recording images for a minimum of 28 days and copies of the images will be made available to police and officers of the licensing authority on reasonable request.

As Baxter was unable to produce the footage to assist the police investigation, as in my professional opinion this was a reasonable request made at the time.

I then challenged Baxter about the level of intoxication within the venue, and evidenced this by the CCTV footage of the drunken males ejected. Also the other patrons in the venue, asking which way the exit to the premises is, many of them had clearly drunk too much and were drunk.

Baxter then informed me that all his staff receives training in relation to serving to drunken patrons.

I then highlighted that the venues CCTV had shown that this was not the case this evening. Baxter disputed this, saying that "ED BROWN AND JEZ", were happy with his venue.

I know that Jez was Pc 1376 Jeremy Brown of the Norfolk Constabulary's licensing regulation team.

Signature: 

...Signature witnessed by:.....

Continuation of Statement of witness as named on previous page.....
I then asked Baxter how many members of door staff were on duty, to which he replied that he had two.

I then highlighted that why his door staff went into the premises to eject the four drunken patrons, his venues doors were unstaffed.

Therefore this would restrict his abilities to operate the premises as he would breach the premises licence, namely conditions, Condition 10- At least one SIA door supervisor (and any additional door supervisors as agreed with the Police as being necessary from time to time), will operate from 22:00 until close on Friday and Saturday nights and any night when the premises is open after 01:00. The door supervisors will manage and monitor customers entering and leaving the premises and their behaviour whilst in the immediate vicinity of the premises.

As the door supervisors entered the premises to deal with the drunken patrons, they left the doors unattended so as to not manage and monitor customers entering and leaving the premises and their behaviour whilst in the immediate vicinity of the premises.

This also meant that they would not be able to comply with condition, Condition 21- there will be a last entry time of 03:15hrs. Due to no staff being available to monitor the entry to the venue as having to leave the door to deal with the disorder, they would not be able to comply with this condition.

Baxter said that he had two members of door staff on, which is more than normal, as they are usually quite *few*.

I informed Baxter that it was his responsibility to make sure there was sufficient members of staff on duty to deal with such issues. I informed Baxter that I believed he did not have sufficient levels of staff on duty. I informed Baxter that on the CCTV, a patron to the venue had to open the door, to assist in the ejection, of the drunken males. Also those other customers from his venue had to assist door staff. This showed that the venue did not have sufficient levels of security on duty.

Baxter then informed me that he had no problems at his venue in the past year. At this point I told Baxter that I knew of two incidents at his premises within the last month that involved assaults and disorder.

Baxter also informed me that the four patrons had been inside his venue since midnight. I informed Baxter that they were clearly served alcohol to such a level that they were unable to stand up straight. Baxter stated that all his staff received training in relation to this.

Baxter said he thought this was an unfair comment, as he stated that it takes forty minutes for alcohol to take effect. During which time they were in his venue.

I have been a police officer for eleven years. During this period of service I was a police licensing officer and a Temporary sergeant ~~within that department~~ for eighteen months.

Signature:

.....Signature witnessed by:.....



Premises Licence

Premises Licence Number

13/00032/PREM

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Kartel
68 London Street
Norwich
NR2 1JT

Telephone number

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

- Other Entertainment falling within Act - Activity takes place indoors
- Films - Activity takes place indoors
- Late Night Refreshment - Activity takes place both indoors and outdoors
- Live Music - Activity takes place indoors
- Provision of Dance Facilities - Activity takes place indoors
- Provision of Music Facilities - Activity takes place indoors
- Provision of Entertainment Facilities - Activity takes place indoors
- Sale by Retail of Alcohol - Activity takes place both indoors and outdoors
- Recorded Music - Activity takes place indoors

The times the licence authorises the carrying out of licensable activities

Other Entertainment falling within Act	Sunday	10:00 - 04:00
Other Entertainment falling within Act	Monday to Thursday	10:00 - 04:00
Other Entertainment falling within Act	Friday and Saturday	10:00 - 04:00
Films	Sunday	10:00 - 04:00
Films	Monday to Thursday	10:00 - 04:00
Films	Friday and Saturday	10:00 - 04:00
Late Night Refreshment	Sunday	23:00 - 04:00
Late Night Refreshment	Monday to Thursday	23:00 - 04:00
Late Night Refreshment	Friday and Saturday	23:00 - 04:00
Live Music	Sunday	10:00 - 04:00
Live Music	Monday to Thursday	10:00 - 04:00
Live Music	Friday and Saturday	10:00 - 04:00
Provision of Dance Facilities	Sunday	10:00 - 04:00
Provision of Dance Facilities	Monday to Thursday	10:00 - 04:00
Provision of Dance Facilities	Friday and Saturday	10:00 - 04:00
Provision of Music Facilities	Sunday	10:00 - 04:00

Provision of Music Facilities	Monday to Thursday	10:00 - 04:00
Provision of Music Facilities	Friday and Saturday	10:00 - 04:00
Provision of Entertainment Facilities	Sunday	10:00 - 04:00
Provision of Entertainment Facilities	Monday to Thursday	10:00 - 04:00
Provision of Entertainment Facilities	Friday and Saturday	10:00 - 04:00
Sale by Retail of Alcohol	Sunday	10:00 - 04:00
Sale by Retail of Alcohol	Monday to Thursday	10:00 - 04:00
Sale by Retail of Alcohol	Friday and Saturday	10:00 - 04:00
Recorded Music	Sunday	10:00 - 04:00
Recorded Music	Monday to Thursday	10:00 - 04:00
Recorded Music	Friday and Saturday	10:00 - 04:00

Non Standard / Seasonal Timings

For all licensable activities:

For Statutory Bank Holiday weekends (Friday to Monday inclusive) plus the Thursday before Good Friday and for Christmas Eve the finish time to be extended by 1 hour. 1 extra hour on St David's Day (1 March), St Patrick's Day (17 March), St George's Day (23 April) and St Andrew's Day (30 November).

On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

The opening hours of the premises

Monday	10:00 - 04:30
Tuesday	10:00 - 04:30
Wednesday	10:00 - 04:30
Thursday	10:00 - 04:30
Friday	10:00 - 04:30
Saturday	10:00 - 04:30
Sunday	10:00 - 04:30

Non Standard / Seasonal Timings

For Statutory Bank Holiday weekends (Friday to Monday inclusive) plus the Thursday before Good Friday and for Christmas Eve the finish time to be extended by 1 hour. 1 extra hour on St David's Day (1 March), St Patrick's Day (17 March), St George's Day (23 April) and St Andrew's Day (30 November).

On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on New Years Day.

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

Alcohol is supplied for consumption both on and off the Premise

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

Part 2

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

Tea And Cakes Limited
68 London Street
Norwich
NR2 1JT

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

Registered Business Number 08269375

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

Mike Baxter
[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

Party Reference: 08/00490/PERS

Licensing Authority: Norwich City Council

Annex 1 – Mandatory conditions

- 1 No supply of alcohol may be made under a premises licence -
 - (a) at a time when 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.
- 2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
- 3 No moving picture shall be exhibited unless: -
 - (i) it has received a "U", "PG", "12A", "15" or "18" certificate of the British Board of Film Classification; or
 - (ii) it is a current newsreel which has not been submitted to the British Board of Film Classification; or
 - (iii) the permission of the Licensing Authority is first obtained and any conditions of such permission are complied with.
- 4 No person under the age of 18 years shall be admitted to any exhibition at which there is to be shown any moving picture which has received an "18" certificate from the British Board of Film Classification.
- 5 No person under the age of 15 years shall be admitted to any exhibition at which there is to be shown any moving picture which has received a "15" certificate from the British Board of Film Classification.
- 6 No person under the age of 12 years shall be admitted to any exhibition at which there is to be shown any moving picture which has received a "12A" certificate from the British Board of Film Classification.
- 7 Where, at specified times one or more individuals must be at the premises to carry out a security activity each such individual must be licensed by the Security Industry Authority.
- 8 (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.
- 9 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).
- 10 The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 11 (with effect from 1 October 2010)
(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.
- 12 (with effect from 1 October 2010)
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: half pint;
(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
(iii) still wine in a glass: 125 ml; and
(b) customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the Operating Schedule

- 1 **General - all four licensing objectives**
- 2 The style of operation of the premises will be discerning and disciplined and non-alcoholic refreshment will be available during opening hours.
- 3 The terrace bar will be covered by a fabric roof and the boundary wall with a metal mesh as detailed on the revised plan (drawing no. 08/16/21 rev C).
- 4 **The Prevention of Crime and Disorder**
- 5 When DJ's are used he/she will ask customers to leave the premises quietly.
- 6 Any instances of crime and disorder will be reported to the Police and will be kept in an incident log book.
- 7 A zero tolerance towards illegal drugs will remain in force at all times.
- 8 Alcoholic drinks will not be sold or marketed in such a way as to encourage irresponsible or excessive drinking.
- 9 The licensee will co-operate with local police and shall participate in any initiatives to prevent crime and disorder.
- 10 At least one SIA door supervisor (and any additional door supervisors as agreed with the Police as being necessary from time to time), will operate from 22:00 until close on Friday and Saturday nights and any night when the premises is open after 01:00. The door supervisors will manage and monitor customers entering and leaving the premises and their behaviour whilst in the immediate vicinity of the premises.
- 11 The door supervisor will sign on and off duty in an incident book that will be available for inspection on reasonable request.
- 12 All staff will be trained as to their responsibilities in respect of the four licensing objectives, the exclusion of disorderly or drunken persons and preventing sales of alcohol to young people under the age of 18.
- 13 A record will be made of this training showing who was trained, when and by whom, and the subjects covered. This record will be made available to Police or officers of the licensing authority on reasonable request.
- 14 Clearing empty bottles and glasses will be a high priority. Staff will prevent the removal of open containers for alcohol and glasses from the premises (unless an additional tables and chairs licence has been applied for).
- 15 The premises licence holder or his/her representative will attend a minimum of three meetings in any calendar year of the Norwich City Centre Licensing Forum.
- 16 A CCTV system covering the main public areas of the venue and entrances/exits, and the rear of those premises abutting the venue will be installed in the interests of the prevention of crime and disorder and the protection of customers and staff. The system will be capable of recording images for a minimum of 28 days and copies of the images will be made available to police and officers of the licensing authority on reasonable request.
- 17 Challenge 21 Policy will be in force.
- 18 All registered SIA door staff on duty will wear fluorescent jackets.
- 19 All patrons attending the venue will be searched before entry.
- 20 When contracted security operatives are used they will be from an SIA Approved Contractor.
- 21 There will be a last entry time of 03:15 hours.
- 22 Whilst the premises is open to the public and when available, a radio communication system will be in use to communicate to other venues.
- 23 On Friday and Saturdays between 1am and finish, a minimum of 4 SIA door staff will be employed.
- 24 **Public Safety**
- 25 Ongoing risk assessments will be undertaken in order to comply with Health and Safety and Fire Prevention legislation.
- 26 P.A.T. of all electrical equipment.
- 27 The fire alarm will be tested regularly.
- 28 Fire exits will be clearly marked.
- 29 There will be ongoing training of staff.
- 30 **The Prevention of Public Nuisance**
- 31 Customers will be encouraged to wait inside for taxis.
- 32 Signs will be affixed at the entrance to remind customers to leave quietly.
- 33 A notice will be placed at entries to ensure that customers do not leave with bottles and cans.
- 34 Music and other amplified sound will be inaudible at the nearest noise sensitive premises.

- 35 Bottle bins will not be emptied externally between 20:00 and 08:00 hours.
- 36 **The Protection of Children From Harm**
- 37 Children will not be allowed in the premises.

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

NO.	REVISION	DATE
1	ISSUED FOR PERMIT	08/16/21
2	ISSUED FOR PERMIT	08/16/21
3	ISSUED FOR PERMIT	08/16/21
4	ISSUED FOR PERMIT	08/16/21
5	ISSUED FOR PERMIT	08/16/21
6	ISSUED FOR PERMIT	08/16/21
7	ISSUED FOR PERMIT	08/16/21
8	ISSUED FOR PERMIT	08/16/21
9	ISSUED FOR PERMIT	08/16/21
10	ISSUED FOR PERMIT	08/16/21



a2
 ARCHITECTURE
 1177 HUNTERSWOOD ROAD, SUITE 200, NORWICH, VT 05055
 TEL: 802.455.1234
 WWW.A2ARCHITECTURE.COM

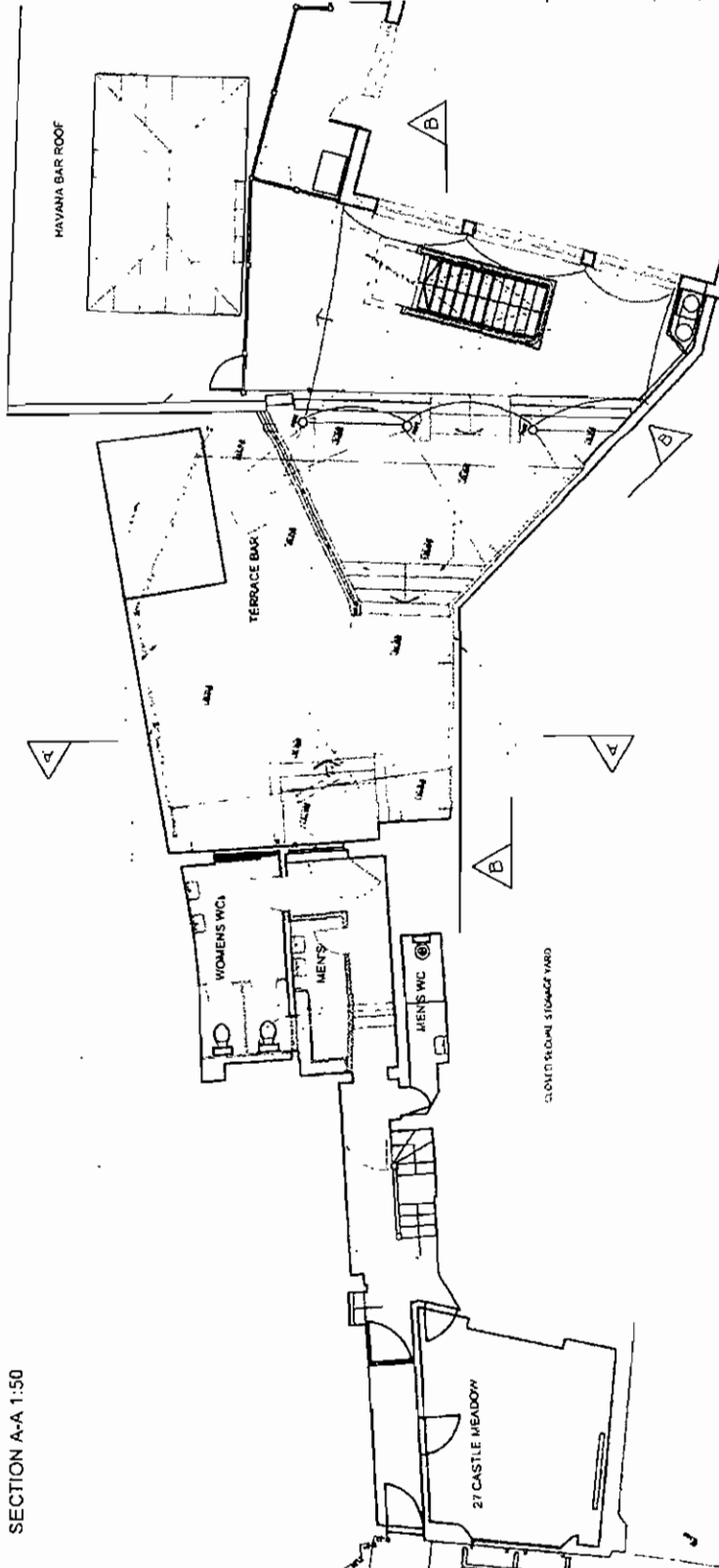
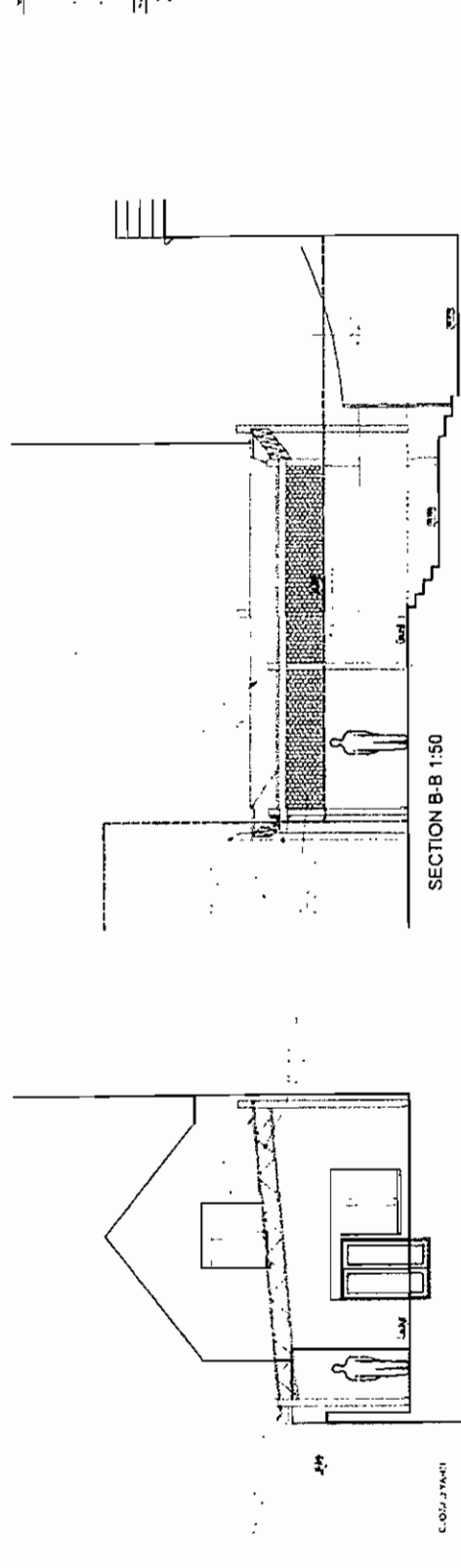
HAYANA BAR
 REAR YARD & ALTERATION WORK
 27 CASTLE MEADOW, NORWICH

DATE: OCT 08
 SCALE: 1/8" = 1'-0"

NEW FABRIC ROOF DETAILS

DATE: OCT 08

08 / 16 / 21 C



UPPER GROUND LEVEL PLAN 1/50



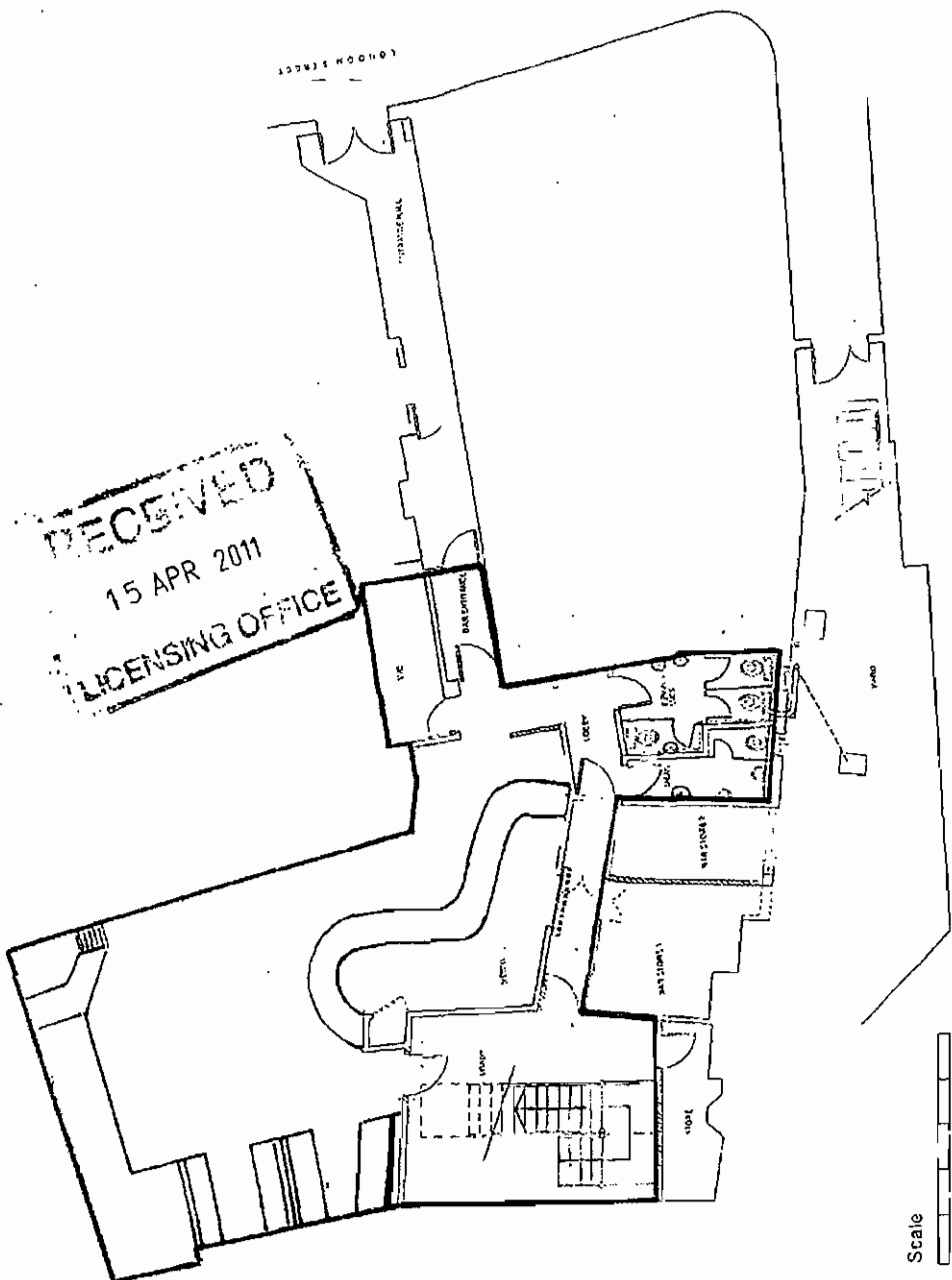
- 1. To be submitted with the application for a licence.
- 2. To be submitted with the application for a licence.
- 3. To be submitted with the application for a licence.
- 4. To be submitted with the application for a licence.
- 5. To be submitted with the application for a licence.



ENTERPRISE 2 FLOOR, 1000 STREET, NORWICH
 NR1 1JN
 01603 251100
 www.a2norwich.co.uk

HAVANA BAR
 LONDON HOUSE, LONDON STREET
 NORWICH
 LOWER GROUND FLOOR PLAN

1:50000 @ A1
 AUG 05
 PH
 08 / 16 / 21



Scale
 0 1 2 3 4 5m

LOWER GROUND FLOOR PLAN
 1:500 scale at A1 (1:100 at A3)

— SALE BY RETAIL OF ALCOHOL &
 REGULATED ENTERTAINMENT &
 PROVISION OF LATE NIGHT REFRESHMENT

APPENDIX
D



Home Office

Section 53A Licensing Act 2003
Summary Review Guidance



CONTENTS

- 1. Introduction**
- 2. The Steps – Summary Review**
- 3. The Licensing Authority and the Interim Steps**
- 4. Making representations against the Interim Steps**
- 5. The Review of the Premises Licence**
- 6. Right of Appeal**

ANNEX A

- 1. Certificate Under section 53A(1)(b) of the Licensing Act 2003**

ANNEX B

- 2. Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

INTRODUCTION

- 1.1 This guidance explains how to use the provisions in the Licensing Act 2003 ("the 2003 Act"), inserted by section 21 of the Violent Crime Reduction Act 2006, which allow a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both).
- 1.2 This guidance has no statutory basis but is intended to assist police forces and licensing authorities when considering using the procedures.
- 1.3 The powers are set out in sections 53A to 53C of the 2003 Act and apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, or to premises operating under a club premises certificate. The purpose of these powers is to complement existing procedures in the 2003 Act for tackling crime and disorder associated with licensed premises. Existing powers in Part 8 of the 2003 Act provide for the instant closure of premises by the police in some circumstances (in essence, disorder or nuisance) and the consequent review of premises licences by the licensing authority. The powers under sections 53A to 53C, which are in Part 3 of the 2003 Act, are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives.
- 1.4 The powers allow:
- the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with **serious** crime or **serious** disorder (or both); and
 - the licensing authority to respond by taking interim steps quickly, **where appropriate**, pending a full review.
- 1.5 In summary, the process is:
- the chief officer of police for the area in which the premises are situated may apply to the licensing authority for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both);
 - on receipt of the application and the certificate, the licensing authority must within 48 hours of the time of its receipt consider whether it is necessary to take interim steps pending determination of the review of the premises licence – the authority must in any event undertake a review within 28 days after the day of receipt of the application.
- 1.6 The options open to the licensing authority at the interim steps stage include:
- modification of the conditions of the premises licence;
 - the exclusion of the sale of alcohol by retail from the scope of the licence;
 - removal of the designated premises supervisor from the licence; and

- suspension of the licence.

1.7 Following the full licence review, the licensing authority may do any of the above or may revoke the licence.

1.8 The purpose of this guidance is to:

- set out the circumstances where the power can be used; and
- outline the process and the steps at each stage.

THE STEPS

2. Triggering the expedited review

2.1 Section 53A of the Licensing Act 2003 sets out who may apply for an expedited review and the circumstances in which it can be used.

Application for expedited review

2.2 The chief officer of police for the area in which the premises are situated may apply to the relevant licensing authority for an expedited licence review if a **senior member** of the force has issued a **certificate** that in his/her opinion a licensed premises is associated with **serious crime or serious disorder (or both)**.

2.3 The key definitions used above are:

- **Senior member of the force:** This must be an officer of the rank of superintendent or above.
- **Certificate:** This is a formal note which identifies the licensed premises and includes a signed statement by a senior officer that he believes the premises is associated with serious crime, serious disorder or both. **This form is not prescribed in legislation. However, a sample form which forces may wish to adopt is attached at annex A to this guidance.**
- **Serious crime:** The tests to determine the kinds of conduct that amount to serious crime are set out in section 81(2) and (3) (a) and (b) of the Regulation of Investigatory Powers Act 2000. Those tests are that the conduct:
 - (a) constitutes an offence for which a person who is 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; and
 - (b) involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
- **Serious disorder:** There is no definitive list of behaviours that constitute serious disorder, and the matter is one for judgment by the local police. The phrase should be given its plain, ordinary meaning, as is the case under section 12 of the Public Order Act 1986 in which it is also used.
- **The application for a summary or expedited review:** this is an application made by, or on behalf of, the Chief Officer of Police under section 53A of the

2003 Act. The application must be made in the form which is set out in Schedule 8A to the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). The completed application must be accompanied by the certificate issued by a senior officer. The form which must be used is reproduced in annex B of this guidance.

2.4 In deciding whether to sign a certificate, the senior officer will want to consider the following (as applicable):

- The track record of the licensed premises concerned and whether the police have previously had cause to give advice about serious criminal or disorderly conduct (or the likelihood of such conduct) attributable to activities taking place on the premises – it is not expected that this power will be used as a first response to a problem.
- The nature of the likely crime and/or disorder – is the potential incident sufficiently serious to warrant using this power?
- Should an alternative power be deployed? Is the incident sufficiently serious to warrant use of the powers in sections 161 to 165 of the 2003 Act to close the premises? Or could the police trigger a standard licence review to address the problem? Alternatively, could expedited reviews be used in conjunction with other powers (for example, modifying licence conditions following the use of a closure power).
- What added value will use of the expedited process bring? How would any interim steps that the licensing authority might take effectively address the problem?

2.5 It is recommended that these points are addressed in the chief officer's application to the licensing authority. In particular, it is important to explain why other powers or actions are not considered to be appropriate. It is up to the police to decide whether to include this information in the certificate or in section 4 of the application for summary review. The police will also have an opportunity later to make representations in relation to the full review.

2.6 In triggering the process, the police will wish to take into account the fact that an intended use of the power is to tackle the use of dangerous weapons and the violence they fuel. For example, in appropriate circumstances the police might want to make representations to the licensing authority suggesting that they modify the conditions of the premises licence to require searches of customers for offensive weapons upon entry. Under the powers in sections 53A to 53C, this could be done on an interim basis pending a full hearing of the issues within the prescribed 28-day timeframe.

2.7 Similarly, the power could, **where appropriate**, be used to reduce the risk of injury caused by glass by requiring the adoption of a safer alternative (but see paragraphs 3.6 and 3.7 below).

2.8 However, it should continue to be borne in mind that these are selective measures. It is not the aim to require all licensed premises to undertake these searches or use toughened glass. Rather, the policy aim is to provide a selective

tool, to be used proportionately, to limit this condition to those pubs that are at risk either because police intelligence shows there is a risk of knives/guns being carried or because crime and disorder has occurred on the premises.

3. The Licensing Authority and the interim steps

3.1 Within 48 hours of receipt of the chief officer's application, the licensing authority must give the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate, and must also consider whether it is necessary to take interim steps. When calculating the 48 hour period any non-working day can be disregarded.¹

3.2 The licensing authority may want to consult the police about the steps that it thinks are appropriate, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. This does not, of course, mean that the licensing authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances.

3.3 The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions are likely to be taken by a licensing sub-committee. It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.

3.4 The interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the amended guidance issued under section 182 of the 2003 Act (available at: www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing).

3.5 If the licensing authority decides to take steps at the interim stage:

¹ This means that, for example, if the application was received at 3pm on a Friday, the 48 hour period would cover the remaining 9 hours on that Friday and the remaining 39 hours starting on the Monday morning (provided it was not a bank holiday). In this case the licensing authority would have to decide on interim steps by 3pm on the Tuesday.

- the decision takes effect immediately, or as soon after it as the licensing authority directs; but
- the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application. The 2003 Act does not specify that the immediate notice has to be in writing. However, in an individual case the licensing authority may consider that the need for immediate communication at least initially requires a non-written approach, such as a telephone call. This may happen when, for example, the authority decides that the decision should have immediate effect. In such a case, the decision and the reasons for it should be explained clearly and in full to the licence-holder (or someone who may properly act for the licence-holder), and the call followed up as soon as possible with a written version of the decision and the reasons (for example, by email or fax) which is identical to, or not significantly different from, the version given by telephone.

3.6 The licensing authority, in deciding when its decision on interim steps should take effect, should consider the practical implications of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.

3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives may be valid steps, but might be disproportionate if they are not likely to be deemed necessary following the full review (or any subsequent appeal). The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

4. Making representations against the interim steps

4.1 The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit for the premises licence holder to make representations on the interim steps, although in practice this would at some point be superseded by the full review which would have to be completed within 28 days of the application being received by the licensing authority. On receipt of such representations, the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt. When calculating the 48 hour period, any non-working day can be disregarded.

4.2 The licensing authority must give advance notice of the hearing to the premises licence holder and the chief officer of police. Given that these measures are designed to deal with serious crime and serious disorder on an interim basis only, the process is designed to avoid delay and, as such, significant portions of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44) (which set out the usual processes governing the conduct of licensing authority hearings) do not apply in order to streamline the hearing process. One result of this is that licensing authority cannot adjourn the hearing to a later date if the licence holder fails to attend

at the scheduled time, as is the case under the normal review procedure. And as is the case with that procedure, the licence holder does not have to be present for the hearing to take place. In addition, there is no timescale for notifying the licence holder of the hearing under the modified process, providing the notification takes place before the hearing is held. However, it is imperative that the licence holder be given as much notice as is possible in the circumstances to afford the holder a maximum practicable opportunity to prepare for and attend the hearing. Licensing authorities should bear in mind that the usual principles of public law decision-making will apply to interim determinations, in a form that has regard to the statutory context of an expedited process.

4.3 At the hearing the licensing authority must:

- consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
- determine whether to withdraw or modify the steps taken.

4.4 When considering the case the licensing authority must take into account:

- the senior officer's certificate that accompanied the application;
- the chief officer's representations (if any); and
- any representations made by the premises licence holder.

4.5 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

5. The review of the premises licence

5.1 The licensing authority must hold a review of the premises licence within 28 days after the day of receipt of the chief officer's application. This must take place even if the chief officer asks to withdraw his application or representations. At the hearing, the licensing authority must:

- consider what steps it considers appropriate for the promotion of the licensing objectives; and
- decide which interim steps (if there are any) cease to have effect altogether or become the subject of any steps which it considers are appropriate when making its determination on the review.

5.2 The steps the licensing authority can take are:

- the modification of the conditions of the premises licence;
- the exclusion of a licensable activity from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the amended guidance under section 182 of the 2003 Act.

5.3 The licensing authority must:

- advertise the review inviting representations from any persons for no less than seven consecutive days, by notice as described in regulation 38 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42) and, if applicable, on the licensing authority's website (see regulation 38(1)(b) of the above). The relevant notices should be published on the day after the day of receipt of the chief officer's application.
- advertise that any representations made by the premises licence holder, responsible authority and any other persons should be submitted to the licensing authority within 10 working days of the advertisement of the review appearing.
- give formal notice of the hearing no later than five working days before the day or first day on which the hearing is to be held to the premises licence holder and to every responsible authority².

5.4 A party shall give to the authority a notice no later than two working days before the day or the first day on which the hearing is to be held stating –

- whether he intends to attend or be represented at the hearing;
- whether he considers a hearing to be unnecessary.
- whether he would like permission for any other person (other than the person he intends to represent him at the hearing) to appear at the hearing and, if so, explain on which points that person will be able to contribute.

5.5 The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). They apply to final hearings under the section 53A(2)(b) in a similar way to hearings following closure orders under section 167 of the 2003 Act (it should be emphasised that the truncated version of the hearings regulations described in paragraph 4.2 above applies to interim hearings only). The issues they address include who can make representations and what those representations can be about. It is therefore possible for responsible authorities or any other persons to make representations in relation to any of the licensing objectives, not just crime and disorder. Similarly; where it is in the public interest, the regulations relating to the exclusion of individuals from hearings, or conducting the hearing in private, will apply.

5.6 The licensing authority must take into account any relevant representations made. Relevant representations are those that:

² Responsible authorities are defined under sections 13(4) and 69(4) of the 2003 Act.

- relate to one or more of the licensing objectives;
- have not been withdrawn; and
- are made by the premises licence holder, a responsible authority or any other person (who is not also a responsible authority).

5.7 The licensing authority must notify its decision and the reasons for making it to:

- the holder of the premises licence;
- any person who made relevant representations; and
- the chief officer of police who made the original application.

6. Right of Appeal

6.1 An appeal may be made to the magistrates' court within 21 days of the licence holder being notified of the licensing authority's determination on the review. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.

6.2 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.

[insert name and address of police force]

Example Form

Annex A

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime / serious disorder / both serious crime and serious disorder³.

*Premises*⁴:

Premises licence number (if known):

Name of premises supervisor (if known):

I am a ⁵ in the
police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁶:

.....

³ Delete as applicable.

⁴ Include business name and address and any other relevant identifying details.

⁵ Insert rank of officer giving the certificate, which must be superintendent or above.

⁶ Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

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

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

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 the 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.**

I [on behalf of] the chief officer of police for the police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, Ordnance Survey map reference or description:

Post town:

Post code (if known):

2. Premises licence details:

Name of premises licence holder (if known):

Number of premises licence holder (if known):

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

Signature of applicant:

Date:

Capacity:

Contact details for matters concerning this application:

Address:

Telephone number(s):

Email:

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

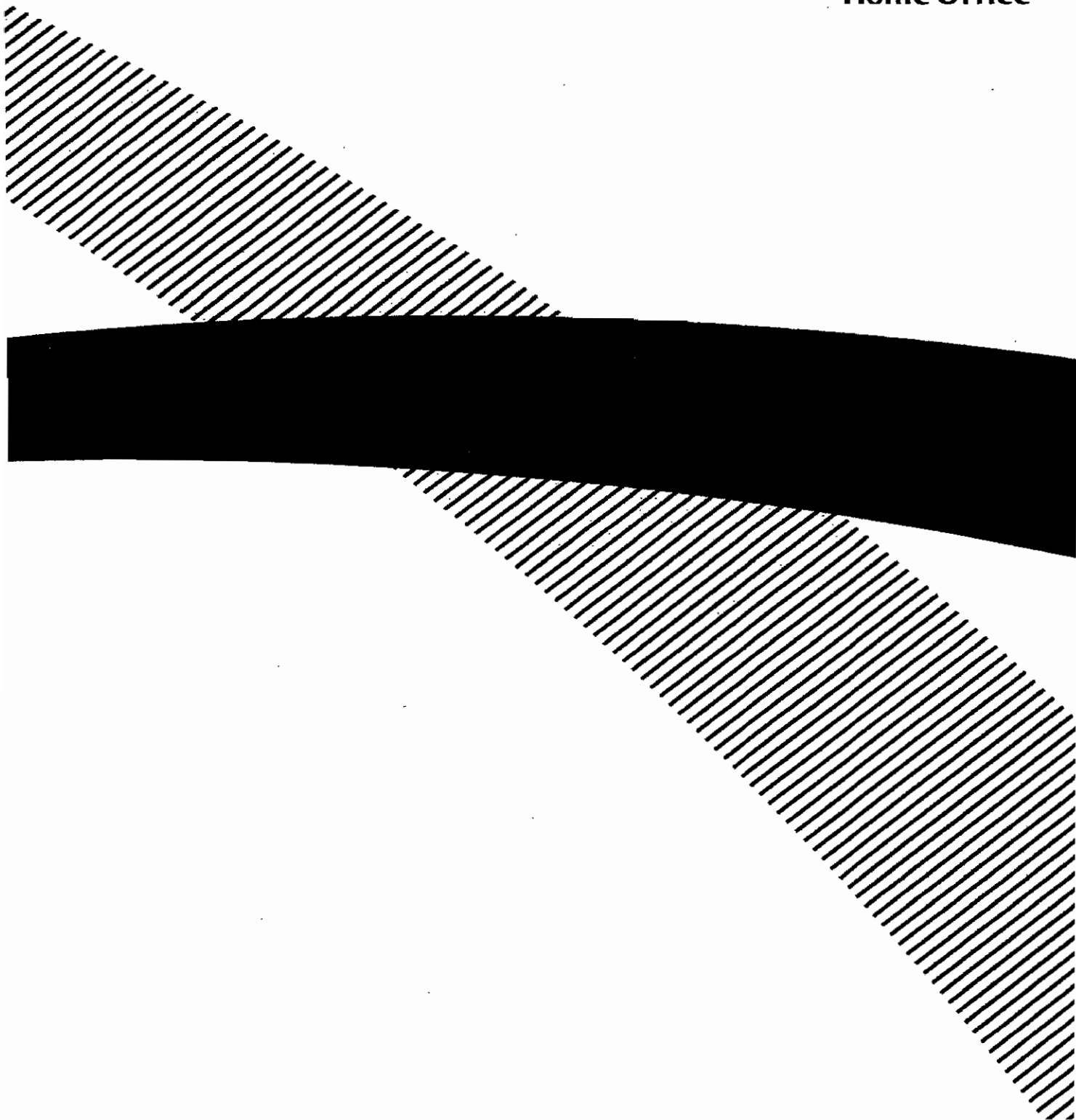
- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.



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