

Report To Licensing Sub-Committee
11 September 2012

Item

Report of Head of citywide services

4

Subject Licensing Act 2003: Application for Review of a Premises
Licence - Mr Pizza 47 Portersfield Road Norwich NR2 3JU

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 an application by Janet Wilkinson and Kevin Lee to review the premises licence in respect of Mr Pizza 47 Portersfield Road Norwich NR2 3JU.

Recommendation

That members determine the review application in respect of Mr Pizza 47 Portersfield Road Norwich NR2 3JU 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.

Financial Consequences

The financial consequences for this report are nil.

Corporate Objective/Service Plan Priority

The report helps to achieve the service plan priority of protecting the interests of the public through the administration of the licensing function.

Contact Officers
Ian Streeter

Phone No 212439

References

The Licensing Act 2003
Guidance issued under Section 182 of the Licensing Act 2003
Norwich City Council Statement of Licensing Policy

1.0 Licensing Act 2003 (The Act): Review Applications

1.1 The Act provides a mechanism by which, following the grant of a premises licence, a responsible authority (e.g. the police) or any other person (e.g. a resident living in the vicinity of the premises) may ask the licensing authority to 'review' the licence because of a matter(s) arising at the premises in connection with any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm).

1.2 The licensing authority must advertise the review by displaying a notice at, on or near the site of the premises to which the application relates and at the main offices of the licensing authority. Notification of an application is also sent to properties within the vicinity of the application premises, in accordance with the policy previously agreed by the city council's Licensing committee.

1.3 The Act provides the licensing authority with a range of powers that it may exercise on determining a review, where it considers them appropriate for the promotion of the licensing objectives. However, the licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps appropriate to promote the licensing objectives.

1.4 Where a licensing authority considers that action under its statutory powers is necessary, it may take any of the following steps:

- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example by reducing the hours of opening or by requiring door supervisors at particular times;
- To exclude a licensable activity from the scope of the licence;
- To remove the Designated Premises Supervisor, for example, because they consider that the problems are the result of poor management;
- To suspend the licence for a period not exceeding three months; and
- To revoke the licence.

1.5 It should be noted that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.

1.6 The following parties have a right of appeal to the Magistrates Court if they are aggrieved by the licensing authority's decision:

- the applicant for the review;
- the holder of the premises licence; and
- any other person who made relevant representations in relation to the application.

2.0 Application for Review

2.1 An application to review the Premises Licence in respect of Mr Pizza 47 Portersfield Road Norwich NR2 3JU has been received from Janet Wilkinson 33

Portersfield Road Norwich NR3 3JT and Kevin Lee 40 Warwick Street Norwich NR2. A copy of the application and accompanying information is attached at Appendix A to the report. In addition to their written submissions, the applicants have also submitted a DVD containing footage of matters referred to in the review application. Copies of both the review application and DVD have been given to the premises licence holder.

2.2 The grounds for review fall under the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm. No previous application for review has been received in respect of these premises.

2.3 The current premises licence allows the following licensable activities:

Late Night Refreshment	Sun - Thurs	23:00 - 00:00
Late Night Refreshment	Fri & Sat	23:00 - 01:00

2.4 The opening hours of the premises are:

Monday	16:00 - 00:00
Tuesday	16:00 - 00:00
Wednesday	16:00 - 00:00
Thursday	16:00 - 00:00
Friday	16:00 - 01:00
Saturday	16:00 - 01:00
Sunday	16:00 - 00:00

2.5 The current Premises Licence holder is Mr Bilal Gilgil 47 Portersfield Road Norwich NR2 3JU

2.6 The conditions attached to the Premises Licence for Mr Pizza are attached at Appendix B to the report.

3. Relevant Representations

3.1 The responses from the Responsible Authorities are as follows:

- Licensing authority – no representations.
- Police – response attached at Appendix C.
- Environmental health – no representations.
- Fire Officer – no representations.
- Health & safety – no representations.
- Planning Officer – no representations.
- Area Child Protection Committee – no representations.
- Trading Standards – no representations.
- Primary Care Trust – no representations

3.2 There have been five representations supporting the review application. These are attached to the report at Appendix D.

3.3 A site map of the area identifying the premises to which the application relates and detailing the addresses of the applicants and those parties supporting the application will be available at your meeting.

4.0 Norwich City Council Statement of Licensing Policy

4.1 Attached at Appendix E are the elements of the City Council's local Licensing Policy which are considered to have a bearing upon the application:

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

5.1 Attached at Appendix F are the elements of the National Guidance issued by the Secretary of State that are considered to have a bearing upon the application.

6.0 Summary

6.1 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

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

6.2 In making its decision, the Sub-Committee is also obliged to have regard to guidance issued under Section 182 of the Licensing Act 2003 (National Guidance) and the Council's own local licensing policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.

6.3 If, after considering the application and relevant evidence, action is considered necessary, the Sub-Committee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:

- To modify the conditions of the Premises Licence (which includes adding new conditions or any alteration or omission of an existing condition);
- To exclude a licensable activity from the scope of the licence;
- To suspend the licence for a period not exceeding three months; and
- To revoke the licence.

6.4 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.



NORWICH
City Council

Citywide Services
Public Protection (Licensing)
City Hall
St Peters Street
Norwich NR2 1NH

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I **Janet Wilkinson**

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

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

Mr Pizza
47 Portersfield road

Post town **Norwich**

Post code (if known) **NR2 3JT**

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

Mr Bilal Gilgil

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

(B) DETAILS OF OTHER APPLICANT

Name and address Mr Kevin Lee 40 Warwick Street Norwich NR2
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

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

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

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

Please tick one or more boxes ✓

✓

☐

✓

✓

Please provide as much information as possible to support the application (please read guidance note 3)

Please see previous statements from local residents:

Janet Wilkinson

Kevin Lee

Marilyn Wasyliw

Grounds for request for review of licence:

The granting of a late night licence for Mr Pizza in 2005 has caused further disturbance and public nuisance to the neighbourhood. This take-away is constantly open well after the licensing hours and is serving food from the side door of the premises after hours. This is well known to local youths who hang around in the early hours of the morning causing a disturbance. This is a public nuisance.

The operation of this establishment into the early hours of the morning is having a detrimental impact on the lives of many people in the area. We would like to be able to sleep with our windows open at night and not be disturbed by the shouting and chatter of Mr Pizza staff and customers.

We have put up with this situation for too long and request that the late night licence is revoked.

Please tick ✓

yes

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

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

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

.....

Capacity

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

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

Application to review licence on: Mr Pizza 47 Portersfield Road Norwich NR2

As neighbours of the above fast food take away premises, we wish to apply to have the licence reviewed. As you will know, despite strong local opposition against the granting of a late night licence in 2005, and acceptance by the licencing committee that there was antisocial behaviour in the vicinity of the premises, the Council determined that Mr Pizza could open until 12 midnight on week nights and 1am on Friday and Saturday. Taking into consideration the location of Mr Pizza, situated in a densely populated residential area, and the problems already acknowledged, this decision appears misguided and has caused a significant adverse impact on the local community through public nuisance that arise from the operation.

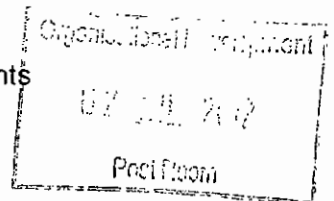
Three conditions had been put on to the licence that, in the Committees' opinion, would prevent any further nuisance:

- At close of business the licensee will clear up detritus from outside the premises – Not done
- No persons to be admitted after 11.45 pm Mon to Thurs and 12.35 am Fri and Saturday – Not observed
- The licensee will place prominent notices stating opening times and last admission – Not done

These conditions have never been enforced by the Council and have never been adhered to by Mr Pizza. The late night licence has caused further disturbance and public nuisance to the neighbourhood resulting from the thoughtless and inconsiderate actions of Mr Pizza staff. This take-away is constantly open well after the licenced opening hours and is serving food from the side door of the premises after hours. This is well known to local youths who hang around in the early hours of the morning causing a disturbance.

Since the issuing of the late night licence in 2005, the problems with public nuisance have escalated. The manager and staff have been approached many, many times by numerous neighbours in an attempt to resolve the situation, but this has not had any effect. We now feel that our only option is to apply to the council to review the licence with the following objectives:

- Prevention of crime and disorder – Please see statements from local residents
- Prevention of public nuisance – Please see statements from local residents
- Protecting children from harm – Please see statements from local residents



Please see enclosed map of the area with households affected by the late night opening of Mr Pizza.

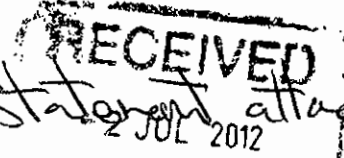
Janet Wilkinson – 33 Portersfield road

Wilkinson – Statement attached
– Statement attached

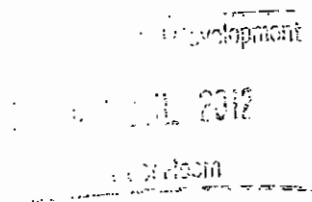
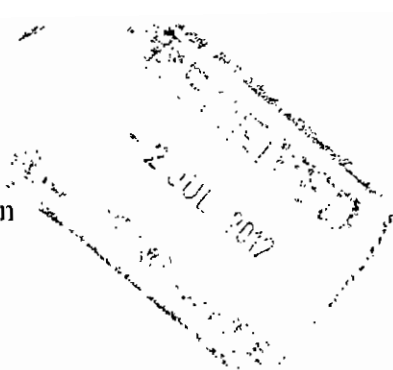
Kevin Lee – 40 Warwick street

Please Note: The decision to request a review of this licence by the undersigned has not been taken lightly. It has taken a lot of effort and soul searching. We would like it to be known that our joint plea for help on this matter is a last resort to try and resolve a desperate situation. On the whole, we have found the current owner of Mr Pizza to be a friendly and polite man. However, some of us have had many sleepless nights, caused as a result of the fallout of this inappropriately sited business. Our children are being kept awake at night; some of us are experiencing health problems and are taking sleeping pills; some of us live in fear of intimidation from unruly clientele, and some of us have actually experienced such intimidation first hand. We would therefore ask that our evidence be considered with a view to finding a way forward on this matter, and thus effect positive change, in order that ourselves and our children can go about our lives in a safe and healthy manner.

Marilyn Wasyliv 8 Portersfield Road – Statement attached.



Mrs Janet Wilkinson
33 Portersfield road
Norwich
NR2 3JT



Re: Mr Pizza take away – 47 Portersfield Road Norwich NR2

Mr Pizza takeaway requested a licence for longer opening hours in November 2005. There was opposition to this from several local residents. I and councillor Bob Gledhill attended the hearing and very strongly voiced our opposition because of the antisocial behaviour we were already experiencing generated by the actions of Mr Pizza. Nevertheless, the Council approved the late-night opening licence. I found this decision totally unbelievable given the weight of opposition from local residents and the Committee's acceptance in the Notice of Determination **"that there was antisocial behaviour in the vicinity of the licensed premises at certain times"**. The committee's incomprehensible and perverse decision that Mr Pizza be allowed to trade to 12 midnight Monday to Thursday and to 1 am on Friday and Saturday has, as predicted, exacerbated the antisocial behaviour problem which is now intolerable. The granting of a late night trading licence has had a detrimental impact on this residential area.

The customers flocking to Mr Pizza after 11pm are groups of young revellers coming out of pubs in high spirits looking for food and further entertainment. They gather at Mr Pizza and are naturally very loud and boisterous, laughing, shouting and swearing outside the takeaway, generally causing a public nuisance. They often use very bad language and this can sound threatening and intimidating. Several young children live in close proximity to this takeaway and are being negatively affected by this persistent disturbance at night.

My house is nearly opposite to Mr Pizza takeaway and I can see it from my bedroom. I have very often been woken late at night and looked out to see groups of youths gathered around Mr Pizza well after the licenced closing times. The lights in the shop are on and staff are taking orders and serving pizza to customers from the residential side door up to 3am (see photo and video clips). Customers often sit on the wall to eat the food, causing even more disturbance with loud conversation. The only reason I know this is because I have been disturbed by the noise and have been provoked to look out of my window to see what is going on. I have complained to the manager of Mr Pizza about this illegal practice both verbally and by letter (see letter June 2009), but they continue to serve after hours. I am not prepared to put up with this situation any longer. I enclose an incident report and video of activity outside Mr Pizza, shot from my bedroom window over one weekend, as evidence of the kind of anti-social behaviour we are experiencing. This is just a snapshot of the disturbance we are experiencing most weekends from 11pm onwards. During the summer months it is impossible to get any sleep with the window open because the noise is so extreme and persistent. This is clearly a public nuisance as defined in the Licensing Policy.

There is also a problem with Mr Pizza's late night deliveries and cars coming and going, doors slamming until the early hours. Home delivery was not an issue in 2005 as I don't think they did so many home deliveries then, but has become a problem now that word has spread that pizza will be delivered at any time into the early hours. This is causing a noise

nuisance and traffic congestion; taking up local people's parking places. Delivery is not mentioned on the licence and I feel it should be.

When the late night licence was granted in 2005, conditions had been stated in the determination in an attempt to prevent further antisocial behaviour. These conditions have not been followed. The opening and closing times are not visible or displayed anywhere. If there is a sign requesting that patrons leave quietly, it is not having any affect and is therefore not an effective measure to prevent public nuisance. The staff from Mr Pizza can not be expected to prevent the noise outside the premises as large groups of youths can be very intimidating. The noise is often coming from inside the premises as the main door is left open during the summer months.

For these reasons I feel that we are compelled to apply for a review of the licence. As you may know, this takeaway is in the heart of the golden triangle in a densely populated residential area. It is clearly the wrong location for a late night take away business, particularly one which, as in this case, shows no consideration for its neighbours by consistently flouting the conditions of its licence.

I request that the late night licence be revoked and that the opening hours revert to 11pm closing. I would like it made clear to Mr Pizza management, staff and owners that opening after hours is not permitted in any circumstances and that breaking these conditions will be taken seriously. They have strategically encouraged the message to be spread that after hours serving is available.

It should be noted that Mr Pizza has a reputation locally for opening into the early hours of the morning and so it will take several months once the licence is revoked before we are no longer disturbed by local youths coming to the area and banging on the door hoping to be served.

The basic human rights of many people are being sacrificed for the benefit of one local commercial outlet.



Janet Wilkinson

RECEIVED

8 PORTERSFIELD ROAD

Organisational Development

07 JUL 2012

10/11/11

Post Room

Re Mr. Pizzu Takeaway.
LEASING OFFICE

I'm sorry I won't be able to attend the meeting tonight. But I would like to add my support.

I would not want to see anyone put out of business and I have to say that, on a personal level, the owners and staff have always been courteous to me and even helpful on a few occasions when their customers' parking has caused problems for me getting in or out of my drive or they have seen me struggling with moving heavy objects.

However the level of noise late every night is very disturbing and this is encouraged by their customers knowing that they will continue to serve long after they are officially closed. Although I have heard staff telling people to keep the noise down, at 2 am any group hanging around for a while is going to be noisy!

I used to go and request that those people make less noise but now that I live on my own and have had a few instances of being sworn at (and once my gate smashed and the wood used to threaten me and then to beat the front door with), I no longer feel brave enough to do that. Instead I have

found myself going to bed later & later over the last few years because I know that it is likely to be ^{too} noisy to sleep until well after midnight. I believe this has affected my health - I have M.E. and lack of sleep exacerbates the symptoms.

The amount of rubbish is also a big problem. I have even ~~found~~ found evidence of a 'midnight picnic' which had ~~taken~~ place on my back lawn!

I think cutting back on the hours that the takeaway is open, so that it closes at a reasonable time, would solve many of the problems (particularly making it less attractive to those who have been out drinking all evening & stop on their way home!). Also it needs reinforcement so that they stick to the allowed hours.

If any further meetings are arranged, I would like to attend.

Hope this helps.

pe you can read this - it's been scribbled in a bit of a hurry - sorry!

Norwich City Council Licensing Authority
Licensing Act 2003

Organisational Development
19 JUL 2012
Post Room

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

Your name/organisation name/name of body you represent (see note 1)	Janet Wilkinson
Postal address	33 Portersfield road NR2 3JT
Email address	
Contact telephone number	

Name of the premises	MR Pizza
Address of the premises	47 PORTERSFIELD 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	* See previous statement
Public safety	* See previous statement
To prevent public nuisance	* See previous statement
To protect children from harm	* See previous statement

RECEIVED
19 JUL 2012
LICENSING

Please suggest any conditions which would alleviate your concerns.	Put hours back to original set. To close 11pm weeknights 12pm Fri & Saturday
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Signed:

Date:

18 July 2012

Please see notes on reverse



NORWICH
City Council

Re: MR PIZZA
47 PORTERSFIELD ROAD
NR2

Organisational Development

19 JUL 2012

CONFIDENTIAL INCIDENT REPORT

Post Room

DATE	TIME	DESCRIPTION OF INCIDENT
14 July 2012	12.59am	Noise outside house MR Pizza still serving customer
to 15 July 2012		Police van parked outside - policeman came out of MR Pizza with take away + drove off in van
Saturday	1am	Further customers arrive to be served at MR Pizza. Front door wide open. Lots of chat/noise smoking etc
Sunday		Delivery man left shop + drove off. Car doors slamming, engine noise
	1.15am	Another car pulls up. Engine running outside my bedroom windows. More chat/noise/shouting from shop to car.
	1.25	Served by MR Pizza - doors still open.
	2.20am	Doors close - cleaning up inside. Customer drive off. Noise outside. MR P. lights out + closed. Customer throwing pettles at MR P windows to try + get served!

Your name
Your address
Contact number

Janet Wilkinson
33 Portersfield Road NR23 5T

SEND YOUR COMPLETED FORM TO: LICENSING OFFICE
NORWICH CITY COUNCIL, ST PETERS STREET, NORWICH NR2 1NH

* Note: This is just a snapshot of one evening.
I could write a report most evenings.
We have been lucky that the weather has been bad



NORWICH
City Council

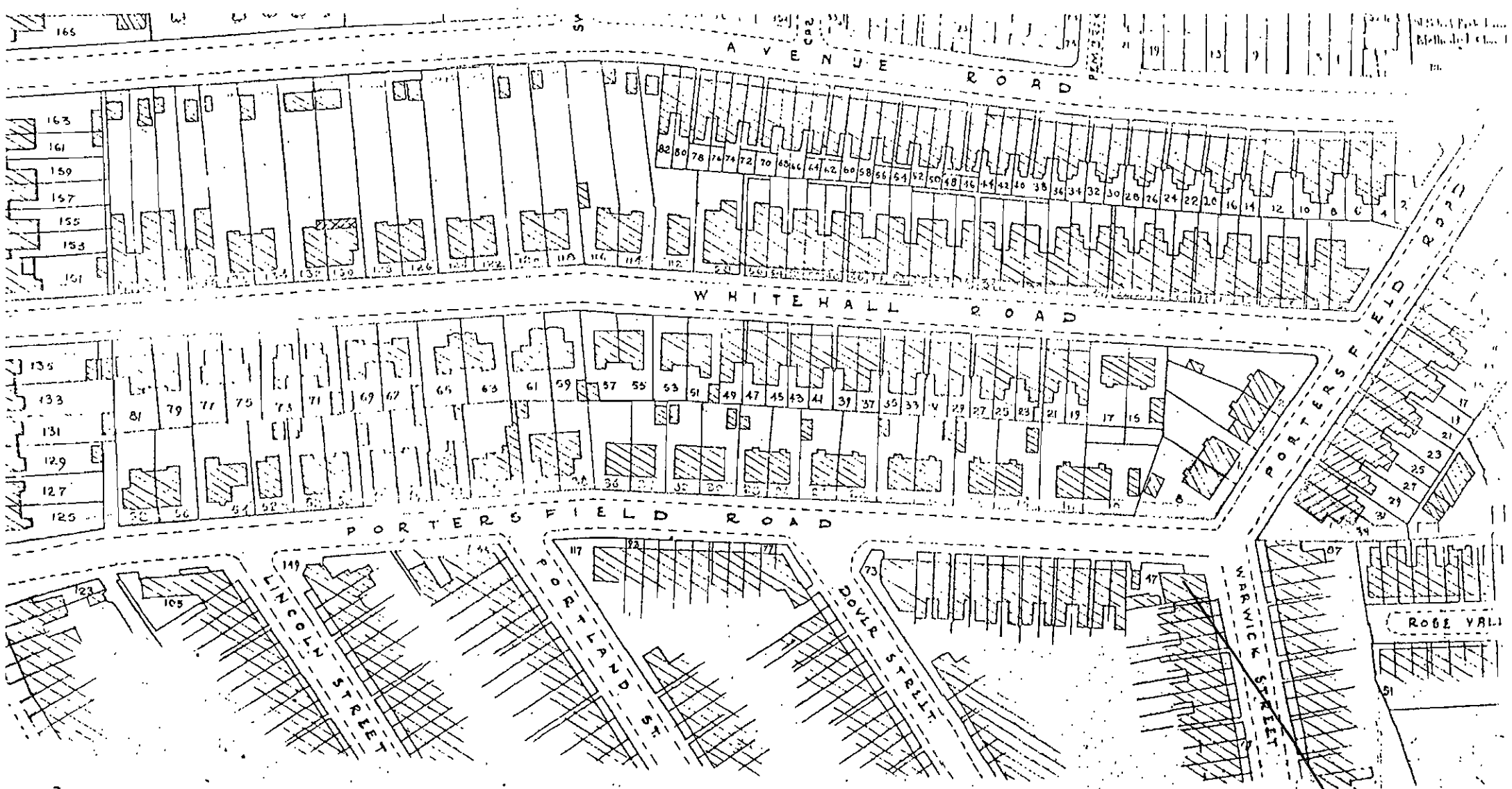
CONFIDENTIAL INCIDENT REPORT

DATE	TIME	DESCRIPTION OF INCIDENT
27.10.2011	1.30am	Noise in street Looked out bedroom window to see several youths at back door Mr Pizza Pizza being served - See Video
28.10.2011	2.45am	Disturbed by noise Looked out - several customers outside Mr Pizza. Served at back door. Got on with eating/talking till 3am
29.10.2011	2.30am	Disturbed by noise Looked out - once again customers at Mr Pizza. Cars pulling up - engines running collecting pizza till 3am - Video
Any Weekend! Some weeknights 4pm - ? early hrs.		Noise from Mr Pizza. In warm weather front door left open so all talking can be heard till doors close. Then noise starts from outside Gang on for several years - worse in good weather as have window open.

Your name
Your address
Contact number

Samuel Wilkinson
33 Patesfield Road NR23 5J2
01603

SEND YOUR COMPLETED FORM TO: LICENSING OFFICE
NORWICH CITY COUNCIL, ST PETERS STREET, NORWICH NR2 1NH



1/1250

This is the annexed plan referred to in the annexed
 Statutory Declaration of DONALD ADOLPHUS COLLENETTE
 declared before me this day of 1959.

A Commissioner for Oaths.

Mr Pizze

BASED UPON THE ORDNANCE SURVEY MAP WITH
 THE SANCTION OF THE CONTROLLER OF H. M.
 STATIONERY OFFICE. Crown Copyright Reserved.

0007

Janet Wilkinson
33 Portersfield Road
Norwich
NR2 3JT
Norfolk

Sunday 7th June 2009

The Manager
Triangle Pizza
Warwick Street

Dear Sir

I am writing to complain about your repeated disregard of the set opening times for the Triangle Pizza.

Last night I was woken up at 3am by people shouting outside your shop. They were shouting for their pizza order and I could see from my bedroom window pizza preparation in the shop. Boxes of pizza are frequently served from your side door when the shop is supposedly 'closed'.

This is not the first time that your neighbours have witnessed this practice in the early hours of the morning, usually on a Saturday night. You have customers shouting and banging on your side door asking for pizza or zooming up in cars and beeping horns to get their order. By serving customers in this way, you are encouraging noisy youths into a quiet residential area and are causing noise disturbance most weekends. As you know, there were many objections to your application for a later opening licence, the noise problem being the most serious. The situation is getting worse.

I suggest that you:

- clearly display closing times on your door with a note to say 'No orders will be taken after these times',
- take your last phone order for food 15mins before closing time ,
- stop taking phone calls for food orders after closing time,
- do not serve customers from your side door after hours.

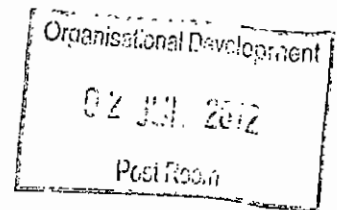
If I or any of your neighbours continue to be disturbed by your thoughtless actions then we will definitely report Triangle Pizza to the licensing enforcement officer at Norwich City Council.

As I said in the meeting with the council when your licence was granted, we are happy to have Triangle Pizza as a business in our area. What we do object to is the noise and anti social behaviour its late night trading brings to our neighbourhood. Please show some consideration to your neighbours.

Yours faithfully,

Janet Wilkinson

Kevin Lee - 40 Warwick St, Norwich NR2 3LD



To Whom it May Concern

This has not been an easy letter to write. Nobody feels comfortable complaining about the neighbours, especially in an official capacity. But sadly, after seven years of biting my lip, I can take no more. I live next door to Mr Pizza Takeaway - Portersfield Rd, with my partner and young daughter. We have lived at 40 Warwick St for fifteen years.

My chief reason for writing this letter is to complain about noise levels coming from Mr Pizza Takeaway fast food establishment. Enclosed you will find forms that give times and dates of incidents that have occurred since last summer, when noise levels reached a new high. These examples of are but a mere fraction of the times we have had to endure the misery of these noisy neighbours, since they arrived seven years ago. So why complain now, why not sooner? Well, we have suffered in silence because we have tried to be understanding neighbours, that is why we have not complained sooner. We have ignored the rats that use our garden as a toilet; we have been patient when Mr Chicken's aluminium chimney bellows out acrid smoke and fills our garden when we are playing with our young child; we have turned a blind eye to the delivery drivers that sit in their cars and throw their empty drinks cans and pumpkin seed shells in the gutter; we have stepped over putrid liquid floor washings that have been slopped into the gutter and left to cause health and safety concerns until the next rains come. But the noise we cannot ignore, and it has been worse than ever these last few months.

Last summer, we never had the luxury of having the bedroom windows open at night. The noise from Mr Pizza's open-door kitchen is too great. The banging and clattering of pots and pans can go on until way past two in the morning, sometimes longer. Loud conversations outside Mr Pizza's kitchen, between drivers and kitchen staff, have driven me to write this letter. This antisocial behaviour can also go on until well after one thirty in the morning, sometimes longer. While they play, we suffer.

To give you an example of how noisy things have become recently, I have recently been through a nightmare period where, on average I had two totally sleepless nights each week for six weeks, caused by the loud conversations as mentioned above. I go to bed at eleven, then am woken up around midnight by the noise down below, then I spend the next two or three hours waiting for the silence, then clock watch till dawn. I wear earplugs, we have the fan on all night to give us some air. Outside down below, the laughing and joking and banging becomes intimidating in the dead still of night and I find myself lying in my own bed, sweating in fear. When I do pluck up the courage to open our bedroom window and ask them to politely be quiet, the noise subsides for a short while, but by then I am awake anyway and the nightmare of trying to get back to sleep begins. I cannot go on like this anymore.

This regular sleep deprivation has caused me to visit my doctor because I am worried. My work involves getting up at 6am for a 50 mile round trip commute to operate heavy machinery. The health and safety issues here are obvious. I am effectively a

danger to myself and others. All because of a noisy and illegally run business next door, that is keeping me, and also my family, awake at nights.

It is therefore, for the above reasons that I would like to call a review of the current Mr Pizza Trading Licence. In my opinion, the license extension should never have been granted back in 2005. What's more, I have recently seen evidence that Mr Pizza are flouting their license and serving fast food until way past their official opening times. This surely cannot be right, and might explain the excessive noise that me and my family are having to live with. My daughter is having bad dreams at present. I feel the noise outside from staff and clients of Mr Pizza, may be causing this.

Please accept this letter as a formal noise complaint with a view to improving the quality of our health and our lives. Please look favourably upon this request for some kind of sensible solution to this issue. We are tired of all the noise. We are desperate.

Kevin Lee



NORWICH
City Council

Page 1

CONFIDENTIAL INCIDENT REPORT

DATE	TIME	DESCRIPTION OF INCIDENT
THUR 16/6/11		Phoned Council - Environmental Health regarding putrid puddles in gutter, from Mr Pizzu - Puddles laying there for last 6 weeks & smelling in hot weather
FRI 17/6/11		Spoke to owners about rubbish & puddles in gutters - found used condom
SAT 18/6/11	1am to 1.30 am	Woken up by excessive noise & laughing & joking from delivery drivers in back kitchen - asked them to please be quiet.
mon 20/6/11	12-30 am onwards	Excessive loud conversation from Kitchens & back yard
SAT 2/7/11	1 am	Loud Conversations from kitchen staff keeping me awake.
TUE 5/7/11	12 - 1 am	Excessive noise from kitchen staff keeping me awake
FRI 5/8/11 & 19/8/11		Lost the energy to document the noise disturbance for the last few weeks, but decided to continue with diary entries after continuous growth in early morning noise levels from kitchen below our bedroom. Sleeping with windows shut & fans on.

Your name

MR K. LEE

Your address

40 WARWICK ST NORWICH NR2 3LD

Contact number

SEND YOUR COMPLETED FORM TO: LICENSING OFFICE
NORWICH CITY COUNCIL, ST PETERS STREET, NORWICH NR2 1NH



NORWICH
City Council

CONFIDENTIAL INCIDENT REPORT

DATE	TIME	DESCRIPTION OF INCIDENT
SAT 26/8/11		Spoke to owners of Mr Pizzol & asked them to keep the noise down
FRI 26/8/11	12-1.30am	Excessive noise levels again from kitchen staff
September 2011		Becoming despondent over keeping meticulous diary entries. At least twice every week being kept awake with sleepless nights from excessive noise from drivers & kitchen staff in back yard - repeatedly asking them to keep the noise down, but getting no joy.
28/9/11		Found cigarette butt in our garden thrown out of Mr Pizzol upstairs kitchen window - It had been alight when thrown. Told owner.
28/9/11		Went to doctor and complained of sleepless nights & depression from next door's noise - got sleeping pills. Spoke to Cllr Bob Gledhill feeling desperate!

Your name MR K. LEE
Your address 40 WARWICK ST NORWICH NR2 3LD
Contact number

SEND YOUR COMPLETED FORM TO: LICENSING OFFICE
NORWICH CITY COUNCIL, ST PETERS STREET, NORWICH NR2 1NH



CONFIDENTIAL INCIDENT REPORT

DATE	TIME	DESCRIPTION OF INCIDENT
29/9/11	2.30am	Woken up at 2.30am by clearing up from kitchen staff banging pots & pans - had sleepless night - sent note to owner of Mr P339 (enclosed)
30/9/11		letter posted back through letter box - owner cannot read English, so spoke to him face to face - told him my health was suffering and pleaded with him to keep the noise down. After being reassured he would be quieter in future, that night I had to lean out of our bedroom window and ask the kitchen staff & drivers to keep the noise down.
1/10/11	2.00am	Kept awake by banging of kitchen door - staff clearing up <u>still</u> .
6/10/11		Went to doctor again - Had to phone in sick.
10/10/11	2.00am	Kept awake by kitchen staff banging about - shouted down from our bedroom for them to be quiet. Pisted note through their letter box following morning asking them to be quiet.
<p>Your name MR K. LEE Your address 40 WARWICK ST NORWICH NR2 3LD Contact number</p> <p>SEND YOUR COMPLETED FORM TO: LICENSING OFFICE NORWICH CITY COUNCIL, ST PETERS STREET, NORWICH NR2 1NH</p>		



NORWICH
City Council

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CONFIDENTIAL INCIDENT REPORT

DATE	TIME	DESCRIPTION OF INCIDENT
15/10/11	1 am	Woken up by kitchen staff banging about - another sleepless night
19/10/11		Complained to Environmental Health about Milky liquid filling gutters again & mess from drivers. Had another sleepless night after listening to door from kitchen banging & clattering.
23/10/11	12 am onwards	Shouted down to kitchen staff to be quiet after too much noise - took sleeping pill
24/10/11		Phoned Environmental Health to complain about Mr Pizzas drivers' rubbish in gutters - said they had no plans for a visit
24/10/11	12-30 onwards	More banging of doors & pots & pans from Mr Pizzas kitchen - took sleeping pill
27/10/11	1-30 am	Tried to sleep on sofa after being kept awake again by Mr Pizzas kitchen staff - Had sleepless night

Your name MR K. LEE

Your address 40 WARWICK ST. NORWICH, NR2 3LD

Contact number

SEND YOUR COMPLETED FORM TO: LICENSING OFFICE
NORWICH CITY COUNCIL, ST PETERS STREET, NORWICH NR2 1NH



NORWICH
City Council

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CONFIDENTIAL INCIDENT REPORT

DATE	TIME	DESCRIPTION OF INCIDENT
29/10/11	3.30pm	Witnessed doors opening at 3.30pm & customer being served 1530 half hour before official opening time
3/11/11	1.15am	Kitchen staff still clearing up & making excessive noise - kept me awake
6/11/11	12.30am onwards	Took sleeping pill - Mr Pizzoni's kitchen still making noise
8/11/11	12am onwards	AS ABOVE
SAT 12/11/11	8.30pm	Car engine & stereo left on whilst owner's wife Mr Pizzoni - woke my sleeping daughter up.
Sun 13/11	11pm	AS ABOVE
16/11 Wed	12am onwards	Kept awake by voices & noise coming from kitchen below our bedroom
20/11 Sun	12.12.15am	Kept awake by voices & noise coming from Mr Pizzoni's kitchen.
<p>Your name MR K. LEE Your address 40 WARWICK ST NORWICH NR2 3JL Contact number</p> <p>SEND YOUR COMPLETED FORM TO: LICENSING OFFICE NORWICH CITY COUNCIL, ST PETERS STREET, NORWICH NR2 1NH</p>		

Sent 29/9/11

MR CHICKEN,

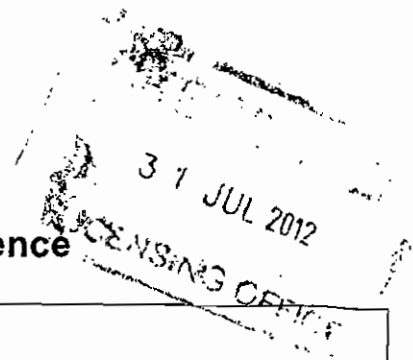
THE NOISE FROM YOUR KITCHEN IS STILL MAKING ME NOT SLEEP. CAN YOU PLEASE CLOSE YOUR KITCHEN DOOR AFTER 10.30 PM

ALSO, YOUR LICENSE FROM NORWICH CITY COUNCIL SAYS THAT YOU MUST STOP ALL NOISE AND FINISH CLEARING UP AT 12.45 PM. LAST NIGHT YOUR KITCHEN DOOR WAS STILL BANGING SHUT AND OPEN AT 2.30 AM.

THIS IS BREAKING THE RULES OF YOUR LICENSE AGREEMENT AND IS ANTISOCIAL BEHAVIOUR.



Norwich City Council Licensing Authority
Licensing Act 2003



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

Your name/organisation name/name of body you represent (see note 1)	KEVIN LEE
Postal address	40 WARWICK STREET NORWICH NR2 3LD
Email address	
Contact telephone number	

Name of the premises	MR PIZZA
Address of the premises	47 PORTERSFIELD ROAD NORWICH NR2 3JL

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	
Public safety	
To prevent public nuisance	Please see separate sheet.
To protect children from harm	

Please suggest any conditions which would alleviate your concerns.	① Shorter opening hours ② Anti-slamming devices on kitchen doors
--	---

Signed:

Date:

27/7/12

Please see notes on reverse

SUPPORTING STATEMENT FROM

Kevin Lee
40 Warwick St
(Next door neighbour)

I live with my partner & 9 year old daughter in a property adjoining Mr Pizzara.

My family and I are being affected by the late opening into the early hours by Mr Pizzara - 47 Portersfield Road in the following ways:-

① My daughter who sleeps in the front bedroom below Mr Pizzara is being kept awake by late night/early morning activities, which include noisy, after hours patrons and noisy delivery drivers. It is affecting her sleep patterns. The drivers noise is caused by engines being started and doors being slammed.

② My partner and I who sleep in the back bedroom are being kept awake by kitchen noises from Mr Pizzara below. The noises from Mr Pizzara's kitchen at the back are:- door slamming, loud conversation from kitchen staff and the rattling and clattering of pots and pans until the early hours of the morning.

These 2 points alone are daily affecting our lives.



NORWICH
City Council

Premises Licence Summary

Premises Licence Number

05/02478/PREM

Premises Details

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

Ayse Kutlubay
47 Portersfield Road
Norwich
Norfolk
NR2 3JU

Telephone number 01603 443811

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

Late Night Refreshment

The times the licence authorises the carrying out of licensable activities

Late Night Refreshment	Sunday	23:00 - 00:00
Late Night Refreshment	Monday to Thursday	23:00 - 00:00
Late Night Refreshment	Friday and Saturday	23:00 - 01:00

The opening hours of the premises

Monday	16:00 - 00:00
Tuesday	16:00 - 00:00
Wednesday	16:00 - 00:00
Thursday	16:00 - 00:00
Friday	16:00 - 01:00
Saturday	16:00 - 01:00
Sunday	16:00 - 00:00

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

Name, (registered) address of holder of premises licence

Mr Bilal Gilgil
47 Portersfield Road
Norwich
Norfolk
NR2 3JU

Annex 2 – Conditions consistent with the Operating Schedule

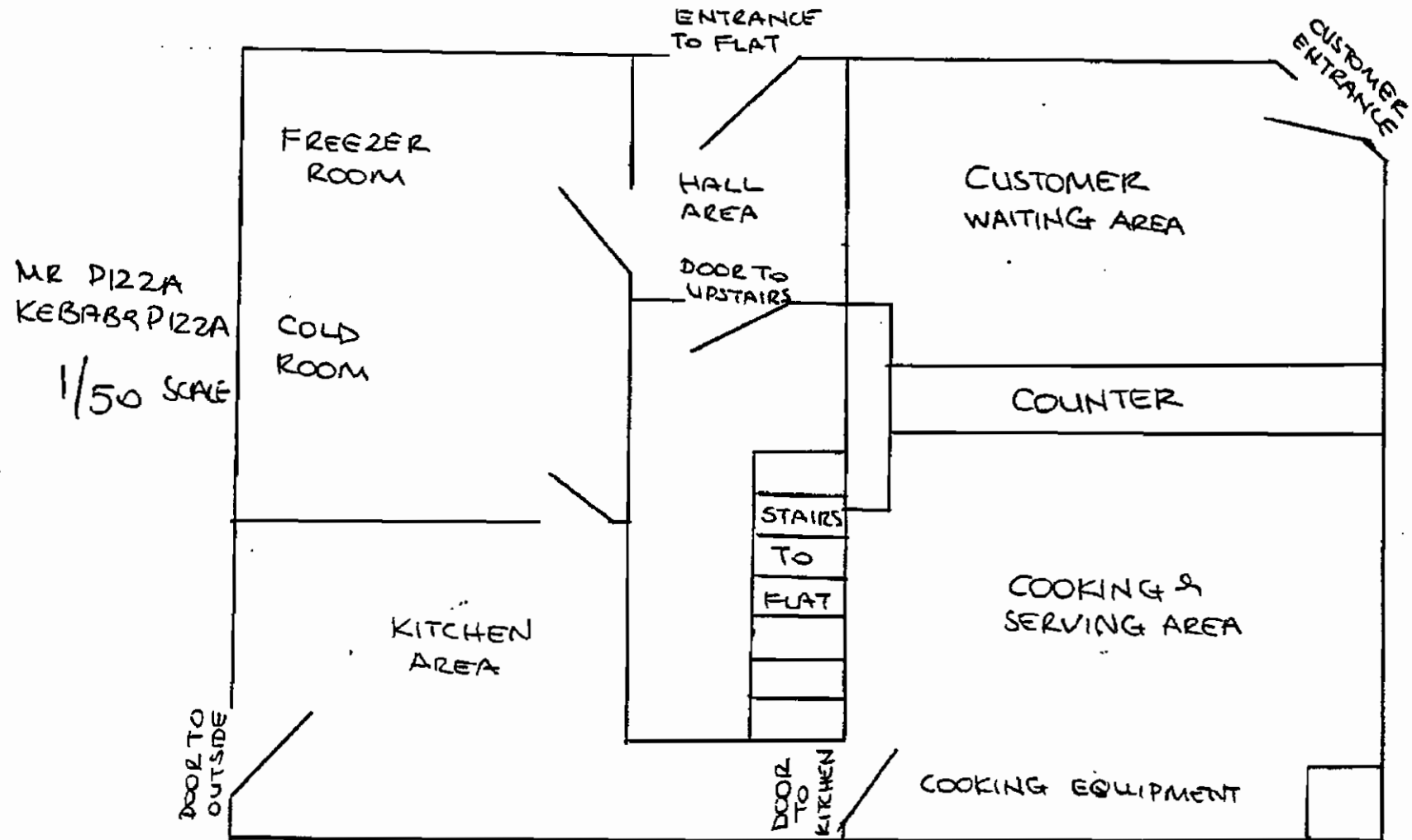
- 1 **General - all four licensing objectives**
- 2 Staff will be trained in health, safety, crime prevention and first aid.
- 3 **The Prevention of Public Nuisance**
- 4 Litter will be collected from around the premises.
- 5 Noise and light pollution will be within acceptable levels.
- 6 A sign will be on display at the premises asking customers to leave quietly.

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

- 1 The licensee shall take all necessary steps during the hours of operation, and in particular at the close of business each day to clear rubbish and detritus arising from the business from outside the front of the licensed premises.
- 2 No persons are to be permitted to the licensed premises after 11.45 pm on Monday to Thursday and 12.45 am Friday to Saturday.
- 3 The licensee shall place prominent notices inside the premises and visible from the outside, requesting patrons to leave the premises having regard to the needs of local residents. The notices shall also state the opening times of the licensed premises and the last admission times.

PORTERSFIELD ROAD

WARWICK STREET





NORFOLK
CONSTABULARY

Our Priority is You

Mr Ian Streeter
Licensing Manager
Norwich City Council

St Peters
Norwich

Date: 12th August 2012

Dear Mr Streeter

The Licensing Team

Bethel Street Police Station
Norwich
Norfolk
NR2 1NN

Tel: 01603 276020

Fax: 01603 276025

Email: licensingteam@norfolk.pnn.police.uk

www.norfolk.police.uk

Non-Emergency Tel: 0845 456 4567

Re: Review for Mr Pizza, Portersfield Road, Norwich

The Police acknowledge notification of a premises licence review for Mr Pizza, 47 Portersfield Road Norwich triggered by local residents in relation to breaches of the premises licence and Anti social behaviour due to the venue being open.

This review application is the first time that the Police Licensing Team have been notified that the premises had been causing an impact to local residents. According to our records, there are currently no incidents logged of crime or disorder linked to the premises in the last year.

Following this review application being received, the local Policing team have made visits to specifically monitor the area to independently evidence that anti social behaviour is taking place due to the premises being open.

The following visits by Police have been carried out:

22/07/12 – 00.15 hrs

PREMISES STILL OPEN (LICENCE UNTIL 0100) BUT NO CUSTOMERS - NO ASB NEARBY

21/07/12 – 23.15 hrs

VISIT PREMISES - ONE CUSTOMER – ALL IN ORDER - NO YOUTHS CONGREGATING NEARBY BUT THIS MAY BE OCCURRING EARLIER IN THE EVENING

20/07/12 – 23.15 hrs

DRIVEBY PREMISES - NO CUSTOMERS - NO ONE CONGREGATING NEARBY - ALL APPEARS IN ORDER

The visits made found no evidence of youths congregating outside the premises however it is important to acknowledge that these took place after the review was submitted which

could have prompted this improvement.

In addition to this, a licensing visit was carried out by a Police licensing Officer on the 30th July 2012. During this visit, the premises licence summary was on display and the conditions attached to the Premises Licence were discussed. A breach of one of the licensing conditions was highlighted at the time which was:

- **The Licensee shall place prominent notices inside the premises and visible from the outside, requesting patrons to leave the premises having regard to the needs of local residents. The notices shall also state the opening times of the licensed premises and the last admission times.**

Despite the premises having notices on display requesting patrons to leave the premises quietly, these notices did not advise specifically of the opening and last admission times. I did advise the manager Mr Mehmet Gilgil that I would be informing the committee of this for their information. Mr Gilgil denied opening later than his permitted hours to the public but advised that staff remain on site later to clean the premises.

I hope that this information will assist the committee with making their decision.

Yours faithfully,

Michelle Bartram
Licensing Officer



Norwich City Council Licensing Authority
Licensing Act 2003

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

31 JUL 2012

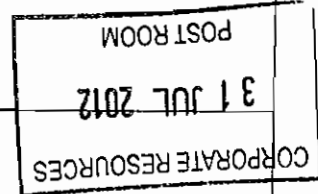
LICENSING OFFICE

Your name/organisation name/name of body you represent (see note 1)	Andy Cottam
Postal address	85 Warwick St., Norwich
Email address	
Contact telephone number	

Name of the premises	M1 Piza
Address of the premises	47 Portesfield 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	
Public safety	
To prevent public nuisance	Late night opening does attract pub goers after hours who may not necessarily be from the local area and it can be noisy into the early hours. This can be unsettling and intrusive.
To protect children from harm	



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

Signed:

Date:

27th July 2012.

Please see

rse

Fuller, Maxine

From: Wendy Franks [mailto:wendyfranks@bt.com]
Sent: 06 August 2012 21:05
To: Licensing
Subject: Licensing review 47 Portersfield Road

Hello,

I just wanted to check if this is the correct email address to comment on the review of the license for Mr Pizza at 47 Portersfield Road
Norwich, NR2 3JU.

I would like to comment that (as I'm sure you know) there has been a takeaway food outlet at that address since at least 1985 (when I originally moved to Portersfield Road). I still live just round the corner, and still go to the take-away occasionally. I've never noticed any excessive disturbance on that corner, even late in the evening. The people who run the take-away at present are friendly, nice people, and every time I've visited, I see that they are always respectful to their customers. This is a generally safe neighbourhood for walking after dark, and the presence of the take-away only supports that. I was limping up the road about a month ago, and the proprietor called out to ask if I was ok, although I am hardly a very regular customer, perhaps going to the take-away every few months at most.

This is a neighbourhood block that has a pub on one corner, and a take-away on the other end. There's a large proportion of students living in the area, and my view is that it has been like this for the nearly 3 decades that have passed since I first moved here. During the academic year, the students have parties on Portersfield, that I can hear from my bedroom window. They do wheelbarrow and other rowdy, fancy-dressed pub crawls down the road. Just part of the local flavour.

I think the take-away is an established part of the local community, and honestly, if somebody doesn't like it, they probably shouldn't have moved here.

Please do let me know if there is some more formal way that I should write to support them.

Best wishes,

Wendy Franks

Norwich City Council Licensing Authority
Licensing Act 2003

12 AUG 2012

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

Your name/organisation name/name of body you represent (see note 1)	Mr T. Cook
Postal address	79 WARWICK STREET NORWICH NORFOLK
Email address	
Contact telephone number	

Name of the premises	Mr Pizza
Address of the premises	47 Portersfield Road Norwich NR2 3J

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	
Public safety	Constant parking on yellow lines by delivery drivers. Also on other non restricted areas close to shop but close to bend at bottom of Warwick Street.
To prevent public nuisance	Littering area, drinks cans and other mess in areas where delivery drivers seen to park. Left laying on pavement + in gutter. Abuse of adhering to opening hours causing distress to the near neighbours especially No 40 Warwick Street, directly next door.
To protect children from harm	

Please suggest any conditions which would alleviate your concerns.	Revert closing times back to 11pm week nights and 12pm Friday/Saturday. Some form of condition on dealing with the litter problem, at least from their own people/staff.
--	--

Signed: .

Date: 9/8/12.

Please see notes on reverse

Fuller, Maxine

From: paul kroon (IFR)
Sent: 13 August 2012 16:17
To: Licensing
Subject: Mr Pizza, 47 Portersfield Road Norwich NR2 3JU (Application for review)

Dear Mr Ian Streeter,

I am responding to your letter dated 16th July 2012 regarding the application for review of the Premises Licence for Mr Pizza at 47 Portersfield Road. Please take the following observations and views into account when reviewing the licence for Mr Pizza.

The Mr Pizza premises is almost directly across the road from my family home at 81 Warwick Street where I live with my wife and our 2 children aged 8 and 10.

I have become unhappy at the lateness of, and the level of, noise disturbance that results from the operation of this take-away food shop. The main issue is the lateness of the noise which is caused by (i) people coming to and waiting around both inside and outside the shop and (ii) employees working within the shop and outside as drivers for the delivery service. It is clear that the shop is remaining open beyond its currently licensed hours (which are midnight on Sunday to Thursday and 01.00 on Friday and Saturday) and the noise is therefore carrying on much later into the night than is appropriate for a residential area. I have noticed that the frequency of episodes of high levels of noise that cause the most disturbance have increased over the past several months. The level and lateness of noise is causing me and my family to be disturbed after midnight which is not acceptable.

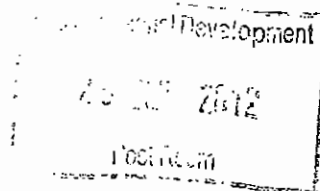
I therefore do not support the application for the licensed hours to remain at 16.00-00.00 on Sunday through Thursday and 16.00-01.00 on Friday and Saturday.

I OBJECT TO THIS APPLICATION FOR A LICENCE FOR LATE NIGHT REFRESHMENT.

Kind regards,

Paul Kroon.

Norwich City Council Licensing Authority
Licensing Act 2003



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

Your name/organisation name/name of body you represent (see note 1)	SHARON WHITTAKER
Postal address	77 WARWICK ST NR2 3LD
Email address	
Contact telephone number	

Name of the premises	MR PIZZA
Address of the premises	47 PORTERSFIELD RD NR2 3JN

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	Alcohol does increase aggression which can lead to fights.
Public safety	I feel unsafe when there are drunken people outside my house. Easy availability of alcohol increases the probability of this.
To prevent public nuisance	The results of drunkenness are revolting and I would prefer clean pavements around my house.
To protect children from harm	Noise and rowdy behaviour interrupts sleep (adults too!)

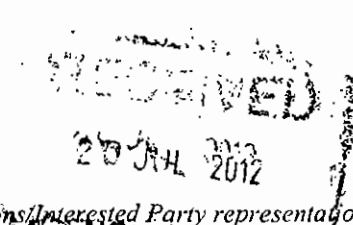
Please suggest any conditions which would alleviate your concerns.	Restrict the sale of alcohol.
--	-------------------------------

Signed:

Date:

July 19th 2012

Please see notes on reverse



APPENDIX E

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.

4.1 "Responsible Authorities" 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.

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', in that it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representation's, which 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 repetitious, 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 necessary for the promotion of the licensing objectives.

11.0 Reviews of Licences and Certificates

- 11.1 A Licence or Certificate will be reviewed if, valid representations are received by the Council. Where practicable, the Council will mediate between applicants, relevant statutory agencies and occupiers of nearby premises, local residents groups, community or interested groups where significant issues have arisen relating to a premises licence. Where possible, the Council will mediate by:

- Identifying potential issues for other relevant statutory agencies particularly regarding the safety and amenity of local residents.
- Negotiating, if possible, potential conditions to reflect resolutions of this mediation.

This process will not override the right of any interested party to ask that the Council consider their valid objections, or for any licence holder to decline to participate in a mediation meeting.

Where mediation is not practicable or fails, the Council will advise the parties of the provisions of the Act concerning a formal review of the licence.

- 11.2 Should Responsible Authorities and Interested Parties give early notice to licence holders of any concerns about problems identified at premises and of the need for improvement, requests for a review of any licence will only be sought if such notice has failed to resolve the matter or problem.
- 11.3 The Council expects that any Responsible Authority or Interested Party will provide an evidentiary basis to support their application for a review of a premises licence.

APPENDIX F

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

THE REVIEW PROCESS

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

- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 Any application for a review received by the licensing authority from responsible authorities and any other persons should be given due consideration and treated by the authority in precisely the same way, regardless of the body or individual which made it. This includes an application made by the local authority acting in a separate capacity (for example, environmental health or child protection).
- 11.8 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.9 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.10 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 11.11 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, responsible authorities and any other persons in pursuit of common aims. Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence

holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

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

REPETITIOUS GROUNDS OF REVIEW

- 11.13 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.14 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

- 11.15 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

- 11.16 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the

provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.17 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.18 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.19 However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.20 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.21 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken

should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

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