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| Report to | Licensing sub committee 16 August 2017 | Item |
| Report of | Head of citywide services | 3 |
| Subject | Licensing Act 2003: Application for review of a premises licence – European Off Licence, 3 Aylsham Crescent Norwich NR3 2RZ | |

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 Norfolk County Council Trading Standards Service to review the premises licence in respect of European Off Licence, 3 Aylsham Crescent Norwich NR3 2RZ.

Recommendation

That members determine the review application in respect of European Off Licence, 3 Aylsham Crescent Norwich NR3 2RZ in accordance with the:

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

Corporate and service priorities

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

Financial implications

None.

Ward/s: All wards

Cabinet member: Councillor Maguire – Safe City Environment

Contact officers

Maxine Fuller, licensing assistant

01603 212761

Background documents

None

Report

Licensing Act 2003 (The Act): review applications

1. The Act provides a mechanism by which, following the grant of a premises licence, a responsible authority (e.g. trading standards) 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).
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.
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.
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.
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.
6. The following parties have a right of appeal to the Magistrates Court if they are aggrieved by the licensing authorities 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.

Application for review

7. An application to review the premises licence in respect of European Off Licence, 3 Aylsham Crescent Norwich NR3 2RZ has been received from Norfolk County Council Trading Standards Service. A copy of the application and accompanying information is attached at Appendix A (not for publication under paragraphs 1 and 3 of Schedule 12A to the Local Government Act 1972) to the report.
8. The grounds for review fall under the licensing objectives of the prevention of crime and disorder.
9. A copy of the existing licence and operating schedule is attached at appendix B to the report.
10. The current Premises Licence holder is Ugar Baris, 35 Manor Park Gardens Long Stratton Norwich NR15 2TR and the Designated Premises Supervisor is Bulent Kaya, 4 Casino Court London Road Brandon Suffolk IP27 0EW.

Relevant representations

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

Police – Representations received (attached at appendix C - not for publication under paragraphs 1 and 3 of Schedule 12A to the Local Government Act 1972))

Environmental Protection – no representations received.

Fire Officer – no representations.

Planning Officer – no representations.

Area Child Protection Committee – no representations.

Trading Standards – (applicant for review – see exempt appendix A).

Primary Care Trust – no representations

12. There has been one representation supporting the review application and this is attached to the report at appendix D.

13. Norwich City Council Statement of Licensing Policy

14. Attached at appendix F are the elements of the city council's local Licensing Policy which are considered to have a bearing upon the application:

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

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

Summary

16. In determining the application with a view to promoting the licensing objectives the Sub-committee must give appropriate weight to:
 - the steps that are appropriate to promote the licensing objectives (i.e. the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm);
 - the representations (including supporting information) presented by all the parties;
 - the guidance issued under Section 182 of the Licensing Act 2003 (National Guidance); and
 - the council's own statement of licensing policy.
17. 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.
 - To remove the Designated Premises Supervisor, for example, because they consider that the problems are the result of poor management;
18. The sub-committee is asked to note that it should not carry any of the steps set out in paragraph 18 above because it considers it desirable to do so, it must actually be appropriate in order to promote the licensing objectives.

**NORWICH**
City Council**Premises Licence Summary****Premises Licence Number****15/01114/PREM****Premises Details****Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code**

European Off-Licence
3 Aylsham Crescent
Norwich
NR3 2RZ

Telephone number**Where the licence is time limited the dates**

Not applicable

Licensable activities authorised by the licence.

Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities

| | | |
|---------------------------|-----------|---------------|
| Sale by Retail of Alcohol | Every Day | 09:00 - 23:00 |
|---------------------------|-----------|---------------|

The opening hours of the premises

| | |
|-----------|---------------|
| Monday | 08:00 - 23:00 |
| Tuesday | 08:00 - 23:00 |
| Wednesday | 08:00 - 23:00 |
| Thursday | 08:00 - 23:00 |
| Friday | 08:00 - 23:00 |
| Saturday | 08:00 - 23:00 |
| Sunday | 08:00 - 23:00 |

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

Alcohol is supplied for consumption off the Premise

Name, (registered) address of holder of premises licence

Mr Ugur Baris

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

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

Bulent Kaya

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



Premises Licence

Premises Licence Number

15/01114/PREM

Part 1 – Premises Details

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

European Off-Licence
3 Aylsham Crescent
Norwich
NR3 2RZ

Telephone number

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol Every Day 09:00 - 23:00

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| Saturday | 08:00 - 23:00 |
| Sunday | 08:00 - 23:00 |

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

Alcohol is supplied for consumption 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

Mr Ugur Baris

Electronic Mail

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

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

Bulent Kava

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

Licensing Authority

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.

Annex 2 – Conditions consistent with the Operating Schedule

1 The Prevention of Crime and Disorder

2 Staff will be trained in relation to the sale of alcohol and a record of this training will be kept at the premises and available to Police or Licensing Authority on request.

3 A refusal log will be kept to record all refused sales of alcohol due to underage or intoxication. This is to be available on request to Police or Licensing Authority.

4 Spirits will only be on display behind the counter.

5 Challenge 25 policy to be in operation.

6 A monitored alarm will be in operation.

7 Roller shutters will be fitted at the front of the premises for protection, subject to planning permission being obtained. An application for planning permission will be made as soon as is reasonably practical.

8 CCTV shall be installed, operated and maintained in agreement with the Police. The system will enable a frontal head and shoulders image of every person entering the premises. The system shall record in real time and operate whilst the premises are open for licensable activities. The recordings shall be kept available for a minimum of 31 days. Recordings shall be made available to an Authorised Officer or a Police Officer (subject to the Data Protection Act 1998) within 24 hours of any request.

9 Premises shall be well lit both inside and out to deter offenders and support the CCTV (subject to any planning constraints).

10 Public Safety

11 Appropriate fire safety procedures are in place along with appliances including fire extinguishers (Foam, H2O and CO2), fire blankets, internally illuminated fire exit signs, a smoke detector and emergency lighting. All appliances are checked annually and comply with relevant British Standards.

12 All fire escapes/escape routes will be clearly marked and kept free from obstructions at all times.

13 The Prevention of Public Nuisance

14 All waste generated by the premises will be dealt with appropriately.

15 The Protection of Children From Harm

16 To protect the children from harm we will have the following steps taken:

- (1) the premises are to be effectively and responsibly managed
- (2) provision of a sufficient number of people employed or engaged
- (3) appropriate instruction, training and supervision of those employed or engaged

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

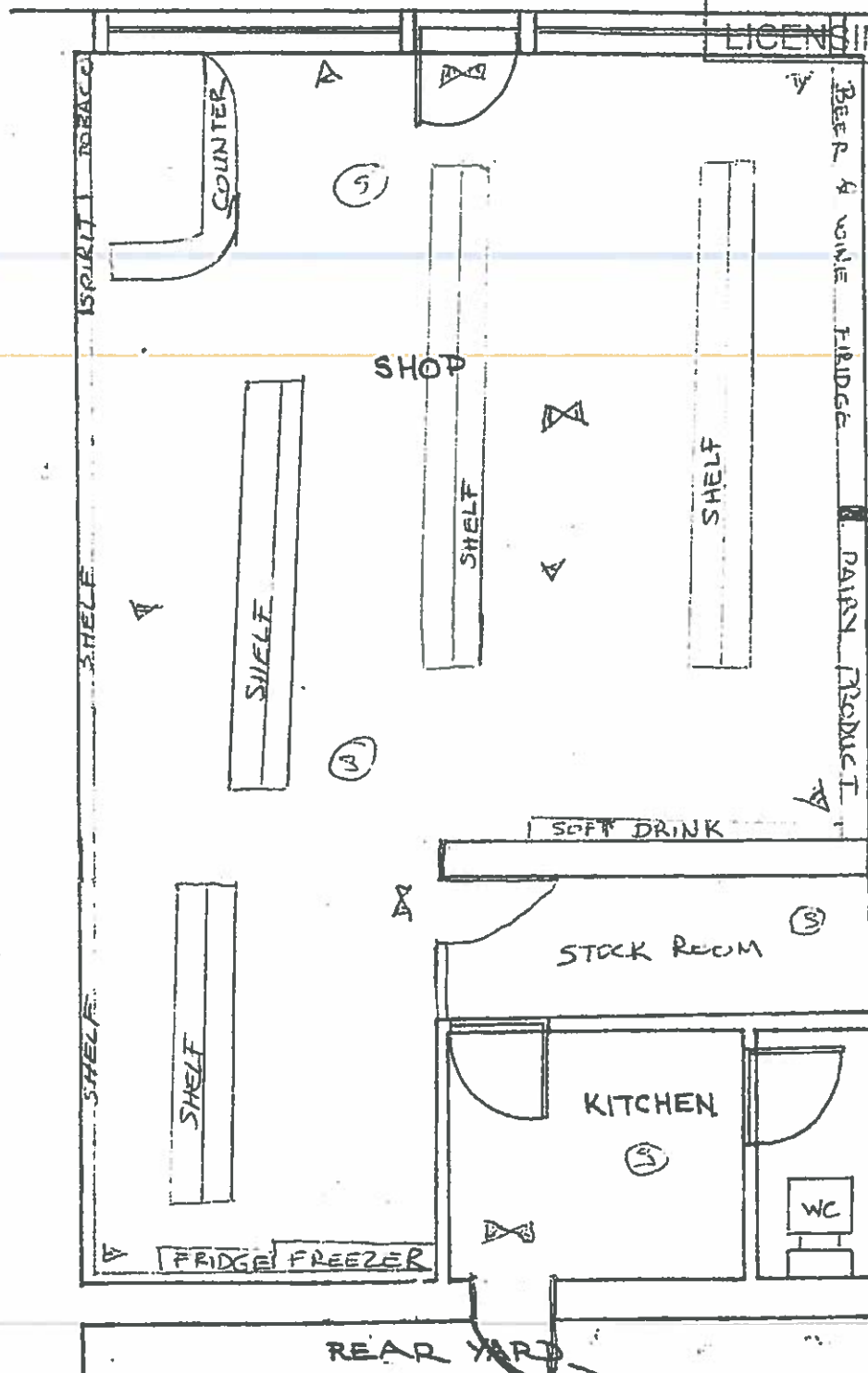
3 AYLSHAM CRESCENT
FLOOR PLAN

ENTRANCE

RECEIVED

25 JUN 2015

LICENSING OFFICE



Scale Approx 1:50

Fire
Exit

**Norwich City Council Licensing Authority
Licensing Act 2003**

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

CORPORATE RESCUE
03 JUL 2017
POST ROOM

| | |
|---|---------------------------------------|
| Your name/organisation name/name of body you represent (see note 1) | Debbie Dark |
| Postal address | 8 WOODCOCK ROAD NORWICH NR3 3TV |
| Email address | [REDACTED] |
| Contact telephone number | [REDACTED] |
| Name of the premises | EUROPEAN OFF LICENCE |
| Address of the premises | 3 AYLHAM CRESCENT NR3 2RZ |

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 | <p>There are often groups of people sitting outside the shop at the tables drinking (not alcoholic drinks that I have seen). Often groups of men are congregating there and it feels quite intimidating as you walk past to visit other shops along there. It is not a comfortable feeling and I avoid walking past them as much as possible.</p> |
| Public safety | |
| To prevent public nuisance | |
| To protect children from harm | |

| | |
|--|--|
| Please suggest any conditions which would alleviate your concerns: | |
|--|--|

RECEIVED
3 JUL 2017
LICENSING OFFICE

Signed: [REDACTED]

Date: 27.06.17

Please see notes on reverse

APPENDIX F

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.

LICENSING OBJECTIVES

20.0 Objective - Prevention of Crime and Disorder

20.1 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the City Council, and others, to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

20.2 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and the licensable activities at those premises.

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

Underage drinking

Drunkenness on premises

Public drunkenness

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

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

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

Litter

Unauthorised advertising

Protecting people and property from theft, vandalism and assault

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

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

Effective and responsible management of premises;

Training and supervision of staff;

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

Provide sufficient seating for customers;

Patrols of staff around the premises;

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

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

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

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

Adoption of best practice guidance e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, Minor Sales Major Consequences, Clubbing against Racism and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by the British Beer and

Pub Association (BBPA), Security in Design published by BBPA and Drugs and Pubs, published by BBPA;
 Acceptance of accredited 'proof of age' cards e.g. Portman proof of age cards, Citizencard, Connexions Card and/or 'new type' driving licences with photographs, or passports;
 Provision of effective CCTV in and around premises;
 Employment of Security Industry Authority licensed door staff to manage the door and minimize disorder;
 Ensure glasses are collected on an on going basis, make regular inspections for broken glass and clear up;
 Provision of toughened or plastic drinking vessels and bottles;
 Provision of 'bottle bins' inside the premises and near exits;
 Provision of secure, deposit boxes for confiscated items i.e. Operation Enterprise Drug and Weapon Amnesty Safe's;
 Information displayed for staff and customers on Drug Awareness including the 'spiking' of drinks with drugs;
 Provision of litterbins and other security measures, such as lighting, outside premises;
 Membership of local 'Pubwatch' schemes or similar accreditation schemes or organizations ie Operation Enterprise;
 Responsible advertising;
 Distribution of promotional leaflets, posters etc;
 Drug Seizure Kits (available from Norfolk Police Operation Enterprise);
 Member of the 'NiteLink' radio scheme;
 Working in partnership with the SOS Bus scheme;
 Ban known offenders and share information with other licensed premises in the area;
 Implement a dispersal policy;
 Introduce a 'closed door' policy, with attendance prohibited for new customers 2-3 hours before licensable activities finish;

26. Objective – protection of children from harm

- 26.1 The council will consult with the appropriate area child protection committee for consideration of all applications for licences.
- 26.2 With a view to the promotion of the licensing objective relating to the protection of children from harm the council will work closely with the police and trading standards authority to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol products to children (for Minor Sales Major Consequences information please contact trading standards on 0844 800 8013 trading.standards@norfolk.gov.uk).
- 26.3 Applicants should be aware that the protection of children from harm includes the protection of children from moral, psychological and physical harm and this includes the protection of children from exposure to strong language, sexual expletives and gambling. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and their lack of understanding of danger.

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

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

These examples can be adopted in any combination.

APPENDIX G

National Guidance

(issued under section 182 of the Licensing Act 2003)

CRIME AND DISORDER

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will

usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises

IMPOSED CONDITIONS

10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.

10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

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Proportionality

10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives

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 that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK 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 premises and wants to intervene early without waiting for representations from other persons. 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 or the sexual exploitation of children. 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 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.

11.8 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 14 of this Guidance.

11.9 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 hard copy, unless the licensing authority waives this requirement.

11.10 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.

11.11 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

11.12 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.

11.13 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.

11.14 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.

11.15 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

11.16 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.

11.17 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.

11.18 However, where responsible authorities such as 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.

11.19 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.

11.20 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.

11.21 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.

11.22 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.

11.23 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.

REVIEWS ARISING IN CONNECTION WITH CRIME

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to

attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

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

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

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

REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

REVIEW OF A PREMISES LICENCE FOLLOWING PERSISTENT SALES OF ALCOHOL TO CHILDREN

11.30 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate