

<b>Licensing Sub-Committee C</b>	<b>Date &amp; Time:</b> Thursday 26 March 2020 at 6:30pm
<b>Hearing under Provision:</b> Section 18(3), Licensing Act 2003	<b>Agenda Item Number:</b> 4
<b>Application:</b> Grant of a Premises Licence for G&E African Foods, 15 Vincent Road, Woolwich, London SE18 6RF	
<b>Lead Officer:</b> Director of Housing & Safer Communities	<b>Ward:</b> Woolwich Common (Woolwich Riverside borders)

### **I. Decision Required**

The Sub-Committee is requested to consider the application made by Ms Bona Adeniyi for the grant of a premises licence in respect of G&E African Foods, 15 Vincent Road, Woolwich, London SE18 6RF, as set out at **Appendix A**, which includes a plan of the premises' layout.

Regulations made pursuant to the Licensing Act 2003, require the Council to provide its decision together with reasons, within five working days from the date of the hearing.

When considering the application to grant the premises licence, Members must have due regard to the representation(s) made, and take such of the steps as it considers proportionate and reasonable for the promotion of the licensing objectives. It is open to the licensing authority to:

- Grant the application, together with such conditions as are consistent with the operating schedule, which can be modified to such an extent that the licensing authority considers appropriate for the promotion of the licensing objectives;
- Impose additional conditions on the licence. Any conditions must be appropriate for the promotion of the licensing objectives. There is no power for the licensing authority to attach a condition that is merely aspirational, it must be appropriate. For example, conditions may not be attached that relate to the health of customers rather than direct physical safety;
- Exclude any licensable activity from the licence to which the application relates;

- Refuse to specify a person in the licence as Designated Premises Supervisor;
- Refuse the application on the grounds that refusal is appropriate for the promotion of the licensing objectives. It may also allow only certain requested licensable activities.

The Licensing Act 2003 states that the licensing authority can only consider representations if they are relevant to one of the four licensing objectives:

- Prevention of Crime & Disorder;
- Prevention of Public Nuisance;
- Public Safety;
- Protection of Children from Harm.

The Sub-Committee may only consider matters that have been raised by way of written representations. Licensing conditions may only be imposed to promote the licensing objectives and must relate to the representations from Responsible Authorities and 'Other Persons'.

The written representations against this application relate to all four licensing objectives.

### 1.1 Summary of Application

The application requests the following licensable activity:

- **Off-Sale & Supply of Alcohol:**  
**From 09:00 hours until 23:00 hours, daily.**

Opening hours of these premises are in line with the above.

The Council may impose conditions on the licence that are consistent with those offered in the applicant's operating schedule. The following have, in part, been reworded to make them meaningful and enforceable. Others may have been omitted as they are already covered by primary legislation, are meaningless, or are unenforceable:

1. All staff shall be trained in the law relating to the sale of alcohol. Such training shall include challenging every individual who appears to be under 25 years of age and to refuse service where individuals cannot produce acceptable means of identification. Such training (including any refresher training) shall be

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recorded and provided not less than every six (6) months. The training record shall be made available on demand for inspection by Police and “authorised persons” (as defined by Section 13 of the Licensing Act 2003).

2. A comprehensive CCTV system shall be fully maintained and have a storage capacity of thirty-one (31) days recording with date & time-stamping. All entry points to the premises shall be covered enabling facial identification of every person entering. At least one member of staff who is capable of operating the CCTV system and downloading images shall be on duty at all times during licensable hours. Recordings shall be made available on demand for inspection by Police and “authorised persons” (as defined by Section 13 of the Licensing Act 2003).
3. The CCTV system shall continually record during the time when licensable activity takes place. When CCTV is not operating, no supply of alcohol shall be made on the premises. In the event that the CCTV system ceases to function properly, the Premises Licence Holder and/or the Designated Premises Supervisor, or a person duly authorised to act in their absence, shall report the breakdown to the Police and Local Authority as soon as reasonably practicable, and again when the fault is rectified. The breakdown shall also be recorded in the premises’ incident register, which shall be produced at the request of the Police and “authorised persons” (as defined by Section 13, Licensing Act 2003). The incident register shall include details of any accidents on the premises.
4. There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during all trading hours.
5. The Designated Premises Supervisor shall maintain a DPS Authorisation Log, which will detail the staff members who have been given the authority to sell and supply alcohol for off-sale purposes.
6. A refusals register shall be kept at the premises, and made immediately available on request to the police or an authorised person. The refusals register shall be inspected on a monthly basis by the DPS and noted in the register, and a record made of any actions undertaken to protect young people from harm. The register must record all refused sales of alcohol and include the following:
  - a) The identity of the member of staff who refused the sale;

- b) The date and time of the refusal;
- c) The alcohol requested and reason for refusal;
- d) A description of the person refused alcohol.

The refusals register shall be made available on demand for inspection by Police and “authorised persons” (as defined by Section 13, Licensing Act 2003).

7. The premises shall operate the ‘Challenge 25’ Scheme. Under the scheme, all staff authorised for the sale of alcohol shall challenge every individual who appears to be under 25 years of age and shall refuse service where individuals cannot produce acceptable means of identification to prove they are over 18. No ID, no sale. Notices shall be displayed as to the age verification policy, advising customers that if they look under 25, they may be asked to provide evidence of age. Acceptable forms of ID shall be:
  - a) A UK driving licence;
  - b) A passport;
  - c) A Home Office approved ID card.
8. Any staff member under the age of 18 shall not be permitted to sell or supply alcohol.
9. The premises licence holder shall ensure that they comply at all times with the Regulatory Reform (Fire Safety) Order 2005, and any other direction that may be made from time-to-time by an officer of the relevant Fire Authority.
10. The area immediately outside the premises shall be maintained in a clean and tidy manner at all times it is open for licensable activity.

## **1.2 Date of Application**

The Council received the application on 3 February 2020.

The last date for representations was 2 March 2020.

## **1.3 Notice/Advertising Requirements**

The application has been correctly advertised as required by Government regulations by displaying a notice of application at, and in the vicinity of, the

site of the premises for 28 days, and advertising it in the local press. In line with our usual practice, a licensing officer from RBG Licensing visited the premises on 11 February 2020 and confirmed that statutory blue Notices of Application were displayed correctly. There were three in total.

Further, in line with the Royal Borough of Greenwich Statement of Licensing Policy, 150 letters of consultation were hand-delivered to local residents and businesses within an approximate 100-metre radius of the premises, setting out the nature of the application, how representations could be made, the last date for doing so, and providing contact details for the ward councillors.

## 2. Current Licence

Licensable Activity	Days & Hours Permitted	Date of Grant
N/A		

The premises have historically operated as a grocery store specialising in African foods and produce, and have not previously been licensed pursuant to the Licensing Act 2003. However, on 9 July 2014, an application for off-sales between 10:00 and 23:00 hours daily (amended from 09:00 until the following 02:00) was refused by committee. A copy of the formal Decision Notice setting out the reasons for refusal is attached as **Appendix B**.

## 3. The Premises

### 3.1 History & Nature

Refer to Section 2 above.

Following the refusal described at *Appendix B*, PC Jason Coombes (formerly) of Greenwich Licensing Police had occasion on 8 June 2015 to issue a formal warning letter to Ms Adeniyi, the applicant, for the offences of selling, displaying and storing alcohol at her premises without a licence. A copy of that letter is attached at **Appendix C**.

#### 3.1.2 History of Noise Complaints

No noise complaints are associated with these premises.

### 3.2 Location

The premises occupy a ground floor unit on Vincent Road, situated between The Bull Tavern public house/O'Flynn's Bar and the Station Kebab House. Next door to the Kebab House is a taxi-cab office and, next door to that, another take-away premises (at the junction with Helen Street). Vincent Road runs between Woolwich New Road/General Gordon Square and Burrage Road. Opposite the premises is Woolwich Arsenal railway station, the entrance to which is at the junction with Woolwich New Road.

The premises are located within the Woolwich Town Centre Cumulative Impact Zone (CIZ) as prescribed by the Royal Borough of Greenwich licensing policy.

A map of the area is attached at **Appendix D**.

### 3.3 Other Premises in the vicinity licensed for the *Off-Sale* of Alcohol:

- **Nisa Local, Equitable House, General Gordon Place/Woolwich New Road:** 07:00 hours until 00:00 midnight daily.
- **Confectionary Box, 1A Woolwich New Road:** 06:00 hours until 00:00 midnight daily.
- **African Cash & Carry, 1B Woolwich New Road:** 08:00 hours until 23:00 hours Monday to Saturday, 10:00 hours until 22:30 hours Sunday.
- **JB Patel & Sons, 11 Woolwich New Road:** 06:00 hours until 23:00 hours daily.
- **Jash News, 61 Woolwich New Road:** 07:00 hours until 22:30 hours daily.
- **JP Stores, 83 Woolwich New Road:** 08:00 hours until 23:00 hours Monday to Saturday, 10:00 hours until 22:30 Sunday.

### 3.4 Premises in the vicinity licensed for the *On-Sale* of Alcohol, etc:

- **Bull Tavern/O'Flynn's Bar, 14 Vincent Road:** 10:00 hours until 01:00 the following day, Monday to Thursday; 10:00 hours until 03:00 the following day, Friday & Saturday; 12:00 noon until 00:00

midnight, Sunday. Operates as a public house – situated directly next door; also licensed for off-sales.

- **China Buffet Noodle, Unit 1, Lower Ground Floor, Equitable House, Woolwich New Road:** 11:00 hours until 00:30 the following day, Monday to Saturday; 12:00 noon to 23:00 hours Sunday. Operates as a restaurant; also licensed for off-sales.
- **Tai Tip Mein, 7-9 Woolwich New Road:** 11:00 hours until 00:00 midnight Monday to Saturday, 12:00 noon to 23:30 Sunday. Operates as a restaurant; also licensed for off-sales.
- **Woolwich Tramshed (Tramshed Arts), 41 Woolwich New Road:** 11:00 hours until 23:00 hours daily (sold in line with performances). Operates as a theatre; not licensed for off-sales.
- **Woolwich Tramshed, 51-53 Woolwich New Road:** 18:00 hours until 22:30 Monday to Thursday; 18:00 hours until 00:30 the following day, Friday & Saturday; 18:00 hours until 22:00 hours Sunday. Operates as a theatre; not licensed for off-sales. *Currently closed for refurbishment works; No 41 (above) operating in lieu.*
- **Blue Nile, 73 Woolwich New Road:** 11:00 hours until 23:00 hours daily. Operates as a restaurant; not licensed for off-sales.
- **Kailash Momo, 79 Woolwich New Road:** 11:00 hours until 23:30 hours Monday to Saturday, 13:00 hours until 23:00 hours Sunday. Operates as a restaurant; not licensed for off-sales.
- **Anglesea Arms, 91 Woolwich New Road j/w Anglesea Rd:** 10:00 hours until 23:30 hours Sunday to Wednesday; 10:00 hours to 00:30 the following day, Thursday to Saturday. Operates as a public house; also licensed for off-sales.
- **Lotus Club, 16-18 Burrage Road:** 11:00 hours until 23:00 hours, Monday to Thursday; 11:00 hours until 00:00 midnight, Friday & Saturday; 12:00 noon until 23:00 hours, Sunday. Operates as a Tamil club & restaurant; not licensed for off-sales.
- **Queen's Arms, 23 Burrage Road:** 11:00 hours until 23:00 hours, Monday to Thursday; 11:00 hours until 00:00 midnight, Friday & Saturday; 12:00 noon until 22:30 hours, Sunday. Operates as a public house; also licensed for off-sales. *Currently closed.*

- 3.5** Premises within the vicinity licensed solely for Late Night Refreshment from 23:00 hours, are as follows:

- **Station Kebab House (aka Charcoal Grill), 16 Vincent Road:** Until 02:00 the following day, Sunday & Thursday; until 01:00 the following day, Monday to Wednesday; until 03:00 the following day, Friday & Saturday. Situated directly next door.
- **Little Dragon Inn, 18 Vincent Road:** Daily until 00:00 midnight daily. Situated three doors along.
- **Royal Kebab, 71 Woolwich New Road:** Daily until 01:00 the following day.
- **Super One Fried Chicken, 75 Woolwich New Road:** Daily until 01:00 the following day.

#### 4. Summary of Representations

There are two representations against this application:

<b>Name of Person Making Representation &amp; Relevant Authority/Other Person</b>	<b>Relevant Licensing Objective(s)</b>	<b>Appendix Reference</b>
<b>PC Darryl Crossman, Greenwich Licensing Police</b>	<b>Prevention of Crime &amp; Disorder; Prevention of Public Nuisance; Public Safety; Protection of Children from Harm</b>	<b>Appendix E</b>
<b>Mr John McGirr, Alcohol Strategy Coordinator, RBG Public Health — includes Exhibits JM/1 to JM/5</b>	<b>Prevention of Crime &amp; Disorder; Prevention of Public Nuisance; Public Safety; Protection of Children from Harm</b>	<b>Appendix F</b>

Of all the Responsible Authorities duly consulted, the Police and Public Health both formally made representations as above. The remainder made no response.

## 5. Relevant Provisions of Royal Borough of Greenwich Licensing Policy

Section & Paragraph	Provision
1.6	“In order to avoid any duplication or inefficiency between the licensing and planning processes, the Royal Borough will expect that prior to the submission of a licensing application the appropriate planning permission will have been granted in respect of the premises concerned. The Royal Borough will only grant licences for premises without planning consent in exceptional circumstances.”
3.1	“The Royal Borough of Greenwich maintains that licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. Any conditions attached to licences will be focused on matters that are within the control of individual licensees and must be appropriate for the promotion of the licensing objectives.”
3.2	“These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the near vicinity of the premises. In this regard, the Royal Borough of Greenwich will primarily focus on the impact, or reasonably anticipated impact, of any activities taking place at the licensed premises on those living, working or engaged in normal activity in the area concerned.”
3.3	“Where the Royal Borough of Greenwich’s discretion is engaged as a result of relevant representations, tailored and proportionate conditions may be imposed on a licence to address the individual licensing objectives.”
3.5	“In order to avoid duplication with other statutory regimes as far as possible, the Royal Borough of Greenwich will not attach conditions on a licence unless they are considered necessary for the promotion of the licensing objectives.”
3.6	“The Royal Borough recognises that well-run premises can make a valuable, positive contribution to the local community though the local economy, tourism and cultural

	development. However, if they are not properly managed and controlled, licensed premises ... can become a serious source of crime and disorder or anti-social behaviour problems.”
<b>3.8</b>	“The Royal Borough will expect applicants to address in their operating schedule how the operation of the premises will satisfactorily address crime and disorder issues ranging from the design of the premises through to the daily operation of the business whilst promoting the prevention of crime and disorder.”
<b>3.12</b>	“The Royal Borough will require the licence holder to indicate what steps will be put in place to control the excessive consumption of alcohol and drunkenness on the relevant premises in order to reduce the risk of anti-social behaviour occurring elsewhere after customers have left the premises.”
<b>3.12.1</b>	“The Police and local Community Safety Partnership are the main source of advice on crime and disorder.”
<b>3.13</b>	“Conditions may, for example, include items relating to management systems, training, drugs policies, search procedures, entry policies, physical security, door supervisors, bottle bans, drinks containers, smoking area capacity limits, CCTV, restricting drinking areas, premises capacity limits, age verification systems such as ‘Challenge 25’, crime prevention notices, and signage.”
<b>3.17</b>	“Conditions which should be considered, to ensure prevention of crime and disorder, have been listed in Appendix A [of the Royal Greenwich Statement of Licensing Policy].”
<b>3.18</b>	“The Royal Borough expects premises licence holders to implement measures which ensure the safety of all those using their premises.”
<b>3.19</b>	“The Royal Borough expects applicants in their operating schedules for premises licences ... to consider a number of volunteered measures and demonstrate how they aim to achieve them. These measures shall be converted into enforceable conditions, in relation to the promotion of the public safety licensing objective.”
<b>3.20</b>	“The Royal Borough recognises that the measures for each

	individual premises will depend on a range of factors including the nature and style of the venue, the activities being conducted, the location of the premises, the anticipated clientele of the business, and the competency of management. These measures may include fire safety.”
<b>3.21</b>	“The Royal Borough understands that conditions relating to public safety should be those which are appropriate, in the particular circumstance of any individual premises or club premises, and should not duplicate other legal requirements. Equally, the attachment of conditions to premises licences or club premises certificates will not in any way relieve employers of their statutory duty to comply with the requirements of other legislation – including the Health & Safety (Etc) at Work Act 1974, associated regulations and especially the requirement under the Management of Health & Safety at Work Regulations 1999, and the Regulatory Reform (Fire Safety) Order 2005 – to undertake risk assessments.”
<b>3.24</b>	“The Royal Borough will require any applicant to demonstrate within their operating schedule how they intend to prevent public nuisance arising and, equally, to prevent nuisance to ensure that the Prevention of Public Nuisance licensing objective in particular, and the licensing objectives in general, are met. Public nuisance includes noise caused by customers arriving at and/or leaving a premises, noise created whilst they are within a premises, general anti-social behaviour, and issues such as smoke, odour, litter, light, fly-posting, and obstruction of the highway. These examples are not exhaustive, and applicants should demonstrate within their application how all potential public nuisance issues relevant to their premises will be mitigated.”
<b>3.25</b>	“Noise nuisance can arise from a range of sources such as entertainment noise escaping from premises, loud voices from customers standing outside, the disposal of waste in refuse or recycling bins, car doors slamming, taxi horns sounding as patrons are picked up, and the general noise of people arriving and leaving. This is particularly intrusive at night when background noise levels are lower and residents are trying to sleep, and so it is important that

	applicants can demonstrate how they will effectively manage the exit and dispersal of their customers.”
<b>3.26</b>	“Procedures must be put in place to manage the behaviour of customers in so far as preventing it from becoming a public nuisance. These measures may include management of patrons when they arrive and leave the premises; the placing of signage reminding patrons to arrive and leave quietly, and to have respect for local residents; [and] arranging a dedicated taxi service to assist the quick dispersal of customers away from the premises. Again, these examples are not exhaustive.”
<b>3.29</b>	“The trading hours during which the licensable activities are permitted at premises by the conditions of a premises licence or a club premises certificate are set for the prevention of public nuisance. Therefore, where premises are in a predominately residential area, the potential for public nuisance is greater. Restrictions may be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. [... Applicants should consider factoring a suitable “drinking up” time for alcohol and “winding down” time for regulated entertainment into their operating hours. Where an external area is permitted to have licensed activity, for example a beer garden or open forecourt, it may be appropriate to cease that activity earlier than the terminal hour for the rest of the premises.]”
<b>3.32</b>	“Licence holders are expected to adhere to the prevention of public nuisance through their licensable activities and demonstrate ways in which public nuisances, which result from the premises or its users, will be mitigated against. Conditions which should be considered, to ensure the prevention of public nuisance have been listed in Appendix C [of the Royal Greenwich Statement of Licensing Policy].”
<b>3.33</b>	“The Royal Borough will not impose any condition which specifically requires access for children to be provided at any premises. Access by children to all types of premises will not be limited in any way unless it is considered necessary to do so for the prevention of harm, or would compromise another licensing objective. Although the

	Royal Borough is sympathetic to applications which create additional appropriate child and family friendly venues, the Royal Borough will consider limiting access to children if there is a risk of moral, psychological and physical harm posed by their presence. Licence applicants are expected to determine appropriate times for children to be present on the premises. Where no restriction or limitation is imposed, the issue of access will remain a matter for the discretion of the individual licensee or club. Each licence application will be judged on an individual basis.”
3.34	“The Royal Borough recognises the widespread problem with compliance with regard to the law regarding the sale of alcohol to under 18 year-olds. The Royal Borough shares the government’s concern over the consumption of alcohol by children. Trading Standards and the Police strongly support the use of ‘Challenge 25’ in all licensed premises as an aid to preventing underage sales of alcohol.”
3.39	“The Royal Borough will expect applicants of alcohol licences to demonstrate in their operating schedule that suitable and sufficient steps are to be taken to ensure the licensing objective of the protection of children from harm.”
8.1	“Every application considered by the licensing authority...will be considered on its own merits and due regard will be given to the Guidance issued under Section 182 of the Licensing Act 2003, the Licensing Act 2003 itself, and any supporting Regulations.”
10.3	“The Royal Borough has received evidence that the <b>cumulative impact</b> of licensed premises is continuing to undermine the licensing objectives in the following areas: <ul style="list-style-type: none"> <li>• Greenwich Town Centre</li> <li>• Trafalgar Road, Greenwich</li> <li>• Plumstead High Street</li> <li>• Woolwich Town Centre”</li> </ul>
10.7	“The effect of the <b>cumulative impact</b> policy is that the Royal Borough will refuse applications for new premises licences or club premises certificates, or material variation of an existing licence or certificate, whenever it receives

	relevant representations unless an applicant can demonstrate why the grant or variation involved will not add to the <b>cumulative impact</b> experienced.”
<b>10.8</b>	“The impact can be expected to be different for premises with different styles and characteristics and in different <b>cumulative impact</b> zones. The Royal Borough recognises that within areas of regeneration there is a need for an attractive night time economy that is fully inclusive and encourages families back into the town centre in the evening and most importantly that it is safe. The impact, for instance, of a late night vertical drinking establishment or an off licence would not be considered beneficial to the licensing objectives whereas a restaurant with ample seating that closes at 11pm could be considered to have a positive impact on the licensing objectives. An applicant within a <b>cumulative impact</b> zone will need to demonstrate in their application that, if granted, a licence will have a positive influence on the licensing objectives.”
<b>10.9</b>	“The Royal Borough recognises that within different <b>cumulative impact</b> zones different types of licensed premises mutually benefit from each other’s existence, attracting large groups of people. This in turn may increase the possibility of crime and disorder and public nuisance, thus impacting on the promotion of the licensing objectives. For this reason, special consideration will be given to all classes of licensed premises within the <b>cumulative impact</b> zones.”
<b>10.10</b>	“The adoption of a <b>cumulative impact</b> policy for these areas does not relieve responsible authorities or other persons of the need to make a relevant representation. Before the Royal Borough may lawfully consider giving effect to this <b>cumulative impact</b> policy, a relevant representation must have been made. If no representations are received, it remains the case that any application must be granted in terms that are consistent with the operating schedule and any mandatory conditions required by the Act.”
<b>10.11</b>	“Responsible authorities and other persons may, however, make written representations, maintaining that it is

	necessary to refuse an application within the <b>cumulative impact</b> zone for the promotion of the licensing objectives, and in doing so may refer to the evidence considered by the Royal Borough in the adoption of the <b>cumulative impact</b> policy.”
<b>10.13</b>	“The <b>cumulative impact</b> policy does not include provision for terminal hours in respect of premises within these areas, nor does it impose quotas on the number of licensed premises permitted or the capacity of those premises.”
<b>11.3</b>	“The Royal Borough will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions will be expected with regard to noise control in the case of premises that are situated in areas that have a greater density of residential accommodation. This will particularly apply in circumstances where, having regard to the location, size, and nature of the licensed premises, it is likely that disturbance will be caused to residents in the vicinity of the premises by concentrations of people leaving during normal night-time sleeping periods from 23:00 hours to the following 07:00 hours.”
<b>13.1</b>	“The Royal Borough of Greenwich recognises that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, other persons and responsible authorities in pursuit of common aims. The Royal Borough of Greenwich will endeavour to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. The Royal Borough of Greenwich, where time allows, will be prepared to facilitate mediation between licensee and those who may be intending to review the licence.”
<b>17.2</b>	“The Royal Borough fully recognises the role businesses play in supporting our social life and the local economy. The Royal Borough and the Police share the aim of helping responsible businesses and their customers to take advantage of the new flexibilities, and taking appropriate enforcement action against those who abuse them. The Royal Borough will work with the Police to ensure that

	<p>effective action is taken to deal with unlicensed activity, breaches of licence conditions, or crime and disorder associated with licensed premises. It should be noted that investigations will be undertaken through a range of means including overt and covert operations. It should be noted; in particular, that the Royal Borough's Trading Standards Officers or officers from the Police will carry out test purchases of alcohol using young volunteers. Follow-up visits to licensed premises will include inspection for the presence of duty-evaded or counterfeit products."</p>
<b>17.3</b>	<p>"An ongoing risk-based enforcement programme is in place to ensure we respond to complaints of non-compliance with licence conditions and we concentrate on areas where licensed premises are perceived to be contributing to anti-social behaviour. A sample of premises may also be inspected from time to time to ensure that the premises are operating in accordance with relevant licensing requirements."</p>
<b>17.5</b>	<p>"For those who do act irresponsibly, serve alcohol to minors or those who are already clearly drunk, our aim is to take firm action against them."</p>

## **6. Relevant Provisions of Government Guidance under Section 182 of the Licensing Act 2003**

<b>Section</b>	<b>Provision</b>
<b>1.17</b>	<p>"Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy; for example, if the application falls within the scope of a <b>cumulative impact</b> policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case."</p>

<b>2.1</b>	“Licensing authorities should look to the Police as the main source of advice on crime and disorder. They should also seek to involve the Community Safety Partnership (CSP).”
<b>2.3</b>	“Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.”
<b>2.7</b>	“Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. [This] includes ... immediate harms that can result from alcohol consumption, such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above.”
<b>2.8</b>	<p>“A number of matters should be considered in relation to public safety. These may include:</p> <ul style="list-style-type: none"> <li>• Fire safety;</li> <li>• Ensuring appropriate access for emergency services such as ambulances;</li> <li>• Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts;</li> <li>• Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;</li> <li>• Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);</li> <li>• Ensuring appropriate and frequent waste disposal,</li> </ul>

	<p>particularly of glass bottles;</p> <ul style="list-style-type: none"> <li>• Ensuring appropriate limits on the maximum capacity of the premises; and,</li> <li>• Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).”</li> </ul>
<b>2.10</b>	<p>“Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:</p> <ul style="list-style-type: none"> <li>• Providing information on the premises of local taxi companies who can provide safe transportation home;</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.”</li> </ul>
<b>2.15</b>	<p>“The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises, which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.”</p>
<b>2.16</b>	<p>“Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.”</p>

2.17	<p>“Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.”</p>
2.18	<p>“As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.”</p>
2.19	<p>“Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11:00pm and 8:00am [whereas other hours can be deregulated]. In certain</p>

	circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.”
<b>2.21</b>	“Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.”
<b>2.22</b>	“The protection of children from harm includes the protection of children from moral, psychological and physical harm ... such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).”
<b>2.23</b>	“The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered.”
<b>2.25</b>	“Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.”
<b>2.26</b>	“Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.”
<b>2.29</b>	“Licensing authorities should give considerable weight to

	<p>representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. ... In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.”</p>
<b>8.43</b>	<p>“Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area – for example, a <b>cumulative impact</b> policy – applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.”</p>
<b>9.15</b>	<p>“It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising Environmental Health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.”</p>
<b>9.37</b>	<p>“As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or ‘other person’ may choose to rely on their written representation. They may not add further representations</p>

	to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.”
<b>9.38</b>	<p>“In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:</p> <ul style="list-style-type: none"> <li>• The steps that are necessary to promote the licensing objectives;</li> <li>• The representations (including supporting information) presented by all the parties;</li> <li>• This Guidance;</li> <li>• Its own statement of licensing policy.”</li> </ul>
<b>11.2</b>	“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.”
<b>14.20</b>	<p>“The concept of <b>cumulative impact</b> has been ... used by licensing authorities within their Statements of Licensing Policy since the commencement of the 2003 Act.</p> <p>‘Cumulative Impact Assessments’ (CIA) were introduced in the 2003 Act by the Policing &amp; Crime Act 2017, with effect from 6 April 2018. <b>Cumulative impact</b> is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area.”</p>
<b>14.21</b>	“In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.”
<b>14.22</b>	“Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick-pocketing and street robbery. Local services such as

	<p>public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.”</p>
<p><b>14.23</b></p>	<p>“Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.”</p>
<p><b>14.40</b></p>	<p>“In publishing a CIA, a licensing authority is setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the area described. Having published a CIA, a licensing authority must have regard to the assessment when determining or revising its statement of licensing policy. It is therefore expected that, in respect of each relevant application in the area concerned, the licensing authority will be considering whether it is appropriate to make a representation to its committee as a responsible authority in its own right. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the licensing authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the <b>cumulative impact</b>. Applications in areas covered by a CIA should therefore give consideration to potential <b>cumulative impact</b> issues when setting out the steps that will be taken to promote the licensing objectives. Where relevant representations are received and a licensing authority decides to grant an application it will need to provide the applicant, the chief officer of police and all parties who made relevant representations with reasons for granting the application and this should include</p>

	any reasons for departing from their own policy.”
<b>14.41</b>	“The CIA must also stress that it does not relieve responsible authorities (or any other persons) of the need to make relevant representations where they consider it appropriate to do so for the promotion of the licensing objectives. Anyone making a representation may base it on the evidence published in the CIA, or the fact that a CIA has been published. It remains incumbent on all responsible authorities and other persons to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing. As with all licensing applications under the 2003 Act, if there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.”

## **7. Further Considerations**

### **7.1 Duration of the Licence**

A premises licence lasts for the lifetime of the business unless it expires, lapses due to the death or insolvency of the licence holder, is surrendered by the Applicant, or suspended or revoked by the Licensing Authority.

### **7.2 Review**

The Review mechanism may be implemented by a relevant authority or any other person where a matter arises at the licensed premises which they consider to be contravening the licensing objectives.

### **7.3 Human Rights Act**

Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision.

The Human Rights Act provides that: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the

right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest, or to secure the payment of taxes or other contributions or penalties.” The term “possession” includes a Licence as well as a home and the things it contains.

The Act further provides:

- “1. It is unlawful for a public authority to act in a way which is incompatible with a Convention right.
2. Subsection (1) does not apply to an act if:
  - 2.1 As the result of one or more provisions of primary legislation, the authority could not have acted differently; or,
  - 2.2 In the case of one or more provisions of, or made under, primary legislation, which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions.”

However, it is recognised that the Council’s Statement of Licensing Policy and Statutory Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Therefore, subject to both the Statement of Licensing Policy and Statutory Guidance having been properly and carefully considered, licensing authorities may depart from them if they have a justifiable reason to do so. If doing so, licensing authorities will need to give full reasons for their actions.

## **8. Written Decision & Reasons**

A written decision notice with reasons will be provided within five working days of the date of the hearing.

Para 13.10 of the Guidance states: “It is important that a licensing authority should give comprehensive reasons for its decision in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that the reasons should also address the extent to which the decision has been made with regard to the Licensing Authority’s Statement of Policy and this Guidance. Reasons

should be promulgated to all parties of any process which might give rise to an appeal under the terms of the 2003 Act.”

## 9. Appeal Rights

The Applicant and any person who has made a relevant representation may appeal the decision of the Licensing Sub-Committee by written notification to the Magistrates’ Court within 21 days of receipt of the decision notice and reasons.

<b>Date of Report</b>	16 March 2020
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