

<b>LICENSING REVIEW SUB-COMMITTEE</b>	<b>DATE</b> 11 February 2016
<b>TITLE</b> Application for Review of the Existing Premises Licence for Khyberway UK Ltd (Seeray), 2 Bannockburn Road, Plumstead, London SE18 1ES	<b>ITEM NO.</b> 4
<b>PROVISION UNDER WHICH HEARING IS HELD:</b> Section 53(c) Licensing Act 2003	
<b>CHIEF OFFICER</b> Director for Community Services	<b>WARDS</b> Plumstead

I Decision Required

I.1 The Sub-Committee is asked to consider an application made by Mr Adrian Winter, Lead Officer, Royal Borough of Greenwich Trading Standards, for a Review of the existing Premises Licence for Khyberway UK Ltd (known as Seeray), 2 Bannockburn Road, Plumstead, London SE18 1JN. A copy of the licence review application is attached at **Appendix A** of this report.

I.2 The Sub-Committee may:

- Revoke the premises licence;
- Modify the conditions of the premises licence;
- Exclude a licensable activity from the scope of the premises licence;
- Remove the existing Designated Premises Supervisor (DPS);
- Suspend the premises licence for a period not exceeding three months;
- Issue a formal or informal warning to the licensee;
- Require improvement within a certain time period;
- Take no action.

I.3 Where the Licensing Sub-Committee modifies the conditions of the premises licence or excludes a licensable activity from the scope of the premises licence, they may provide that the modification or exclusion is to have effect only for such period (not exceeding three months) that it may specify.

I.4 The Sub-Committee should note the appeal rights in Section 12 of this report. Any amendments to the premises licence or any revocation or suspension **would have no effect** during the time in which an appeal could be brought, namely 21 days following the Sub-Committee's decision, and for the duration of any appeal until determination or abandonment.

## 2 Background

2.1 The licence granted under the Licensing Act 2003 for Khyberway UK Ltd (Seeray) permits:

- Sale & Supply of Alcohol, for consumption off the premises, Monday to Saturday between 08:00 hours and 23:00; Sunday between 10:00 hours and 22:30; Christmas Day between 12:00 noon and 15:00 hours, and between 19:00 hours and 22:30; and Good Friday between 08:00 hours and 22:30.

Opening hours are Monday to Saturday 08:00 hours and 23:00; Sunday 10:00 hours until 22:30.

## 3 Summary of Application

3.1 The Council received the application for review of this premises licence on 17 December 2015.

3.2 A copy of the application for review has been served on the premises licence holder, Mr Mohammad Zavar Ali, at the premises, and all responsible authorities as required by Regulations made under the Licensing Act 2003.

3.3 The review application has been correctly advertised as required by Government regulations by displaying notice of the application in the window of Khyberway UK Ltd (Seeray) for 28 days, and on the highway in the immediate vicinity of the premises (namely an adjacent lamp-post). Notice of the application has also been posted at Woolwich Town Hall, facing the Royal Greenwich Council offices in Wellington Street, London SE18 6HQ, for 28 days, and advertised on the Royal Greenwich website.

3.4 The Council have delivered approximately 350 letters to all businesses and residents within approx 100 metres of the premises, advising them of the nature of the application and giving the address for receipt of representations no later than 14 January 2016.

3.5 The grounds for review of this premises licence are that the licensing objectives of Prevention of Crime & Disorder and Protection of Children from Harm have been breached, specifically in respect of duty-evaded alcohol and tobacco, and allegations of the sale of cigarettes to children.

3.6 Within the body of the review application (pages 10-11), *and in the absence of the implementation of any of the other options open to the Sub-Committee as*

*described at section 1.2 of this report*, Mr Winter asks that the following five conditions be considered:

- 3.6.1 The Challenge 25/Think 25 proof of age scheme shall be operated at the premises. All customers who appear under the age of 25 will be challenged to prove that they are over 18 when attempting to purchase alcohol. Acceptable forms of ID include a photo driving licence, passport, or home office approved identity card bearing the holographic 'PASS' mark. If the person seeking alcohol is unable to produce an acceptable form of identification, no sale or supply of alcohol shall be made to or for that person.
- 3.6.2 All staff shall be trained in the law about the sale of alcohol. Such training will 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, acceptable forms of ID and using the refusal register. Such training (including any refresher training) will be logged and provided not less than every twelve months. The training log will be made available for inspection by Police and authorised persons.
- 3.6.3 A refusals log must be kept at the premises, and made immediately available on request to the police or an authorised person. The refusals log is to be inspected on a monthly basis by the DPS and noted in the log and a record made in the log of any actions that appear to be needed to protect young people from harm. The log 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) description of the person refused alcohol
- 3.6.4 The following posters shall be displayed conspicuously on the premises in customer facing areas:
  - 'Think 25' to advise potential purchasers that suitable proof of age will be required for all purchasers who appear to be under 25.
  - 'It's A Crime' intended to warn adults not to buy alcohol for those under 18 years-of-age.
- 3.6.5 The Premises Licence Holder will ensure that legible copies of the receipts for all alcohol goods purchased will be retained on the premises for at least 6

months and be made immediately available on request to the police or an authorised person. The documents must include the following details:

- Seller's name and geographical address
- Seller's company details, if applicable
- Seller's VAT details, if applicable
- Vehicle registration detail, if applicable

3.6.6 The Premises Licence Holder shall not purchase any alcohol goods from door-to-door sellers.

3.7 Within the body of the Police representation referred to at section 8.1 of this report, *and in the absence of the implementation of any of the other options open to the Sub-Committee as described at section 1.2*, PC Rob Gay, Greenwich Police Licensing Officer, asks that the following fourteen conditions be considered:

3.7.1 A CCTV recording system shall be installed that is compliant with, and capable of, capturing an image of evidential standards. The system shall continually record whilst the venue is open for licensable activity and/or when customers are present on the premises. All CCTV recordings shall be time- & date-stamped and maintained for a minimum of thirty-one (31) days. Cameras shall be installed so as to cover both internal and external areas of the premises. At least one camera shall cover ingress/egress points.

3.7.2 Staff shall be fully trained in the operation of the CCTV system and there shall be at least one member of staff on duty during trading hours who is able to provide copies of CCTV recordings to the Police and authorised officers of the Local Authority. Such copies shall, in any event, be provided within forty-eight (48) hours.

3.7.3 Notices shall be displayed advising that CCTV is in operation.

3.7.4 When CCTV is not operating, no supply of alcohol shall be made on the premises.

3.7.5 The Designated Premises Supervisor or a personal licence holder duly authorised shall be present on the premises at all times alcohol is being sold. In their absence, sales of alcohol shall be suspended.

3.7.6 Each and every individual item of alcohol shall be clearly marked with labels uniquely identifying the premises.

- 3.7.7 Alcohol shall not be sold in an open container or consumed in the licensed premises.
- 3.7.8 There shall be no self-service of spirits. All spirits shall be displayed for sale behind the counter.
- 3.7.9 No more than 25% of the available display space at the premises shall be given over to the display of alcohol.
- 3.7.10 No beer, lager or cider with an ABV of above 6.5% shall be sold at the premises, except for 'premium' product lines pre-agreed in writing with the Police and an RBG Licensing Officer in advance of such product being stocked. Copies of the written permission issued for the agreed 'premium' lines shall be kept at the premises and made available on request to the police and other officers of responsible authorities.
- 3.7.11 Alcohol shall only be displayed in areas of the shop that are directly visible from the counter, or where covered by a CCTV camera via a monitor at the counter.
- 3.7.12 The area immediately outside the premises shall be monitored to ensure that any litter generated by the premises and/or its customers is regularly cleared.
- 3.7.14 Signage requesting customers to respect local residents and leave the premises quietly shall be displayed at each exit.
- 3.7.15 Only two school age children will be allowed in the store during the time that alcohol is on sale unless accompanied by a responsible adult.

#### 4 Location of Premises

- 4.1 The premises have historically operated as a convenience store/off-licence known locally as Seeray. It retails general groceries and household products, plus alcohol and tobacco, and is situated in densely residential area off Plumstead High Street, at the junction of Bannockburn Road and Ceres Road, adjacent to Bannockburn Primary School.
- 4.2 A map of the area is attached at **Appendix B**.

## 5 Operating and Complaint History of the Premises

- 5.1 The premises licence authorising the off-sale & supply of alcohol at 262-264 Plumstead High Street, London SE18 1JN, was granted pursuant to the Licensing Act 1964 and made subject to 'grandfather' conversion proceedings when the Licensing Act 2003 came into force. From the outset of 2014, following an application to transfer, Mr Ali (as referred to at 3.2 of this report) has been premises licence holder, whilst Mr Sadiq Jan was simultaneously installed as Designated Premises Supervisor.
- 5.2 A copy of the current premises licence, dated 30 December 2015, is attached at **Appendix C**.
- 5.3 On 17 December 2015, the application to review the licence for Khyberway UK Ltd (Seeray) was lodged by Mr Winter of RBG Trading Standards. This followed a lengthy period of investigation – principally by Trading Standards, but also involving RBG Licensing – which commenced on 17 July 2014 following receipt of a complaint that cigarettes were being sold at the premises to children and concluded following Mr Jan's conviction at Bexley Magistrates' Court on 24 August 2015 for duty evasion, counterfeiting/trademarking, and health/safety offences relating to tobacco products. Separately, Mr Ali received a formal warning from Trading Standards. This is explained in full detail on pages 4 to 9 of the review application (Appendix A).

## 6 Nearby Licensed Premises

- 6.1 There are no other licensed premises of any kind in Bannockburn Road. However, there exist fourteen premises within nearby Plumstead High Street that are licensed for off-sales of alcohol, namely:

- **12 - Plumstead Mini Store:** Hours 07:00 until 00:00 midnight daily (with Late Night Refreshment from 23:00).
- **16-20 - Kooner General Store:** Hours 05:00 until 00:00 midnight daily.
- **50 - High Street Wines:** Hours 08:00 until 23:00 Monday to Saturday, 10:00 until 22:30 Sunday.
- **98A - Milsha Stores:** Hours 10:00 until 22:00 daily.
- **101 - Lucky Food & Wine:** Hours 08:00 until 23:00 Monday to Saturday, 08:00 until 22:30 Sunday.
- **102 - The Post Office:** Hours 09:00 until 23:00 daily.

- **104 - High Street News & Wine:** Hours 06:00 until 23:00 daily.
- **104A&B - Everest Stores Ltd:** Hours 08:30 until 21:30 Monday to Saturday, 10:00 until 21:00 Sunday.
- **134 - Chandra Cash & Carry:** Hours 07:00 until 00:00 midnight daily.
- **144-146 - Iceland:** Hours 08:00 until 23:00 Monday to Saturday, 10:00 until 22:30 Sunday.
- **148-150 - Co-Operative Group Food Ltd:** Hours 07:00 until 23:00 Monday to Saturday, 10:00 until 22:30 Sunday.
- **244 - Expo International Supermarket Ltd:** Hours 08:00 until 00:00 midnight daily.
- **299 - Marks & Spencer Food & Wine:** Hours 08:00 until 23:00 Monday to Saturday, 10:00 until 22:30 Sunday.
- **309 - Sal's Mini Market:** Hours 07:30 until 00:00 midnight Monday to Saturday, 08:30 until 22:30 Sunday.

6.2 There are eleven on-licensed premises in Plumstead High Street, as follows:

- **8 - Ghandi Tandoori:** Hours 11:00 to 00:00 midnight daily. Operates as a restaurant; no off-sales.
- **24 - Anedo:** Hours 10:00 until 00:00 midnight Sunday to Wednesday, until 00:30 following day Thursday to Saturday. Operates as a restaurant and bar; also licensed for off-sales.
- **56 - Kitchen Eat Nepalese:** Hours 11:00 until 23:00 Sunday to Wednesday, until 00:00 midnight Thursday to Saturday. Operates as a restaurant; no off-sales.
- **66 - Sopranos:** Hours 12:00 noon until 00:00 midnight Monday to Thursday, until 00:30 following day Friday & Saturday, and until 22:30 Sunday. Operates as a restaurant; no off-sales.
- **95 - Red Lion Noodle Bar:** Hours 11:30 until 02:00 following day, daily. Operates as a restaurant; no off-sales.
- **100 - Belfrey Social Club:** Hours 09:00 until 02:00 following day, daily. Operates as a members' club; no off-sales.
- **130 - The Volunteer:** Hours 11:00 until 00:00 midnight Monday to Saturday, 12:00 noon to 00:00 midnight Sunday. Operates as a public house; also licensed for off-sales.
- **136 - Sweet Mother:** 11:00 until 00:00 midnight Monday to Saturday, 12:00 noon to 23:30 Sunday. Operates as a restaurant; no off-sales.

- **233 - Favourite African:** Hours 12:00 noon until 23:00 Monday to Thursday, until 00:00 midnight Friday & Saturday, and until 22:00 Sunday. Operates as a restaurant; also licensed for off-sales.
- **250 - Duntai African:** Hours 11:00 until 00:00 midnight Monday to Saturday, 12:00 noon to 23:30 Sunday. Operates as a restaurant; no off-sales.
- **282 - Plume of Feathers:** Hours 11:00 until 00:00 midnight Sunday to Thursday, 11:00 noon to 02:00 following day Friday & Saturday. Operates as a public house; also licensed for off-sales.

6.3 There are nine premises in Plumstead High Street licensed solely for Late Night Refreshment from 23:00 hours, as follows:

- **4 - Taste of China:** Until 00:00 midnight Sunday to Thursday, until 01:00 following day Friday & Saturday.
- **6 - Mr Uncle's Kebab:** Until 01:00 following day Sunday to Thursday, until 03:00 following day Friday & Saturday.
- **10 - Kings Chicken:** Until 00:00 midnight Sunday to Thursday, until 01:00 following day Friday & Saturday.
- **73 - Chick 'N' Chip:** Until 01:00 following day Sunday to Thursday, until 02:00 following day Friday & Saturday.
- **98B - Chick Chicken:** Until 03:00 following day Monday to Saturday, until 01:00 following day Sunday.
- **99 - Dilkush Fast Food:** Until 02:30 following day, daily.
- **260 - Express Kebab:** Until 01:00 following day Sunday to Thursday, until 02:00 following day Friday & Saturday.
- **289 - Perfect Fried Chicken:** Until 00:00 midnight, daily.
- **297 - Meghna Tandoori:** Until 00:00 midnight, daily.

## 7 Relevant Considerations

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

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

7.2 The Sub-Committee may only consider matters that have been raised with them as the grounds for review *and* by way of representation. The Sub-Committee may not consider any other matters when making their decision.

7.3 The grounds in this case have been made on the basis of the Prevention of Crime & Disorder, Public Safety, and the Protection of Children from Harm licensing objectives.

## 8 Responsible Authorities' Comments

8.1 On 11 January 2016, a representation was received from the Director of RBG Public Health & Wellbeing in support of the application for review, on the basis of the Public Safety and Protection of Children from Harm licensing objectives. A copy of this representation is attached at **Appendix D**.

8.2 On 14 January 2016, a representation was received from the Greenwich Licensing Police in support of the application for review, on the basis of the Prevention of Crime & Disorder, Public Safety, and Protection of Children from Harm licensing objectives. A copy of this representation is attached at **Appendix E**.

8.3 Of the remaining responsible authorities, Environmental Health (Pollution Control) formally responded by indicating that they had no representations to make.

## 9 'Other Persons' Comments

9.1 No letters of representation have been received from 'other persons'/members of the general public.

9.2 On 13 January 2016, a four-page petition was received containing 62 signatures in support of the premises. A copy of this petition is attached at **Appendix F**. Also received was a copy of a letter from RBG Trading Standards dated 25 March 2014, confirming that an underage test purchase in respect of cigarettes had been properly refused on 18 February 2014. A copy of this letter is attached at **Appendix G**.

## 10 References/Considerations

In making their decision the Sub-Committee must have regard to the following:

### *Greenwich Council Statement of Licensing Policy*

- 10.1 Section 3.8 states: “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.”
- 10.2 Section 3.12.1 states: “The Police and local Community Safety Partnership are the main source of advice on crime and disorder.”
- 10.3 Section 3.17 states: “Premises licenses will undergo review, where the premises in question is suspected to or proven to be the source of crime and disorder.”
- 10.4 Section 3.18 states: “The Royal Borough expects premises licence holders to implement measures which ensure the safety of all those using their premises. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning.”
- 10.5 Section 3.19 states: “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.”
- 10.6 Section 3.34 states: “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. Trading Standards and the Police are also available to give advice around preventing underage sales.”
- 10.7 Section 3.39 states: “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.”

- 10.8 Section 11.3 states: “The Royal Borough of Greenwich 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 disturbances 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 07:00 hours.”
- 10.9 Section 13.1 states: “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.”
- 10.10 Section 13.3 states: “Where a review of a premises licence is sought, this must relate specifically to a particular premises licence relating to an individual premises.”
- 10.11 Section 17.2 states: “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 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.”
- 10.12 Section 17.3 states: “An on-going 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.”

- 10.13 Section 17.4 states: “The Royal Borough’s Trading Standards team carry out regular covert test purchase procedures to ensure compliance with the mandatory code in relation to underage sales, counterfeit and duty evaded goods. If such sales are made, the evidence provided by Trading Standards, contributes to requesting the review of a licence or additional conditions on the existing licence.”
- 10.14 Section 17.5 states: “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.”
- 10.15 The Sub-Committee is reminded to have regard to the Policy in general when making their decision.

*Guidance Published by the Government under Section 182 of the Act*

- 10.16 Section 9.15 states: “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.”
- 10.17 Section 11.2 states: “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.
- 10.18 Section 11.7 states: “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.”

- 10.19 Section 11.10 states: “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.”
- 10.20 Section 11.17 states: “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.”
- 10.21 Section 11.18 states: “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.”
- 10.22 Section 11.20 states: “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 to address the causes of concern that instigated the review.”
- 10.23 Section 11.21 states: “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.”

- 10.24 Section 11.22 states: “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 maybe 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.”
- 10.25 Regarding any modification of conditions or temporary suspension of the licence or licensable activities, the Guidance states at 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. 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.
- 10.26 Section 11.26 adds: “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 in the interests of the wider community and not those of the individual licence holder.”
- 10.27 Section 11.27 further provides: “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 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 knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- For unlawful gambling; and
- ***For the sale or storage of smuggled tobacco and alcohol.***

10.28 Section 11.28 concludes: "It is envisaged that licensing authorities, the police 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."

*The Licensing Act 2003 Regulations*

10.29 The Sub-Committee should have regard to the Hearings Regulations published by the Government under the Licensing Act 2003.

*Human Rights Act 1998*

10.30 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.

10.31 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:

(a) as the result of one or more provisions of primary legislation, the authority could not have acted differently; or,

(b) 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.”

10.32 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 Policy and 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.

## 11 Legal Considerations

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

11.2 However, the review mechanism can be implemented where licensed premises are found to be contravening one of the licensing objectives.

11.3 The Section 182 Guidance states at 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.”

11.4 Any ‘Responsible Authority’ or ‘Other Person’ may apply to the Council for a review of the licence at any time (unless the representation from an ‘Other Person’ is deemed to be repetitious, vexatious or frivolous).

11.5 The review mechanism affords the licensing authority an opportunity to make amendments to the licence, such as suspending all or part of it, removing certain licensable activities, or amending and adding conditions.

## 12 Appeal Rights

12.1 The applicant for review, the holder of the premises licence, or any other person who made relevant representations to the application may appeal against the Council's decision to the Magistrates' Court within 21 days, beginning with the day on which the appellant was notified by the Council of the decision being appealed against.

12.2 The Section 182 Guidance states at 12.10: "It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that 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 the parties of any process which might give rise to an appeal under the terms of the 2003 Act."

12.3 No amendments to the premises licence made by the Council will have effect during the time period within which an appeal may be brought and until such time that any appeal has been determined or abandoned.

### Background Papers

- Premises licence file.
- Royal Borough of Greenwich Council's Statement of Licensing Policy dated 7 January 2016.
- Guidance published by the Government under Section 182 of the Licensing Act 2003.
- Licensing Act 2003 and subsequent Regulations.

### Appendices

**Appendix A:** Copy of review application.

**Appendix B:** Map of local area.

**Appendix C:** Copy of current premises licence dated 30 December 2013.

**Appendix D:** Copy of RBG Public Health representation dated 11 January 2016.

**Appendix E:** Copy of Police representation dated 14 January 2016.

- Appendix F:** Copy of petition in support of premises received 13 January 2016.  
**Appendix G:** Copy of 'refused test purchase' letter from RBG Trading Standards to premises dated 25 March 2014.

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