Licensing Review Sub-Committee | Date & Time: 
Monday 22nd January 2018 | 
---|---
Hearing under Provision: 
Section 53(c) Licensing Act 2003 | Agenda Item Number: 5 
---|---
Review of: 
Premises licence authorising on/off-sales of alcohol, live and recorded music, performances of dance and late night refreshment at City Buz’B, 135-137 Trafalgar Road, London, SE10 9TX. 
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Lead Officer: 
Director of Housing & Safer Communities. | Ward: 
Peninsula 
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1. Decision Required

The Sub-Committee is requested to consider the Application for Review of the premises licence in relation to City Buz’B, 135-137 Trafalgar Road, SE10 9TX, made by Sergeant Simon Henderson of the Metropolitan Police (Greenwich) Licensing Team as set out at Appendix A, in line with the Prevention of Crime and Disorder and Prevention of Public Nuisance licensing objectives.

The Guidance requires the Council to give its decision with reasons within five working days.

Pursuant to Section 53 of the Licensing Act 2003, it is open to the Sub-Committee to:

- 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.

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.

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.

The Sub-Committee may only consider matters that have been raised with them as to the grounds for review and by way of representation. The Sub-Committee may not consider any other matters when making their decision. The grounds in this case have been made on the basis of the Prevention of Crime & Disorder and the Prevention of Public Nuisance licensing objectives.

1.1 **Summary of Application**

As can be seen in Section 3.1 of this report, an application to review the Premises Licence at this venue, submitted by the Royal Borough of Greenwich Environmental Health (Noise) Team, was heard by the Council’s Licensing Review Sub-Committee in August 2017 following issues raised regarding noise from the premises and the operators not engaging with the prevention of public nuisance licensing objective.

The Review Sub-Committee, at that time decided to permit the continued use of the premises but to amend the conditions of the Premises Licence and to reduce the permitted hours for licensable activities.

Despite several visits and warnings from both the RBG and Police Licensing Teams and the RBG Environmental Health (Noise) Team, the operators continued to run the premises in the same manner, and to the same hours, as were permitted prior to the Review Sub-Committee’s decision.

The current review application, submitted by the Metropolitan Police (Greenwich) Licensing Team, seeks revocation of the current Premises Licence on the basis of continued breaches of Licence conditions, the lack of co-operation by the current Licence holder to engage in promoting the
Licensing objectives and his failure to respond positively to stepped enforcement measures.

1.2 Date of Application

The Council received the Application on 30th November 2017. The last date for Representations was 28th December 2017.

1.3 Notice/Advertising Requirements

The review application has been correctly advertised as required by Government regulations by displaying notice of the application in the window of City Buz’B 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 6PW for 28 days and advertised on the Royal Greenwich website.

2. Current Licence

<table>
<thead>
<tr>
<th>Licensable Activity</th>
<th>Days &amp; Hours Permitted</th>
<th>Date of Grant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sale and Supply of Alcohol for consumption both On and Off the premises.</td>
<td>Monday to Saturday from 11:00 hours until 00:00 hours (midnight); Sunday from 12:00 hours until 00:00 hours (midnight)</td>
<td>16th August 2017 following a Review of the previous licence.</td>
</tr>
<tr>
<td>Recorded and Live Music (Indoors Only)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Performance of Dance</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Late Night Refreshment</td>
<td>Monday to Sunday from 23:00 hours until 00:00 hours (midnight)</td>
<td></td>
</tr>
</tbody>
</table>

A copy of the amended premises licence is attached at Appendix B.
3. **The Premises**

3.1 **History**

The premises licence authorising the sale and supply of alcohol, regulated entertainment and late night refreshment at the premises known as City Buz’B (and formerly known and operated as ‘Indies Bistro Bar’, ‘Windies Cove’, ‘Judah & Zula Caribbean Inn’ and ‘Manzanos’) at 135-137 Trafalgar Road, SE10 9TX, was granted under the former licensing regime (Licensing Act 1964) and converted under the new 2003 Act by way of ‘grandfather’ rights in October 2005.

In August 2006 an application was received to extend the hours for the supply of alcohol, recorded music and late night refreshment and add consent for live music on Sunday to Thursday until midnight and Friday and Saturday until 02:00 hours. The application also requested the removal of the embedded restaurant conditions. The application received representations but was granted by Licensing Sub-Committee in October 2006.

Having been closed for a short while in the period from 2015-2016, the premises re-opened in November 2016, to be run by Trevor Bailey, as City Buz’B and purported to be operated as a seafood restaurant.

During the entire period that the premises have been licensed under the Licensing Act 2003, it has attracted numerous complaints from local residents, generally in relation to loud audible music from the premises and disturbance to neighbouring properties from customers using the rear garden area. These complains were dealt with by means of warnings and the Responsible Authorities working with the various premises licence holders to try to ensure that the problems were stopped.

On 23rd March 2017, the Environmental Health (Noise) Team served a Notice on Mr Bailey under Section 80 of the Environmental Protection Act 1990 - also known as a Noise Abatement Notice - requiring that the noise issues stop and explaining the consequences should that Notice be contravened.

The service of that Notice appeared to have no effect and noise issues from the premises continued and were witnessed by members of the Borough's
Environmental Health (Noise) Team on several occasions, constituting breaches of the provisions of the Notice. As a consequence of this, a letter advising of these breaches was served on Mr Bailey on 23rd June 2017.

Subsequently, on 26 June 2017, and after the Council’s Licensing team had tried, unsuccessfully, to work with Mr Bailey and make suggestions as to how the noise and anti-social behaviour issues could be reduced, the Environmental Health (Noise) Team submitted an application to review the Premises Licence. A copy of that Review application, containing proposals for reducing the noise and anti-social behaviour associated with the premises, is attached at Appendix C.

On 16 August 2017, the Council’s Licensing Review Sub-Committee heard the above application and decided to amend the Premises Licence for the venue, by reducing the permitted hours for licensable activities and adding several new conditions. A copy of the Decision Notice for that meeting is attached at Appendix D.

Mr Bailey was advised of his right to appeal the Licensing Review Sub-Committee’s decision in the attached Decision Notice but failed to positively do so within the required time, meaning that the amended Premises Licence issued by the Council came into force on 19th September 2017.

Since that time, and despite several visits and warnings from both the RBG and Police Licensing Teams and the RBG Environmental Health (Noise) Team, the operators have continued to run the premises in the same manner, and to the same hours, as were permitted prior to the Review Sub-Committee’s decision.

Officers from the Royal Borough of Greenwich made enquiries with Bromley Magistrates Court regarding the submission of an appeal to the Review Sub-Committee’s decision but from those enquiries it appears that no such appeal was lodged.

A letter, with a further copy of the Premises Licence amended as per the Review Sub-Committee’s decision, was sent to Mr Bailey on 13th October 2017 detailing the process and warning of the consequences should breaches of the amended Premises Licence be witnessed. No reply was received to this communication and a copy of the letter is attached at Appendix E.
On 20th October 2017, Officers from the Council’s Noise Team, acting under a Warrant of Entry obtained from Bromley Magistrates Court, entered the premises and seized noise-generating equipment including speakers, amplifiers, record decks and a quantity of vinyl records which they removed from the premises.

Despite the removal of this equipment, further complaints of loud music coming from the premises were received by the Council’s Noise Team between 20th October 2017 and 24th November 2017.

On 13th December 2017 an application was received to transfer the Premises Licence into the name of Magdi Nasr of IDM Enterprises, 117 Trafalgar Road SE10 9TX. This application received no representations and so the Premises Licence has now been transferred and a copy of the new Premises Licence is attached at Appendix F.

As a consequence of the Licence transfer Mr Nasr, as the Premises Licence holder, now becomes liable for the Review proceedings.

Visits to the premises have taken place both prior to and since the granting of the licence, as follows:

<table>
<thead>
<tr>
<th>Date (and time) of Visit</th>
<th>Inspected by</th>
<th>Outcome/Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>8 December 2016 (14:15)</td>
<td>Licensing – prior to the transfer of the premises licence.</td>
<td>Satisfactory. Mr Bailey just taken over. Licence applications in hand.</td>
</tr>
<tr>
<td>15 December 2016 (16:15)</td>
<td>Licensing</td>
<td>Visit following complaint from local resident of noise. No noise issues at premises at time Advice given re closing doors whilst working.</td>
</tr>
<tr>
<td>6 March 2017 (17:15)</td>
<td>Licensing</td>
<td>Visit following complaint from local residents of noise. Discussed issues with Trevor Bailey and advised re monitoring of Fire Exit door and not allowing patrons to use the rear</td>
</tr>
<tr>
<td>Date</td>
<td>Time</td>
<td>Timeframe</td>
</tr>
<tr>
<td>--------------</td>
<td>---------</td>
<td>-----------</td>
</tr>
<tr>
<td>28 March 2017</td>
<td>15:35</td>
<td></td>
</tr>
<tr>
<td>1 April 2017</td>
<td>02:15</td>
<td>02:15</td>
</tr>
<tr>
<td>9 April 2017</td>
<td>00:20 – 04:00</td>
<td>Unsatisfactory.</td>
</tr>
<tr>
<td>12 April 2017</td>
<td>16:00</td>
<td></td>
</tr>
<tr>
<td>06 May 2017</td>
<td>02:00</td>
<td></td>
</tr>
<tr>
<td>16 May 2017</td>
<td>15:30</td>
<td></td>
</tr>
<tr>
<td>15 July 2017</td>
<td>01:30</td>
<td></td>
</tr>
<tr>
<td>2 September 2017</td>
<td>03:00 – 03:30</td>
<td>Unsatisfactory.</td>
</tr>
<tr>
<td>23 September 2017</td>
<td>00:35</td>
<td>Unsatisfactory.</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
<td>Verdict</td>
</tr>
<tr>
<td>-----------------</td>
<td>----------------------------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>8 October 2017</td>
<td>Licensing Review hearing and amended Licence issued restricting operating hours until 00:30</td>
<td>Unsatisfactory</td>
</tr>
<tr>
<td>20 October 2017</td>
<td>Noise Team Officers from the Council’s Noise Team, acting under a Warrant of Entry obtained from Bromley Magistrates Court, entered the premises and seized noise-generating equipment including speakers, amplifiers, record decks and a quantity of vinyl records which they removed from the premises.</td>
<td></td>
</tr>
<tr>
<td>21 October 2017</td>
<td>Licensing Review hearing and amended Licence issued restricting operating hours until 00:30.</td>
<td>Unsatisfactory</td>
</tr>
</tbody>
</table>

4. **Nature**

The premises have historically operated as a ground floor restaurant with a further seating area downstairs that has been used for the provision of music and dance.

Since it has been licensed, successive operators have caused issues to surrounding residential properties with regard to noise from both the premises and patrons attending events there and anti-social behaviour from patrons.
5. **Location**

The premises are located on Trafalgar Road in Greenwich, amongst a parade of commercial premises. There are flats both above and directly opposite the premises and houses directly behind in Orlop Street. Maps of the area are attached at *Appendix G*.

6. **Other licensed premises in the area:**

**Hardy's Free House, 92 Trafalgar Road, SE10 9UW**
Supply of Alcohol; Live and Recorded Music; Late Night Refreshment
Sunday to Thursday from 11:00 hours until 23:00 hours
Friday and Saturday from 11:00 hours until 01:00 hours the following morning

**Rare (Restaurant), 113 Trafalgar Road, SE10**
Supply of Alcohol; Recorded Music; Late Night Refreshment
Monday to Saturday from 11:00 hours until 00:00 hours (midnight)
Sunday from 12:00 hours until 23:30 hours

**Kerala (Restaurant), 119 Trafalgar Road, SE10**
Supply of Alcohol; Recorded Music; Late Night Refreshment
Monday to Saturday from 11:00 hours until 00:00 hours (midnight)
Sunday from 12:00 hours until 23:30 hours

**Sefa (Restaurant), 129-131 Trafalgar Road, SE10**
Supply of Alcohol
Monday to Sunday from 11:00 hours until 23:00 hours

**King William IV Hotel/Olde Turk Restaurant, 155-157 Trafalgar Road, SE10**
Supply of Alcohol; Live and Recorded Music; Late Night Refreshment
Monday to Saturday from 10:00 hours until 02:00 hours the following morning
Sunday from 10:00 hours until 00:00 hours (midnight)
Mountain View (Restaurant), 160 Trafalgar Road, SE10
Supply of Alcohol; Late Night Refreshment
Sunday to Thursday from 12:00 hours until 00:00 hours (midnight)
Friday and Saturday from 12:00 hours until 00:30 hours the following morning

Island Flavas’ (Restaurant), 166 Trafalgar Road, SE10 9UW
Supply of Alcohol; Recorded Music; Late Night Refreshment
Monday to Saturday from 11:00 hours until 00:00 hours (midnight)
Sunday from 12:00 hours until 23:30 hours

Efe’s Meze (Restaurant), 170 Trafalgar Road, SE10
Supply of Alcohol; Recorded Music; Late Night Refreshment
Monday to Saturday from 11:00 hours until 00:00 (midnight)
Sunday from 12:00 hours until 23:30 hours

Payless, 102-104 Trafalgar Road, SE10
Supply of Alcohol (Off sales)
Monday to Sunday from 06:00 hours until 02:00 hours the following Morning

Lahore Kebab & Grill House, 101 Trafalgar Road, SE10 9TS
Late Night Refreshment
Sunday to Thursday from 23:00 hours until 01:30 hours the following morning
Friday and Saturday from 23:00 hours until 03:30 hours the following morning

Tesco, 142-146 Trafalgar Road, SE10
Supply of Alcohol (Off sales)
Monday to Sunday from 06:00 hours until 23:00 hours

Everest Food & Wine, 167 Trafalgar Road, SE10
Supply of Alcohol (Off sales)
Monday to Sunday from 09:00 hours until 23:00 hours
7. **Summary of Representations**

<table>
<thead>
<tr>
<th>Name of Person Making Representation &amp; Relevant Authority/Other Person</th>
<th>Relevant Licensing Objective(s)</th>
<th>Appendix Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sergeant Simon Henderson Metropolitan Police (Greenwich) Licensing Team</td>
<td>Prevention of Crime and Disorder Prevention of Public Nuisance</td>
<td>Appendix H</td>
</tr>
<tr>
<td>John McGirr RBG Public Health</td>
<td>Prevention of Crime and Disorder Public Safety Protection of Children from Harm</td>
<td>Appendix H</td>
</tr>
<tr>
<td>Ella Smallcombe RBG Environmental Health (Noise)</td>
<td>Prevention of Public Nuisance</td>
<td>Appendix I</td>
</tr>
<tr>
<td>Zak Darwood Local Resident</td>
<td>Prevention of Crime and Disorder Prevention of Public Nuisance</td>
<td>Appendix I</td>
</tr>
<tr>
<td>Solange Berchemin Local Resident</td>
<td>Prevention of Crime and Disorder Prevention of Public Nuisance</td>
<td>Appendix I</td>
</tr>
</tbody>
</table>

*Appendix I* is exempt information pursuant to Part II, Section 40 of the Freedom of Information Act 2000.
### Relevant Provisions of Royal Borough of Greenwich Licensing Policy

<table>
<thead>
<tr>
<th>Section &amp; Paragraph</th>
<th>Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1</td>
<td>“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.”</td>
</tr>
<tr>
<td>3.2</td>
<td>“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.”</td>
</tr>
<tr>
<td>3.3</td>
<td>“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.”</td>
</tr>
<tr>
<td>3.5</td>
<td>“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.”</td>
</tr>
<tr>
<td>3.6</td>
<td>“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.”</td>
</tr>
</tbody>
</table>
| 3.8                 | “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.”

| 3.12.1 | “The Police and local Community Safety Partnership are the main source of advice on crime and disorder.” |
| 3.13 | “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.” |
| 3.17 | “Premises licenses will undergo review, where the premises in question is suspected to or proven to be the source of crime and disorder. 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].” |
| 3.18 | “The Royal Borough expects premises licence holders to implement measures which ensure the safety of all those using their premises.” |
| 3.19 | “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.” |
| 3.20 | “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.” |
| 3.24 | “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.”

| 3.25 | “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.” |

| 3.26 | “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.” |

| 3.31 | “The Royal Borough expects applicants to outline in the operation schedule of their application for a licence, measures so as to avoid disturbance to noise-sensitive premises from vehicles arriving, departing and parking for an event as follows:

- Guidance to patrons on routes to take as they depart, to cause least disturbance to noise-sensitive premises;
- Guidance to patrons via websites to travel by public transport;
- Guidance to staff on their responsibilities to minimise noise from patrons as they arrive at and
- Arrangements for the calling of taxis, minicabs, cars or limousines from within the premises, and for the collection of patrons by arrangement;
- Arrangements with dedicated taxi, minicab, car or limousine companies to collect patrons in an agreed manner so as to minimise disturbance;
- Arrangements for staff and patron parking."

| 3.32 | “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].” |
| 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.” |
| 10.7 | “The effect of the cumulative impact 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 cumulative impact experienced.” |
| 10.8 | “…..An applicant within a cumulative impact zone will need to demonstrate in their application that, if granted, a licence will have a positive influence on the licensing objectives.” |
| 10.10 | “The adoption of a cumulative impact policy … does not relieve responsible authorities or other persons of the need to make a relevant representation. Before the Royal Borough can lawfully consider giving effect to this cumulative impact 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
| **10.13** | “The cumulative impact 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.” |
| **11.3** | “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.” |
| **11.4** | “The Royal Borough expects applicants to provide a noise management plan as part of the operating schedule … when licensed activities involve amplified music. The suitability of the premises in terms of the building’s capacity to limit sound will be taken into account when decisions are made in respect of applications that include amplified music.” |
| **13.1** | “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.” |
| **13.3** | “Where a review of a premises licence is sought, this must relate specifically to a particular premises licence relating to an individual premises.” |
17.2 “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.”

17.3 “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.”

17.5 “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.”


<table>
<thead>
<tr>
<th>Section</th>
<th>Provision</th>
</tr>
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<tbody>
<tr>
<td>2.1</td>
<td>“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).”</td>
</tr>
<tr>
<td>2.3</td>
<td>“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,</td>
</tr>
</tbody>
</table>
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.”

2.15 “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.”

2.16 “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.”

2.17 “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.”

| 2.18 | “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.” |

| 2.19 | “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 circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.” |

| 9.15 | “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.”

9.37  
“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 to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.”

9.38  
“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:

- The steps that are necessary to promote the licensing objectives;
- The representations (including supporting information) presented by all the parties;
- This Guidance;
- Its own statement of licensing policy.”

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.
### 11.7
“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.”

### 11.10
“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.”

### 11.17
“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.”

11.20 “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 to address the causes of concern that instigated the review.”

11.21 “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 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.”

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. **Further Considerations**

10.1 **Duration of the Licence**

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, or suspended or revoked by the Licensing Authority.

10.2 **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.

10.3 **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:
1.1 As the result of one or more provisions of primary legislation, the authority could not have acted differently; or,

1.2 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 Principles and Statutory Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Therefore, subject to both the Statement of Principles 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.

11. **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.”

12. **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.
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