

<b>Licensing Sub-Committee B</b>	<b>Date &amp; Time:</b> <b>Tuesday 23 July 2024 at 10:30am</b>
<b>Hearing under Provision:</b> <b>Section 18(3), Licensing Act 2003</b>	<b>Agenda Item Number:</b> <b>5</b>
<b>Application:</b> <b>Variation of a Premises Licence for Everyday Convenience Store, 1 Malton Street, junction with Swingate Lane, Plumstead Common, London SE18 2EH.</b>	
<b>Lead Officer:</b> <b>Director of Housing &amp; Safer Communities.</b>	<b>Ward:</b> <b>Plumstead Common.</b>

### **I. Decision Required**

The Sub-Committee is requested to consider the application made by Mrs Kumutham Parameswaran for the variation of a premises licence in respect of Everyday Convenience Store at 1 Malton Street, j/w Swingate Lane, Plumstead Common, London SE18 2EH, as set out at **Appendix A**, which also includes staff training (etc) documents.

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.

Members must consider the application for variation having regard to the representation(s) made and take such of the steps as it considers appropriate for the promotion of the licensing objectives.

These steps are:

- To grant the variation application in its current form; or
- To modify the conditions of the licence; or
- Reject the whole or part of the application.

For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new conditions added.

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', being those who live, or are involved in a business, in the relevant licensing authority's area and who are likely to be affected by the licensing application.

The written representations against this application relate to the Prevention of Crime & Disorder and Prevention of Public Nuisance licensing objectives.

### **1.1 Summary of Application**

The application the Sub-Committee is asked to consider is to vary the premises licence as follows:

- **Current hours:**  
Off-Sale & Supply of Alcohol: Monday to Saturday from 08:00 hours until 23:00 hours; Sunday from 10:00 until 22:30; *except – Christmas Day: 12:00 noon to 15:00 hours and from 19:00 hours to 22:30. Good Friday: 08:00 hours to 22:30 hours.*
- **Proposed variation:**  
Off-Sale & Supply of Alcohol daily between midnight and each following midnight, *i.e. 24 hours a day.*

The Council may impose conditions on the licence that are consistent with those offered in the applicant's operating schedule. The following list of 20 were offered by the applicant (refer *Appendix A*) and have, where appropriate, 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. The Premises Licence Holder shall install and operate a CCTV system at the premises, capable of providing coverage of all entry points and areas to which customers have access in any lighting conditions.
2. The CCTV system shall continuously record whilst the premises are open to members of the public, and shall be capable of providing clear images and frontal identification of customers.
3. All CCTV recordings shall be retained for a minimum of thirty-one (31) days and shall be correctly date- & time-stamped; sufficient data storage shall be available to facilitate this.
4. CCTV recordings shall be made available within forty-eight (48) hours upon receipt of a request by the Police and / or an Authorised Officer of the Licensing Authority (as defined by Section 13 of the Licensing Act 2003), and recordings provided in an easily downloadable format.
5. A member of staff shall be present on the premises whilst they are open who is capable of operating the CCTV system and able to facilitate viewing of CCTV footage upon the demand by the Police and / or an Authorised Officer of the Licensing Authority (as defined by Section 13, Licensing Act 2003).
6. The Premises Licence Holder shall perform regular maintenance in accordance with the manufacturer's guidelines and timeframe as a minimum. All CCTV cameras shall be cleaned and clear of obstructions and signage, including displays and promotional materials.
7. The premises shall perform a test of the CCTV every seven (7) days. This shall include, but not be limited to, confirmation of playback of 31-day old recordings. The testing of the system shall be recorded in a log with the time and date of the test, and name of the staff member completing it, and shall be made available to the Police and / or an Authorised Officer of the Licensing Authority (as defined by Section 13, Licensing Act 2003) upon request. The log shall also include the details of the regular maintenance requirement detailed in *Condition 6*.
8. In the event of failure or faults with the CCTV which compromise its ability to record clear usable images, real-time playback, or provide recordings in an easily downloadable format, all licensable activity shall

cease forthwith. Details of the system fault shall be recorded in writing and maintained for a minimum of twelve (12) months at the premises.

9. An Incident & Refusals Record, kept in written form, shall be maintained at the premises and made available on request to the Police or an Authorised Officer of the Licensing Authority (as defined by Section 13, Licensing Act 2003). The Incident & Refusals Record shall record:
  - a. Any complaints received in connection with the licensable activity permitted at the premises.
  - b. Any refusal to sell alcohol at the premises, including the date & time of the refusal, why the sale was refused, and the name of the staff member refusing it.
  - c. Any incidents of crime, disorder, or nuisance at the premises.
  - d. Any visit to the premises by a Responsible Authority in connection with the licensable activity permitted at the premises.
  - e. Details of the weekly CCTV test – refer *Condition 7*.
  
10. No high-strength beers, lagers, ciders, and spirit mixers with an **ABV of 6.5% and above** shall be stocked or sold at the premises, with the exception of imported, premium and craft beers with the written consent of Royal Borough of Greenwich Licensing and Greenwich Police Licensing.
  
11. All alcohol on display shall be in full view of the cashier / staff member on duty at all times and shall not be obscured by displays or shelving.
  
12. There shall be no self-service of spirits, save for spirit mixtures of less than 6.5% ABV.
  
13. During the hours of operation of the premises, the Premises Licence Holder shall ensure that sufficient measures are in place to remove and prevent litter or waste arising from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected. Refer also *Condition 20*.
  
14. The premises shall be responsible for customers not gathering outside the premises and environs, and shall actively discourage such gatherings so as to reduce the potential for noise and anti-social behaviour. Signage shall be prominently displayed in the premises advising customers not to congregate outside.

15. All staff engaged in the sale of alcohol shall receive suitable training, and thereafter refresher training every six (6) months, in relation to the proof of age “Challenge 25” scheme. The following forms of identification are acceptable: photo driving licence; passport; Proof of Age Standards Scheme (PASS) card; military ID; and any other locally or nationally approved form of identification.
16. Notices and posters shall be displayed inside the premises stating that a “Challenge 25” policy is in force. The posters shall include “It’s A Crime!”, to deter proxy sales on behalf of those under-18.
17. A Personal Licence Holder shall be present on the premises during the hours permitting the sale of alcohol.\*
18. There shall be a minimum of two (2) members of staff on duty during the hours permitting the sale of alcohol.\*  
  
[\*In the case of ‘24/7’ off-sales being granted, this shall mean ‘at all times’.]
19. All staff shall be provided with recognised customer welfare & vulnerability training from an appropriately qualified trainer, details of which must be documented (e.g. ‘WAVE’, ‘Ask Angela’, or similar). The Premises Licence Holder and/or the Designated Premises Supervisor shall sign-up to the Royal Borough of Greenwich Women’s Charter or its equivalent, and display certification of this prominently at the premises. Such display shall include ‘WAVE’ (etc) certification.
20. From the frontage of the premises to the kerbside (Malton Street j/w Swingate Lane), the premises licence holder or the DPS shall ensure by way of regular daily checks that the area is kept clear of litter and similar detritus. *Refer also Condition 13.*

Additionally, a further condition is offered as part of the applicant’s responses to objectors, made by her agent – *Appendix H* refers:

21. There shall be no deliveries to the premises between 19:00 hours and each following 07:00 on any day.

## 1.2 Date of Application

The Council received the Application on 3<sup>rd</sup> June 2024.

The last date for Representations was 1<sup>st</sup> July 2024.

## 1.3 Notice/Advertising Requirements

The application has been advertised as required by Regulations by displaying a notice of application at the site of the premises for 28 days and advertising it in the local press. In line with RBG practice, a licensing officer from RBG Licensing confirmed on 5 June 2024, by way of photographs provided by the applicant's agent, that three statutory blue Notices of Application were displayed correctly across the frontage of the premises, covering the corner that Malton Street shares with Swingate Lane.

## 2. Current Licence

Licensable Activity	Days & Hours Permitted	Date of Grant
<b>Off-Sale &amp; Supply of Alcohol.</b>	Monday to Saturday from 08:00 hours until 23:00 hours; Sunday from 10:00 until 22:30; except – <i>Christmas Day:</i> 12:00 noon to 15:00 hours and from 19:00 hours to 22:30. <i>Good Friday:</i> 08:00 hours to 22:30 hours.	<b>14 November 2005.</b>

A certified copy of the current premises licence, inclusive of all existing conditions, is attached at **Appendix B**.

## 3. The Premises

### 3.1 History & Nature

The premises has historically operated as an off-licence and convenience / general store, originally licensed for off-sales pursuant to the Licensing Act 1964 when it operated as Pannu Food Store, and converted to the

current regime in November 2005. Applicant Mrs Parameswaran has been licence-holder and Designated Premises Supervisor since 16 October 2015.

During the 2023/24 Christmas & New Year period, Mrs Parameswaran applied for, and was granted, three Temporary Event Notices to increase existing licensed hours so the premises could operate on a '24/7' basis.

The TENs covered the following periods:

- 18<sup>th</sup> to 23<sup>rd</sup> December 2023;
- 25<sup>th</sup> (Christmas Day) to 30<sup>th</sup> December 2023;
- 1<sup>st</sup> (New Year's Day) to 6<sup>th</sup> January 2024.

In line with legislation applicable to TENs, a period of one clear day separated each of the above periods, during which the premises reverted to its usual off-sale hours – as it did from 7<sup>th</sup> January and thereafter.

In making the TEN applications, Mrs Parameswaran agreed to abide by a volunteered Operating Schedule, attached at **Appendix C**. This largely reflects the conditions now listed at Section 1.1 of this report.

During a compliance visit conducted by PC Sam Bobb of the Greenwich Police Licensing team on 22 December 2023 (within the first TEN period), three breaches of the Operating Schedule were found. These related to the lack of an Incident & Refusals Record; the availability for sale of high-strength beers; and the absence of an on-site personal licence holder – now offered as Conditions 9, 10 & 17 at Section 1.1.

A follow-up visit on New Year's Eve found that these breaches had been remedied to PC Bobb's satisfaction.

The Police have not objected to this application.

### **3.1.2 Visit History**

During 2019 and 2023, a total of 13 licensing visits were made to the premises, and observations kept, following receipt of local resident allegations of criminal activity and anti-social behaviour / underage sales. Fuller details of these allegations, and of the visits themselves, are

detailed in **Appendix D**. Both sets of allegations made were ultimately not substantiated.

Trading Standards conducted underage sales and counterfeit alcohol / tobacco tests in September 2019. No sales were made to the test-purchaser, or goods found not to be legitimate. Further underage sales tests were scheduled for late 2023 and no notification has been received that these were anything other than satisfactory too.

RBG Licensing and RBG Trading Standards have not objected to this application.

### 3.1.3 History of Noise Complaints

With the assistance of references contained within the objection lodged by Mr Blessing at *Appendix F*, the following noise complaint history has been established:

- 15 May 2023: Ref NTCP06/96427 – Complaint of raised voices. Case opened 18<sup>th</sup> May and closed on 19<sup>th</sup> after a ‘No Further Action’ letter was sent to Mr Blessing.
- 19 July 2023: Ref 2073689 – No complaint traceable under reference provided.
- 18 March 2024: Ref NTCP01/104276 – Complaint of building work occurring beyond permitted hours (08:00 to 18:00 weekdays; 08:00 to 13:00 Saturdays; not at all on Sundays or bank holidays). Case opened on 26<sup>th</sup> March. Standard advisory letter sent to premises, acknowledgement letter sent to Mr Blessing. Case closed on 28<sup>th</sup>, no further action.
- 2 June 2024: Ref OOH763687 – Complaint of DIY noise in line with above made at 19:00. Case since closed.

The Community Protection (Noise) Team have not objected to this application – *Appendix G* refers.

## 3.2 Location



The premises are in Malton Street, at the corner of / junction with Swingate Lane, close to Plumstead Common. The area is densely residential, with a small parade of commercial premises approximately half a mile along Swingate Lane to the south, with Teviot Rangers JFC located just beyond – refer to 3.3 & 3.4 below. Willow Dean, a primary and secondary school for special educational needs, is located at the extreme far end of Swingate Lane.

The premises are not located within the Plumstead High Street Cumulative Impact Zone (CIZ) as prescribed by the Royal Borough of Greenwich licensing policy.

A map of the area is attached at **Appendix E** (with the premises arrowed).

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

- **Tesco Express, 141-147 Swingate Lane:** Daily from 06:00 hours until midnight. Also licensed for Late Night Refreshment (see 3.5 below). Formerly the site of a Londis, then a Co-Op.
- **Food & Wine, 153 Swingate Lane:** Daily from 07:00 hours until 23:00. (This licence is currently dormant / suspended for non-payment of the statutory annual licence fee.)

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

- **Teviot Rangers Junior Football Club, Rose Cottage Playing Fields, Swingate Lane:** Monday to Friday from 17:00 hours until 21:30 (on no more than two weekdays a week); Saturday from 11:00 hours until 22:00; Sunday from 11:00 hours until 20:00. Operates as a members' club (Club Premises Certificate).

**3.5** Aside from the Tesco Express referenced above, there are no premises in the immediate vicinity licensed solely for Late Night Refreshment (the provision of hot food &/or hot drink after 23:00). In Tesco's case, that provision is coffee and similar hot drinks from a vending machine until midnight.

#### 4. Summary of Representations

Name of Person Making Representation & Relevant Authority/Other Person	Relevant Licensing Objective(s)	Appendix Reference
<b>Martin Blessing, local resident</b>	<b>Prevention of Crime &amp; Disorder; Prevention of Public Nuisance.</b>	<b>Appendix F</b>
<b>Barry Belcher, local resident</b>	<b>Prevention of Crime &amp; Disorder; Prevention of Public Nuisance.</b>	
<b>Florence Bain, local resident</b>	<b>Prevention of Crime &amp; Disorder; Prevention of Public Nuisance.</b>	
<b>Max Gershon, local resident</b>	<b>Prevention of Crime &amp; Disorder; Prevention of Public Nuisance.</b>	

*Appendix F* is exempt information under Part II, Section 40 of the Freedom of Information Act 2000.

Of the Responsible Authorities consulted, the Environmental Health Community Protection (Noise) Team formally confirmed they had no representations to make. The rationale for the Community Protection Team's response, in light of the contents of Mr Blessing's objection, is attached at **Appendix G**. The remaining Responsible Authorities did not formally respond at all.

Between 27 June and 4 July 2024, Mr Darryl Crossman of UK Premier Licensing, agent for the applicant, formally replied to the four objectors. Copies of each reply are attached at **Appendix H**, inclusive of subsequent responses where provided.

At **Appendix I** is a montage of photographs of Malton Street (j/w Swingate Lane) provided by Mr Crossman.

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

Section & Paragraph	Provision
1.5	“The Policy aims to provide a necessary balance between providing a platform upon which responsible business operators may contribute towards a thriving business and late-night economy, especially in those areas undergoing substantial regeneration, whilst at the same time ensuring that the quality of life of those who live and work in Royal Greenwich is protected and enhanced through the licensing system. These objectives are achievable if all parties concerned work together.”
2.3	“Applicants are required by the Act to submit an operating schedule as part of the application process. The Royal Borough will expect applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities proposed, the location of the premises, and the potential impact of the premises operation on the local community.”
4.1	“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.”
4.2	“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.”
<b>4.3</b>	“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.”
<b>4.5</b>	“In order to avoid duplication with other statutory regimes as far as possible, the Royal Borough will not attach conditions on a licence unless they are considered appropriate for the promotion of the licensing objectives. A list of non-exhaustive conditions for consideration appear in Appendices A to F [of the Greenwich Statement of Licensing Policy]. Whilst these are not standard conditions, they demonstrate good practice and be may be used in preference to poorly worded conditions offered in the operating schedules of submitted applications.”
<b>4.6</b>	“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, because of the link between alcohol consumption and crime and disorder, especially those offering late night entertainment / refreshment for large numbers of people, premises that are not properly managed and controlled can become a serious source anti-social behaviour, such as violence, sexual assault, domestic violence, public disorder, noise, and street drinking.”
<b>4.8</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 objective. For pubs, bars, and premises with facilities for music and dancing (e.g. nightclubs), a specific assessment may be needed of how the risks of violence and crime in the premises and the vicinity will be managed.”

4.11	<p>“The Police and the Royal Borough’s Safer Spaces Service are the main source of advice on crime and disorder. Applicants are recommended to seek advice on crime prevention from Greenwich Police before making a formal application.”</p>
4.12	<p>“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.”</p>
4.15	<p>“... the Royal Borough may limit the alcoholic strength of beers, lagers and ciders for sale to <b>under 6.5% ABV</b>, excluding the sale of agreed premium alcoholic beverages.”</p>
4.29	<p>“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. Conditions which should be considered, to ensure the prevention of public nuisance, are listed in Appendix C [of the Royal Greenwich Statement of Licensing Policy].</p>
4.34	<p>“The trading hours during which 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. 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</p>

	<p>times. For example, the playing of recorded music after 23:00 hours might be prohibited, even though other licensable activities are permitted to continue. 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 licenced 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.</p>
<b>4.37</b>	<p>“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].”</p>
<b>8.43</b>	<p>“Applicants are expected to include positive proposals in their application on how they will manage any potential risks.”</p>
<b>12.3</b>	<p>“The Royal Borough will deal with the issue of licensing hours on the individual merits of each application.”</p>
<b>14.2</b>	<p>“The Royal Borough recognises that the promotion of the licensing objectives relies heavily on a partnership between premises licence and club premises certificate holders, authorised persons, other persons and Responsible Authorities in pursuit of common aims. The Royal Borough will endeavour to give premises licence and club premises certificate holders early warning of their concerns about problems identified at the premises and the need for improvement. The Royal Borough, where time allows, are prepared to facilitate mediation between the licensee and those who may be intending to review the licence.”</p>
<b>14.21</b>	<p>“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</p>

	<p>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.”</p>
<b>14.22</b>	<p>“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 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>
<b>14.23</b>	<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>
<b>19.2</b>	<p>“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.”</p>

<b>19.3</b>	“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.”
<b>19.5</b>	“In general, action will only be taken in accordance with agreed enforcement principles outlined in the Regulators’ Compliance Code and in line with the Royal Borough’s Enforcement Policy. To this end, the key principles of consistency, transparency, accountability, proportionality, and targeted action will be maintained.”

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

Section	Provision
<b>1.17</b>  <i>*Not applicable in this case.</i>	<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>1.19</b>	<p>“While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes:</p> <ul style="list-style-type: none"> <li>• The Regulatory Reform (Fire Safety) Order 2005;</li> <li>• The Health &amp; Safety at Work Act 1974.”</li> </ul>



<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>2.20</b>	“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.”
<b>2.21</b>	“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.”
<b>2.22</b>	“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.”
<b>2.26</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>8.46</b> <b>Pre-application advice</b> <i>(sought)</i>	“While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.”
<b>9.15</b>	“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

	<p>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 to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed to do so, within reasonable and practicable limits.”</p>
<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>9.39</b>	<p>“The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal.”</p>

## **7. Further Considerations**

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

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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.

## **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.

#### **7.4 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."

#### **7.5 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.

#### **List of Appendices:**

**Appendix A** – Application, offered conditions, and staff training (etc) documents.

**Appendix B** – Certified copy of current licence.

**Appendix C** – Operating Schedule for Christmas & New Year 2023/24  
Temporary Event Notices.

**Appendix D** – History of Licensing & Police visits, 2019 & 2023.

**Appendix E** – Map of local area.

**Appendix F** – Local resident objections x4.

**Appendix G** – Community Protection (Noise) Team: No objection – formal confirmation.

**Appendix H** – Agent’s replies to resident objectors x4, with responses where provided.

**Appendix I** – Malton Street photographic montage.

<b>Date of Report</b>	<b>11 July 2024</b>
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