

Licensing Review Sub-Committee	Date & Time: 25th September 2024 at 6:30pm
Hearing under Provision: Section 53C Licensing Act 2003	Agenda Item Number: 5
Review of: Premises Licence for Greenwich Convenience Store, 100 Woolwich Road, SE10 0LE	
Lead Officer: Director of Housing and Safer Communities.	Ward: East Greenwich

I. **Decision Required**

The Sub-Committee is requested to consider an application for Review of the premises licence in relation to Greenwich Convenience Store, 100 Woolwich Road, London SE10 0LE, made by Mr Ian Andrews, Head of Royal Borough of Greenwich (RBG) Trading Standards & Commercial Environmental Health, for and on behalf of RBG Trading Standards as a Responsible Authority, as set out at **Appendix A**, in line with the Prevention of Crime and Disorder and the Protection of Children from Harm licensing objectives.

The Licensing Act 2003 (Hearings) Regulations 2005 require the Council to make its determination at the conclusion of the hearing. The Sub-Committee must give reasons for its decision.

Pursuant to Section 53C 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.

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 may 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 with them based on the grounds for review *and* by way of representation. The Sub-Committee may not consider any other matters when making their decision.

There were no additional representations received regarding this application.

I.1 Summary / Grounds of Application

The review seeks the addition of seven conditions to Annex 2 of the premises licence, details of which are contained within **Appendix A** – although RBG Trading Standards are aware that other options are open to the Sub-Committee.

The grounds for review are more fully described within the body of the review application but are driven by an incident on 9th February 2024 when a nicotine-based age-restricted Vape product was sold to a person under the age of 18.

The proposed seven conditions are replicated below.

- I. The “Challenge 25”/“Think 25” (or contemporary equivalent) proof of age scheme shall be operated at the premises. All customers who appear under the age of 25 shall 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.

2. All staff shall be trained in the law about the sale of alcohol. Such training shall include challenging every individual who appears to be under 25 years of age and to refuse service where individuals cannot produce acceptable means of identification, acceptable forms of ID and using the refusal register. Such training (including any refresher training) shall be logged and provided not less than every twelve/six/three months. The training log shall be made available for inspection by Police and "authorised persons" (as defined by Section 13 of the Licensing Act 2003) immediately upon request.
3. A refusals log shall be kept at the premises and made immediately available on request to the Police or an "authorised person" (as defined by Section 13, Licensing Act 2003). 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; and,
 - d) description of the person refused alcohol.
4. The following posters or contemporary equivalent shall be displayed conspicuously on the premises in customer-facing areas:
 - a) "Think 25" to advise potential purchasers that suitable proof of age shall be required for all purchasers who appear to be under 25 years of age;
 - b) "It's a Crime!" intended to warn adults not to buy alcohol for those under 18 years of age;
 - c) Any updated and relevant posters that highlight child protection and safeguarding measures as given by Police and "authorised persons" (as defined by Section 13 of the Licensing Act 2003).
5. All alcoholic drinks sold for consumption off the premises shall be clearly labelled or marked with the name of the premises, or the last four digits of the premises licence ('5068').

6. The licence holder shall install and maintain a comprehensive CCTV system as approved by the Metropolitan Police. All public areas of the licenced premises, including all public entry and exit points and street environment, shall be covered enabling facial identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when a member of the public is on the premises. All recordings shall be stored for a minimum period of thirty-one (31) days, with date & time-stamping. Recordings shall be made available immediately upon the request of Police Officer, Police Community Safety Officer, or authorised Local Authority Officer.

7. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public and must be able to retrieve recorded footage and show to a Police Officer, Police Community Safety Officer, or authorised Local Authority Officer upon request.

1.2 Date of Application

The Council received the Application on 1st July 2024.

The last date for Representations was 29th July 2024.

1.3 Notice/Advertising Requirements

The review application has been correctly advertised as required by Regulations by displaying notice of the application at Greenwich Convenience Store for 28 days, and on the highway in the immediate vicinity of the premises (namely on a lamppost directly outside). These notices have been regularly checked on to ensure continued display without damage, defacement or removal. 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.

2. Current Licence

The current Premises Licence, converted under 'grandfather rights' from the Licensing Act 1964, was granted in December 2005 and authorises the sale and supply of alcohol for consumption off the premises on the days Monday to Saturday from 08:00 hours until 23:00 hours and on Sunday from 10:00 hours until 22:30 hours

A copy of the current Premises Licence is attached at **Appendix B**

3. The Premises

3.1 Location and Nature

The premises, which has historically operated as an off-licence and grocery shop but also selling a variety of household goods, is situated on the busy A206 Woolwich Road, about 75 metres from the roundabout under the A102(M) Blackwall Tunnel Southern Approach and 30 metres from the Angerstein Hotel public house.

Properties to the rear of the premises are mainly residential and there is also a primary school about 250 metres away in Halstow Road

As below, there are a number of other licensed premises within the area, although it is not part of a Cumulative Impact Zone.

Maps of the area are attached at **Appendix C**

3.2 History of Noise Complaints

There are no noise complaints associated with these premises logged by the Royal Borough of Greenwich Community Protection (Noise) Team.

4. Other licensed premises in the immediate vicinity:

- **Centre Point Food & Wine, 76 Woolwich Road, SE10 0LE**
Sale and supply of Alcohol (Off sales only)
Monday to Saturday from 08:00 hours until 23:00 hours
Sunday from 08:00 hours until 22:00 hours
- **Charcoal Meze House, 42 Woolwich Road, SE10 0JU**

Sale and supply of Alcohol (Both On and Off sales)

Monday to Sunday from 12:00 hours until 23:00 hours

- **Castellanos Pizza, 139 Woolwich Road, SE10 0RJ**

Sale and supply of Alcohol (Both On and Off sales)

Monday to Saturday from 11:00 hours until 23:00 hours

Sunday from 11:00 hours until 21:00 hours

Performance of Live Music

Friday and Saturday from 20:00 hours until 23:00 hours

- **SKP Supermarket, 125-127 Woolwich Road, SE10 0RA**

Sale and supply of Alcohol (Off sales only)

Monday to Saturday from 08:00 hours until 23:00 hours

Sunday from 10:00 hours until 22:30 hours

- **Angerstein Hotel, 108 Woolwich Road, SE10 0LE**

Sale and supply of Alcohol (Both On and Off sales), Provision of Recorded Music

Monday to Wednesday from 11:00 hours until 23:00 hours

Thursday and Friday from 10:00 hours until 00:00 hours (midnight)

Sunday from 11:00 hours until 00:00 hours (midnight)

Performance of Live Music

Friday and Saturday from 13:00 hours until 23:30 hours

Sunday from 13:00 hours until 21:00 hours

Provision of Late-Night Refreshment

Monday to Wednesday from 23:00 hours until 23:30 hours

Thursday to Sunday from 23:00 hours until 00:30 hours the following day

5. Summary of Representations

There were no additional representations received to this application either from members of the public or any of the Responsible Authorities.

5. Relevant Provisions of Royal Borough of Greenwich Licensing Policy

Section	Provision
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1.4	“The Royal Borough’s intention is that local people, their families and visitors are provided with opportunities for enjoyable, pleasurable and safe experiences. It is paramount that these experiences are safe, without fear of violence, intimidation or disorder whilst on, arriving at or leaving licensed premises. The Policy highlights that local residents should not be unreasonably disturbed, whether in the street or at home, by activities or customers within, or linked to, licensed premises”
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.”
2.2	“It is recognised that the licensing function is only one means of securing delivery of the Licensing Objectives and should not be seen as a means for solving all problems within the community. The Royal Borough will, therefore, continue to work in partnership with its neighbouring authorities, the Police, local businesses and local people towards the promotion of the Objectives”
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.”

4.3	“Where the Royal Borough of Greenwich’s discretion is engaged as a result of relevant representations, tailored and proportionate conditions may be imposed on a licence to address the individual licensing objectives.”
4.5	“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. Whilst these are not standard conditions, they demonstrate good practice and may be used in preference to poorly worded conditions offered in the operating schedules of submitted applications.”
4.6	“The Royal Borough recognises that well-run premises can make a valuable, positive contribution to the local community though the local economy, tourism and cultural development. However, if they are not properly managed and controlled, licensed premises ... can become a serious source of crime and disorder or anti-social behaviour problems.”
4.8	“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 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.”
4.12	“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.”
4.20	“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].”
4.21	“The Royal Borough expects premises licence holders to implement measures which ensure the safety of all those using their premises.”
4.25	“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 type of activities being conducted, the location of the premises, the anticipated clientele, and the competency of management.”
4.33	<p>“Premises that provide food and/or drink for consumption off the premises could create public nuisance in the form of customers causing litter (i.e. food wrappings and drink containers) in the vicinity of the premises and the wider area. Applicants for licences allowing the provision of late-night refreshment, together with the sale of alcohol for consumption off the premises, are recommended to consider the problems that litter causes through their operation and what steps they will take to prevent such nuisance. The steps they could take (and include in the operating schedule section of their application form) include, but are not limited to:</p> <ul style="list-style-type: none"> • The provision of waste receptacles directly outside the premises • Notices on display asking customers to dispose of their litter and refuse responsibly and • The licence holder arranging for the clearing of litter in the immediate vicinity of their premises at regular intervals during licenced hours or, at a minimum, at the close of business each day.”
4.34	“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 times.”
4.38	“The Royal Borough will not impose any condition which specifically requires access for children to be provided at any premises. Access by children to all types of premises will not be limited in any way unless it is considered necessary to do so for the prevention of harm, or would compromise another licensing objective. Although the Royal Borough is sympathetic to applications which create additional appropriate child and family friendly venues, the Royal Borough will consider limiting access to children if there is a risk of moral, psychological and physical harm posed by their presence. Licence applicants are expected to determine appropriate times for children to be present on the premises. Where no restriction or limitation is imposed, the issue of access will remain a matter for the discretion of the individual licensee or club. Each licence application will be judged on an individual basis.”
4.39	“The Royal Borough recognises the widespread problem with compliance of the law regarding the sale of alcohol to those under the age of 18. 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 licenced 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.”
4.45	“The Royal Borough strongly advises that all licenced premises which permit any person under the age of 18 on to their premises at any time undertake appropriate and regular training around key safeguarding issues relative to their premises type. It is advised that safeguarding training is provided to all staff on a regular basis and is recorded as part of a training record. Royal Greenwich licensing team, the Child Safeguarding team, and the Police are available to offer advice around safeguarding training.”
4.46	“The Royal Borough expects all staff within licenced premises to look out for any evidence of the premises

	<p>being used as a base for child sexual exploitation or child criminal exploitation, and to report any such suspicions to the Police by calling '101', or Royal Greenwich Multi-Agency Safeguarding Hub (MASH) Referral Team on 020 8921 3172, or by email to mash-referrals@royalgreenwich.gov.uk as a matter of urgency and noting details within the premises incident log. If any child or other person appears to be in immediate danger, it is expected that staff report to the Police on 999 and complete a witness statement of the event. More information around reporting child protection concerns can be found on the Royal Greenwich website at: https://www.royalgreenwich.gov.uk/info/200237/family_support_and_safeguarding_children/956/report_your_concerns_about_a_child.”</p>
4.49	<p>“The Royal Borough will expect applicants 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. In addition to mandatory conditions, Appendix D [of the Royal Greenwich Statement of Licensing Policy] provides further conditions which should be considered.”</p>
9.1	<p>“Applications that do not receive representations shall be granted automatically. Applications that do receive representations shall be considered by the Royal Borough under the terms of this policy on their own merits and with due regard to the Guidance issued under Section 182 of the Licensing Act 2003, the Licensing Act 2003 itself, and any supporting regulations.”</p>
12.3	<p>“The Royal Borough will deal with the issue of licensing hours on the individual merits of each application.”</p>
13.7	<p>“Trading Standards liaise with responsible authorities to share intelligence relating to the protection of children from harm. This intelligence is used as a guide to advisory and enforcement actions”</p>
13.8	<p>“Trading Standards carry out regular covert test purchase procedures to ensure compliance with the</p>

	mandatory code in relation to underage sales, counterfeit and duty evaded goods”
13.9	“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”
13.10	“Trading Standards will work to support greater awareness and availability of the Proof of Age Standards Scheme (PASS) as an acceptable form of ID for young adults”
14.1	“A Premises Licence, once granted, lasts for the lifetime of the business and is not subject to annual or automatic renewal. The provisions 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”
14.2	“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.”
19.2	“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.”
19.3	“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.”
19.5	“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 (as amended 18th December 2023)

Section	Provision
1.17	“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 cumulative impact 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.”

1.19	<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"> • The Health & Safety at Work Act 1974. • The Gambling Act 2005 • The Environmental Protection Act 1990 • The Noise Act 1996 • The Clean Neighbourhoods and Environmental Act 2005 • The Regulatory Reform (Fire Safety) Order 2005 • The Equality Act 2010 • The Immigration Act 2016 • Regulators’ Code under the Legislative and Regulatory Reform Act 2006”
2.1	<p>“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).”</p>
2.3	<p>“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.”</p>
2.5	<p>“Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are</p>

	<p>competent and appropriately trained. The Designated Premises Supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety. “</p>
<p>2.8</p>	<p>“Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. [This] includes ... immediate harms that can result from alcohol consumption, such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above.”</p>
<p>2.9</p>	<p>“A number of matters should be considered in relation to public safety. These may include:</p> <ul style="list-style-type: none"> • Fire safety; • Ensuring appropriate access for emergency services such as ambulances; • Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts; • Ensuring the presence of trained first aiders on the premises and appropriate first aid kits; • Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation); • Ensuring appropriate and frequent waste disposal, particularly of glass bottles; • Ensuring appropriate limits on the maximum capacity of the premises; [etc]. <p>Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).”</p>
<p>2.28</p>	<p>“The protection of children from harm includes the protection of children from moral, psychological and</p>

	<p>physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.”</p>
2.29	<p>“The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:[...] the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.”</p>
2.35	<p>“Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.”</p>

9.15	<p>“It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising Environmental Health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.”</p>
9.37	<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>
9.38	<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"> • 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.”
9.39	<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</p>

	<p>decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to the relevant mandatory conditions and any conditions that are consistent with the operating schedule. Any additional conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. [...] Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.”</p>
9.42	<p>“Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.”</p>
9.43	<p>“The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.”</p>
10.2	<p>“Conditions include any limitations or restrictions attached to a Licence or Certificate and essentially are the steps or actions that the holder of the Premises Licence or Club Premises Certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a Licence or Certificate is a criminal offence which, on conviction, is punishable by an unlimited fine or up to six months imprisonment. The Courts have made it clear that it is particularly important that conditions which are imprecise or difficult for a Licence holder to observe should be avoided”</p>
10.4	<p>“The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence</p>

	holder, which they should carry out before making their application for a premises licence. This would be translated into the steps recorded in the operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.”
10.5	“It is not acceptable for licensing authorities to simply replicate the wording from an applicant’s operating schedule. A condition should be interpreted in accordance with the applicant’s intention and be appropriate and proportionate for the promotion of the licensing objectives.”
10.8	“The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives.”
10.10	“The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided.”
10.13	“The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.”

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.”
13.10	“It is important that a licensing authority gives 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.”

7. Further Considerations

7.1 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.

7.2 Review

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

7.3 Human Rights Act

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

The Human Rights Act provides that: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest, or to secure the payment of taxes or other contributions or penalties.” The term “possession” includes a Licence as well as a home and the things it contains.

The Act further provides:

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

However, it is recognised that the Council’s Statement of Licensing Policy and Statutory Guidance cannot anticipate every possible scenario or set

of circumstances that may arise. Therefore, subject to both the Statement of Licensing Policy and Statutory Guidance having been properly and carefully considered, licensing authorities may depart from them if they have a justifiable reason to do so. If doing so, licensing authorities will need to give full reasons for their actions.

8. Written Decision & Reasons

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

Para 13.10 of the Guidance states: “It is important that a licensing authority should give comprehensive reasons for its decision in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that the reasons should also address the extent to which the decision has been made with regard to the Licensing Authority’s Statement of Policy and this Guidance. Reasons should be promulgated to all parties of any process which might give rise to an appeal under the terms of the 2003 Act.”

9. Appeal Rights

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

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