

	<h2>Licensing Sub-Committee</h2> <h3>Monday 20th November 2017</h3>
<p style="text-align: right;">Title</p>	<p>Review of Premises Licence – PND Express, 403 Hendon Way, London, NW4 3LH</p>
<p style="text-align: right;">Report of</p>	<p>Trading Standards & Licensing Manager</p>
<p style="text-align: right;">Wards</p>	<p>West Hendon</p>
<p style="text-align: right;">Status</p>	<p>Public (with exempt Police Statement in Annex 3 By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972)</p>
<p style="text-align: right;">Enclosures</p>	<p>Report of the Licensing Officer Annex 1 – Review Application Annex 2 – Current Premises Licence Annex 3 – Representations Annex 4 – Extract from Guidance under section 182 Licensing Act 2003 Annex 5 – Matters for decision</p>
<p style="text-align: right;">Officer Contact Details</p>	<p>Mariesa Connolly 0208 359 2125 mariesa.connolly@barnet.gov.uk</p>

Summary

This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003.

Recommendations

- This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003 for PND Express, 403 Hendon Way, London, NW4 3LH**

1. WHY THIS REPORT IS NEEDED

- 1.1 The licensing authority having received valid review application for an existing premises licence must hold a hearing to consider that application and any valid representations that may have been submitted.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Where an application is submitted under section 51 of the Licensing Act 2003, the authority must hold a hearing to consider it.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 N/A

4. POST DECISION IMPLEMENTATION

- 4.1 The decision will have immediate effect

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Members are referred to the Council's Licensing Policy for consideration
- 5.1.2 Timely legal and fair decisions support objectives contained within the Corporate Plan. In particular in relation to a "successful London borough" by ensuring that only legal, well regulated licensable activities occur within the borough.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

- 5.2.1 N/A

5.3 Legal and Constitutional References

- 5.3.1 The Licensing Act 2003 sets out how applications for premises licences should be dealt with where valid representations have been submitted.
- 5.3.2 Under the Constitution, Responsibility for Functions (Annex A), the Licensing Act 2003 and associated regulations, as delegated to it by the Licensing Committee, including the determination of review applications.

5.4 Risk Management

- 5.4.1 N/A

5.5 Equalities and Diversity

5.5.1 Licence applications are dealt with according to the provisions of the Licensing Act 2003 and associated Regulations which allow both applications and representations to applications to be made by all sectors of the

5.6 Consultation and Engagement

5.6.1 The statutory consultation process that has been followed in accordance with the Licensing Act 2003

6. BACKGROUND PAPERS

9.1 The review application and report of the Licensing Officer are and necessary appendices are attached to this report.

Officers Report

LICENSING ACT 2003
REPORT FOR PUBLIC HEARING

Review of the premises licence:

PND Express, 403 Hendon Way, London, NW4 3LH

1. The Applicant

An application was submitted by Michelle Rudland on behalf of the London Borough of Barnet Licensing.

2. The Application

This application has been made under Section 51 of the Licensing Act 2003 to review the Premises Licence held by PND Express Ltd

Licensing objectives to which the review application relates is:

- The prevention of crime and disorder
- The protection of children from harm

Michelle Rudland has made the following statements within licensing application:

- The licensing authority have identified that the premises licence holder is operating its business in such a way as to negatively affect the licensing objectives of the protection of children from harm and the prevention of crime and disorder.

A full copy of the Review application is attached to this report in **Annex 1**.

3. Premises Licence History

This premises licence was first applied for in December 2016 and granted in February 2017.

4. Current Premises Licence

The current licence allows the following licensable activities:

Sale or supply of Alcohol

Monday to Saturday	08:00hrs - 23:00hrs
Sunday	10:00hrs - 22:30hrs

The hours that the premises are open to the public

Monday to Saturday	08:00hrs - 23:00hrs
Sunday	10:00hrs - 22:30hrs

A Full copy of the premises licence with all its conditions can be found in **Annex 2**.

5. Representations

Responsible Authorities

The Licensing Team have received a representation from PC Vicky Wilcock on behalf of the Metropolitan Police and Jack Dowler on behalf of Trading Standards. The objections relate to the prevention of crime and disorder and the protection of children from harm.

Other representations

The Licensing Team have received no representations from other parties.

The representations can be seen attached to this report in **Annex 3**.

6. Guidance

A Section from the Guidance issued under Section 182 Licensing Act 2003 (June 2013) regarding Reviews Is attached to this report in **Annex 4**.

7. Determination

The sub-committee shall determine the application in accordance with Section 52 of the Licensing Act 2003.

S 52 (3);

“The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

4. The steps are-

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

5. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).

6. Where the authority takes a step mentioned in subsection (4) (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Full Copies of the Councils Statement of Licensing Policy and the Statutory Guidance to the Act will be available at the Licensing Sub Committee hearing or in advance if required.

A matters for decision sheet is attached at **Annex 5**

Marissa Connolly
Licensing Officer
Thursday, 02 November 2017

Annex 1 – Review Application
Annex 2 – Current Premises Licence
Annex 3 - Representation
Annex 4 – Guidance issued under Section 182 Licensing Act 2003 (June 2013)
Annex 5 – Matters for Decision

Review Application

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Michelle Rudland on behalf of the Licensing Authority (as responsible authority)

(Insert name of applicant)

(delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
PND Express 403 Hendon Way	
Post town London	Post code (if known) NW4 3LH

Name of premises licence holder or club holding club premises certificate (if known)
PND Express Ltd

Number of premises licence or club premises certificate (if known)
LAPRE1/16/54634

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A))

below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Michelle Rudland Team Leader, Community Protection (Regulation) Department (Acting as responsible Authority for the Licensing Authority) 2 nd Floor Annex, Barnet House 1255 High Road Whetstone N20 0EJ
Telephone number (if any) 020 8359 7443
E-mail address (optional) michelle.rudland@barnet.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

The licensing authority have identified that the premises licence holder is operating its business in such a way as to negatively affect the licensing objectives of the protection of children from harm and the prevention of crime and disorder

As a result of continued breaches of the licence conditions and a failed test purchase the licensing authority no longer has any confidence that the premises licence holder can operate the business lawfully. As a result of the fact that the premises licence holder has not been able to comply with the conditions already attached to the licence we do not feel that it would be effective to attach further conditions to the licence. It is for this reason that the licensing authority acting as a responsible authority respectfully request that the licensing subcommittee consider revoking the premises licence.

Please provide as much information as possible to support the application
(please read guidance note 2)

This premises licence was applied for by PND Express Ltd on 7th December 2016 following the revocation of the previous premises licence for the same property.

Companies House shows that the director of PND Express Ltd is Mr Pahithran Selvarajah. The licensing subcommittee that granted this new premises licence on 1st February 2017 noted that Mr Selvarajah whilst not the licence holder was involved in the management of the previously revoked premises licence

The licence was granted with multiple conditions . These conditions were offered by the applicant within the application that the subcommittee agreed should attached to the licence after hearing the representations made to the grant of the licence.

The Licensing team received a report from the Police about a visit that had been made to the premises during which they documented that the premises was in breach of the condition on the licence that relates to the sale of high strength alcohol. Following this visit the Police made contact with the premises licence holder in order to notify them of the witnessed breach(s) of the premises licence.

A programmed risk assessment visit was then carried out on the 10th May 2017 by a licensing officer during which it was documented that the premises was trading in breach of its conditions numbers 5, 7, 8, 10, 12, 16, 17, 20, 23, 24 and 27. A full list of the conditions attached to this licence is attached to this review application.

A further visit was made by the police on 31st May 2017 during which it was noted that the premises was again trading in breach of a number of the licence conditions. It was noted by the officer who attended from the Police during this visit that some improvements had been made in relation in that the operating of the premises, including that the premises was now displaying their premises licence summary as is required by Licensing Act 2003.

A further visit was scheduled for 15th July 2017 during an out of hours operation conducted jointly with the Police and the Licensing Authority. During this visit it was noted that despite the slight improvement in the business operation condition numbers 7, 10, 16, 17, 20, 23 and 25 were still being breached. During this visit the director of the company Mr Pahithran Selvarajah was present and again was informed of the seriousness of the breaches of the licence conditions. As some improvements had been made since the last visit to the premises it was felt that a further opportunity should be given to the licence holder to ensure that he become fully compliant before the licensing authority take further enforcement action.

The licensing team were informed that on the 28th July 2017 the premises was subject to a test purchase conducted by Trading Standards and the Police. During this visit the premises failed the test purchase and sold alcohol to a child under the age of 18. Mr Pahithran Selvarajah who is the director of the company who holds the premises licence and the DPS for this premises was the individual who made the sale.

As a result of the continued breaches of the licence conditions and the failed test purchase the licensing authority no longer has any confidence that the premises licence holder can operate the business lawfully. As a result of the fact that the premises licence holder has not been able to comply with the conditions already attached to the licence we do not feel that it would be effective to attach further conditions to the licence. It is for this reason that the licensing authority acting as a responsible authority respectfully request that the licensing subcommittee consider revoking the premises licence

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

1	1	1	1	1	1	1	1
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If you have made representations before relating to this premises please state what they were and when you made them

N/A

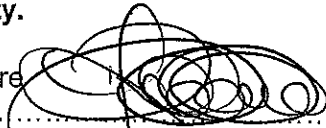
Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date *27th September 2017*

Capacity Team Leader, Community Protection (Regulation)

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Decisions of the Licensing Sub-Committee

1 February 2017

Members Present:-

Councillor Alison Cornelius (Chairman)
Councillor Claire Farrier
Councillor Maureen Braun

Officers:

Sinéad Clifford - (Legal Officer)
Daniel Pattenden (Licensing Officer)
Sheri Odoffin - (Governance Officer)

Also in attendance
PC Vicky Wilcock
PC John Arkers

Others

Mr Pahitharan Selvarajah - Licensee
Mr Noel Samaroo - Agent

1. APPOINTMENT OF CHAIRMAN (Agenda Item 1):

Councillor Maureen Braun, seconded by Councillor Claire Farrier, nominated Councillor Alison Cornelius to preside as Chairman for the meeting.

RESOLVED: That Councillor Alison Cornelius be appointed as Chairman for the meeting.

2. ABSENCE OF MEMBERS (IF ANY) (Agenda Item 2):

None.

3. DECLARATION OF MEMBERS' DISCLOSABLE PECUNIARY INTERESTS AND NON PECUNIARY INTERESTS (IF ANY) (Agenda Item 3):

None.

4. LICENSING SUB-COMMITTEE HEARING PROCEDURE (Agenda Item 4):

The Chairman explained the procedure that would be followed for the meeting.

5. NEW PREMISES APPLICATION, PND EXPRESS, 403 HENDON WAY, LONDON, NW4 3LH (Agenda Item 5):

The sub-committee considered a New Premises application for PND Express, 403 Hendon Way, London NW4 3LH.

The sub-committee heard representations from the appellant and his representative, the Responsible Authority (London Borough of Barnet Trading Standards) and the Metropolitan Police.

6. MOTION TO EXCLUDE THE PRESS AND PUBLIC (Agenda Item 6):

RESOLVED: That the parties be excluded from the meeting, together with the press and public, in accordance with regulation 14(2) of the Licensing Act 2003 (Hearings and Regulations) 2005.

7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION (Agenda Item 7):

The sub-committee deliberated in private session, accompanied by officers from HB Public Law and the London Borough of Barnet Governance Service.

8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE (Agenda Item 8):

The parties to the application were readmitted to the meeting.

The Chairman read out the decision of the committee, which was as follows:

This is an application for a new licence in respect of PND Express 403 Hendon Way, NW4 3LH. Essentially the application seeks an off-licence for the premises.

The Police have made a representation against the application based on the licensing objective of the prevention of crime and disorder. There are no other objections to consider.

The objections refer to a search of the premises in August 2016 which found drugs in a staff member's car parked outside the premises and drugs paraphernalia actually on the premises. The applicant had been in charge on that occasion and it was believed that he had been running the business for some time despite not having applied for the transfer of the licence. A review of the Licence on the 7th November 2016 resulted in it being revoked.

The applicant has proposed numerous conditions to be included on the licence in his application Sections 18 and 19.

We have heard detailed submissions from the applicant, his representative and the Police. We acknowledge the concerns of the Police, however, the Committee accepts that the applicant was not the owner of the premises at the time of the search of the premises in August 2016. It is accepted that he was managing the premises on a part-time basis on behalf of the current owners at the time of the search. The applicant informed the Committee that he is currently in the process of purchasing a new lease from the landlord of the premises and not from the existing business owners. The applicant also confirmed that he has set up this new business, PND Express Ltd. Furthermore, the applicant advised that he will be the Designated Premises Supervisor and that all employees will be personal licence holders.

In light of the all representations heard today, we hereby grant the application for a new premises licence with the all of the proposed conditions as set out in the application at sections 18 and 19. We recommend that condition 37 is amended to read "refresher training (every 6 months) to all personal licence holders relating to the sale of alcohol and the conditions of the premises licence".

If any parties wish to appeal this decision they can do so via the Magistrates Court within 21 days of notification of this decision.

9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT (Agenda Item 9):

None.

The meeting finished at 12.15 pm

Annex 1 – Mandatory Conditions

1. No supply of alcohol may be made under the premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- ii. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

iv. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

4. 1.A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 -

(a)"duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b)"permitted price" is the price found by applying the formula -
 $P = D + (D \times V)$

Where -

(i)P is the permitted price

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) The holder of the premises licence

(ii) The designated premises supervisor (if any) in respect of such a licence, or

(iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating schedule

5. A CCTV system will be installed that comply with the following specifications:
- a. The premises shall install and maintain a comprehensive CCTV system which records 24 hours a day. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - b. All CCTV recordings shall be stored for a minimum period of 31 days and all recordings will be stamped with the correct date and time. Viewing of recordings shall be made available, subject to Data Protection legislation, immediately upon the request of Police or an authorised council officer.
 - c. A CCTV will monitor the exterior front of the premises.

- d. 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, This staff member must be able to provide a police or authorised council officer copies of recent CCTV images or data with the minimum of delay when requested.
 - e. Signage will be prominently displayed advising customers that they are being recorded on CCTV.
 - f. The installed digital CCTV system will record for 31 days all public areas of the premises which will monitor all public safety issues. The DPS will be responsible to carry out a fire and health and safety risk assessments for licensed premises all notices in relation to public health and safety will be displayed.
 - g. Any antisocial behaviour CCTV recordings will be made available to the police and environmental health officers.
 - h. A CCTV will monitor the exterior front of the premises
6. The premises will not sell any SUPER- STRENGTH beer, lager, or cider that is equal to or greater than 6.0% ABV. For the avoidance of doubt, this does not include specialist products from craft or microbreweries or limited edition / seasonal products (e.g. Christmas gift packs), subject to Police and Local Authority discretion.
 7. All alcohol to be price labelled with the name of the premises for clear identification as to place of purchase by any Responsible authority.
 8. No single cans of beer, lager or ciders shall be sold at the premises.
 9. No sales of alcohol will be made from these premises to known street drinkers.
 10. A refusals book shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale, a description of the refusal and the name of the member of staff who refused the sale. Records shall be kept on the premises and maintained for a minimum of 12 months. Records will be made available for inspection at the premises by the police or an authorised officer of the Council at all times.
 11. Any person showing any sign of intoxication will be refused the sale of alcohol.
 12. There will always be a Personal Licence holder on the premises throughout the time that licensable activity is taking place to authorise any sales or alcohol.
 13. No alcoholic drinks will be purchased by the premises owners, DPS or staff from sellers calling at the premises.
 14. All invoices (originals or copies) for all alcoholic goods for retail sale on the premises will be kept at the premises and made available to Police officers, authorised County Council Trading Standards Officers and HMRC Officers upon request.
 15. The DPS will ensure that the premises operate in line with existing health and safety legislation and is aware that it is also the responsibility of the premises licence holder that this legislation is adhered to.

16. Signage will be prominently displayed advising customers that they are being recorded on CCTV. Additional signage which can read as follows:
 - a. No Alcohol will be served to known street drinkers.
 - b. This store does not stock or sell any strong beers or cider with an ABV of 6% or higher.
 - c. No single cans or bottles of beer or cider will be sold.
 - d. No loitering
 - e. Strict challenge 25 policy is in place at these premises
17. A challenge 25 proof of age scheme shall operate at the premises. Signage shall be displayed advising customers that the scheme is in place. All staff authorised to sell alcohol will be trained in the Challenge 25 scheme and this training will be documented to include the date the training was given, the name of the person who gave the training, the person who received the training and signatures by both trainer and trainee.
18. The DPS will monitor the external areas of the premises in relation to public nuisance or antisocial behaviour.
19. Deliveries and rubbish collections will only take place during normal business hours and are at the rear of the premises.
20. Notices will be prominently displayed at the exit requesting that customers to respect the nature of the residential area and leave quietly.
21. The DPS and the Premises Licence holder are responsible for ensuring that the premises do not cause any nuisance to the local residents, other business operators or the general public.
22. Customers shall be discouraged from congregating outside the premises.
23. The proposed DPS will ensure that all staff receives fully documented training in relation to Challenge 25 and the licensing Objectives.
24. All necessary signage will be displayed with regard to challenge 25 and the fact that NO ID NO SALE policy is in place.
25. Refresher Training (every six months) to all personal licence holders, relating to the sale of alcohol and the conditions of the premises licence.
26. The DPS and premises licence holder ensures that there are no specific promotions targeting alcohol products at young people e.g. alco-pops drinks or very cheap alcohol sales.
27. There will be an unimpeded view of the street from the service counter/till area as to prevent Proxy Sales.

Annex 3 – Conditions attached after hearing by the licensing authority

N/A

STATEMENT OF WITNESS

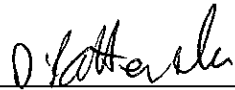
(CJ Act 1967, s9; MC Act 1980, ss 5A (3) (a) & 5B; MC Rules 1981, r70)

STATEMENT OF: Daniel Pattenden

Age of Witness (if over 18, enter "over 18"): Over 18

Occupation of Witness : Licensing officer.

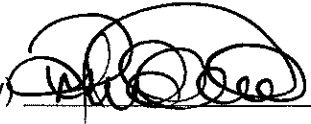
The following statement, consisting of 2 page(s) each signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have willfully stated in it anything which I know to be false or do not believe to be true.

Dated the 20th September 2017 (signed) 

On the 10th May 2017 at 14:48 I visited the premises to conduct a standard risk assessment on this remises. Whilst at the premises I witnessed breaches of condition 5, 7, 8, 10, 12, 16, 17, 20, 23, 24 and 27 (DP1). Mr Pahithran Selvarajah (director of the named company PND Express Ltd that holds the premises licence) was not present at the premises during the inspection. The member of staff that was present at the time of the risk assessment did not seem to be aware of the conditions attached to the licence or indeed of the licensing objectives.

On the 15th July 2017 we visited PND during a night of joint visits carried out throughout the borough. This visit was made along with members of the Police Licensing Team. Mr Pahithran Selvarajah was present at the premises during this visit. Upon inspection it was noted that there were breaches of conditions 7, 10, 16, 17, 20, 23 and 25 of the premises licence. A warning was given to the licence holder and advice provided in relation to achieving compliance with the licence and the Licensing Act 2003.

(Signed) 

(Witnessed by) 

MG11

(Name in Capitals) M RUDLAND

Premises record of Inspection – Licensing Act 2003

Premises name and address	PND Express, 403 Henden way, NW14 3LH	
Premises person(s) present	Shantha Lunara	
Licence Number	LAPRE 1/16/54634	
Type of authorisation	<u>Premises Licence</u>	Club Premises Certificate
Authorised Inspecting Officer(s)	Daniel Pattenden	
Date of Inspection	Start Time	End Time
10/05/2017	14:48	15:01

Licence/Certificate inspection:

Is the Summary on display?	<u>Yes</u>	No
Is the Licence/Conditions held at the premises	<u>Yes</u>	No
Is the DPS as per the licence?	<u>Yes</u>	No
If no provide reason		
Is the DPS present?	Yes	<u>No</u>
If no person authorised in their absence		

LICENSABLE ACTIVIES carried on:

Regulated Entertainment	Plays	Films	Indoor Sporting Events	Boxing & Wrestling
	Live Music	Recorded Music	Performance of Dance	Anything Similar
Provision of Late Night Refreshment	Yes		<u>No</u>	
Supply of Alcohol	On	<u>Off</u>	Both	
Does the licence/certificate permit the licensable Activities identified by the premises	<u>Yes</u>		<u>No</u>	

CONDITIONS OF LICENCE/CERTIFICATE:

The following conditions of the licence were found to be NOT being Complied with:

5, 7, 8, 10, 12, 16, 17, 20, 23, 24, 27

AWARENESS OF LICENSING OBJECTIVES BY PREMISES LICENCE HOLDER/DPS:

Very Good	Fair	<u>Bad</u>
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DETAILS OF ANY OTHER MATTERS IDENTIFIED DURING INSPECTION

1	
2	
3	

Current Premises Licence

Licensing Act 2003 Part A Premises Licence Premises Licence Number : LAPRE1/16/54634	Licensing Authority: London Borough of Barnet, Community Protection (Regulation) Barnet House 1255 High Road Whetstone London N20 0EJ	21/02/2017
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Part 1 – Premises details

Postal address of premises, or if none, ordnance survey reference or description
PNA Express , 403 Hendon Way

Post Town London	Post Code NW4 3LH
----------------------------	-----------------------------

Telephone number
N/A

Where the licence is time limited the dates
This premises licence is not time limited.

Licensable activities authorised by the licence
The Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities

Sale or supply of Alcohol

<u>Standard Days & Timings</u>	
Monday to Saturday	08:00hrs - 23:00hrs
Sunday	10:00hrs - 22:30hrs

The hours that the premises are open to the public

<u>Standard Timings</u>	
Monday to Saturday	08:00hrs - 23:00hrs
Sunday	10:00hrs - 22:30hrs

Where the licence authorises supplies of alcohol whether these are on and/or off supplies
Off the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

PND Express Ltd
46 The Ridgeway
North Harrow
Harrow
Greater London
HA2 7QN

Registered number of holder, for example company number, charity number (where applicable)

10508745

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Pahithran Selvarajah

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Annex 1 – Mandatory Conditions

1. No supply of alcohol may be made under the premises licence-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- ii. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

iv. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

4. 1.A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1 -

(a)"duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979

(b)"permitted price" is the price found by applying the formula -
 $P = D + (D \times V)$

Where -

(i)P is the permitted price

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) The holder of the premises licence

(ii) The designated premises supervisor (if any) in respect of such a licence, or

(iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4.(1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating schedule

5. A CCTV system will be installed that comply with the following specifications:
 - a. The premises shall install and maintain a comprehensive CCTV system which records 24 hours a day. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition.
 - b. All CCTV recordings shall be stored for a minimum period of 31 days and all recordings will be stamped with the correct date and time. Viewing of recordings shall be made available, subject to Data Protection legislation, immediately upon the request of Police or an authorised council officer.
 - c. A CCTV will monitor the exterior front of the premises.

- d. 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, This staff member must be able to provide a police or authorised council officer copies of recent CCTV images or data with the minimum of delay when requested.
 - e. Signage will be prominently displayed advising customers that they are being recorded on CCTV.
 - f. The installed digital CCTV system will record for 31 days all public areas of the premises which will monitor all public safety issues. The DPS will be responsible to carry out a fire and health and safety risk assessments for licensed premises all notices in relation to public health and safety will be displayed.
 - g. Any antisocial behaviour CCTV recordings will be made available to the police and environmental health officers.
 - h. A CCTV will monitor the exterior front of the premises
6. The premises will not sell any SUPER- STRENGTH beer, lager, or cider that is equal to or greater than 6.0% ABV. For the avoidance of doubt, this does not include specialist products from craft or microbreweries or limited edition / seasonal products (e.g. Christmas gift packs), subject to Police and Local Authority discretion.
 7. All alcohol to be price labelled with the name of the premises for clear identification as to place of purchase by any Responsible authority.
 8. No single cans of beer, lager or ciders shall be sold at the premises.
 9. No sales of alcohol will be made from these premises to known street drinkers.
 10. A refusals book shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale, a description of the refusal and the name of the member of staff who refused the sale. Records shall be kept on the premises and maintained for a minimum of 12 months. Records will be made available for inspection at the premises by the police or an authorised officer of the Council at all times.
 11. Any person showing any sign of intoxication will be refused the sale of alcohol.
 12. There will always be a Personal Licence holder on the premises throughout the time that licensable activity is taking place to authorise any sales or alcohol.
 13. No alcoholic drinks will be purchased by the premises owners, DPS or staff from sellers calling at the premises.
 14. All invoices (originals or copies) for all alcoholic goods for retail sale on the premises will be kept at the premises and made available to Police officers, authorised County Council Trading Standards Officers and HMRC Officers upon request.
 15. The DPS will ensure that the premises operate in line with existing health and safety legislation and is aware that it is also the responsibility of the premises licence holder that this legislation is adhered to.

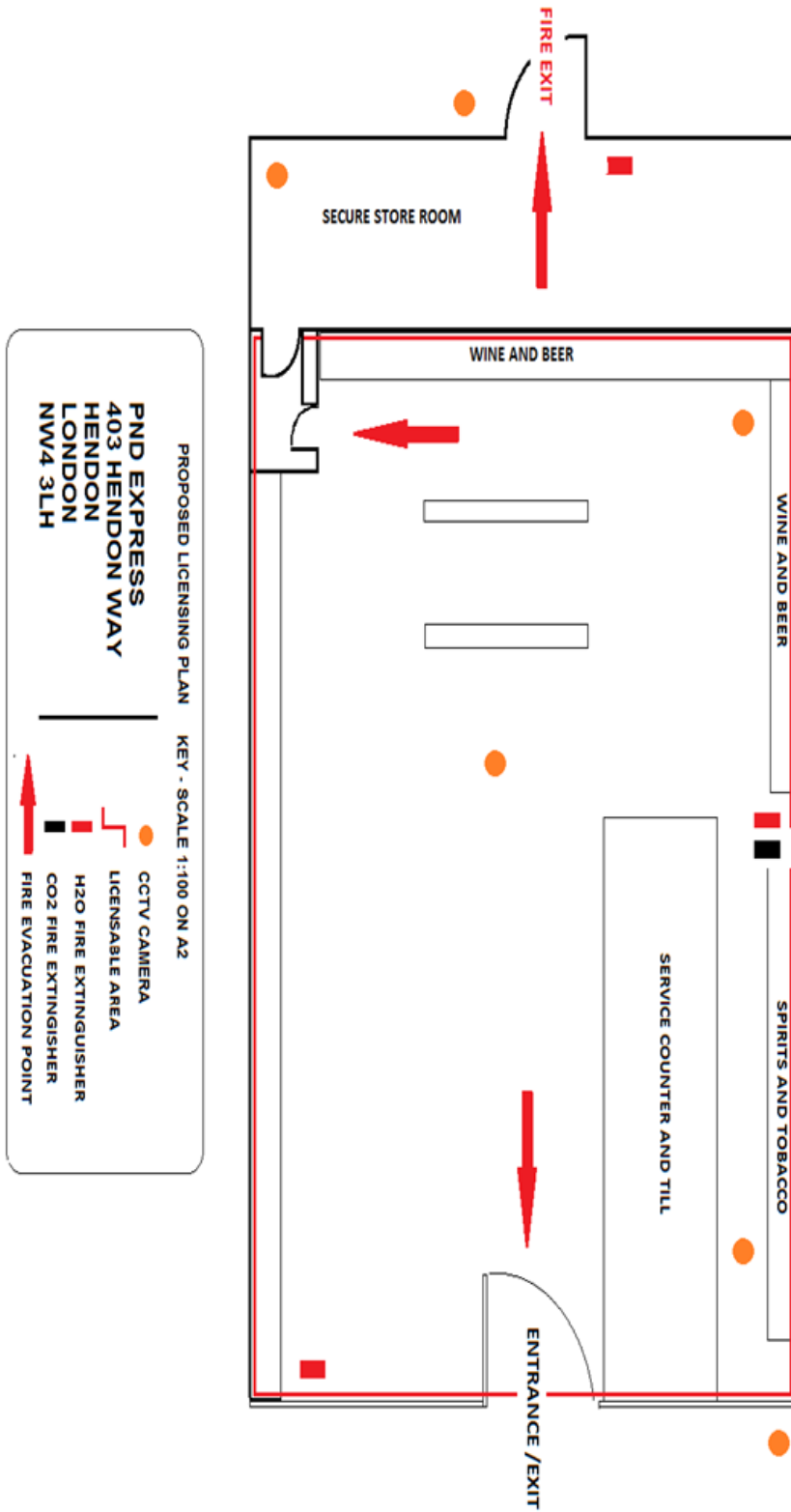
16. Signage will be prominently displayed advising customers that they are being recorded on CCTV. Additional signage which can read as follows:
 - a. No Alcohol will be served to known street drinkers.
 - b. This store does not stock or sell any strong beers or cider with an ABV of 6% or higher.
 - c. No single cans or bottles of beer or cider will be sold.
 - d. No loitering
 - e. Strict challenge 25 policy is in place at these premises
17. A challenge 25 proof of age scheme shall operate at the premises. Signage shall be displayed advising customers that the scheme is in place. All staff authorised to sell alcohol will be trained in the Challenge 25 scheme and this training will be documented to include the date the training was given, the name of the person who gave the training, the person who received the training and signatures by both trainer and trainee.
18. The DPS will monitor the external areas of the premises in relation to public nuisance or antisocial behaviour.
19. Deliveries and rubbish collections will only take place during normal business hours and are at the rear of the premises.
20. Notices will be prominently displayed at the exit requesting that customers to respect the nature of the residential area and leave quietly.
21. The DPS and the Premises Licence holder are responsible for ensuring that the premises do not cause any nuisance to the local residents, other business operators or the general public.
22. Customers shall be discouraged from congregating outside the premises.
23. The proposed DPS will ensure that all staff receives fully documented training in relation to Challenge 25 and the licensing Objectives.
24. All necessary signage will be displayed with regard to challenge 25 and the fact that NO ID NO SALE policy is in place.
25. Refresher Training (every six months) to all personal licence holders, relating to the sale of alcohol and the conditions of the premises licence.
26. The DPS and premises licence holder ensures that there are no specific promotions targeting alcohol products at young people e.g. alco-pops drinks or very cheap alcohol sales.
27. There will be an unimpeded view of the street from the service counter/till area as to prevent Proxy Sales.

Annex 3 – Conditions attached after hearing by the licensing authority

N/A

Annex 4 – Plan

As submitted to the Council with the application for the grant of a premises licence under schedule 8 of the Licensing Act 2003. Reference LAPRE1/16/54634



Representations



**London Borough Barnet
Licensing Team
Barnet House
1255 High Road
Whetstone
N20 0EJ**

**Licensing (Barnet Police Station)
C/O COLINDALE POLICE STATION
GRAHAM PARK WAY
LONDON
NW9 5TW**

Telephone: 02087334195

**email: barnet.licensing@met.police.uk
Date: 23rd October 2017**

Ref:
Our ref: 225/17

CC: London Borough of Barnet

Police objection to a new premises licence

Section	Review	Licensing Act 2003
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Notice Received: 28th September 2017

From: Michelle Rudland

Premises: PND Express, 403 Hendon Way NW4 3LH.

For the following reason(s) The Metropolitan Police Service are in support of the application for review of the premise licence relating to the above premises which has been applied for by Barnet Licensing Authority.

- The police have visited the premises numerous times since this licence was granted and found breaches of conditions on most of those occasions.
- The premises has failed a test purchase and this sale was made by the licence holder.

Dates to avoid where possible

If possible could we avoid the 9th – 10th November due to annual leave and operational commitments. Many thanks.

Yours Sincerely,

Vicky Wilcock
Licensing Office
Barnet Borough Police.

Pattenden, Daniel

From: Dowler, Jack
Sent: 24 October 2017 16:26
To: Pattenden, Daniel
Cc: Phasey, Emma; Connolly, Mariesa; Martin, Kevin
Subject: RE: Review of a premises licence – PND Express, 403 Hendon Way, London, NW4 3LH

Dear Mr Pattenden,

Trading Standards are satisfied that allowing these premises to continue being used in accordance with the current permissions of their premises licence could have further negative impact on the licensing objective of the Protection of Children from Harm.

On the 28th July 2017, Mr Selvarajah the Premises Licence Holder and Designated Premises Supervisor sold alcohol to an individual under the age of 18 during a Test Purchase. This is despite there being clear signage for a 'Challenge 25' policy in the premises. I must note that Mr Selvarajah was also subject to a Test Purchase on the 5th September 2017 and this resulted in no sale being made.

Regards

Jack Dowler
Trading Standards Enforcement Officer, Community Protection (Regulation)
Development & Regulatory Services
London Borough of Barnet, 2nd Floor Barnet House, 1255 High Road, Whetstone, N20 0EJ
Tel: 020 8359 7575
Mob: 07951 985 176
Email: Jack.Dowler@barnet.gov.uk
Barnet online: www.barnet.gov.uk
www.re-ltd.co.uk



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From: LicensingAdmin
Sent: 27 September 2017 16:30

To: Barnet SCB; Dowler, Jack; Phasey, Emma; Carabine, Chris; Hammond, Elisabeth; Immigration; Pateman, Roxanne; Planning Licensing; Police licensing; Junaideen, Shamalee; Rudland, Michelle; Vicky Wilcock (vicky.johnson@met.pnn.police.uk); Fire Service; Heena Patel - Fire

Subject: Review of a premises licence – PND Express, 403 Hendon Way, London, NW4 3LH

Review of a premises licence – PND Express, 403 Hendon Way, London, NW4 3LH

We have accepted an application made by Michelle on behalf of the London Borough of Barnet licensing authority, under section 53 of the Licensing Act 2003 for a review of an existing licence for the above premises. In summary, the grounds for review are:

- The licensing authority have identified that the premises licence holder is operating its business in such a way as to negatively affect the licensing objectives of the protection of children from harm and the prevention of crime and disorder.

Written representations, either for or against the application, can be made to me by interested parties. That is people living or working in the vicinity, (which we interpret as close enough to be affected personally), bodies representing interested parties, or by the statutory responsible authorities. To be relevant, a representation must address the likely effect of the licence on one or more of the licensing objectives. The last date for representations is **25th October 2017**

If you require any advice about the role of ward members in licensing, please contact Democratic or Legal Services.

regards

Trading Standards & Licensing Department Community Protection (Regulation)

London Borough of Barnet, Barnet House, 1255 High Road, Whetstone, London, N20 0EJ

Tel: 020 8359 2175

Barnet Online: www.barnet.gov.uk

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Re

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Guidance issued by Home Office on Reviews

11. Reviews

The review process

- 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.
- 11.3 An application for review may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 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.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 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.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 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.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;

- suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 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.
- 11.21 For example, 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 may be 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. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. 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.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
 - for unlawful gambling; and
 - for the sale of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.30 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.

Matters for Decision

MATTERS FOR DECISION

An application made under Section 51 of the Licensing Act 2003

The Wallace, 1023 Finchley Road, London, NW11 7ES

Determination in accordance with Section 52(3) of the Licensing Act 2003.

S 52 (3);

“The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

4. The steps are-

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

5. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).

6. Where the authority takes a step mentioned in subsection (4) (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify”.

Notification in accordance with Section 52 (10) of the Licensing Act 2003.

10. Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to-

- (a) the holder of the licence,
- (b) the applicant,
- (c) any person who made relevant representations, and
- (d) the chief officer of police for the police area (or each police area) in which the premises are situated.

11. A determination under this section does not have effect-

- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, until the appeal is disposed of.

Steps taken (if any)	Reason(s)