

	<h2>Licensing Sub-Committee</h2> <h3>Tuesday, May 23rd 2017</h3>
<b>Title</b>	<b>Review of Premises Licence – Burnt Oak Off Licence, 140 Burnt Oak Broadway, London, HA8 0EJ</b>
<b>Report of</b>	Trading Standards & Licensing Manager
<b>Wards</b>	Hendon Ward
<b>Status</b>	Public
<b>Enclosures</b>	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
<b>Officer Contact Details</b>	Mariesa Connolly 020 8359 2508 mariesa.connolly@barnet.gov.uk

<h3>Summary</h3>
This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003.

<h3>Recommendations</h3>
<b>1. This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003 for Burnt Oak Off Licence, 140 Burnt Oak Broadway, London, HA8 0EJ</b>

## **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:**

**Burnt Oak Off Licence, 140 Burnt Oak Broadway, London, HA8 0EJ**

**1. The Applicant**

An application was submitted by PC Vicky Wilcock on behalf of the Metropolitan Police.

**2. The Application**

This application has been made under Section 51 of the Licensing Act 2003 to review the Premises Licence held by Thiyagarajah Kanthakumar.

Licensing objectives to which the review application relates is:

- The prevention of crime and disorder,
- Public safety.

PC Vicky Wilcock has made the following statements within Metropolitan polices application:

- “On 24th January 2017 the Barnet Police Licensing Team along with HMRC and Trading Standards conducted a joint operation in the Burnt Oak Area, This premises was found to have a significant quantity of alcohol and tobacco on the premises that was suspected to be non-UK duty paid (smuggled) therefore in breach of section 112 of the customs and excise management act 1979”

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 and granted in 2005. Since the first application there have been no other applications. The application in 2005 placed Thiyagarajah Kanthakumar as the premises licence holder.

**4. Current Premises Licence**

The current licence allows the following licensable activities:

**Sale by retail of alcohol off the premises only**

Standard Days and Timings:

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

The current premises licence showing the above stated hours and all of the conditions attached to the premises licence can be found in full attached to this report as **Annex 2**

## 5. Representations

### Responsible Authorities

The Licensing Team have received a representation from Michelle Rudland on behalf of the London Borough of Barnet Licensing team and Jack Dowler on behalf of the London Borough of Barnet Trading standards team. Both representations relate to crime and disorder and public safety.

### Other representations

The Licensing Team have not received any other representations.

The representation 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**

Mariesa Connolly  
Licensing Officer  
Tuesday, 18 April 2017

Annex 1 – Review Application

Annex 2 – Current Premises Licence

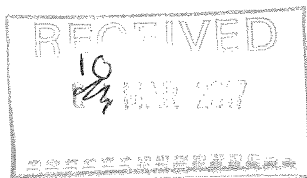
Annex 3 – Representations

Annex 4 – Guidance issued under Section 182 Licensing Act 2003 (June 2013)

Annex 5 – Matters for Decision

# Review Application





Barnet Licensing Authority  
Barnet House  
1255 High Road  
Whetstone  
N20 0EJ

**Barnet Police Licensing Team**

Barnet Police Station

**POST TO:**

**Licensing (SA)**

**C/O Colindale Police Station**

**Graham Park Way**

**London, NW9 5TW**

**Tel: 02087334195**

**Email:**

**barnet.licensing@met.pnn.police.uk**

Barnet Licensing Authority,

Please find enclosed a review application for Burnt Oak Off-Licence, 140 Burnt Oak Broadway, HA8 0EJ.

Copies have been sent to the other responsible authorities and the licence holder's address as required. I have also sent an advisory letter to the premises just in case they have not advised either of us of any change of address.

If you have any queries please let us know.

Regards

  
Vicky Wilcock

PC 349 SX

Licensing Officer

Barnet Borough

Metropolitan Police



**METROPOLITAN  
POLICE**

**TOTAL POLICING**

**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 PC Wilcock, for and on behalf of the Commissioner of the Metropolitan Police Service  
apply for the review of a premises licence under Section 51 of the Licensing Act 2003  
for the premises described in Part 1 below

**Part 1 – Premises or club premises details**

Postal address of premises or club premises, or if none, ordnance survey map reference or description:

Burnt Oak Off Licence, 140 Burnt Oak Broadway

<b>Post town:</b>	London	<b>Post code: (if known)</b>	HA8 0EJ
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Name of premises licence holder or club holding club premises certificate (if known):

Thiyagarajah KANTHAKUMAR

Number of premises licence or club premises certificate (if known):

LN/199905163

**Part 2 – Applicant details**

I am:

Please tick Yes

<b>1</b>	<b>an individual, body or business which is not a responsible authority</b> (please read guidance note 1 and complete (A) or (B) below)	<input type="checkbox"/>
<b>2</b>	<b>a responsible authority (please complete (C) below)</b>	<input checked="" type="checkbox"/>
<b>3</b>	<b>a member of the club to which this application relates (please complete section (A) below)</b>	<input type="checkbox"/>

**PROTECTIVE MARKING**

<b>(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)</b>									
Mr	<input type="checkbox"/>	Mrs	<input type="checkbox"/>	Miss	<input type="checkbox"/>	Ms	<input type="checkbox"/>	Any other title (e.g. Rev.)	<input type="checkbox"/>
Surname:				First Names:					
I am 18 years old or over <input type="checkbox"/>									
Current postal address if different from premises address:									
Post town:					Post code:				
Daytime Tel. No.:					Email: (optional)				

<b>(B) DETAILS OF OTHER APPLICANT (fill in as applicable)</b>	
Name and Address:	
Telephone Number (if any):	
Email address: (optional)	

<b>(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT (fill in as applicable)</b>	
Name and Address:	
Licensing Office, Barnet Police Station, 26-32 High Street Barnet EN5 5RU.	
Telephone Number (if any):	020 8733 4195
Email address: (optional)	barnet.licensing@met.pnn.police.uk

<b>This application to review relates to the following licensing objective(s)</b>		
		Please tick one or more boxes
1	The prevention of crime and disorder	<input checked="" type="checkbox"/>
2	Public safety	<input checked="" type="checkbox"/>
3	The prevention of public nuisance	<input type="checkbox"/>
4	The protection of children from harm	<input type="checkbox"/>
<b>Please state the ground(s) for review: (please read guidance note 2)</b>		
<p>The premises licence holder for Burnt Oak Off Licence, 140 Burnt Oak Broadway is failing to promote the licensing objective, prevention of crime and disorder.</p> <p>On 24<sup>th</sup> January 2017 the Barnet Police licensing team along with HMRC and Trading Standards conducted a joint operation in the Burnt Oak area. This premises was found to have a significant quantity of alcohol and tobacco on the premises that was suspected to be non-uk Duty paid (smuggled) therefore in breach section 112 of the Customs and Excise Management Act 1979</p>		

## PROTECTIVE MARKING

Please provide as much information as possible to support the application: (please read guidance note 3)

The premises was inspected as part of a week of action targetting a number of licensed premises in the Burnt Oak area between 23<sup>rd</sup> and 27<sup>th</sup> January 2017. Burnt Oak has suffered persistent criminal activity and anti-social behaviour as a result of drug and alcohol abuse. It is believed that a lot of the alcohol purchased within the licensed premises in this area is then consumed on the street. It is bought at low prices which is aimed at the most vulnerable in the community.

As a result of this operation the following has been confirmed as seized from this premises

Goods	Qty	Excise Duty (ex VAT)
Cigarettes	3800	£1029.80
Chewing Tobacco	1.8Kg	£193.88
Beer	3775.68 Ltr	£4558.73
Cider	432 Ltr	£1352.13
Wine	238.5 Ltr	£662.65
Spirits	9.75Ltr	£112.23

I am awaiting a full statement from HMRC regarding their involvement and action taken.

In addition to the goods seized from the premises, other concerns have been raised.

Two metal bars found behind the counter

Plastic cups found behind the counter which are identical to those found discarded outside with miniature spirit bottles and soft drink cans. We believe customers are being provided with the means to mix their drinks and drink on the street.

A full statement detailing the inspection will be included for the licensing sub-committee and the licence holder. Otherwise the document is restricted.

PROTECTIVE MARKING

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

(Please tick yes)

Day

Month

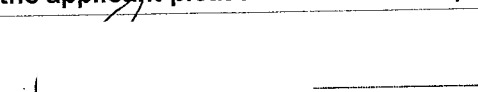
Year

If yes, please state the date of that application:

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

**PROTECTIVE MARKING**

	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.	<input type="checkbox"/>
I understand that if I do not comply with the above requirements my application will be rejected.	<input type="checkbox"/>
<b>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.</b>	

<b>Part 3 – Signatures</b> (please read guidance note 4)			
Signature of applicant or applicant's solicitor or other duly authorised agent (see guidance note 5). If signing on behalf of the applicant please state in what capacity.			
<b>Signature:</b>		<b>Date:</b>	6 <sup>th</sup> March 2017
<b>Capacity:</b>	Police Constable - Licensing Officer		
<b>Contact name</b> (where not previously given) <b>and postal address for correspondence associated with this application:</b> (please read guidance note 6)			
Licensing Office (SA), C/O Colindale Police Station, Graham Park Way,			
<b>Post town:</b>	London	<b>Post code:</b>	NW9 5TW
<b>Telephone Number (if any):</b>			
02087334195			
<b>If you would prefer us to correspond with you using an e-mail address, your e-mail address (optional):</b>			
barnet.licensing@met.pnn.police.uk			

**Notes for Guidance**

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

Restricted

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of PC Vicky Wilcock ..... URN: [ ] [ ] [ ] [ ]

Age if under 18 Over 18..... (if over 18 insert 'over 18') Occupation: Police Officer 231347 .....

This statement (consisting of: .... 2..... pages 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 wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [Signature] ..... Date: 06th March 2017 .....

Tick if witness evidence is visually recorded [ ] (supply witness details on rear)

On Tuesday 24th January 2017 Barnet Police Licensing Team conducted a joint operation with HMRC, Trading Standards and Barnet Council Licensing in the Burnt Oak Area. Five premises had been planned for inspection, one of which turned out to be closed at the time.

At 1238 hours we attended Burnt Oak Off Licence, 140 Burnt Oak Broadway HA8 0EJ. On arrival there was one male behind the till. He gave his name to me as Raj DURAI (DOB: 22/02/1959) he claimed that he did not work there, he was only helping out the owner while he was at court. We were told that Mr KANTHAKUMAR was at court over a business rates payment issue. Mr KANTHAKUMAR was spoken to over the phone, he said he would not be able to get to the shop till around 1600 hours. He was told what the purpose of our visit and that he would be contacted at a later stage if there were any issues.

I asked to see the premises licence, but DURAI was unable to locate a copy to inspect. I happened to have a copy with me so I was able to confirm that Mr KANTHAKUMAR was the licence holder and DPS. There are minimal conditions on the licence, which at that stage they did not appear to be in breach of.

While inspecting the premises it became apparent that the pricing of a lot of the alcohol was indicative of UK Duty having not been paid or that the alcohol was not packaged for sale in the UK, so was possibly smuggled. Images showing examples of this will be included in the review application pack. Behind there till there were two sets of keys behind the sweets display and I also saw two metal bars in the shelf next to the till drawer. I also noticed I a significant quantity of spirits behind a kickboard under the till counter, which seemed an odd place to keep them if they were legitimate stock. The shop was heavily stocked with enormous amounts of alcohol products which were in every available space.

HMRC requested access to a locked store room as part of their inspection of goods. DURAI said he did not have any keys. When I mentioned that I had seen some keys and went to look again, they were gone. DURAI said he had no keys and had been let in by KANTHAKUMAR in the morning. A HMRC officer then asked DURAI for

Signature: [Signature] ..... Signature witnessed by: .....

Continuation of Statement of **Vicky Johnson** *of Wilcock*

*Restricted*

his details and proof of who he was. It was then that he turned out to be called Darai RAJAJI (DOB:15/07/1958) When asked why he had lied to me about his name and date of birth he was unable to give me an reasonable explanation. Looking thoroughly at the premises a locked door was located at the rear of the store, which could only be opened by removing two metal bar braces. This led in to the service area which had further storage areas which were locked One appeared to have cans of cider inside which could be seen through a small crack. Eventually a box with numerous keys was produced which eventually led to us being able to inspect the store room inside. This room fairly small but was filled with alcohol and tobacco products. It was clear that some of the tobacco was not UK duty paid as packaging was in Polish.

We were further concerned when my Sergeant pointed out that discarded plastic cups along with empty spirit miniatures and cans of soft drink were littered on the side road (Barnfield Road HA8) Identical plastic cups were found behind the till.

The HMRC officers stated that they were concerned about a significant quantity of the stock within the shop and its storage areas. They anticipated they would need a 7.5 tonne truck called in to help remove what needed to be seized.

This is the seizure information provided to me on 20<sup>th</sup> February 2017

Goods	Qty	Excise Duty (ex VAT)
Cigarettes	3800	£1029.80
Chewing Tobacco	1.8Kg	£193.88
Beer	3775.68 Ltr	£4558.73
Cider	432 Ltr	£1352.13
Wine	238.5 Ltr	£662.65
Spirits	9.75Ltr	£112.23

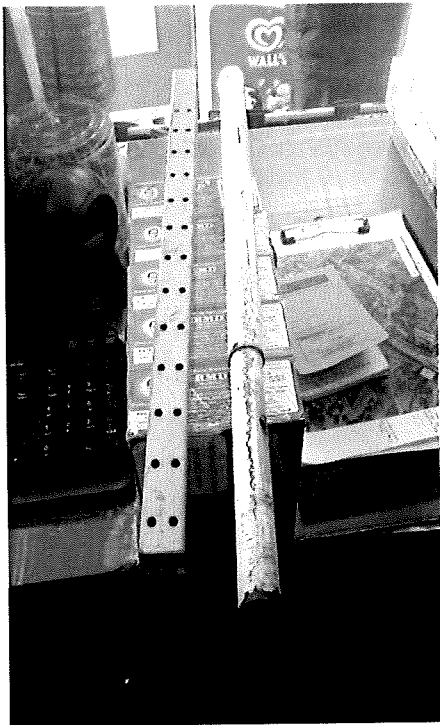
*U*

Signature: *[Signature]*

Signature witnessed by: .....



Burnt Oak Off-Licence, 140 Burnt Oak Broadway HA8 0EJ



Two metal bars  
found next to  
the till drawer



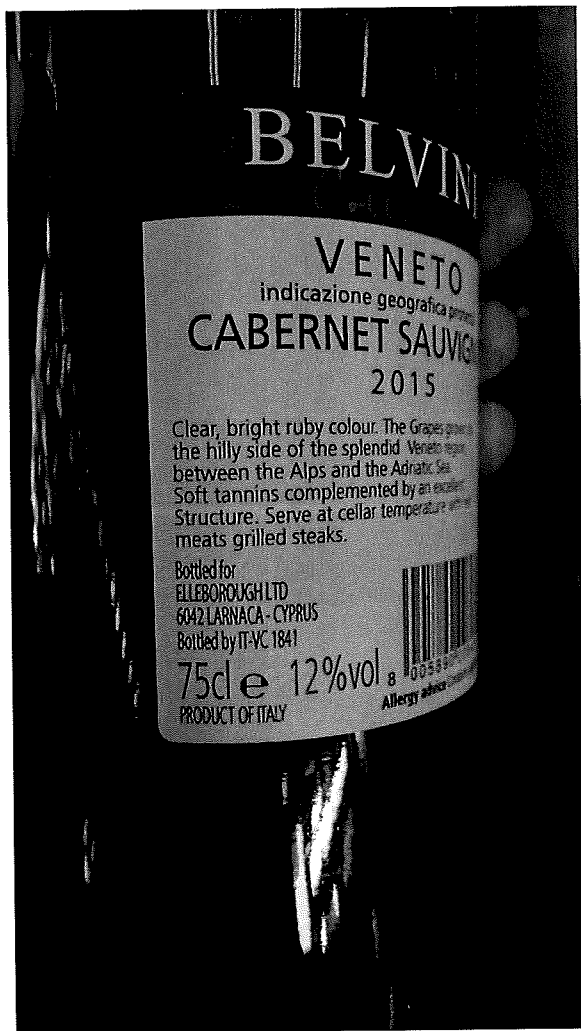
Wine display to  
the left of the  
till counter.



Tinned alcohol, alcopop and wine display opposite the till counter.

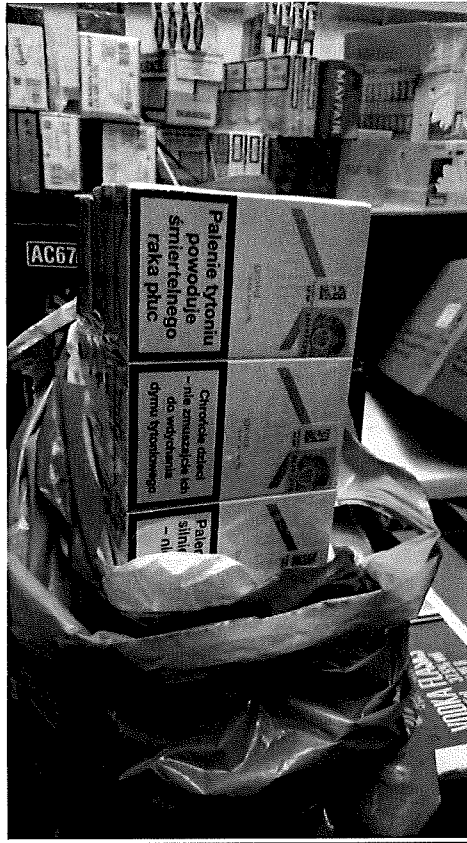


3 x Bottles of Blossom Hill Wines selling for £10 (making them £3.33 each)



This bottle was picked out by a HMRC officer who pointed out this product should not be in the UK as it states on the label that it has been bottled for Cyprus.

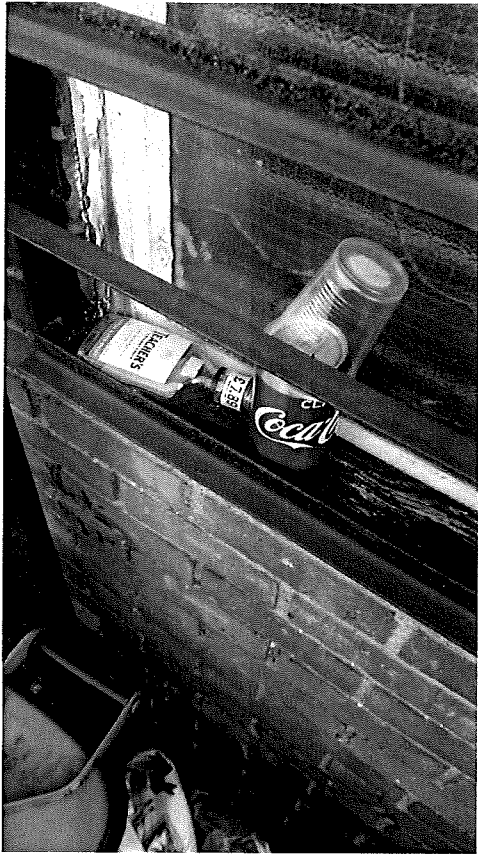
These were stacked in a bucket with no price indicated.



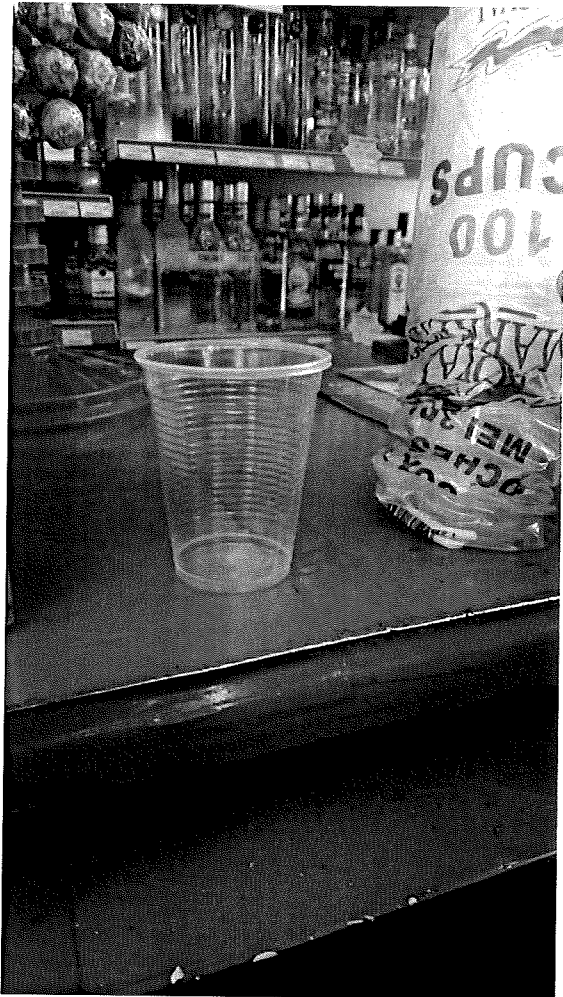
Left to right;  
Numerous  
bottles of spirits  
in a store room.  
Polish labelled  
Marlborough  
Gold Cigarettes.



Numerous bottles  
of spirits  
concealed behind  
a kick board under  
the till counter



Litter scattered on Barnfield Road HA8 near the service access to this parade of shops.



Plastic cups identical to the one found on the street (as a result of street drinking) found under the till counter.

# Current Premises Licence

# Licensing Act 2003

## Part A: Premises Licence

**Premises Licence Number:**  
LN/199905163

### Licensing Authority:

London Borough of Barnet,  
Building 4, North London Business Park  
Oakleigh Road South  
New Southgate,  
London,  
N11 1NP

### Part 1 – Premises details

#### Postal address of premises, or if none, ordnance survey map reference or description

140 Burnt Oak Broadway, Edgware

#### Post Town

Middlesex

#### Post code

HA8 0EJ

#### Telephone number

020 8205 9963

#### 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 by retail of alcohol

##### Standard Days and Timings:

Monday to Saturday	08:00 to 23:00
Sunday	10:00 to 22:30
Good Friday	08:00 to 22:30
Christmas Day	12:00 to 15:00
	19:00 to 22:30

#### The hours that the premises are open to the public

Not restricted

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

Off Sales Only



## Part 2

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

Mr Thiyagarajah Kanthakumar  
3 St Edmunds Drive  
Stanmore  
Middlesex  
HA7 2AT

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

N/A

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Mr Thiyagarajah Kanthakumar  
3 St Edmunds Drive  
Stanmore  
Middlesex  
HA7 2AT

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

05TK – 00AQ – DYLJ – X47K London Borough of Harrow

## **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.

## **Annex 2 – Conditions consistent with the operating schedule**

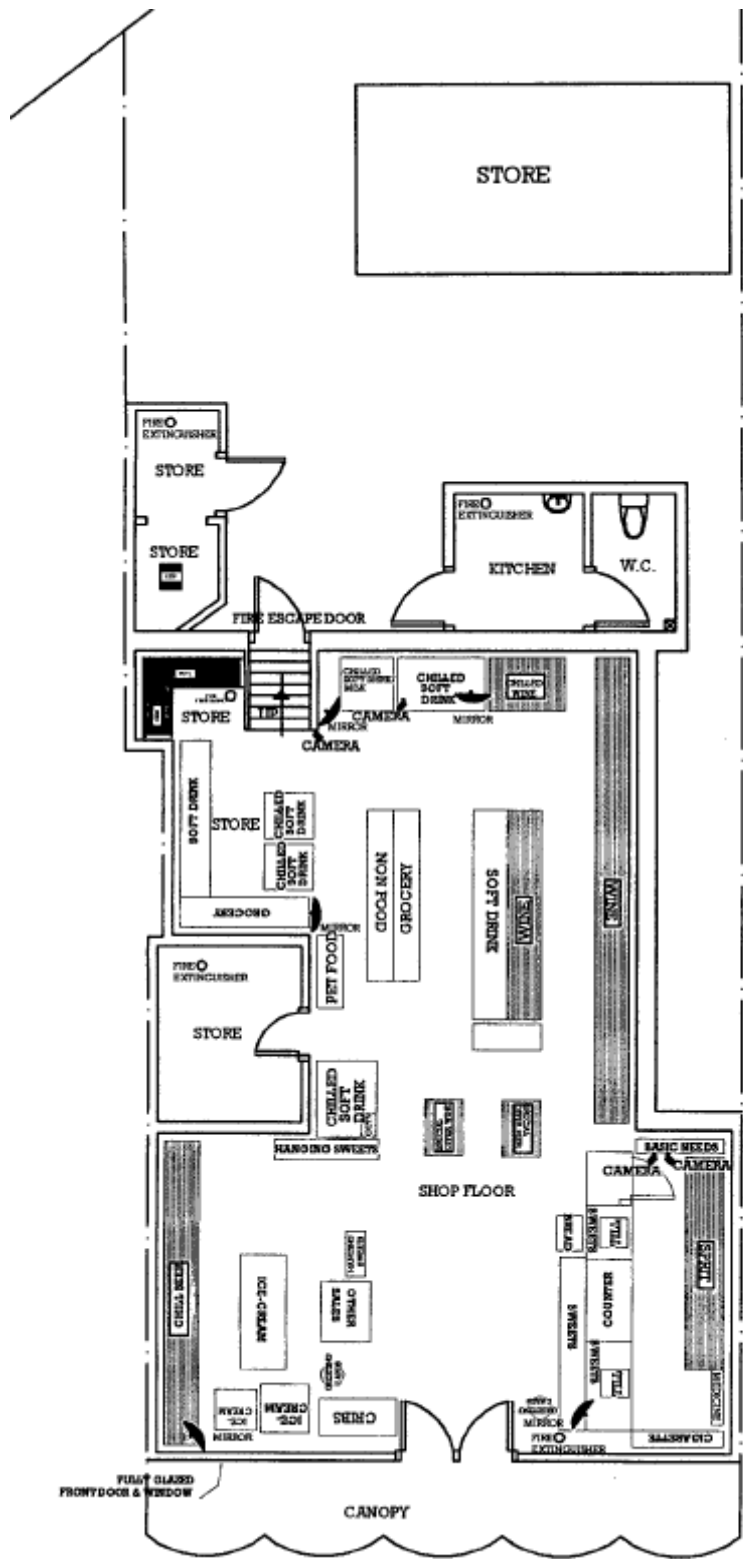
3. Alcohol shall not be sold or supplied except during permitted hours.
4. In this condition, permitted hours means:
  - a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
  - b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
  - c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
  - d. On Good Friday, 8 a.m. to 10.30 p.m.
5. The above restrictions do not prohibit:
  - a. During the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
  - b. The ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
  - c. The sale of alcohol to a trader or club for the purposes of the trade or club;
  - d. The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
6. Alcohol shall not be sold in an open container or be consumed in the licensed premises.

**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 titled Licensing Layout and marked drawing number M2572 dated Nov 03



# Representations

The London Borough of Barnet  
Community Protection (Regulation)  
Licensing – Responsible Authority  
Barnet House  
1255 High Road  
Whetstone  
London  
N20 0EJ

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

contact: Michelle Rudland  
tel: 020 8359 7443  
e-mail: michelle.rudland@barnet.gov.uk  
date: **7<sup>th</sup> April 2017**  
our reference: Review – Burnt Oak

**RE: Review application: Licensing Authority acting as Responsible Authority**

**Premises: Burnt Oak Off Licence, 140 Burnt Oak Broadway, Edgware, HA8 0BB**

As the Licensing Authority (acting as a Responsible Authority in this case) I am making formal representation in support of the Review Application submitted by the Police in relation to the above mentioned premises. The reason for submitting this representation is that the Licensing Authority has concerns arising from the premises licence holders failure to promote the licensing objective of prevention of crime and disorder.

The concerns mentioned arise from the joint operation highlighted by the Police within their Review Application. The Licensing Authorities Licensing Officer Mr Daniel Pattenden, was part of the team working alongside the Police, Trading Standards and HMRC. Mr Pattenden's statement which outlines the details of his involvement in this joint operation is attached to this representation.

Burnt Oak Off Licence was visited as part of this operation on 24<sup>th</sup> January 2017.

As a result of the operation a large number of products were seized from the premises due to it being suspected as being non UK duty paid (as confirmed by the HMRC on the 20<sup>th</sup> February 2017). With this apparent disregard to the law, the fact that some products were being concealed within the premises, the attempt to try and prevent the officers from carrying out their search of the outside storage (by stating they did not have the key) and the evidence that suggests that the premises was selling alcohol in open containers to persons to consume on the street is cause for great concern.

As a result of the above information and that details contained within Mr Pattenden's statement the Licensing Authority respectfully requests that the Licensing Sub Committee consider either taking steps to ensure that the licence holder does not negatively affect the licensing objectives or if this is not possible, consider the revocation of the premises licence.

Michelle Rudland (acting as the Licensing Authorities Responsible Authority)  
Team Leader, Licensing & Antisocial Behaviour  
Community Protection (Regulation)

**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 7<sup>th</sup> April 2017 (signed) \_\_\_\_\_

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On the 24<sup>th</sup> January 2017 Licensing in a joint operation with the Metropolitan Police, HMRC and Trading Standards in Burnt Oak reviewing the premises to ensure compliance with the law, this was part of a week of action in Burnt Oak running from the 23<sup>rd</sup> January 2017 to the 27<sup>th</sup> January 2017.

Myself and PC Wilcock entered Burnt oak off licence initially the premises was stacked ceiling high with cases of alcohol. We spoke with a gentleman behind the till identifying ourselves, he gave his name a Raj Durai and stated he didn't work there normally he was just covering for Mr Kanthakumar the licence holder. We spoke to Mr Kanthankumar over the phone and it transpired he was in court for failing to pay his business rates. We looked at the alcohol and the pricing looked very low which is normally a strong indicator that products are non-duty paid. PC Wilcock Noted there was a loose board under the till, when we removed it there was a significant amount of Glens vodka hidden, Glens Vodka is well known for being counterfeited or non-duty paid. This storage location was not what you would expect of legitimate stock.

At this point we requested HMRC attend. As they begun to search the property it appeared that an external out building had some alcohol stored in it, it also appeared from the CCTV there was a small locked cupboard with what looked like Tobacco. When asked for the keys Mr Durai stated he didn't have any, he was told that we had seen the keys earlier, it wasn't until a HMRC Office began to read him his rights that he began to co-operate and hand over the keys. He was also asked to

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(Signed)   *ds*  

(Witnessed by) \_\_\_\_\_

MG11

(Name in Capitals) \_\_\_\_\_



CONTINUATION OF STATEMENT OF

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prove who he was and it turned out his real name was Darai Rajaji, when questioned why he lied he was unable to provide a reasonable excuse.

When access was gained to the cupboard a significant quantity of non-duty paid, also the external storage had a large quantity of cider in it.

When the Police went to see what key opened the back gate so HMRC could bring a vehicle in to seize the products, they found plastic cups and empty bottle of mini alcohols that matched the ones in the shop, whilst searching around the till a large cache of plastic cups was found. It was right to assume that the premises had been selling the minis with plastic cups so that persons (street drinkers) could consume it outside.

HMRC believed that the quantity was so great they would need a 7.5 ton truck to remove all the offending items.

HMRC on the 20<sup>th</sup> February 2017 provided us with the seizures they are as follows.

<u>Goods</u>	<u>Quantity</u>	<u>Excise Duty</u>
Cigarettes	3800	£1029.80
Chewing Tobacco	1.8kg	£193.88
Beer	3775.68 litres	£4558.73
Cider	432 litres	£1352.13
Wine	238.5 litres	£662.65
Spirits	9.75 litres	£112.23

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(Signed) \_\_\_\_\_

(Witnessed by) \_\_\_\_\_

MG11

(Name in Capitals) \_\_\_\_\_

## Pattenden, Daniel

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**From:** Dowler, Jack  
**Sent:** 13 March 2017 11:37  
**To:** Pattenden, Daniel  
**Cc:** Phasey, Emma; Connolly, Mariesa  
**Subject:** RE: Review - Burnt Oak Off Licence, 140 Burnt Oak Broadway, Edgware, HA8 0BB  
**Attachments:** image002.jpg; image003.jpg; image004.png; Health Risks from Fake Alcohol.docx

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 objectives of the Prevention of Crime and Disorder and Public Safety.

The amount of alcohol seized was much higher than recent seizures. Due to the fact that such a large amount has been seized for being non-uk Duty paid and it is clear that the goods are coming from an unscrupulous source, it is possible that they could also be purchasing counterfeit alcohol and I have attached the health risks associated with this.

Regards

Jack Dowler  
Trading Standards Enforcement Officer, Community Protection (Regulation)  
Development & Regulatory Services  
London Borough of Barnet, 2<sup>nd</sup> Floor Barnet House, 1255 High Road, Whetstone, N20 0EJ  
**Tel: 020 8359 7575**  
**Mob: 07951 985 176**  
**Email: [Jack.Dowler@barnet.gov.uk](mailto:Jack.Dowler@barnet.gov.uk)**  
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**From:** Pattenden, Daniel  
**Sent:** 10 March 2017 14:29  
**To:** Barnet SCB; Dowler, Jack; Phasey, Emma; Carabine, Chris; Hammond, Elisabeth; Pateman, Roxanne; Planning

## What is fake alcohol?

Fake or illegally produced alcohol is alcohol that is produced in unlicensed distilleries or people's homes and intended for sale. It is illegal to distill and sell alcohol to the public in the UK without a licence from HM Revenue & Customs (HMRC)<sup>1</sup>.

The sale of illegal alcohol costs the UK around £1.2 billion per year<sup>2</sup>. Much of the fake or illegally produced alcohol contains potentially dangerous chemicals.

"We're very concerned about this trend in the availability of fake alcohol," says Ron Gainsford, Chief Executive of the Trading Standards Institute. "It's not just about false bargains, counterfeit spirits and wine could be lethal."

## Health risks from fake alcohol

Properly produced and certified alcoholic drinks are made with ethanol – alcohol that's safe to drink in moderation. But fake alcoholic drinks can be produced using other cheaper types of alcohol which can have serious adverse effects on your health.

Drinkaware's Chief Medical Advisor Professor Paul Wallace explains: "Commonly used substitutes for ethanol include chemicals used in cleaning fluids, nail polish remover and automobile screen wash, as well as methanol and isopropanol which are used in antifreeze and some fuels. These other types of alcohol can produce similar effects to ethanol in terms of making you feel tipsy. But they are also potentially very dangerous."

Drinking alcohol containing these chemicals can cause nausea and vomiting, abdominal pain, drowsiness and dizziness. It can also lead to kidney or liver problems and even coma. Methanol, a substance which can be used in fake vodka, may cause permanent blindness.

[Find out how alcohol can affect your body here... >](#)

"Drinking illegally produced alcohol should be avoided at all costs," says Dr Wallace. "You don't know what's in it in terms of the actual chemicals – and you don't know the strength of what you're drinking because it's not been produced to the standards of commercial alcohol."



# 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](http://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

Burnt Oak Off Licence, 140 Burnt Oak Broadway, London, HA8 0EJ

### 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.

<b>Steps taken (if any)</b>	<b>Reason(s)</b>